

HIGH COURT OF JAMMU AND KASHMIR-
SRINAGAR

Case No: SWP 346/2014
FAISAL AHMAD KHAN

Dated: 14th MAY 2015
STATE & ORS

VERSUS

ORDER SHEET

CORAM:

HON'BLE MR. JUSTICE MUZAFFAR HUSSAIN ATAR- JUDGE

FOR THE PETITIONER/s: MR. SAAQUB AMIN PARRAY

FOR THE RESPONDENT/s: MR. JEHANGIR IQBAL GANA1

(ORAL)

01/ This writ petition throws up most startling and classical example of sale and purchase of academic degrees, for which many tuck shops were operating in the State. These tuck shops, who have issued the degrees, would be responsible for relegating the student community into the "dark cave of Plato".

02/ The authorities, responsible to ensure that the stream of academics and education is not polluted in the State of J&K, however, in view of the facts, which have surfaced in this case, have acted as soulless bodies with rayless eyes, as they have criminally condoned and over looked the himalayan blunders committed in procuring the academic degrees.

03/ The private respondent - Mohammad Imran Khan S/O Jayaid Ahmad Khan, R/O Qazigund, Kashmir, figures in the list of eligible candidates for being engaged as Rehbar-i-Taleem (ReT.) at M.S Salyaloo, Kurigam, Qazigund.

04/ The petitioner challenged empanelment of the private respondent in the aforesaid list on the ground that the Study Centre, through which he (private respondent) obtained the degree of 10+2 is not recognized.

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Joint Registrar
Court of J&K, Srinagar

05/ Some of the Study Centres have played havoc with the academic health of the State, which, in pursuance of Government orders, stand closed now.

06/ Allegations were made that without taking examinations, the degree certificates were being issued. The private respondent, if selected, has to teach the students in a school and after completion of satisfactory performance as ReT, he would be absorbed as General Line Teacher in the School Education Department. The private respondent has placed on record the degree of 10+2, issued by the Board of Higher Secondary Education, Delhi & B.Com. degree Award, issued by the Global Open University, Nagaland.

07/ On last date of hearing, when the case was taken up, it was decided to take it as a sample case to find out the academic ability of the private respondent, who was present in the Court. Mr. B.A.Bashir, learned Senior Advocate, was requested to give him one simple line to be translated both into urdu and english and vice versa, which the private respondent could not do at all.

08/ As the private respondent, on his selection, has to teach the students, learned counsel, appearing for him, was requested to ask him to withdraw his candidature. The advice, it appears, has fallen on deaf ears. That is how, on last date of hearing, learned counsel was asked to cause appearance of the private respondent before the Court again.

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High Court of J&K, Srinagar

09/ Today, the private respondent is present in the Court. In presence of number of learned counsel and litigant public, he was asked to write an essay on cow in urdu and english. Paper and pen

was provided to him. Even after five minutes, he could not write a single word. However, he stated that he be permitted to write the essay outside the Court Room. He was permitted to do that. At this, he said that he cannot write essay either in urdu or in english, which are the languages, which he is required to teach at the primary and middle level. Thereafter he said that he can solve any problem/question of mathematics.

10/ Ms. Arifa Jan – learned Advocate, framed some questions of 04th standard for the private respondent to solve. However, after examining the answers, no question was answered correctly.

11/ The marks certificate of the private respondent, which is issued by the Board of Higher Secondary Education, Delhi, shows that out of 100 marks in urdu subject, he has obtained 74 marks, in english he has obtained 73 marks out of 100 marks and in mathematics, he has secured 66 marks out of 100 marks.

12/ One does not know as to how many such candidates, with such degrees, stand appointed as teachers in the School Education Department.

13/ In this situation, what would be the fate of future of the State, has to be only visualized. The school going children, who are the future of nation, in the hands of such teachers, would pass out as block heads. The future of the State would get destroyed. Instead of further evolution in the academics, the youth will retard mentally and will make the future dark for all.

