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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 22527 of 2017 (O&M)

Date of Decision: 27.02.2019

JYOTI SEHGAL

....Petitioner

VS.

UNION OF INDIA AND OTHERS

...Respondents

CWP No. 2033 of 2018 (O&M)

PARNEET KAUR AND OTHERS.

....Petitioner

V/S

UNION OF INDIA AND OTHERS.

...Respondents

CORAM: **HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.**
HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Karan Nehra, Advocate and
Mr. Ravi Nayak, Advocate
for the petitioner(s).

Ms. Alka Sarin, Advocate
for Independent School Association.

Mr. Alok Kumar Jain, Advocate
for the respondent-UI.

Mr. Sandeep Saini, Advocate for
Mr. Rajesh K. Sheoran, Advocate
for Haryana Board of School Education, Bhiwani.

Mr. Harsh Aggarwal, Advocate
for respondents No. 2 and 3.

Mr. Shiv Charan Bhola, Advocate
for respondent No. 4.

Mr. Jaivir Chandel, Addl. Govt. Pleader, U.T., Chandigarh.

Mr. Vikrant Pamboo, DAG, Haryana.

RAKESH KUMAR JAIN, J. (ORAL)

This order shall dispose of two connected writ petitions bearing

CWP No. 22527 of 2017 titled as **Jyoti Sehgal Vs. Union of India and**

Others and **CWP No. 2033 of 2018** titled as **Parneet Kaur And Others Vs.**

Union of India and Others as the issue involved in both the petitions is similar.

The petitioner(s) has made various prayers in the writ petitions which were separately dealt with by us vide order dated 08.02.2019 and in the end it was found that there is only one prayer left for which he is seeking a direction to frame a policy for the difficulties being faced by the handicapped persons. The order dated 08.02.2019 is reproduced as under:-

“This petition is preferred by the mother of Manik Sehgal who is suffering from hearing impairment and is a student of Class XI, studying in Learning Path School, Mohali which is affiliated with the CBSE. The petitioner has made a prayer for issuance of writ in the nature of certiorari for quashing the circular dated 24.1.2017 (Annexure P-8) and the notification dated 31.1.2017 (Annexure P-9) on various grounds. Besides this, the petitioner has also prayed for issuance of writ in the nature of mandamus for issuance of a direction to the respondents to conduct the examinations of her son as well as similarly situated handicapped children of 10th Class as per the policy dated 20.9.2009 and to further issue directions to frame a policy keeping in view the difficulties being faced by the persons like the son of the petitioner.

Learned counsel for the petitioner(s) has fairly and candidly submitted that in so far as the prayer for issuance of writ of certiorari with respect to quashing of the circular dated 24.1.2017 (Annexure P-8) and the notification dated 31.1.2017 (Annexure P-9) respectively, is concerned, the said prayer has become redundant as a new circular has come on 26.9.2018.

Accordingly, the writ petition in regard to the said prayer is hereby dismissed as having been rendered redundant.

Now we will advert to the other prayer of mandamus being sought for conducting the examination of the son of the petitioner as well as similarly situated students of 10th Class as per policy dated 20.9.2009 (Annexure P-5).

Learned counsel for the petitioner(s) has submitted that this prayer has also become redundant because the examination has already taken place in terms of the policy dated 20.9.2009 and also in terms of various directions from this Court from time to time.

Now the only prayer made by the petitioner is for issuance of a direction to frame a policy keeping in view the difficulties being faced by the handicapped persons or the persons with different disabilities as per their categories, identified in the Rights of Persons With Disability Act, 2016 and The Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

At this stage, learned counsel for the petitioner pressed the application bearing No. CM-1119-2019 (in CWP No. 22527 of 2017).

Notice of the application i.e. CM-1119-2019.

Mr. Harsh Aggarwal, Advocate accepts notice on behalf of CBSE and prays for short accommodation to file reply, if any.

Adjourned to 14.2.2019.

Photocopy of this order be placed on the file of another connected case.”

