HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Civil Writ Petition No. 7269/2020

Heera Ram S/o Shri Bhaga Ram, Aged About 22 Years, R/o Village Chadi, Tehsil Ramsar, District Barmer, Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through The Secretary, Department Of Home, Government Of Rajasthan, Jaipur, Rajasthan.
2. The Director General Of Police, Rajasthan Police Headquarter, Jaipur, Rajasthan.
3. The Superintendent Of Police, Chhitorgarh, District Chhitorgarh, Rajasthan.
4. The Superintendent Of Police, Udaipur, District Udaipur, Rajasthan.

----Respondents

For Petitioner(s) : Mr. Kailash Jangid through Cisco Webex App

For Respondent(s) : Mr. Kailash Choudhary through Cisco Webex App

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JUSTICE DINESH MEHTA

Order

05/12/2020

1. The petitioner applied for the post of Police Constable, General (Non-TSP) Category, pursuant to advertisement of the year 2018 and after clearing the written examination, he was called for Physical Efficiency Test (PET) on 06.09.2018 at Udaipur.

2. The petitioner took part in the said PET without raising any grievance whereafter the result was declared on the same date.

3. Many of the candidates who took part in the PET held for various Districts of Rajasthan (including Udaipur), preferred writ petitions, inter alia, raising the grievance that the condition of the running track was not conducive on account of rainfall immediately prior to conducting the test.

4. Learned counsel for the petitioner relied upon Division Bench judgment dated 30.01.2019 rendered in case of *Ravi Kumar Khatik & Ors. Vs. State of Rajasthan & Ors. (DBSAW No.1907/2018)* and contended that in light of the findings arrived at by the Division Bench in its judgment dated 30.01.2019, the petitioner, who had taken part in PET on 08.09.2018 at Udaipur is entitled for a similar direction to the respondents.

5. It is noteworthy that by a judgment dated 27.11.2018, led by case of *Revant Ram Meghwal Vs. State of Rajasthan & Ors. (SBCWP No.13731/2018)*, a Coordinate Bench of this Court, after appointing a Commissioner, dealt with the situation with respect to each of the grounds of different districts and held that some of the candidates were not provided "level playing field", as the ground conditions were not appropriate. Bunch of matters involving petitioners having taken part in PET at different places were decided conjointly – some succeeded in their challenge while some failed in their attempt.

6. The candidates, who could not succeed before the Single Judge preferred Special Appeals before the Division Bench, which came to be allowed vide order dated 30.01.2019 passed in batch of cases led by *Ravi Kumar Khatik & Ors. Vs. State of Rajasthan & Ors. (DBSAW No.1907/2018)*.

7. The Division Bench vide its judgment found that the ground conditions were not ideal and hence, the candidates who ran on the ground, which was moderately affected by the rainfall, were also entitled to a re-test.

8. While allowing the appeal, the Division Bench issued the following directions:-

(a) We allow the appeals and set-aside the impugned order dismissing the writ petitions filed by the appellants.

(b) We direct that the appellants be subjected to fresh Physical Efficiency Test at a track which is free from water logging.

*emphasis supplied.

9. The present petitioner got up from his slumber and approached the Court by way of the present writ petition, which has been filed on 10.08.2020.

10. By the time petitioner has approached this Court, re-run pursuant to Division Bench's judgment had already been conducted.

11. While explaining the delay in approaching this Court, learned counsel highlighted that as the petitioner hails from a poor background, he was impelled to approach this Court only after realizing that identically placed candidates have been given benefit of re-test by the Division Bench of this Court.

12. Mr. Kailash Choudhary, learned counsel for the respondent-State, informed that the Division Bench judgment rendered in the case of Ravi Kumar Khatik (supra) has been stayed by Division Bench in a review petition filed by the State.

13. It was also contended by Mr. Choudhary that not only PET pursuant to Division Bench order for the concerned candidates has been conducted, even the posts have been filled in.

14. Heard.

15. Indisputably, the petitioner has approached this Court on 10.08.2020 perhaps being swayed by the fact that other similarly situated candidates have been granted relief from this Court.

16. It is to be noted that all those petitioners and the concerned appellants had approached this Court, immediately after completion of PET i.e. in the month of September, 2018 itself.

17. Writ petitions of many of the candidates, who had belately approached this Court have been dismissed by the Coordinate Bench of this Court and even by the Division Bench.

18. In considered opinion of this Court, delay in such matters cannot be ignored. The petitioner, who remained in hibernation for such a long period, even when PET pursuant to the direction of Division Bench has taken place, cannot claim a re-test as a matter of right.

19. That apart underscored part of the Division Bench judgment dated 30.01.2019 (reproduced in para No.8 above) reveals that the Court had directed that the **Appellants** be subjected to fresh PET.

20. This being the position, the fresh PET was required to be conducted only for the appellants, who were before the Division Bench of this Court.

21. If the prayer of the petitioner is acceded to, it will lead to an unending process. The Court has to draw a line, somewhere, and this is the point where the line is required to be drawn.

22. As an upshot of the discussion aforesaid, the writ petition is dismissed.

23. The stay application also stands disposed of accordingly.

(DINESH MEHTA),J

14-Amar/-