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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-28311-2023 (O&M)
Date of Decision: 14.10.2024

S.P.D.M. Senior Secondary School Petitioner

Versus

State of Haryana and others Respondents

CWP-3010-2024 (O&M)

S.P.D.M. Senior Secondary School Petitioner

Versus

State of Haryana and others Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Mohit Garg, Advocate,
for the petitioner (in both cases).

Ms. Dimple Jain, DAG, Haryana.

Ms. Vasundhra Asija, Advocate for
Mr. P.S. Chauhan, Advocate,
for respondents No.3 & 4.

JASGURPREET SINGH PURI, J. (ORAL)

1. Both the petitions have been filed under Article 226/227 of the Constitution of India and are being taken up together for final disposal with the consent of all learned counsels for the parties since the subject matter involved in both the petitions is inter connected and both the petitions have been filed by the same petitioner i.e. S.P.D.M. Senior Secondary School, Village Saragathal, Tehsil and District Sonipat.



2. The petition bearing CWP-28311-2023 has been filed by a private school with the prayer for setting aside the order dated 30.11.2023 (Annexure P-10) whereby a fine of Rs.1 lac has been imposed upon the petitioner-School. Another petition i.e. CWP-3010-2024 has been filed praying for setting aside the order dated 01.02.2024 (Annexure P-10) whereby the respondent-Board has decided to not make the petitioner-School an Examination Centre in future.

3. The facts of case are being taken up from CWP-28311-2023.

4. The brief facts of the present cases are that the petitioner is a private senior secondary school at Village Saragathal, Tehsil and District Sonapat and both the petitions have been filed through its Principal. The School was nominated as Examination Centre by the respondent-Board of School Education Haryana for conducting the examination of Class 10th & 12th. The examination of 12th for various subjects were held. The subject matter of the present petition pertains to the subject of Hindi regarding which the examination was held on 04.03.2023. The petitioner-School was the Examination Centre for various schools where the respondent-Board conducted the examination. After the examination was over, one of the students, who was not a student of the petitioner-School but of some other school made a complaint to the respondent-Board vide Annexure R-1 on 16.05.2023 that he has been shown to be absent in the subject of Hindi but in fact he had taken the exam for Hindi subject and even in the Admit Card, the signature of Invigilator is also placed and therefore, his result for Hindi subject may be declared. On the basis of the aforesaid complaint, the Board



as per Para No.4 of the preliminary submissions in the reply filed by the respondent, appointed a Committee consisting of two Superintendents of the Board and the aforesaid Committee conducted an enquiry. The report of the Committee has also been attached with the reply as Annexure R-3 wherein it was concluded that the Invigilator, namely, Mrs. Jyoti whose signature is shown to be on the Admit Card, did not present herself before the Committee for questioning and the Centre Superintendent i.e. the Principal of the School had written that she is no longer working in the School. In the document of attendance etc. which was submitted by the School to the Board for the aforesaid student in the aforesaid subject of Hindi wherein in the column of attendance a fluid was applied and the aforesaid student was shown to be absent but the signature of the aforesaid Invigilator, namely, Mrs. Jyoti is visible.

5. During the course of hearing, the learned counsel for the respondent-Board supplied a copy of the aforesaid Centre Pasting-cum-Signature Chart, Senior Secondary (Regular) Exam Feb./March 2023 to the Court and a copy thereof has also been supplied to the learned counsel for the petitioner and the same is hereby taken on record as Mark 'X'. The petitioner-School on the basis of the enquiry so conducted by the Committee was penalized for an amount of Rs.1 lac which is the subject matter of the petition bearing CWP-28311-2023. Learned counsel for the respondent-Board during the course of arguments has also supplied a copy of the Board of School Education Haryana Regulations and the aforesaid decision of the Board.



