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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

250

CWP-3273-2022 (O&M)
Date of Decision:05.08.2024

Harjeet Singh

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM:HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Sahir Singh Virk, Advocate for the petitioner.

Mr. Kapil Bansal, DAG, Haryana.

Mr. K.K. Gupta, Advocate for respondents No.2 and 3.

JASGURPREET SINGH PURI J.(Oral)

1. The present petition has been filed under Article 226 of the Constitution of India seeking issuance of a writ in the nature of *mandamus* for directing the respondents to verify the identity and presence of petitioner in examination of HTET held on 16.11.2019 and thereafter to declare the result of the petitioner.

2. Learned counsel for the petitioner submitted that the petitioner applied for the Haryana Teacher Eligibility Test in PGT (Physical Education) Level-3 exam in the year 2019. After the scrutiny of documents vide Annexure P-1 the petitioner was issued admit card for appearing in exam which was to be held on 16.11.2019 at C.M.G. Government College for Women, Bhodia Khera, District Fatehabad.



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When the petitioner entered the examination hall he was told to give finger prints on biometric machine. However, on that day, the petitioner was having fungal infection on his fingers and thumb due to which the process of biometric could not be undertaken by him and therefore he immediately made a written request to the centre incharge by stating that his biometric can not be done because of the allergy in his hands and sought permission for being allowed to sit in the exam vide Annexure P-2. He further submitted that due to the aforesaid problem in his hands, biometric was not feasible for the petitioner and that is why he made a request which was accepted by the centre incharge and therefore he took aforesaid exam. He further submitted that instead of the biometric, his manual thumb prints were taken on paper. He further submitted that thereafter the petitioner was asked to appear before a committee for the purpose of verification of the finger marks but the committee of the respondent-Board could not do any verification because there was no biometric of the petitioner and even otherwise also as per Annexure P-5 it is so stated that even for the other candidates the comparison could not be made because of lack of provisions for investigation. He further submitted that in other words even the comparison of biometric finger prints would not be done by the respondent-Boards vide Annexure P-5 with respect to all the candidates despite the fact that the petitioner was called and was present before the respondent-Board for five times. He further submitted that thereafter the result of the petitioner was cancelled because of the aforesaid reason.

3. On the other hand, learned counsel appearing for the



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respondent-Board submitted that when the petitioner had come to the examination centre, he could not give his finger prints on biometric machine and the centre superintendent erroneously permitted him to take the exam but that would not mean that the petitioner would be entitled for the declaration of the result. In this regard, he referred to a judgment passed by this Court in ***CWP No.14519-2017 (Rajesh Kumar Vs. State of Haryana and others)*** decided on 04.08.2017 whereby direction was issued with regard to earlier exams of Teacher Eligibility Test that the data base of fingers prints has to be made and thereafter the same has to be compared before the declaration of result. He further contended that the respondent-Board was bound by the direction issued by this Court in the aforesaid judgment and since the biometric finger prints of the petitioner could not be taken at the time of the exam the result had to be cancelled because no verification could be done.

4. I have heard learned counsels for the parties.

5. It is a case where the petitioner appeared for the Haryana Teacher Eligibility Test in PGT (Physical Education) Level -3 on 16.11.2019 and as per learned counsel for the petitioner, since the petitioner was having allergic/fungal infection on the fingers his biometric finger prints could not be taken. Heavy reliance has been placed at Annexure P-2 by learned counsel for petitioner wherein on the same date i.e.16.11.2019 the petitioner had requested the centre incharge for allowing him to sit in exam by specifically stating that his biometric finger prints cannot be taken because of the allergy in hands and undisputedly he was permitted to take the exam on the same date. The



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aforesaid Annexure P-2 is hereby reproduced as under:-

“To

*The Center Incharge,
Government College for Women,
Bhodia Khera.*

Sir,

It is requested that my name is Harjeet Singh.

