

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION(S) (CIVIL) NO(S). 408/2021

DEEPAK YADAV & ORS.

PETITIONER(S)

VERSUS

UNION PUBLIC SERVICE COMMISSION & ANR.

RESPONDENT(S)

WITH

WRIT PETITION (C) NO.571/2021

WRIT PETITION (C) NO.717/2021

O R D E R

Heard learned counsel for the parties.

The petitioners assail the Letter of Cancellation of their candidature dated 12.03.2021 issued by the respondent-Union Public Service Commission (for short "UPSC"), due to the failure of the petitioners to submit requisite proof of educational qualification on or before 11.11.2020, being the revised last date for submitting of the "Detailed Application Form-I" along with the requisite documents.

It is an accepted position that the petitioners had appeared in the third and final year graduation examination conducted by University of Delhi/Guru Gobind Singh Indraprastha University in August/October, 2020.

These examinations, normally conducted in the month of June/July, were delayed on account of the nationwide lockdown and restrictions due to Covid-19 pandemic.

In terms of the notification dated 12.02.2020, the petitioners having appeared in the examination the passing of which would have rendered them educationally qualified, were permitted to appear in the preliminary examination conducted on 04.10.2020. In the results of the preliminary examination declared on 23.10.2020, the petitioners, having qualified, were required to fill up the Detailed Application Form-I to appear in the main examination. The last date for submission of the Detailed Application Form-I was 11.11.2020.

However, as the third and final year graduation examination results had not been declared, the petitioners while filling up the "Detailed Application Form-I" had submitted that they were bona-fide students of the concerned University of the 2017-2020 batch, and had appeared in the third and final year examination. They had sought opportunity to appear in the main examination with an undertaking that the degree certificate would be furnished as soon as the same is made available.

The petitioners had appeared in the main

examination which was conducted between 08.01.2021 and 17.01.2021. Meanwhile, in December, 2020 the University of Delhi and in November, 2020, the Guru Gobind Singh Indraprastha University, declared the results of the petitioners. The petitioners, having cleared the third and final year graduation examination, then made attempts to submit the qualifying certificates to the appropriate authority/UPSC which, however, were not taken on record.

The UPSC cancelled the candidature of the petitioners for failure to produce the qualifying certificates before 11.11.2020, vide the Letter of Cancellation dated 12.03.2021. The UPSC relies upon clause 7 of the notification dated 12.02.2020, the relevant extract whereof reads thus:

"7. A candidate must hold a degree of any of the Universities incorporated by an Act of the Central or State legislature in India or other educational institutions established by an Act of Parliament or declared to be deemed as a University under Section 3 of the University Grants Commission Act, 1956 or possess an equivalent qualification.

Note I:- Candidates who have appeared at an examination the passing of which would render them educationally qualified for the Commission's examination but have not been informed of the result as also the candidates who intend to appear at such a qualifying examination will also be eligible for admission to the Preliminary Examination.

All candidates who are declared qualified by the Commission for taking the Civil Services (Main) Examination will be required to produce proof of passing the requisite examination along with their application (i.e. Detailed Application Form-I) for the main Examination, failing which such candidates will not be admitted to the Main Examination. Such proof of passing the requisite examination should be dated earlier than the due date (closing date) of Detailed Application Form-I of the Civil Services (Main) Examination.

...."

(emphasis supplied)

Indeed, the last part of Note I of clause 7 clearly provides that proof of passing the requisite examination should be dated earlier than the due date (closing date) of Detailed Application Form-I of the Civil Services (Main) Examination. There is nothing wrong in UPSC strictly adhering to this stipulation, being in the nature of an eligibility criterion. The respondents are justified and right in urging that this stipulation is inviolable as expounded in *Ashok Kumar Sharma & Ors. vs. Chander Shekhar & Anr.*, (1997) 4 SCC 18 and subsequent decisions of this Court which need not be multiplied.