6. The petitioner-School had also preferred a writ petition bearing CWP-1008-2024 whereby it sought directions that the petitioner-School may be listed as an Examination Centre, regarding which a Co-ordinate Bench of this Court had directed the Board to pass a speaking order. The speaking order dated 01.02.2024 which is attached as Annexure R-5 in CWP-28311-2023 whereby in pursuance of the directions issued by a Co-ordinate Bench of this Court to pass a speaking order, it was decided by the Board that the School will not become a centre for such examination in future. It is the order dated 01.02.2024 which is under challenge in the second writ petition i.e. CWP-3010-2024.

7. Learned counsel for the petitioner has argued that when the aforesaid student, namely, Yashan had filed a complaint before the Board then a Committee was constituted and the entire record was supplied to the Committee by the Principal of the School and it was the case where in fact the aforesaid student was absent on the date when the Hindi examination was conducted and it was his own afterthought that he made an application to the Board in this regard. He further submitted that although in the attendance sheet and chart (Mark 'X') in the column of the aforesaid student, namely, Yashan, some fluid has been applied in the attendance part and absent has been written and in the corresponding column of the signature of the Invigilator, the signature of the Invigilator, namely, Mrs. Jyoti is seen but the aforesaid Jyoti is not an employee of the School anymore nor did she present herself before the Board Committee. He also submitted that if a wrong has been committed by an employee, who was the Invigilator, then



the responsibility of the school will not arise because the erasing of the attendance was not done by the Centre Superintendent of the School, who is the Principal but if at all any wrong has been committed, it has been done by the Invigilator. He further submitted that even otherwise also the School is in possession of the answer-sheet of the aforesaid subject of Hindi which is completely blank and therefore it can be safely presumed that the aforesaid student was absent on the day when the examination was conducted.

8. Learned counsel for the petitioner further submitted that a penalty of Rs.1 lac has been imposed which otherwise has been stayed vide order passed by this Court on 30.01.2024 in CWP-28311-2023 but on the same cause the petitioner-School has now been debarred for all times to come for the purpose of becoming an Examination Centre which not only is a double punishment but it is also an action whereby for all times to come an embargo has been imposed upon the petitioner-School for no fault of the School and submitted that both the orders i.e. the order by which the punishment of Rs.1 lac has been imposed and the order by which the petitioner-School has been debarred from becoming an Examination Centre in future may be set aside. He also submitted that even otherwise also the aforesaid student, namely, Yashan had written to the School that under misconception he had given a complaint to the Board which he may withdraw and even otherwise also the aforesaid student had again taken the examination of the aforesaid subject of Hindi which was conducted by the Board which he has passed and therefore, the action of the Board was totally illegal.



9. On the other hand, learned counsel appearing on behalf of respondent-Board submitted that it is a case where a bare perusal of Mark 'X' which is a Centre Pasting-cum- Signature Chart, Senior Secondary (Regular) Exam Feb./March 2023 would show that some fluid was put at a place where the attendance of the students were to be marked and absent has been written on the aforesaid fluid and in the column of the signature of Invigilator, the signature of Mrs. Jyoti is apparent which has not been erased. She further submitted that the aforesaid document was supplied by the School to the Board itself and the petitioner-School had no authority to erase anything on the attendance sheet or to put a fluid on the attendance sheet because it would amount to tampering of the record and in this regard she referred to Regulation 5(f) of the Board of School Education, Haryana (Annexure P-11), which is a Condition for Affiliation, to substantiate her argument to show that its a condition of affiliation that the institution shall render all co-operation to the Board in conducting the examinations and checking the menace of copying impersonation and other irregularities. She also submitted that the aforesaid irregularity and illegal action committed by the School which was supposed to have given the record to the Board without tampering the record. She also referred to Regulation 10(b) wherein in certain situations even the affiliation can be withdrawn or suspended if the school is found involved in malpractices such as mass copying in public examination conducted by the Board etc. She further submitted that although the Board could have proceeded against the School for withdrawal or suspension of the affiliation but in the present case instead of disaffiliating



the School, the Board has only imposed a penalty of Rs.1 lac in accordance with Mark 'Y' which was a general decision of the Board and has only put an embargo upon the School not to hold the Examination in future and therefore, it is only a lighter penalty which is imposed upon the School. She also submitted that it is not a case of any disciplinary proceedings but admittedly in the School record, some fluid has been put on the attendance sheet wherein one student, namely, Yashan has been shown to be absent. She further submitted that the examination system is sacrosanct and its sanctity has to be maintained and therefore, the aforesaid action of the School is in accordance with law. She also submitted that a detailed enquiry has been conducted in which the petitioner-School was joined and only on the basis of the enquiry, the aforesaid action has been taken by the respondent-Board in accordance with law.

