

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CRM-M-14451-2018 (O&M)

Reserved on: 06.03.2019

Pronounced on: 11.03.2019

Ramjeet

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. R. S. Kundu, Advocate
for the petitioner.

Mr. Arjun Singh Yadav, AAG, Haryana.

Mr. Kanwaljit Singh, Senior Advocate with
Ms. Prabhjot Kaur, Advocate
for respondent No. 3.

ARVIND SINGH SANGWAN, J.

1. Prayer in this petition is for quashing of the FIR No. 191 dated 09.04.2016, registered under Sections 120-B, 420, 467, 468 and 471 of the Indian Penal Code at Police Station Hodal, District Faridabad (Annexure P-1) as well as report under Section 173 Cr.P.C. dated 25.01.2018 (Annexure P-9) along with all other consequential proceedings.

2. Brief facts of the case are that respondent No. 3/complainant has given a complaint against petitioner Ramjeet that he had contested the election for the post of *Sarpanch* by producing a fake Class 10 certificate pertaining to examinations of 2013, issued by the Secondary Education Board, Madhya Bharat, Gwalior, Madhya Pradesh (for short '*Madhya Bharat Board*') and he was declared elected in the said election though his

qualification is of 7th standard as his name was struck from the Govt. Senior Secondary School, Sondhad in 8th Class on 20.01.1992, where his date of birth is 10.06.1975, however, in the matriculation certificate, produced by the petitioner, his date of birth is mentioned as 02.08.1976. It is further stated that there is no recognized board in the name of Secondary Education Board, Madhya Bharat, Gwalior, Madhya Pradesh and even an FIR bearing No. 351 dated 17.10.2013 was registered under Sections 420, 467, 468 and 471 of the IPC and Section 66-A/69 of the Information Technology Act at Police Station Doghat, District Bagpat, U. P. and in the inquiry, it was found that no such Board is in existence and 17 persons were arrested including Ashok Rattan, Chairman/Secretary of the Madhya Bharat Board for giving fake certificates to the students. It is further stated that the certificate issued to the petitioner was under the signature of aforesaid Ashok Rattan.

3. It is further stated in the FIR that previously, the Gram Panchayat elections were scheduled to be held on 04.10.2015 and the petitioner had filled up nomination papers for the post of *Sarpanch* and his nomination was rejected as he was not having the requisite qualification of matriculation and he declared himself to be illiterate, however, when on re-schedulement, the elections were held on 10.01.2016, he attached the fake certificate of Class 10 with the nomination papers. In this regard, a complaint was also filed by one Narender Singh with the Sub Divisional Officer (Civil), Hodal, however, no action was taken. It was requested in the present complaint that legal action be taken against the accused and accordingly, the police registered the present FIR.

4. Thereafter, the police conducted investigation and submitted the

report under Section 173 Cr.P.C. wherein it is stated that during investigation, it was found that petitioner has prepared a fake certificate from Madhya Bharat Board and his date of birth in the Govt. Senior Secondary School, Sondhad is mentioned as 10.06.1975 whereas in the 10th Class certificate, he has shown his date of birth as 02.08.1976. It is further stated in the report that further investigation was carried out by SI Kundan Lal and on inquiry regarding the certificate, Madhya Bharat Board was not found in the list of recognized Boards and on the basis of the investigation conducted, it was found that sufficient evidence has come on record for presentation of challan. Thereafter, the trial Court has framed the charge against the petitioner.

5. It is argued on behalf of the petitioner that the petitioner has appeared in 10th Class examination as a private candidate and he was given a certificate which, on a request dated 09.02.2016 made by Superintendent of Police, Palwal (Annexure P-2), was verified by the Secretary of Madhya Bharat Board that the petitioner has passed out 10th Class examination from their Board.