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Court of J&K, Srinagar

14/ In this view of the matter, it is deemed necessary to set aside the impugned panel to the extent of private respondent.

15/ The impugned panel, in which the private respondent figures, is set aside. The official respondents are restrained from entertaining

any application of the private respondent for any future selection for being appointed as Rehbar-i-Taleem/teacher in any of the schools.

Official respondents are further directed to consider claim of the petitioner for being selected/appointed in accordance with the Government orders.

16/ In order to arrest further deterioration in the education system, the Commissioner Secretary to Government, Education Department, J&K, is directed to constitute a committee to look into the hazards, which, such type of degrees must have caused to the society. The Committee shall be responsible to find out all such degrees/certificates issued in favour of such candidates, who stand selected as ReT/teachers and ask this class of teachers to sit in a screening test to ascertain as to whether they are in a position to teach the students. All such ReT/teachers, who fail in such screening test, their certificates would require to be seized, of course, after affording opportunity of hearing to them. The authorities shall consider termination of their services after following principles of natural justice as same will be in the larger interests of student community and society.

17/ The Director, School Education Department, Kashmir, shall refer the matter to the concerned police for registration of case and initiate action against the owner of the Study Centre and the private respondent. Action shall be initiated against them under penal laws as we II. Such action would also require to be initiated against all such persons, who will constitute a class with the private respondent.

18/ The Commissioner Secretary to Government, Education Department, J&K and Director, School Education Department, Kashmir, to file Compliance Report before next date.

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High Court of J&K, Srinagar

19/ Writ petition is, accordingly, **disposed** of along with connected MPs. Registry to list the index of the writ petition along with copy of this judgement on 06th July, 2015.

20/ Registry to serve copy of this order, one each, to the Commissioner Secretary to Government, Education Department, J&K, Director, School Education Department, Kashmir and Secretary, Service Selection Board, J&K, forthwith.

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Joint Registrar
High Court of J&K, Srinagar

TSJQ Mota

Srinagar

14-5-15

No. 19305

DT. 10/05/15

*Copy of order forwarded to Comm. Secy to Govt. Education Deptt.
for compliance*

JK
18/5/15
JOINT REGISTRAR
High Court of J&K, Sgr.

sd/
Honble Judge

JK



Government of Jammu and Kashmir
School Education Department
Civil Secretariat: Srinagar

Record note of the meeting held on 8.7.2015 regarding implementation of Hon'ble High Court order dated 14.5.2015 in the case titled "Faisal Ahmed Khan V/S State and others".

A meeting to discuss the implementation of Hon'ble High Court order dated 14.5.2015 in the case titled "Faisal Ahmed Khan V/S State and Others" was held under the Chairmanship of Commissioner/Secretary, School Education on 8.7.2015 at 4 PM. The following officers were present in the meeting as they shall form the members of the Committee ordered to be set up:-

1. Director, School Education, Jammu
2. Director, School Education, Kashmir
3. State Project Director, SSA.
4. Secretary, BOSE
- 5-6. Principal, SIE, Kashmir /Jammu
6. Sh.Fazal Elahi, Expert Member

In addition, Deputy Secretary, School Education Department and Sh. Mohammad Sharief, Programme Manager, Save the Children (NGO) also attended the meeting.

- 2
- The Participants were already aware about the order of Hon'ble High Court in the above titled petition. The Hon'ble High Court has observed that the study centres are providing degrees which are being used by candidates for engagement under ReT/Teacher which has severely affected the Education system as a whole. The Hon'ble High Court has directed the State Govt. to constitute a Committee to examine the issue in its totality and suggest measures.