10. I have heard the learned counsels for the parties.

11. It is a case where the petitioner-School was holding an Examination Centre for 10+2 Class. For the subject of Hindi an examination was conducted on 04.03.2023. One student, namely, Yashan gave an application to the respondent-Board that he was not absent but he has been shown to be absent. Thereafter, the Board conducted an enquiry after appointing a Committee in which the petitioner-School was associated. The Board has imposed a penalty of Rs.1 lac in accordance with Mark 'Y' and has also directed that the petitioner-School will not become an Examination Centre in future. This Court has seen and perused the Centre Pasting-cum-Signature Chart, Senior Secondary (Regular) Exam Feb./March 2023 (Mark



‘X’) from where it is clear that there has been an erasing in the attendance column of one student, namely, Yashan and after erasing the same, he has been shown to be absent. In the corresponding column under the head of signature of invigilator, the Invigilator, namely, Mrs. Jyoti has signed which has not been erased. Even a perusal of Annexure R-1 (Colly.) which is at Page No.61 of the paper-book would also show that on the Admit Card of the aforesaid student which is an independent distinct document, the signature of the aforesaid student appears and that of the aforesaid Invigilator also appears but there is a light black shadow on the top of it, although signatures are shown to be clear. The Board has taken a stand that tampering of record is not tolerable in view of the sanctity of the examination system. So far as the aforesaid Invigilator, namely, Jyoti is concerned, a stand has been taken by the petitioner-School that she has already left the School and she did not even appear before the Board Committee for giving explanation and the Committee therefore came to the conclusion that putting up fluid on record was not permissible and therefore in accordance with Mark ‘Y’, penalty of Rs.1 lac has been imposed.

12. So far as the writ petition bearing CWP-1008-2024 is concerned, when the petitioner earlier filed a petition before this Court, then a Co-ordinate Bench of this Court had directed the respondent-Board to pass a speaking order on the representation filed by the petitioner (Annexure P-9 in CWP-3010-2024) and in pursuance of the aforesaid order, a speaking order dated 01.02.2024 has been passed by the respondent-Board which is a subject matter of challenge in the second writ petition. On the basis of the



reasoning, the Board decided that the School will not become an Examination Centre in future.

13. During the course of arguments, this Court has raised a specific query to the learned counsel for the respondent-Board that as to how the respondent-Board could have created an embargo upon the School for all times to come and for an indefinite period to which she submitted that she has instructions from the Board to state that although in the order it has been so stated that the School cannot become an Examination Centre in future but in case in future the petitioner-School files any application for making the School as an Examination Centre then the order dated 01.02.2024 will not become a bar or an embargo for taking a fresh decision in accordance with law.

14. Regulations 5 & 10 vide Annexure P-11 and Regulations 67 to 70 vide Annexure R-4 of the Board of School Education Haryana, Bhiwani are reproduced as under:-

“Annexure P-11

BOARD OF SCHOOL EDUCATION HARYANA, BHIWANI

Part-I

AFFILIATION REGULATIONS

The Haryana Board of School Education Affiliation Regulations received the approval of Government of Haryana on the 29th August 2005 under section 19(1) of Haryana Board of School Education Act 1969 (Act 11 of 1969) and is published for General information namely (as per Board's meeting 11.02.2019 Para-11 Point-05 Sub-Point 01):

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5. CONDITION FOR AFFILIATION:-

- (a). *The institution applying for affiliation should have obtained recognition from the competent authority of Department of Education, of the state.*
- (b). *The institution shall make use of the syllabus and*



Text books published, printed and approved by the Board for study by its students and no private publisher books will be allowed at any rate.

