

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V
Thursday, the 21st day of July 2022 / 30th Ashadha, 1944
WP(C) NO. 22934 OF 2022(N)

PETITIONERS:

1. AMEEN SALEEM, AGED 16 YEARS, MINOR, REPRESENTED BY HIS FATHER ABDUL SALEEM, CHOLAYIL, KURUKATHANI, KURUKA, PERUMANNA, MALAPPURAM - 676551.
2. MOHAMED SINAN, AGED 16 YEARS, MINOR, REPRESENTED BY HIS FATHER USMAN. V, VILANGALIL, CHANGUVETTY, KOTTAKKAL, MALAPPURAM - 676503.

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY ITS SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695001.
2. THE DIRECTOR OF GENERAL EDUCATION, HIGHER SECONDARY WING, HOUSING BOARD BUILDINGS, SANTHI NAGAR, THIRUVANANTHAPURAM - 695001.
3. THE REGIONAL DEPUTY DIRECTOR, HIGHER SECONDARY EDUCATION, CIVIL STATION, DOWN HILL, MALAPPURAM - 676505.
4. THE CENTRAL BOARD OF SECONDARY EDUCATION, REPRESENTED BY ITS SECRETARY, SHIKSHA KENDRA, 2 COMMUNITY CENTRE, PREET VIHAR, DELHI, PIN - 110092.

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to direct the 2nd respondent to keep open the last date for making on-line application to Plus One course 2022-23 till the disposal of this case.

This petition again coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and this Court's order dated 18.07.2022 and upon hearing the arguments of M/s. AUGUSTINE JOSEPH, TONY AUGUSTINE and NEETHI RAPHAEL, Advocates for the petitioners, SPECIAL GOVERNMENT PLEADER TO ADVOCATE GENERAL for R1 to R3 and of SRI. NIRMAL, STANDING COUNSEL for R4, the court passed the following:

p.t.o

Exhibit P3: True copy of the circular dated 8.7.2022 from the 2nd respondent

**Exhibit P4: True copy of the judgment dated 26.05.2017 in W.A.
No.900/2017.**



RAJA VIJAYARAGHAVAN V, J.

W.P.(C) No.22934 of 2022

Dated this the 21st day of July, 2022

ORDER

This order shall be read in continuation to the order dated 18.07.2022.

2. A statement has been filed by the 2nd respondent as directed by this Court. Paragraph Nos.2 to 5 are extracted below for convenience.

2. It is submitted that the second respondent declared the results of the Secondary School Leaving Certificate (10th standard examination) on 15.06.2022. Thereafter, the second respondent by Exhibit P3 Circular dated 08.07.2022 issued directions regarding admission to Higher Secondary Courses. The candidates were permitted to submit online applications from 11.07.2022 and the last date for submission for online application was 18.07.2022. The trial allotment was scheduled to be conducted on 21.07.2022 and the first allotment was notified to be held on 27.07.2022. The date notified to commence the classes is on 17.08.2022. The supplementary stage of the admission process was envisaged from 23.08.2022 to 30.09.2022. However, pursuant to the interim order passed by this Hon'ble Court on 18.07.2022 in the above writ petition, the last date for submission of application was extended till 1.00 PM on today (21.07.2022).

3. It is submitted that CBSE Class X examination results have

not been declared so far. If the results were published on or before 20.07.2022, this respondent was prepared to give time to enable them to apply from 21.07.2022 to 23.07.2022. Even today, there is no indication as to the probable date of publication of CBSE Class X examination. The second respondent cannot indefinitely postpone the last date for submission of application for Higher Secondary Course in the State stream.

4. As stated earlier, Plus One Courses are scheduled to commence from 17.08.2022. Still, it will be challenging task to meet 200 working days during the academic year 2022-2023. This respondents aim to achieve 200 working days by holding classes on Saturdays. Any further enlargement of time to submit applications will cause undue delay in allotment process and prolong the commencement of classes to September, 2022. Educational institutions will be closed for 10 days Onam vacation in the 1st week of September 2022. So, there will be further reduction in working days, which will adversely affect the interest of the students. Hence, the last date for submission of the application cannot be pushed further.

5. It is submitted that more than 4 lakhs students are waiting to secure admission to plus one course and any further delay will derail the entire admission process. Unlike the CBSE, the State is holding Plus One Examination and further delay will have larger ramifications. This respondent is prepared to give option to CBSE students to apply in the supplementary allotment process.

3. Sri. S. Nirmal, the learned Standing Counsel appearing for the CBSE, submitted that he has no positive instructions as regards the date on which the CBSE intends to publish the Standard X results. It is submitted by the learned counsel that some delay had occurred due to the pandemic, and the Central Board cannot be blamed as such.

4. A Division Bench of this Court in the judgment dated 26.5.2017 in W.A.Nos. 900 and 906 of 2017 had occasion to consider the same issue raised in this writ petition. While considering the rights of the students who intend to migrate to the State Board from the CBSE, this Court had held that CBSE students cannot be denied a choice to apply for the Plus One course in the State as it would amount to denying them equality and the right of choice. Rejecting the argument of the State that 10% of seats can be reserved for CBSE students, this Court had observed that it may amount to classification with no rational basis and may lead to administrative chaos. This Court had also observed as follows in paragraph No. 6 of the judgment.

“6. To us, like other professional institutions where applications are received, pending results, State could have and ought to have adopted the same procedure so that all formalities, data collection would be over and would merely await for formal results. It would

have reduced the time gap. Unfortunately, State even though was alive to the situation, chose to ignore and turn a blind eye with the matters of education and specially at the level of Plus One level. We cannot permit such unholy discrimination only on the ground of local board and CBSE. We need say no more.”

5. I find that the respondents in their statement have tried to bring out a distinction between the situation which prevailed at the time of rendering Ext.P4 judgment with the present scenario. However, one cannot ignore the fact that the entire academic schedule was disrupted due to the COVID-19 pandemic. Furthermore, the CBSE is a National Board, and the delay of a day or two cannot be a reason to deprive the students of the State of Kerala who have been pursuing their education in the CBSE stream till Standard X to migrate to the State Board.

6. As it appears from the submissions advanced before this Court that the results of the CBSE may be announced without delay, I am of the view that the matter can be posted at 3 p.m. on 22.07.2022. Till then, the interim order dated 18.07.2022 shall continue.

Sd/-
RAJA VIJAYARAGHAVAN V,
JUDGE

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