6. Learned counsel for the petitioner has relied upon an inquiry, conducted by the Sub Divisional Officer (C), Hodal, under the provisions of Haryana Panchayati Raj Act, 1994, wherein the complainant was seeking suspension and removal of the petitioner from the post of *Sarpanch* and in the report dated 17.08.2017 (Annexure P-8), Sub Divisional Officer (C), Hodal had given an opinion that since intricate questions of law are involved in the matter on the basis of different judgments of various High Courts, relied upon by both the parties, the dispute can be decided by a Civil Court under Section 176 or Section 268 of the Haryana Panchayati Raj Act, 1994.

7. Learned counsel for the petitioner has argued that in the aforesaid inquiry report dated 17.08.2017, Sub Divisional Officer (C), Hodal has held that it cannot be decided whether the certificate, produced by the petitioner along with nomination papers, is fake or valid, as it can be decided by the Civil Court.

8. Learned counsel for the petitioner has further submitted that letter dated 11.04.2016, issued by the District Education Officer, Gwalior, finds mention that the said office has not issued any recognition in favour of the Madhya Bharat Board and this information/letter cannot be applied retrospectively when the petitioner has appeared in matriculation examinations in 2013.

9. Learned counsel for the petitioner has relied upon judgment dated 12.09.2014 passed by this Court in ***CWP No. 12904 of 2014***, titled as ***Deepak Kumar vs. Union of India and others***, wherein a student of 4th Semester of BBA was denied admission by the University and keeping in view the young age of the petitioner and in an exceptional circumstance, the University was directed to condone the action of the said student by imposing penalty or recoveries or by administering such corrective measures as are possible under their own regulations.

10. Learned counsel for the petitioner has relied upon another judgment dated 21.10.2015, passed by this Court in ***CWP No. 14999 of 2014***, titled as ***Rajeshwar Verma vs. Maharshi Dayanand University, Rohtak and another***, wherein, in similar circumstance, despite holding that the University has taken a stand that Madhya Bharat Board is not recognized, the relief was granted to the student to complete his B.Tech course as he has studied upto 4th

Semester.

11. Learned counsel for the petitioner has further submitted that as per notification dated 05.03.2014, issued by the Secretary, Secondary Education Parishad, Allahabad, Uttar Pradesh, it is stated that Madhya Bharat Board is recorded at Sr. No. 40 of the rules but in the amended rules, it is not so recorded and therefore, the same cannot be given retrospective effect.

12. In reply, learned State counsel has argued that after the registration of the FIR, the Investigation Officer inquired from the District Education Inspector, Hardoi, U.P. about S.R.L.M.V., Sr. Sec. School, Chauraray, Hardoi, U.P., which was mentioned in the certificate of the petitioner and it was repeated that there is no such school in Hardoi. Thereafter, the Investigating Officer further inquired about the certificate from Madhyamik Shiksha Parishad, Allahabad (Uttar Pradesh) as to whether the aforesaid school, as mentioned in the certificate, is situated in Uttar Pradesh, on which, it is stated that the above said Board (school) is not recognized from the *Parishad*. On further inquiry, the Investigating Officer found that Madhyamik Shiksha Mandal, Gwalior has also verified that no such Board is in existence in Gwalior and on further verification, it was found that as per the list (Annexure R-1), the Madhya Bharat Board is not a recognized board.

13. It is further submitted by learned State counsel that on investigation, it was found that Madhya Bharat Board is a fake Board and, therefore, the challan was presented before the trial Court on the basis of the investigation conducted by the Investigating Officer and thereafter, the charges were framed on 31.03.2018.

14. Learned senior counsel, appearing for respondent No. 3, has argued that when the petitioner had filed the nomination for the election to be held on 04.10.2015, he declared himself to be matric pass but he failed to produce the certificate, therefore, after scrutiny, his nomination was rejected on 30.12.2015 and when the election was re-scheduled, he produced his fake certificate issued from Madhya Bharat Board showing that he has passed the matriculation examinations in the year 2013.