Learned counsel for the petitioner(s) has admitted that the petitioner's son is suffering from hearing impairment. He has raised the issue

of providing a scribe to him. In this regard, the petitioner has referred to the Office Memo. dated 26.09.2018 of the CBSE operation of which has been stayed by the Delhi High Court, pursuant to which Ministry of Social Justice and Empowerment, Department of Empowerment of Persons with Disabilities (Divyangjan), Government of India vide its Office Memo dated 01.01.2019 has requested all the Ministries/Departments to issue appropriate advisory to all examining bodies under their administrative control to make a panel of scribe/reader/lab assistant at the District/Divisional/State Level in terms of Clause V of the guidelines dated 29.08.2018, till the panel of scribes is not formed.

Learned counsel for the petitioner has thereafter referred to Clause Nos. III to V of the Office Memo dated 26.02.2013 which is also issued by the Ministry of Social Justice and Empowerment, Department of Disability Affairs which reads as under: -

“III. The facility of Scribe/Reader/Lab Assistant should be allowed to any person who has disability of 40% or more if so desired by the person.

IV. The candidate should have the discretion of opting for his own scribe/reader/lab assistant or request the Examination Body for the same. The examining body may also identify the scribe/reader/lab assistant to make panels at the District/Division/State level as per the requirements of the examination. In such instances the candidates should be allowed to meet the scribe a day before the examination so that the candidates get a chance to check and verify whether the scribe is suitable or not.

V. *Criteria like educational qualification, marks scored, age or other such restrictions for the scribe/reader/lab assistant should not be fixed. Instead, the invigilation system should be strengthened, so that the candidates using scribe/reader/lab assistant do not indulge in mal practices like copying and cheating during the examination.*”

In response thereto, learned counsel for the CBSE has informed the Court that the panel has been provided and has referred to the letter dated 18.02.2019 of the CBSE which reads as under: -

*“All the Centre Supdts.
of the CBSE Affiliated Schools,
Fixed as Examination Centre for 2019 Exams.*

*Subject: Appointment of Scribe/Reader/Lab Assistant
Sir/Madam,*

*The Criteria for appointment of scribe as given in Circular
No. CBSE/COORD/11233/2018 dated 26.09.2018 & Notification No.
CBSE/Coord/DS/2018 dated 26.11.2018 is as under:-*

- i. The candidate shall have the discretion of opting for his own scribe/reader or request the examination centre for the same.*
- ii. In case Scribe/Reader is provided by Examination Centre, the qualification of Scribe should not be more than the minimum qualification criteria of the examination.*
- iii. In case the candidate is allowed to bring his own scribe, the qualification of the scribe should be one step below the qualification of the candidate taking examination. The person with Benchmark disabilities opting for own Scribe/Reader should submit the detail of the own scribe/Reader as per proforma at appendix-II.*

*In view of the directions of the Hon’ble High Court of Delhi
dated 04.12.2018 and circulated by Ministry of Social Justice and*

Empowerment Office Memorandum No. F. No. 34-02/2015-DD-III(pt) dated 01.01.2019 you are requested to form a Panel of Scribe/Reader/Lab Assistant as per criteria given at (ii) above.

In case any candidate requests the examination centre for a scribe, he/she may be provided a scribe from the panel formed.

Other modalities remain the same as mentioned in Circular No. CBSE/COORD/11233/2018 dated 26.09.2018 and & Notification No. CBSE/Coord/DS/2018 dated 26.11.2018.”

In view of the aforesaid, learned counsel for the petitioner(s) prays for withdrawal of both the writ petitions with liberty to challenge the policy dated 29.08.2018 and CBSE circular CBSE/COORD/11233/2018 dated 26.09.2018.

Dismissed as withdrawn.

The petitioner may, if so advised, challenge the said policy in accordance with law.

Photocopy of this order be placed on the file of the connected case.

February 27, 2018
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(RAKESH KUMAR JAIN)
JUDGE

(HARNARESH SINGH GILL)
JUDGE

Whether speaking / reasoned : **Yes / No**

Whether Reportable : **Yes / No**