At the same time, it cannot, however, be denied that 2020 was an abnormal and cataclysmal year due to the ongoing pandemic, lockdowns and restrictions. UPSC

had to postpone their examination like all other Universities/Boards. The results of the qualifying examination in the case of petitioners, thus, got delayed. This was entirely beyond control of the petitioners who were certainly eligible on the date they appeared in the preliminary examination and had qualified for the main examination, in which they had appeared. Admittedly, the petitioners had attained the qualifying eligibility criteria before the main examination was conducted by UPSC in January, 2021 (i.e., between 08.01.2021 and 17.01.2021).

Considering the peculiar facts specific to the pandemic and the perplexing situation in which the petitioners and others similarly placed candidates stand, we had asked UPSC to clarify the facts and disclose the number of candidates who would qualify for personality test/interview. It may be noted that it is the case of UPSC that they verified the Detailed Application Form-I, post the main examination and, thereupon, the ineligible candidates were weeded out by issuing Letter of Cancellation of candidature.

The UPSC, in light of our order, has stated that there are 5 candidates including the 4 petitioners who in view of the marks secured, would have been eligible

to be called for the personality test/interview but have not been called as they have been issued the Letter of Cancellation of candidature.

We are dealing with an extraordinary and unparalleled situation because of the pandemic and therefore, keeping in view the facts of the present case, we deem it appropriate to exercise plenary power under Article 142 of the Constitution. Relief and succor are needed and justified to alleviate the misfortune of the candidates who have qualified and come within the consideration zone and merit category. It would be inequitable to deny them an opportunity of participating in the selection process because the pandemic has caused delay in declaration of their results by the concerned University.

Accordingly, we issue direction to UPSC to permit the 5 candidates, as a special case, to participate in the personality test/interview in the respective categories in which they have qualified. The addition of these 5 candidates would not be to the disadvantage of any already empanelled candidate in the published list for personality test/interview in the respective branches/categories. We also clarify that this order should not be treated as a precedent.

With the aforesaid direction, the Writ Petitions are disposed of. Pending applications, if any, also stand disposed of.

....., J.
(A.M. KHANWILKAR)

....., J.
(SANJIV KHANNA)

NEW DELHI;
JULY 16, 2021.

ITEM NO.39+41 Court 4 (Video Conferencing) SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s). 408/2021

DEEPAK YADAV & ORS. Petitioner(s)

VERSUS

UNION PUBLIC SERVICE COMMISSION & ANR. Respondent(s)

(FOR ADMISSION and IA No.46244/2021-EX-PARTE STAY and IA No.46248/2021-EXEMPTION FROM FILING O.T. and IA No.46246/2021-EXEMPTION FROM FILING AFFIDAVIT

IA No. 46244/2021 - EX-PARTE STAY

IA No. 46246/2021 - EXEMPTION FROM FILING AFFIDAVIT

IA No. 46248/2021 - EXEMPTION FROM FILING O.T.)

WITH

W.P.(C) No. 571/2021 (X)

IA No. 63211/2021 - EXEMPTION FROM FILING AFFIDAVIT

IA No. 63210/2021 - STAY APPLICATION)

W.P.(C) No.717/2021

(FOR ADMISSION and IA No.74697/2021-EXEMPTION FROM FILING AFFIDAVIT

Date : 16-07-2021 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR

HON'BLE MR. JUSTICE SANJIV KHANNA

For Petitioner(s) Ms. Tanya Shree, AOR
Mr. Ritu Raj, Adv.

Mr. Haris Beeran, Adv.
Mr. Mushtaq Salim, Adv.
Mr. Usman ghani Khan, Adv.
Mr. Azhar Assees, Adv.
Mr. Radha Shyam Jena, AOR

For Respondent(s) Ms. Aishwarya Bhati, ASG
Ms. Sansriti Pathak, Adv.
Ms. Meera Patel, Adv.
Ms. Swati Ghildiyal, Adv.
Mr. B.V. Balram Das, AOR

Mr. Naresh Kaushik, Adv.
Mr. Vardhman Kaushik , AOR

UPON hearing the counsel the Court made the following
O R D E R

The writ petitions and pending applications
are disposed of in terms of the signed order.

(NEETU KHAJURIA)
COURT MASTER

(ANITA RANI AHUJA)
ASSISTANT REGISTRAR

(Signed order is placed on the file.)