15. Learned senior counsel further argued that new schedule was announced by the Haryana State Election Commission as the vires of Haryana Panchayati Raj Act, 1994 requiring minimum qualification of matric pass were challenged before this Court, however, the provisions were held to be valid by Hon'ble Supreme Court of India and thereafter, the election was re-scheduled.

16. Learned senior counsel has submitted that FIR No. 301 dated 21.07.2012 was registered under Sections 420 and 467 of the IPC at PS-Hazipur, District Gwalior, M.P. and another FIR No. 351 dated 17.10.2013 was registered under Sections 420, 467, 468 and 471 of the IPC and Section 66-A/69 of the Information Technology Act at Police Station Doghat, District Bagpat, U. P. against many persons and as many as 17 officials of the Madhya Bharat Board were arrested including Ashok Ratan, Secretary, under whose signature, the certificate, produced by the petitioner, was issued.

17. Learned senior counsel has relied upon the report dated 06.04.2016 (Annexure R-3/1), submitted by the District Inspector, Palwal. The operative part of the report reads as under:

“I, the District Inspector wrote a letter to the office of Secondary Education Officer, District Gwalior, Madhya

Pradesh and sent the same through office of the Deputy Superintendent of Police, Palwal for verification of High School 10th Standard – 2013 Certificate and got the same verified from Madhya Pradesh Bhopal Board and District Education Officer, District Gwalior, Madhya Pradesh. The office of the Secondary Education Board, Madhya Pradesh, Bhopal has mentioned in its written letter that there are total five boards in Madhya Pradesh. 1. Technical Education Board, Bhopal which holds the Secondary Technical School Exams which were earlier stated to be High School exams. 2. Secondary Education Board, Madhya Pradesh for Women for Secondary School Certificates and High School Examination Open School. 3. Avdesh Partap Singh University, Reeva - If the student has passed the examination with English. 4. As per the decisions of the Educational Society dated 31.08.96 No. 366/367/Mulya/1/96 dated 04.10.96, High School being run by Madhya Pradesh State Open School, Bhopal and Higher Secondary examination, secondary board, Madhya Pradesh, Bhopal which are equivalent to High School and higher secondary school examination. 5. As per decision of the educational society dated 24.04.02 and No. 157-158/Edu./02 dated 20.08.02, High School and Higher Secondary School of Urdu medium being held by State Madrasa Board, Bhopal are held to be equivalent to high School and higher secondary examinations. Copies of the same are attached. In the booklet 216 issued by the Secondary Education Board, Madhya Pradesh, Bhopal, there is no mentioning of Secondary Education Board, Madhya Bharat, Gwalior. It was also enquired from the office of District Education Officer, District Gwalior, Madhya Pradesh, which also stated that in its written letter that there is no Secondary Education Board, Madhya Bharat, Gwalior. A case bearing FIR No. 301 dated

21.07.2012 u/s 420/467 IPC is registered at Police Station Thatipur, District Gwalior against Secondary Education Board, Madhya Bharat, Gwalior Board. The copy of the FIR is attached. From the verification of the complaint, it has been found that the accused has got prepared the forged 10th standard certificate from Secondary Education Board, Madhya Bharat, Gwalior Board and violated the instructions of the government of Haryana and contested the elections for the post of Sarpanch of Gram Panchayat. The allegations mentioned in the complaint are found to be true. The copy of the same is attached. I recommended to take legal action against the accused.

Sd/-
District Inspector
Palwal, 06.04.2016

SHO Hodal
To be registered a case and investigate the matter”

18. Learned senior counsel has further submitted that even the office of District Education Officer, Gwalior, vide letter dated 04.04.2015, has informed the complainant/respondent No. 3 that no recognition has been granted to Madhya Bharat Board and similar information was given by the Public Information Officer, Madhyamik Education Board, Bhopal that Madhya Bharat Board is not recognized by them.