- (c) The management committee of private aided/unaided schools/colleges recognized by education department be formed in accordance with the rule 32 of Haryana School Education Rule 2003.*
- (d) The institution shall undertake to make available all records/registers of students and teachers for verification of any fact by the Board on demand.*
- (e) The institution shall undertake to make available the building/furniture and the services of its staff to the Board for conducting the examinations without charging any rent for the building/furniture.*
- (f) The institution shall render all co-operation to the Board in conducting the examinations and checking the menace of copying impersonation & other irregularities.***
- (g) The institution shall implement all directions issued by the State Govt. or by Board from time to time for conducting the courses of study and examinations at various levels.*
- (h) The institution shall accept the responsibility to conduct the courses for the students of 'Open School & for running of study centers.*
- (i) The institution shall be open to inspection by any Officer of the Board or any committee constituted for the purpose by the Chairman/Secretary,*
- (j) No institution which has been affiliated by the Board shall add to the Courses of Instructions in respect of which it is not affiliated to the Board or suspend/stop any course of instructions for which it has been affiliated without the prior permission of the Board.*
- (k) The Head of the institution while granting admission to the students migrating from other institutions irrespective of whether the migration is from within the State or outside the State, shall ensure authenticity of the documents produced before him/her in support of the claim for admission and shall be personally responsible for the same.*
- (l) The verification so made shall be produced in the form of attested photocopy with the enrolment return to be submitted to the Board's office. An undertaking to the effect that the Head of the institution owns responsibility for the verification so made will be intimated to the Board along with Enrolment Return by him/her and shall be liable for disciplinary action in case anything adverse on the part of the institution*



is found against the rules/regulations of the Board and the Govt. The Students seeking admission in class X or XII after passing IX and XI from any other state or Central Board of Secondary Education must get enrolled within 20 days after getting SLC from the previous school. The head of the institution shall be responsible for making the admission well in time & within the prescribed dates of all the candidates who are eligible as per rules/regulations and instructions issued by the Board from time to time.

- (m) The school running in the same building and premises shall not be affiliated with another board concurrently.*
- (n) The medium of instructions-Hindi shall be the preferred medium of instructions in all schools however the school may impart education through the medium of any language other than Hindi such as English, Punjabi, Urdu etc.*
- (o) The Branch of the school running in a separate building shall be treated as a new school for affiliation purpose.*
- (p) Transfer/Sale of school-The Department/Board would not allow to transfer/sale of any property of school by one Society/ Management/ Trust/ Individual or Individual Association to another Society/Management/Trust/Individual or individual association through agreement/sale deed, shall be necessary.*
- (q) The School seeking affiliation shall develop and maintained its own website provide all vital information regarding the school on the website.*
- (r) Application for affiliation should be applied by online method.*
- (s) Board will nominate its nominee as committee member in the committee formed for inspection of schools for recognition.*
- (t) If at any stage any school/institution is found to be violating rules/regulation in terms of teachers and their qualification, curriculum equipments building and other educational facilities, board will take appropriate action including with terms of affiliation under section 13 of the Haryana board of school education. Act 1969 and the decision on the Board will be final.*

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10. REFUSAL, SUSPENSION OR WITHDRAWAL OF AFFILIATION AND OTHER PENALTIES:



In the cases where it is noticed that an institution affiliated to this Board has violated any of the rules/regulations or flouted any instructions/directions given to it by the Board's office, the Chairperson may impose penalty as per criteria laid down by the Board for imposing such penalties from time to time.

