

\$~4

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P. (C) 1553/2020**

NISHANT KHATRI AND ANR Petitioners

Through: Petitioner no.1 in person.
Petitioner no.2 in person.

versus

**DELHI HIGH COURT
THROUGH ITS REGISTRAR GENERAL** Respondent

Through: Mr.Amit Bansal, senior standing
counsel with Ms.Seema Dolo,
Advocates.

%

Date of Decision: 24th September, 2020

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE SANJEEV NARULA

J U D G M E N T

MANMOHAN, J: (Oral)

C.M.No.20289/2020

Exemption allowed, subject to all just exceptions.

Accordingly, the application stands disposed of.

C.M.No.20288/2020

Present application has been filed for early hearing. Keeping in view the averments in the application, the same is allowed and with consent of the parties, the present matter is taken up for hearing.

Accordingly, the application stands disposed of.

W.P.(C) No.1553/2020

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed challenging the Delhi Judicial Service - 2019 Mains (Written) Examination result dated 13th January, 2020 and the viva schedule released by the respondent on the ground that the lowering of minimum qualifying marks i.e. 60% in Preliminary Examination to 58% is *ultra vires* and unconstitutional.
3. The Petitioners, who appear in person, submit that the Delhi Judicial Service Rules, 1970 explicitly stipulate that the minimum qualifying marks in the preliminary examination shall be 60% for General/ Unreserved Category and neither the Respondent nor the Court can reduce the minimum qualifying criteria.
4. The petitioners further contend that the examination process followed by the respondent in the present case is arbitrary and vitiated by bias because the respondent has disclosed the marks obtained by the candidates in the “Mains” examination before the viva-voce. According to the petitioners, there exists a preconceived notion/ bias in the minds of the interview boards towards those candidates who have obtained more marks or are amongst the toppers. They state that the pattern of disclosure of marks in written examinations before the viva-voce is not followed in any other judicial service or any other examination such as the UPSC or the UGC.
5. In the opinion of this Court, the petitioners have no *locus standi* to file the present writ petition. While petitioner no.2 did not participate in the Delhi Judicial Service 2019 examination, petitioner no.1 did not qualify the Mains examination despite lowering of the qualifying marks. Consequently, the petitioners are not aggrieved persons by either lowering of the minimum

qualifying marks or disclosure of the marks obtained by the candidates in the “Mains” examination.

6. Undoubtedly, the rule of *locus standi* is relaxed in case of public interest litigation, but that is to be done only to ensure that the poor or socially and economically handicapped are not denied their rights. The Supreme Court in ***Guruvayoor Devaswom Managing Committee & Anr. vs. C.K. Rajan & Ors., (2003) 7 SCC 546*** has held as under:-

*“41. The courts exercising their power of judicial review found to their dismay that the poorest of the poor, the deprived (sic), the illiterate, the urban and rural unorganized labour sector, women, children, those handicapped by “ignorance, indigence and illiteracy” and other downtrodden persons have either no access to justice or had been denied justice. A new branch of proceedings known as “social action litigation” or “public interest litigation” was evolved with a view to render complete justice to the aforementioned classes of persons. It expanded its wings in course of time. The courts in pro bono publico granted relief to inmates of prisons, provided legal aid, directed speedy trials, maintenance of human dignity and covered several other areas. Representative actions, pro bono publico and test litigations were entertained in keeping with the current accent on justice to the common man and a necessary disincentive to those who wish to bypass real issues on merits by suspect reliance on peripheral procedural shortcomings. (See *Mumbai Kamgar Sabha v. Abdulbhai Faizullabhai [(1976) 3 SCC 832 : 1976 SCC (L&S) 517 : (1976) 3 SCR 591]*.)*

42. The Court in pro bono publico proceedings intervened when there had been callous neglect as a policy of State, a lack of probity in public life and abuse of power in control and destruction of the environment. It also protected inmates of prisons and homes. It sought to restrain exploitation of labour practices.”

7. In the present examination, the candidates who are affected by the lowering of the minimum qualifying marks and/or disclosure of the marks obtained by them in the “Mains” examination are qualified lawyers who are well conversant with law and have easy access to the Courts. In the event, the candidates, who have succeeded in the Delhi Judicial Service – 2019 Examination, are aggrieved by the manner of conduct of the said examination, they shall be at liberty to approach this Court by filing appropriate legal proceedings.
8. In any event, the examination process cannot be interdicted at the present interim stage.
9. For the aforesaid reasons, the present writ petition is dismissed.
10. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

SANJEEV NARULA, J

SEPTEMBER 24, 2020
KA