19. Learned senior counsel has further submitted that even on an inquiry conducted by Sub Inspector, Economic, Crime Branch, Haryana, Secretary, Secondary Education Board, Allahabad, U.P. has submitted a report on 28.06.2016 (Annexure R-3/3). The operative part of the report reads as under:

“With regard to existence of Board of Secondary Education, Madhya Bharat, Gwalior, it was enquired from

the Council of Boards of School Education in India, New Delhi (COBSE) and in reply, COBSE has intimated that they have no knowledge regarding Board of Secondary Education, Madhya Bharat, Gwalior, nor this center is their member.

It is known that COBSE grants recognition to only such institutes which have been established under any Central or State Act.

From the above, it is clear that Board of Secondary Education, Madhya Bharat, Gwalior is not the institute of exam established by the legislature, because it has not been established under any Central or State Act. Even there is no mentioning of this institute in the directory issued by COBSE.

Vide government order bearing No. 384/15-7-2014-1(92)/2012 dated 05 March, 2014, the government has removed the private exam institutes which were earlier mentioned in Act 17(7) of Chapter 12 of Board Act and Act-2 of Chapter 14 (Intermediate examination) from its eligibility list. As per government letter dated 06 March, 2014, the Secondary Education Board, Uttar Pradesh has got published in the State Gazette on 08 March, 2014 for information to general public vide gazette No. Board-9/836 dated 05 March, 2014, in which there is no mentioning of the Board of Secondary Education, Madhya Bharat, Gwalior, which is not established by the government. Therefore, the above said examination center is not recognized by the Secondary Education Board, Uttar Pradesh.

Encl. Gazette

Sincerely yours
Sd/-Assistant Secretary (Board)
for Secretary, 28.06.2016”

20. It is, thus, submitted by learned State counsel as well as by learned senior counsel for respondent No. 3 that neither Madhya Bharat

Board was recognized nor the certificate, produced by the petitioner, was proved to be a genuine document issued by the competent authority rather, it has been verified to be a fake document.

21. Learned senior counsel has also relied upon judgment dated 22.04.2016, passed by this Court in *CWP No. 15019 of 2015*, titled as *Subash Chander vs. State of Haryana and others*, wherein, with regard to Madhya Bharat Board, the following observations have been made:

“After the verification of the petitioners' Matriculation Certificates, it was found that the Board of Secondary Education, Madhya Bharat, Gwalior (hereinafter referred to as – the Board), from where the petitioner (s) had claimed to have passed their Matriculation examination, was not recognized. On that basis, a Show Cause Notice was issued to them as to why their services may not be dispensed with, to which they filed reply, after consideration of which, the impugned orders terminating the services of the petitioner(s), were passed. Learned counsel for the petitioner(s) submitted that the Board of Secondary Education, Madhya Bharat, Gwalior, was a Board, which was recognized by the Government and in support of such contention, relied upon a Certificate issued by the Secretary of the Board, wherein it is mentioned that the Board is recognized by Uttar Pradesh Educational Act, 1921. After considering the submissions made by the parties and perusing the record, I am of the opinion that the present petition must fail. As per the terms of eligibility prescribed in the advertisement, only those candidates, who had passed their Matriculation examination from a recognized Board, were to be considered eligible for appointment. On repeated

queries posed by the Court, learned counsel for the petitioner (s) was not able to show any document by any statutory Authority granting recognition to the Board, from where the petitioner(s) claimed to have passed their Matriculation examination. In fact, in an affidavit filed on behalf of the Government of India, it is specifically mentioned therein that the Board is not recognized by the Ministry of Human Resources and Development, Government of India. It is further mentioned in the affidavit that the Government of India had written to the Government of Madhya Pradesh to register an FIR against the Board for falsely claiming recognition from the Ministry of Human Resources and Development, Government of India, on the basis of a forged document. The affidavit further goes on to state that an FIR under Sections 420, 467 IPC has been lodged against the Management of the Board and during the course of investigation, several forged documents have been recovered from the office of the Board and that the Director of the Board was also arrested. The relevant portion of the aforementioned affidavit filed is reproduced below :-