The Chairperson may refuse/withdraw/suspend the affiliation of a school after giving a reasonable opportunity against the proposed action to be taken against the school in the following circumstances:

a) If a school ceases to fulfill any requirement of affiliation or any of the conditions of these regulations.

b) If a school is found involved in malpractices such as mass copying in public examination conducted by the Board or giving admissions on the basis of bogus documents or unrealistic over sponsoring the candidatures or tampering of records or non co-operation with the Government/Board, its affiliation shall be withdrawn/refused/suspended. and the concerned institution shall be intimated in this regard.

c) If the institution obtains affiliation by fraud, mis-representing or suppressing any particulars or after obtaining affiliation fails to continue to comply with any of the regulations, the Chairman after giving a reasonable opportunity can withdraw/suspend affiliation.

d) If recognition of an institution is withdrawn by the Education Department earlier in such a case affiliation shall cease from the date of withdrawn of such recognition and vice-versa.

e) If at any stage it is found that an institution had committed in the past any illegality/irregularity or violating any of the rules/regulations/instructions of the Board/Education Department, the affiliation can be refused/withdrawn/suspended by the Chairman of the Board for the current academic session irrespective of the fact that the institution has been granted recognition by the Government and the institution has already sponsored the students for board's examination. However, in case of Govt. Institution the case will be referred to the appropriate authority.

f) As Board duty is mandatory, therefore, those private school teachers who have been assigned examination duty by Board and do not perform duty due to:

-He/ She is not relieved by the principal then the concerned principal will be fined Rs. 5000/-

-Or if staff member appointed by Board for



examination duty does not join the duty then this will be considered his/her negligence and he/she or school will be fined Rs. 5000/-

The affiliation granted by the Chairman can also be withdrawn earlier if in the opinion of the Chairman, the institution has failed to observe/comply with any of the conditions of affiliation.

Provided that affiliation shall not be suspended/withdrawn without giving reasonable opportunity to the institution.

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“Annexure R-4

BOARD OF SCHOOL EDUCATION HARYANA, BHIWANI

67. TEMPERING WITH A CERTIFICATE AND OBTAINING A CERTIFICATE ON FALSE REPRESENTATION:

The Chairman shall have power to disqualify a person who is found guilty of:

- (i) Tempering with his/her own certificate; or*
- (ii) Obtaining or attempting to obtain a certificate to which he/she is not entitled:*

The period of disqualification will be determined by the Chairman/Vice-Chairman.

68. CONDUCT OF EXAMINATIONS:

Subject to the Regulations, rules and directions framed by the Board. the Secretary shall be responsible for all arrangements connected with the conduct of examinations and all matters connected therewith.

69. CREATION/ RETENTION OF EXAMINATION CENTRES:

The examination shall be held in India at such centres as may be constituted by the Board. The Board may, however, allow a centre in any other country also where arrangements to the satisfaction of the Secretary can be made.

- (i) Examination centres shall be created/retained purely on administrative grounds according to the needs of the Board. When the Board considers it necessary to create/retain a centre to meet its requirements, all costs will be borne by the*



Board.

(ii) Suitability of the school building as to the adequate seating accommodation and absence of noise and other sources of disturbance and such factors as may facilitate prevention of use of unfair means will be taken into consideration while creating a centre.

(iii) The Board shall have the power to abolish a centre which it finds unsuitable for holding examinations, for whatever reasons, or which cannot be justified by the number of candidates appearing there.

(iv) If in an area the Board finds that examinations can be conducted more smoothly and conveniently in a school other than the one where there is already a centre and that the candidates of schools from which students used to appear at the existing centres will not be put to inconvenience if shifted to the proposed centre, then the old centre shall be abolished and a new one created at the place judged to be the better one for the purpose. Convenience of candidates, however, will be disregarded in case where it is discovered that there is large scale copying in the existing centres.

(v) If there is a dispute between two schools as to which of them should have an examination centre, the Secretary and/or an officer or officers deputed by him will inspect both the schools and submit a report to the Board which shall decide as to which of the two schools be selected for creation/ retention of a centre.

70. CREATION OF NEW CENTRES:

(A) Requests for creation of new centre at school where the Board has not on its own considered necessary to locate a centre, may be considered on the following conditions:

I. The Head of the institution desirous of a centre being created at his/her school must apply on the prescribed form along with a sketch of the school building so as to reach the Board's office by the 30th September of the year preceding the examination.