Conduct of Screening Test:

3. Matter was deliberated by the members at length considering the nature of engagement of ReTs which is habitation specific. It was noted that doubts have been expressed about the quality of ReTs/Teacher who have obtained degrees through distance mode. Therefore, a system needs to be put in place to retain only such ReTs who have requisite ability and knowledge, for which a screening test needs to be adopted on the pattern of Teachers Eligibility Test (TET).
4. Further, since the selection process of ReTs limits the competition as it is habitation specific and the selection criteria only considers the degrees (qualification) and no other aspect, it was felt that it would be proper to conduct TET for all the ReTs/RReTs. The participants took note of the recommendations of National Council for Teacher Education (NCTE) notification No.F.No.61-03/20/2010/NCTE(N&S) dated 23rd August,2010 to introduce TET for which the guidelines have been issued, vide No.76-4/2010/NCTE/Acad dated 11th February 2011. Such tests have been introduced by many states. Since TET is the minimum level of check to assess the suitability of a candidate for joining the teaching profession, it was decided the TET should be necessary for all those desirous of joining this vocation. Moreover, to ensure quality education for the children, it is necessary to get TETs or some similar mechanism established for all in-service General Line Teachers.
5. Accordingly, it was decided that Screening test on the pattern of Teachers Eligibility Test (TET) needs to be conducted as under:-
 - a) In the first instance, all the ReTs/RReTs who have obtained degrees from Study Centres/ Distance mode will be required to appear in the Screening test.
 - b) At the time of engagement, the ReTs would be required to qualify the Screening test. No fresh panel of ReTs shall be approved till a mechanism is put in place for conducting Screening test for the ReTs.
 - c) At the time of regularization, all ReTs will be required to qualify Screening test.
 - d) The remaining ReTs/RReTs shall take the TET thereafter.

With regard to the General Line Teachers who have such degrees, the committee decided to meet again to finalize the modalities.

6. During the deliberations, suggestions were also made to devise proficiency test, which will have to be qualified at the time of promotion to the post of Masters and Lecturers for which School Education Department will bring about necessary amendments in the Recruitment Rules.
7. The mechanism for conducting Screening Test was discussed in detail and it was decided that SIEs will be the Nodal agency for conducting the test. SIEs will prepare a proposal and while framing the proposal, pattern of similar tests conducted by other States shall be kept in consideration. The Committee decided to set-up a Sub-Committee of following officers for devising syllabus and recommending qualification criteria in Screening test at different stages i.e. pre-engagements, as ReTs, as RReTs, as General line Teachers:
 - 1 Principal, SIE Jammu.
 - 2 Principal, SIE Kashmir.
 - 3 Sh. Fazal Elahi, expert.

8. Verification of Degrees.

As regards the verification of degrees obtained through Distance mode by ReTs/ Teachers, it was decided that a cell will be set-up at the level of Directorate for verification of such degrees in a period of two months. These Cells will also furnish data to the SIE for conducting Screening Test.

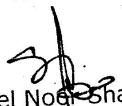
9. Assessment of adverse impact on Education.

In order to ascertain the hazards which such degrees have caused to the education system of the State, it was decided to:

- i. Conduct sample survey of results obtained from different schools having teachers from various sources viz, ReT, and General Line Teacher recruited through SSB as also comparison of the level of qualification of the teachers. NGOs will be associated in the process, if felt expedient.
- ii. Compare results of class 8th exams (as available with SIEs/Directorate /BOSE).

- iii. Conduct state level assessment test (SLAT) in respect of SSA Schools for class 5th (SPD, SSA)

It was decided to hold another meeting on this aspect after a month and examine the details furnished by the functionaries of the Department.


(Soheel Noor Shah)
Deputy Secretary to Government
School Education Department

NO: Edu/Legal/K/71/2015

Dated: 28-07-2015

Copy to Mr.S.A.Naik,Ld.AAG for information.

Copy also to the:

1. Director, School Education, Jammu for further necessary action.
2. Director, School Education, Kashmir for further necessary action.
3. State Project Director, SSA.
4. Secretary, BOSE
5. Principal, SIE, Kashmir /Jammu
6. Spl. Assistant to Hon'ble Minister for Education for information of the Hon'ble Minister.
7. Spl. Assistant to Hon'ble Minister of State for Education for information of the Hon'ble Minister of State.
8. Fazal Elahi, Expert Member.
9. Sh.Mohammad Sharief, Programme Manager, Save the Children (NGO).