“3. That there are only two national level education boards namely Central Board of Secondary Education (CBSE) and National Institute of Open Schooling (NIOS) which have been established by the MHRD. 4. That the three Education Boards, namely Board of Secondary Education, Madhya Bharat, Gwalior, Board of Higher Secondary Education, New Delhi and Council of Secondary Education, Mohali, as mentioned in the order dated 01.10.2015 (Annexure-A1) of this Hon'ble Court are neither set up nor recognized by MHRD. 5.

That MHRD, in order to ensure that innocent students do not become victim of unscrupulous and illegal activities of fake/unrecognised boards, had issued an advisory on 20.11.2008 (Annexure-A3) to all Education Secretaries of the State Governments and Union Territories and Chairpersons of CBSE and NIOS for prevention of functioning of fake boards within their defined territorial jurisdiction, as stipulated in the State Education Acts or Rules. It is thus imperative that every State and Union Territory ought to have a provision to regulate recognition of Education Boards, conduct of public examination and issue of certificates by such Boards. The States/UTs are expected to function as watchdogs so that fake institutions, calling themselves examination boards and issuing certificates, do not operate under their territorial jurisdiction and if any such Boards exist, they should have appropriate mechanism to deal with such fake Boards. 6. That in so far as it relates to Board of Secondary Education, Madhya Bharat, Gwalior, MHRD had written to the Secretary (Education), Government of Madhya Pradesh vide letter dated 14.01.2013 (Annexure A4) to register an FIR against the said Board for falsely claiming to have recognition from the MHRD on the basis of a fake MHRD order. 7. That as per letter dated 31.10.2012 of the Director General of Police, Madhya Pradesh, the premises of Board of Secondary Education, Madhya Bharat, Gwalior were raided by the police authorities on 22.07.2012, forged documents were recovered, some accused were arrested and a case was filed against them

under Section 430 (sic) 467 of IPC at Thathipur Police Station, Gwalior. The Director of the Board was also arrested during the course of investigation.”

There is no rebuttal on behalf of the petitioner to the contents of the afore-quoted affidavit filed on behalf of the Government of India. The next argument raised by the learned counsel for the petitioners is that the Board of Secondary Education, Madhya Bharat, Gwalior is recognized under the Uttar Pradesh Educational Act, 1921 (hereinafter referred to as – the 1921 Act) also deserves to be considered and rejected. On repeated queries posed by the Court to the learned counsel for the petitioners to refer to the relevant provision of the 1921 Act to show the Schedule attached to the 1921 Act containing the name of the Board in question, as also the date till which the Act remained in force, yielded no response. Only a list of institutions, purportedly attached to the 1921 Act, was produced, a translated version of the relevant portion of which is reproduced as under :-

“14. Examination of High School of Central Board of Secondary Education, Ajmer (which was earlier known as Board of High School and Intermediate Education Rajputana (including Ajmer and Marwar), Madhya Bharat and Gwalior Ajmer and later named as Board of High School and Inter Education, Ajmer, Bhopal and Vindhya Pradesh, Ajmer).”

A perusal of the afore-quoted entry recognizes a Board situated at Ajmer and not the Board in question, which is the Board of Secondary Education, Madhya Bharat, Gwalior. In view of the above, the reliance by the

learned counsel for the petitioner(s) on the 1921 Act is also misplaced. Once the Board has no statutory backing, having not been recognized by any statutory Authority and is found operating on the basis of fake and forged letters of recognition, there is no hesitation in my mind to hold that the petitioner did not possess the prescribed qualifications and that the Matriculation qualification, claimed to be passed by him, has no recognition in law. As a direct consequence of the aforesaid observations, both the writ petitions being C. W. P. Nos. 15019 & 17499 of 2015 are ordered to be dismissed with no order as to costs.