II. The written consent of the Head/s of other school/s opting for centre applied for must accompany the application.

III. The option of school/s to sent their candidates to new centre does not adversely affect an already existing centre.

IV. The school applying for creation of the centre shall pay the following fees along with the application. Secondary and



Senior Secondary examination:

(i) Inspection fee (non-refundable) : Rs. 3000/- or as decided by the Board from time to time.

(ii) Centre creation fee (to be refunded if centre is not created) : Rs. 12000/- or as decided by the Board from time to time.

V. No application for creation of centre of Examination will be considered unless the minimum number of candidates likely to appear in the centre is as stated below:”

15. It is the argument of learned counsel for the respondent-Board that as per Regulation 69 authority has been vested with Board to abolish a centre which it finds unsuitable for holding examinations, for whatever reasons or which cannot be justified by the number of candidates appearing there. In the present case, the Board has exercised its power under the aforesaid Regulation 69 on the ground that tampering of the record has been done by the School which was an Examination Centre and therefore, the Board thought it fit that considering the sanctity of the examination system, the School should not become a centre of examination in future. At the same time the learned counsel for the respondent-Board has also stated on instructions that although the aforesaid order mentions that it is operative for all times to come in future but she has instructions to state that in case the petitioner-School files any application for future examination, then the present order will not become a bar or an embargo. Therefore, the aforesaid order dated 01.02.2024 will not be having any effect for indefinite period but considering the statement made by the learned counsel for the respondent-Board, liberty is granted to the petitioner-School that after the completion of the present academic year, the School shall be at liberty to make an appropriate application in accordance with law for designating/nominating itself as an Examination Centre and in case any such application is moved,



then the respondent-Board shall pass a fresh order in accordance with law and the present order dated 01.02.2024 wherein it has been so stated that the bar is for future for all times to come shall not act as a bar or an embargo for the petitioner-School to become an Examination Centre in future.

16. After hearing the learned counsels for the parties, this Court is of the considered view that it is not a case of double punishment because it is a case where the sanctity of the examination system is involved. The penalty of Rs.1 lac has been imposed in pursuance of the power conferred vide Mark 'Y' and the order dated 01.02.2024 whereby the Board decided that the petitioner-School will not become the Examination Centre in future has been passed in pursuance of Regulation 69 and they operate differently in different field. Not only this, this Court is also of the considered view that the sanctity of the examination system has to be put in highest esteem and in case the Board is of the view that tampering of the record vitiated the sanctity of the examination system, then this Court will not sit over the wisdom of the Board in this regard. Not only this, so far as putting fluid on the record is concerned, the same is not a disputed position but it is an admitted position and apparent from the record itself.

17. In view of the aforesaid facts and circumstances, the present petition i.e. CWP-28311-2023 is hereby dismissed. The interim order passed by this Court on 30.01.2024 is hereby vacated. Second petition i.e. CWP-3010-2024 stands disposed of.

18. Before parting with the judgment, this Court would like to take a note of the written statement filed by the respondent-Board wherein in



Para No.4 of the preliminary submissions, it has been so stated that the Board constituted a Committee consisting of two Superintendents of the Board and the Principal of the School was asked to appear before the aforesaid Committee. Notwithstanding the merits of the subject of the matter of the present petition, this Court is of the view that the Head of an Education Institution/Principal of the Schools/Colleges command respect in the society and they hold an esteemed position. Appointing a Committee of Superintendents and asking a Principal who is at a higher pedestal to appear before them is not proper. The officer of the Board who appointed the Committee should have been conscious of the aforesaid fact pertaining to differentiation in designations. The Chairman of the Board is directed to take corrective measures and to issue appropriate instructions to all the concerned and also to ensure that such kind of respect and dignity of the head of the education institutions should be maintained. The aforesaid corrective measures shall be taken by the Chairman of the Board within a period of one month from today.

19. A copy of this order be sent to the Chairman of the Board for information and compliance purposes.

14.10.2024
Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |