

Court No. - 21 WWW.LIVELAW.IN

Case :- WRIT - C No. - 1257 of 2022

Petitioner :- Dayalbagh Education Institute

Respondent :- Election Commission Of India And 2 Others

Counsel for Petitioner :- Kartikeya Saran,Ujjawal Satsangi

Counsel for Respondent :- C.S.C.,Ashutosh Mishra

Hon'ble Siddhartha Varma,J.

Hon'ble Shekhar Kumar Yadav,J.

Challenging the order of the Government dated 18.1.2022, passed by the respondent no. 2 by which Presiding Officers who had to perform the function of Presiding Officer in the coming Elections had been asked to get themselves trained on 24/25.1.2022 in the district of Agra, the Dayalbagh Education Institute, Agra, has come forward with the instant writ petition.

Contention of the learned counsel for the petitioner is that when the Election Commission of India had come up with a Hand Book for training of the Presiding Officers of various polling stations and when in it there was a complete machinery provided by which the Presiding Officers and Returning Officers were to be trained online then why the Presiding Officers of the district of Agra were not being trained online.

Learned counsel for the petitioner also relied upon a notification dated 17.1.2022 of the Additional Chief Election Officer of the State of U.P. who is an Official of the Election Commissioner of India, wherein it had been stated that Returning Officers and the Election Officers were required to have online

training.

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Learned counsel also relied upon the Broad Guidelines to conduct the General Elections and By-elections which he has filed as an annexure to the writ petition and has specifically relied upon the Clause No.4 of it and has submitted that election training be conducted online.

Considering the training was to be conducted on 24/25.1.2022, the matter was taken up as an urgent case yesterday and the Court had requested the learned Chief Standing Counsel and the counsel for the Election Commissioner for taking instructions.

Today learned counsel for the State has appeared and has stated that on 23.1.2022 itself, the District Magistrate/ District Election Officer, Agra, had come up with a circular by which it had been stated that such persons who could not participate in the training may apply before the Committee constituted under the Government Order and the Committee would consider their difficulties. Still further by the notification it has been given out that persons who were suffering from the Covid-19 infection could take training on 29.1.2022. Since the learned Chief Standing Counsel heavily relied upon the notification dated 23.1.2022, the same is being reproduced here as under:-

“कार्यालय जिला मजिस्ट्रेट/जिला निर्वाचन अधिकारी, आगरा।

कार्यालय आदेश

विधान सभा सामान्य निर्वाचन-2022 को सकुशल, निर्विघ्न रूप से सम्पन्न कराये हेतु कार्मिको का प्रथम प्रशिक्षण कार्यक्रम दिनांक 24 एवं 25 जनवरी, 2022 को आयोजित किया जा रहा है, जिनका ड्यूटी आदेश का वितरण भी कराया जा चुका है। कतिपय कार्मिक जो कोविड-19 के संक्रमण-अन्य गंभीर बीमारी से ग्रसित/डबल ड्यूटी/पति-पत्नी दोनों की ड्यूटी तथा अन्य संबंधित प्रकरणों में निर्वाचन ड्यूटी से मुक्त कराये जाने हेतु लगभग 412 प्रार्थना पत्र प्राप्त हुये है। अतः उपरोक्त प्रकरणों में परीक्षण कर अपेक्षित कार्यवाही कराये जाने हेतु निम्नानुसार मेडिकल बोर्ड/कमेटी का गठन किया जाता है:-

1	श्री ए० मनिकन्डन, मुख्य विकास अधिकारी/प्रभारी अधिकारी (कार्मिक), आगरा	अध्यक्ष
2	डा० एस० एम० तौमर (बाल रोग विशेषज्ञ) अपर मुख्य चिकित्साधिकारी, आगरा	सदस्य
3	डा० राजेन्द्र कुमार वरिष्ठ परामर्शदाता (हड्डी रोग) जिला चिकित्सालय, आगरा	सदस्य
4	डा० भाग्यश्री एस. सावी, एम०डी० मेडिसिन, चिकित्साधिकारी, आगरा	सदस्य