Pronounced on: April 22, 2016 (DEEPAK SIBAL)
JUDGE”

22. It is further argued that similar view has been taken by this Court in the judgment dated 19.01.2017, passed in *CWP No. 25805 of 2016*, titled as *Sajjan Singh vs. State of Haryana and others*, wherein, while relying upon the judgment in *Subash Chander's* case (supra), it has been held that the certificates, issued by the Madhya Bharat Board, are fake and fabricated and, therefore, no relief was granted to the writ petitioners on that account.

23. It is lastly argued by learned senior counsel that the judgment of the Allahabad High Court will not apply to the instant case as it is specifically provided in the amended Section 175 (v) of the Haryana Panchayati Raj Act, 1994 that the educational qualification of a candidate should be at least matriculation or its equivalent examination from a recognized institution/Board and, therefore, in the absence of a 10th Class matriculation certificate from a recognized institution/Board, the petitioner has contested the election by producing a fake certificate.

24. After hearing learned counsel for the parties, I find no merit in

the present petition for the following reasons:

- (a) There are disputed facts which can only be decided after the prosecution and petitioner lead their evidence. The Investigating Officer, during the course of investigation, has collected sufficient evidence that the certificate, produced by the petitioner, is *prima facie* a fake certificate as the competent authorities, which grant recognition to a Board, have submitted report to the Investigating Officer that Madhya Bharat Board is not recognized.
- (b) It is not disputed between the parties that Ashok Ratan, Secretary of Madhya Bharat Board, under whose signature the certificate has been issued to the petitioner, himself is an accused in two FIRs registered under Sections 420 and 467 of the IPC in District Gwalior, M. P. as well as in District Bagpat, U.P. with similar allegations of submitting fake certificates.
- (c) The provisions of Section 175(v) of the Haryana Panchayati Raj Act clearly provides that if a person, who has not passed matriculation examination or its equivalent examination from any recognized institution/Board, is disqualified for contesting elections and, therefore, the petitioner, by producing a certificate which was not issued by a recognized Board, has contested the election by misrepresentation of facts. Even otherwise, from the conduct of the petitioner, it is apparent that when the first date of elections were declared, he filed nomination papers declaring himself to be matric pass but he failed to produce the certificate, therefore, after scrutiny, his nomination was rejected on 30.12.2015, however, when the election was re-scheduled, the petitioner produced disputed certificate which raises a suspicion as to why the petitioner has not produced the said

certificate at the first instance. Moreover, the date of birth of the petitioner recorded in Govt. Senior Secondary School, Sondhad is 10.06.1975, however, in the matriculation certificate, produced by the petitioner, his date of birth is mentioned as 02.08.1976, which again raises suspicion about the authenticity of the certificate.

(d) In the judgment of ***Subash Chander's*** case (supra), it has been clearly held that the Director General of Police, Madhya Pradesh, on 31.10.2012, has issued a letter that during a raid on the premises of Madhya Bharat Board, several forged documents were recovered and accused were arrested, which raises a suspicion about the petitioner acquiring a genuine certificate. It is also held in this judgment that once the Madhya Bharat Board has no statutory backing, not being recognized by any statutory authority, is found to be using the forged and fabricated letters of recognition, therefore, the petitioner was not possessing the prescribed qualification. In the instant also, I find that the petitioner has failed to prove that the certificate, relied upon by him, is a genuine certificate, therefore, at this stage, in view of the settled proposition of law, as held by Hon'ble Supreme Court in ***State of Haryana and ors. vs. Ch. Bhajan Lal and ors., 1991 (1) R.C.R. (Criminal) 383***, I do not find any ground to quash the impugned FIR as well as report under Section 173 Cr.P.C.

25. In view of the above discussion, this petition is dismissed.

March 11, 2019

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*