*My HTET Roll No. is 3012563. My biometric is not
being done, because I have allergy in my hands. Please
allow me to sit in exam.*

Centre Code : 04002

*Exam Centre : C.M.G., Govt. College for Women,
Bhodia Khera.*

Date : 16.11.2019

Sd/-, Harjeet Singh Level 3

LTI RTI PGT:Physical Education

16/11/19 16/11/19”

6. Para No.6 of the writ petition and Para No.6 of the reply are also reproduced as under:-

Para No.6 of the writ petition

“That on the scheduled date and time as detailed in Admit Card, petitioner reached the examination center and moved to appear in the exam. On that day also petitioner was suffering with fungal/allergic infection in his hands and due to fungal/allergic infection, the biometric scanning of his finger mismatched. Due to mismatch, the officials/officers stopped the petitioner to appear in the exam. But on request and after showing his all identity proof and document by petitioner and explaining



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about the fungal/allergic infection, officers/officials accepted his request and constituted a committee of 4-5 persons on the spot. The committee of 4-5 officers/official has taken a written request from me on the spot and taken his manual finger prints on that request application and allowed to appear in the examination. The petitioner is appending herewith the true translated copy of the request dated 16.11.2019 having finger prints and signatures of committee members as Annexure P-2 for the kind consideration of this Hon'ble Court."

Para No.6 of the reply

"6. That the contents of para no.6 of the writ petition are not denied that the petitioner might have been permitted to appear in the examination by the Superintendent of Examination subject to further verification by the Board of School Education, Haryana. But on five occasions, the petitioner was called for verification but the verification could not be successful. Resultantly the result of the petitioner was cancelled as the same could not have been declared in the absence of verification as directed by this Hon'ble Court in CWP No. 14519 of 2017 (Supra)."

7. A perusal of the aforesaid para No.6 of the writ petition would show that the petitioner specifically averred in the petition that on the date of exam the petitioner was suffering from fungal/allergic infection in his hands and due to the same, biometric scanning of the fingers mismatched and due to the mismatching of the finger print the



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official/officer(s) stopped the petitioner to appear in the exam but on request and after showing all of his identity proofs and documents by the petitioner and explaining about the fungal/allergic infection, the official/officer(s) of the respondent-Board had accepted his request and constituted a committee of 4-5 persons on the spot. The aforesaid committee had taken a written request from the petitioner and also taken his manual finger prints in view of the request application annexed alongwith the writ petition at Annexure P-2 and allowed him to take the exam. However, as per the reply filed by respondent-Board to the present petition, the aforesaid averments have not been denied and rather it has been so stated that contents of para No.6 of the writ petition are not denied and the petitioner might have been permitted to appear in the examination by superintendent of examination subject to further verification by the Board of School Education. However, it has been further submitted in para No.6 of the reply that later on the petitioner was called five times for verification but the verification could not be done successfully and thereafter the result was cancelled. In other words the averments which have been made by the petitioner in para No.6 of the petition, have been admitted by the respondent-Board. It is, therefore, clear that since petitioner was having a fungal/allergic infection in the fingers, the biometric scanning of the fingers could not take place and thereafter on his written request at the same time and at the same spot a committee of 4-5 persons were constituted. Therefore, it cannot be said that it was only because of the mistake of centre incharge that the petitioner was permitted to take exam but it was a conscious decision of



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the staff present there consisting of 4-5 officials to have permitted the petitioner to take the exam. It can also be inferred clearly and safely that committee of 4-5 persons must have inspected and seen the fungal/allergic infection on the hands of the petitioner due to which he could not undertake the biometric scanning and thereafter they took the physical finger prints on paper as per para No.6 of the petition which has not been denied by the respondents. Therefore, it is clear that the petitioner was having the aforesaid difficulty and the respondent-Board after taking the written request by the petitioner, admittedly permitted him to take the exam. Not only this, thereafter the petitioner was called for five times for the purpose of verification but the verification failed and a perusal of Annexure P-5 would show that the verification has failed because the petitioner has not given his biometric at the time of aforesaid exam. It is very strange that the petitioner could not give biometric because of the aforesaid reason which is not denied by the respondents and then his result has been cancelled on the ground that there was a failure in the biometric by the petitioner. The aforesaid Annexure P-5 is hereby reproduced as under:-

**“BOARD OF SCHOOL EDUCATION HARYANA, BHIWANI
(ISO 9001:2015 CERTIFIED ORGANISATION)**

Website: www.bseh.org.in

Email: assplexam@bseh.org.in

Contact No. 01664-244171-76

From

To

*Secretary,
Board of School Education
Bhiwani 127021*

*Sanjay Ahuja, Advocate
Chamber No.25,
District Court Complex,
Fatehabad-125050
(Haryana).*