उक्त कर्मों को आवश्यकता पड़ने पर ही मेडिकल बोर्ड द्वारा अलग से सूचना देकर बुलाया जायेगा। ऐसे कार्मिक जो स्वयं या उनके परिवारीजन के कोविड से ग्रसित होने या किसी अन्य कारण से दिनांक 24 व 25 जनवरी, 2022 को निर्धारित प्रशिक्षण कार्यक्रम में प्रतिभाग नहीं कर पा रहे हैं, उन्हें दिनांक 29 जनवरी, 2022 (शनिवार) को स्थान आर०बी०एस० कालेज, आगरा में पूर्व निर्धारित स्थानों पर पुनः प्रातः 10.30 बजे से अपरान्ह 01.30 बजे तक प्रशिक्षण प्रदान किया जायेगा। प्रशिक्षण कार्यक्रम में इलेक्ट्रॉनिक वोटिंग मशीन एवं वीवीपेट का भौतिक प्रशिक्षण प्राप्त किया जाना आवश्यक है जिसे कार्मिक द्वारा निर्वाचन के दौरान प्रतिकूल परिस्थितियों में स्वयं द्वारा ठीक किया जा सकता है, अतः प्रशिक्षण केन्द्र पर आकर ही उसका प्रशिक्षण प्राप्त किया जा सकता है। प्रभारी अधिकारी (कार्मिक) द्वारा भारत सरकार/राज्य सरकार द्वारा निर्गत कोविड प्रोटोकॉल (मास्क/सोशल डिस्टेंसिंग की अनिवार्यता) का अनुपालन सुनिश्चित कराया जायेगा।

उक्त आदेश तत्काल प्रभाव से लागू होंगे।

ह० अप०

(प्रभु एन० सिंह)

जिला मजिस्ट्रेट/जिला निर्वाचन अधिकारी,

आगरा।

प्रतिलिपि:

निम्नांकित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु:

- 1- वरिष्ठ पुलिस अधीक्षक, आगरा।
- 2- मुख्य विकास अधिकारी/प्रभारी अधिकारी (कार्मिक), आगरा।
- 3- अपर जिलाधिकारी (वि०रा०) उप जिला निर्वाचन अधिकारी, आगरा।
- 4- समस्त रिटर्निंग आफिसर, विधान सभा सामान्य निर्वाचन- 2022
- 5- मुख्य चिकित्साधिकारी, आगरा।
- 6- प्रमुख चिकित्सा अधीक्षक, जिला चिकित्सा अधीक्षक, जिला चिकित्सालय,

आगरा।

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उप निदेशक, सूचना आगरा।

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संबंधित समिति के सदस्यों को अनुपालनार्थ।

ह० अप०

23.1.2022

जिला मजिस्ट्रेट/जिला निर्वाचन अधिकारी,

आगरा।”

Learned counsel for the Election Commission Sri Rakesh Pandey, Senior Advocate, assisted by Sri Ashutosh Mishra, however, has submitted that Presiding Officers could not put themselves at par with the Returning Officers as they had to get themselves trained for operating VVPAT machines and the Electronic Voting Machines. He submits that this training could be given when the officers were physically present.

Learned counsel for the Election Commission also stated that even though the Election Commission had come up with a Regular Programme by which online training could be given but at this stage it was very difficult to implement the programme as the training itself was to take place today and tomorrow. He submits that an arrangement had been made for persons who could not participate in the training today and tomorrow and they could take the training on 29.1.2022. Still further, learned counsel for the Election Commission has stated that the Election could not be held online and therefore the Presiding Officers and the Returning Officers had to be trained while they were physically present. Further, learned counsel for the Election Commission,

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has also stated that ample arrangements had been made for observing social distancing at venues of training and, therefore, he submits that there was a remote chance of anybody getting infected. It has further been stated that if there was any difficulty with regard to training of teachers on a working day then arrangements, of course, would be made for their training on Saturday, the 29th of January 2022.

Under such circumstances, we are of the view that since the training is to take place today and tomorrow and since ample arrangements have been made for the training of such persons who cannot be trained on these two days as is clear from the Government order dated 23.1.2022, no interference is warranted in the instant case.

The learned Standing Counsel and the counsel for the Election Commission have also made it amply clear that at the venue of training there would be sufficient arrangements for social distancing.

The writ petition is, accordingly, dismissed.

Order Date :- 24.1.2022

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(Shekhar Kumar Yadav,J.)

(Siddhartha Varma,J.)