

\$~93

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Decided on: 26th March, 2021*

+ W.P.(C) 7222/2020 & CM APPL. 24392/2020 (directions)

PARENTS FORUM FOR MEANINGFUL EDUCATION

..... Petitioner

Through: Counsel (appearance not given)

versus

CENTRAL BOARD OF SECONDARY EDUCATION

THROUGH: SECRETARY, CBSE, & ORS. Respondents

Through: Ms. Seema Dolo, Adv. for R-1.

Mr. Archit, Adv. for Mr. Jawahar
Raja, ASC (C) GNCTD for R-2.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE JASMEET SINGH

JUDGMENT

: **D.N.PATEL, Chief Justice (Oral)**

1. This so called public interest litigation has been preferred with the following prayers:-

"1. Issue a writ in nature of Mandamus, certiorari, quo-warranto or such other appropriate writ order or direction to the Respondents as deemed fit and just by this Hon'ble Court to direct R2 to permanently sort out the matter of payment of the fee for students in its school for the Board Examination for Class X and Class XII with other Respondents 1 and 3 to

protect their eligibility to take the Board Examination conducted by R1 for the classes X and XII;

2. Establish an empowered committee to examine and submit a report to this Hon'ble Court for necessary standards and standards for their implementation:

(i) for fixation of norms of fee for Board Examination by R1 for the children studying in the schools run by R2 in classes for the Board Examination;

(ii) for ensuring that the children in schools run by R2 receive the minimum learning environment and opportunity for equal chances of success at the Board Examination conducted by R1 for an acceptable level of parity with other examinees taking the said examination conducted by R1;

3. Issue a writ of Mandamus directing R3 to intervene and direct R1 to necessary directions in matter of fee demanded from children studying in schools of R2 for academic year 2020-2021 ensuring that no prejudice is caused to eligibility of any child taking Board Examination for the year 2021 for class X and XII in schools run of R2 on account of non payment of such fee;

4. Issue such other or further writ, order or direction as deemed fit and just by this Hon'ble Court to meet the ends of justice and fairplay.”

2. Having heard the learned counsels of both the sides and looking into the facts and circumstances of the case it appears that this is not a Public

Interest Litigation at all. This is a Publicity Interest Litigation. It further appears from the facts of the case that this petitioner is in search of concession to be given in fees for board examination for standard 10th and standard 12th.

3. Looking into the counter affidavit filed by the respondents it is apparent that financial burden by virtue of waiving off fees is tremendous upon the government. It ought to be kept in mind that every governmental body has its own budgetary provisions. We, while exercising the powers under Article 226 of the Constitution of India, cannot imbalance the budgetary provisions of the government. Charity beyond law is cruelty to others. There is no right vested for full waiver of the examination fees or partial waiver of the examination fees. It all depends upon facts and circumstances of the case and it will vary from year to year.

4. It appears that in the previous year some concession was given by the respondent state which they do not want to continue for the academic year 2020-2021. Waiver of the examination fees for standard 10th and 12th is a complex policy decision to be taken by the respondents which depends upon a variety of factors like availability of the funds with the government, the priority of the government for expenditure of the public money, the minimum public works that are to be done by the government/governmental authorities during the pandemic situations, etc.

5. Hence, we see no reason to entertain this writ petition and we are not inclined to give any directions to the respondents for the waiver of the fees

for standard 10th and 12th examinations. Nonetheless, it is left at the discretion of the government looking to their income and expenditure to be incurred by them as per priority, they may give portion or full concession depending upon the facts and circumstances of each case.

6. With these observations, this writ petition is hereby dismissed.

CHIEF JUSTICE

JASMEET SINGH, J

MARCH 26, 2021

'sr'

सत्यमेव जयते