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*Serial No. 686/V.P.C.**Dated 17.01.2022****Subject:- Regarding result of Harjeet Singh Roll No. 3012563 candidate of HTET-2019.****Sir,**With reference to your notice dated 23.12.2021 it is stated that**1. The following opportunities were provided by the Board office for biometric verification in Haryana Teacher Eligibility Test-2019:-*

<i>Sr. No.</i>	<i>Details of opportunities given for biometric verification</i>
<i>1.</i>	<i>30.12.2019 to 02.01.2020</i>
<i>2.</i>	<i>05.01.2020 to 08.01.2020</i>
<i>3.</i>	<i>22.01.2020 to 24.01.2020</i>
<i>4.</i>	<i>25.01.2020 to 27.01.2020</i>
<i>5.</i>	<i>10.02.2020 to 14.02.2020</i>

In which due to failure in biometric of Harjeet Singh, Roll No.3012563 the result RLV has been cancelled.*2. No letter has been given in this regard by the candidate.**3. All that candidates were called in board office on 06.01.2021 for original sample of handwriting, thumb and finger prints, but lack of provisions investigation could not held.*

Sincerely
Sd/-, Assistant Secretary (V.P. Cell),
for Secretary “

8. A perusal of the Annexure P-5 would show very clearly that the reasons for the cancellation of the result of the petitioner was “failure in biometric” whereas it is an admitted case of the respondent-Board that



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the petitioner was having the aforesaid allergic/fungal infection in his hands and there is no denial of the same. Such reasoning given by the respondent-Board is absolutely unsustainable and it is rather obnoxious in nature. Not only this, even the biometric of various other candidates could not be matched which is clear in para No.3 of Annexure P-5 reproduced as above. According to aforesaid para, even those students who had given the biometric, the same also could not be verified because of lack of provisions for investigation. Therefore, even if the petitioner had assumingly given the biometric then also the same could not have been compared as per para No.3 as aforesaid.

9. The learned counsel for respondent-Board has placed reliance upon a judgment passed by this Court vide Annexure R-3/1 whereby a direction was issued to take the finger prints data base/thumb impression data at the time of examination and thereafter to compare the same before the declaration of final result for the purpose of prevention of impersonation. However, in the present case there is no question of having any data base of the finger prints of the petitioner as his biometric has not been done because of the aforesaid reason but his physical finger prints have been taken and which were also not compared thereafter. Therefore reliance placed upon the aforesaid judgment is absolutely misconceived by the respondent-Board.

10. A perusal of aforesaid judgment as relied upon by learned counsel for petitioner would show that primarily, the objective of using system of biometric was to prevent impersonation. However, in the present case, a committee of 4-5 officials took a decision on the spot to



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permit petitioner to take exam due to his fungal/allergic infection on the hands and fingers. Therefore, case of the petitioner could not fall in the category of impersonation. Otherwise also a perusal of last portion of aforesaid judgment would show that liberty was granted to the Board to file appropriate application in case of difficulty in implementing the judgment. However, the Board never filed any such application by carving out a special case. The relevant portion is reproduced as under:-

“The directions issued in the present case, to repeat, shall be adopted by the Commission in all future examinations/selection processes also. If the Commission faces any difficulty in implementing the directions for any valid reason, it would obviously be at liberty to file an appropriate application giving such reasons.”

11. The net result of the aforesaid discussion is that the petitioner took the exam on 16.11.2019 and his result has been cancelled and due to cancellation of his result his career has been drastically effected because the aforesaid examination which is pre-requisite for applying for the post of teachers to which he could not apply because of the aforesaid reason. This Court is of the considered view that the approach of the respondent-Board is absolutely insensitive and is highly deprecated. Consequently the present petition is allowed. The respondent-Board is directed to forthwith declare the result of the petitioner and in any case within a period of one month from today.

12. Considering the aforesaid insensitive attitude of the respondent-Board which had an effect of wasting five years of the petitioner, it will be just and proper to impose exemplary costs upon the



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respondent-Board which are assessed as Rs.1,00,000/- (rupees one lac only) which shall be paid by the respondent-Board to the petitioner within a period of two months from today.

13. In case the aforesaid amount is not paid to the petitioner within aforesaid period, then the petitioner shall be entitled for future rate of interest @9% (simple).

(JASGURPREET SINGH PURI)
JUDGE

05.08.2024.

shweta

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No