

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.7208 of 2018

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking to issue writ of mandamus declaring the action of the respondents 1 to 4 in restraining the petitioners from writing examinations by not allowing them to enter into the exam hall as illegal and arbitrary and consequently direct the respondents 1 to 4 to allow the petitioners to write exams in their respective exam centre as per the Hall Tickets issued by the 3rd respondent.

2. Heard learned counsel for the petitioners, learned standing counsel for School Education and perused the record.

3. This Court by way of interim order, dated 05.03.2018, allowed the petitioners to write examinations.

4. The 3rd respondent filed counter-affidavit stating that the 1st petitioner is pursuing first year intermediate course in MPC. He was having 15% of attendance and as such, he is not eligible to write examinations. The 2nd petitioner is pursuing his second year intermediate course in Bi.P.C. He was having 29% attendance for the theory classes and 75% attendance for practical classes. As such, he was allowed to write practical examination and not allowed to write theory examinations. In pursuance of the directions of this Court, the petitioners were allowed to write examinations. It is further stated that the persons having less than 60% attendance are not eligible to write examinations. As per the proceedings of the 2nd respondent, the candidates who have 60% attendance and above, but less than 75% attendance are eligible for grant of condonation of attendance to the maximum extent of 15%.

5. In the present case, the petitioners are having 15% and 29% attendance respectively and as such, they were not

allowed to write examination. No reply affidavit is filed by the learned counsel for the petitioners disputing the said averment in the counter affidavit.

6. Learned counsel for the petitioners relied on a decision reported in **PURSHOTTAM DAS DULICHAND ZARGAR AND ANOTHER V BOARD OF SECONDARY EDUCATION WRIGHT TOWN, JABALPUR AND OTHER**¹, wherein deficiency in attendance was condoned and later they were not permitted to change their stand.

7. Learned standing counsel submits that in the present case fee is paid in the month of August for writing examination. The attendance will be verified at the time of examinations before issuing of Hall Tickets. When the petitioners are having 15% and 29% attendance, this Court cannot find fault with the respondents for not allowing them to write examinations.

8. It is also stated in the counter-affidavit by the respondents that the petitioners are not having 60% of attendance and as such, they are not eligible for condoning the shortage of 15%.

9. In view of the same, this Court cannot issue writ of mandamus directing the respondents to contravene the rules and regulations for condoning delay beyond 15%. The writ petition is devoid of merit and is liable to be dismissed.

10. Accordingly, the writ petition is dismissed. No order as to costs. Miscellaneous petitions, if any pending

11. in this writ petition shall stand closed.

A.RAJASHEKER REDDY,J

DATED: 01-08-2018
Hsd

¹ AIR 1962 MADHYA PRADESH 3



