

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE B. VIJAYSEN REDDY

WRIT PETITION (PIL) Nos. 138 and 143 of 2020

15.09.2020

W.P (PIL).No. 138 of 2020

Between:

Balmoori Venkat Narsing Rao

...Petitioner

and

The Union of India and others

...Respondents

Counsel for the petitioners : Mr. C. Damodar Reddy,

Counsel for the respondents : Mr. B.S. Prasad, Advocate General,
Mr. Dharmesh J K Jaishwal,
Mr. T S Anand
GP for Higher Education
Mr. V. Ramachander Goud,
Mr. M. Venugopal Rao,
Mr. Ch. Jagannatha Rao

W.P (PIL).No. 143 of 2020

Between:

Gareeb Guide (Voluntary Organisation)

...Petitioner

and

State of Telangana and others

...Respondents

Counsel for the petitioner : Dr. D.V. Rao

Counsel for the respondents : Mr. B.S. Prasad, Advocate General,
Mr. Dharmesh J K Jaishwal,
GP for Education

The Court made the following:

COMMON ORDER: (Per the Hon'ble the Chief Justice Sri Raghvendra Singh Chauhan)

Mr. Balmoori Venkat Narsing Rao, a public spirited person, has filed W.P (PIL).No.138 of 2020 for seeking the following relief:

"It is therefore prayed that this Honorable Court may be pleased to issue a Writ, Order, or a Direction more particularly in the nature of a Writ of Mandamus declaring the action of the respondents in trying to conduct Telangana Common Entrance Tests-2020 from 01.07.2020 onwards and Semester and Final Year Examinations of Under Graduate/Post Graduate Courses and Typewriting Examinations on 04.07.2020, 11.07.2020 and 12.07.2020 in the State of Telangana during the period of lockdown in view of the pandemic of Covid-19 and consequently direct the respondents to postpone the Telangana Common Entrance Tests-2020 scheduled from 01.07.2020 onwards and promote the students to next semester/academic year without conducting examinations of UG/PG and other Diploma Courses including the Type Writing and Short Hand Examinations in the interest of Justice and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

On the other hand, Gareeb Guide (Voluntary Organisation) has filed W.P (PIL).No.143 of 2020 for seeking the following relief:

"It is therefore prayed that this Hon'ble Court may be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the Respondent Nos.1 to 3 in issuing Notification, dated : 04.06.2020 to conduct Telangana State Engineering, Agriculture and Medical Common Entrance Test-2020 (TS EAMCET-2020) from 06.07.2020 to 09.07.2020 for the academic year 2020-21 in the State of Telangana by ignoring the COVID-19 spread as illegal, arbitrary, against rule of law, natural justice and articles 14, 21 of the Constitution of India. Consequently, direct the Respondent No.1 to 3 to postpone the TS EAMCET-2020 until further orders of this Hon'ble Court and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

A bare perusal of the reliefs sought by both the petitioners clearly reveals that they have prayed for certain common reliefs. However, as the Telangana Common Entrance Test-2020 has already commenced, both the learned counsel for the petitioners have given up the relief to stop the Common Entrance Test-2020 from taking place. Thus, the only issue before this Court is whether the Under Graduate/Post Graduate Final Year Examinations should be permitted to commence or not?

Initially, the Final Year Examinations were scheduled to be held in the month of July, 2020. However, due to the continuation of the COVID-19

pandemic, the said Final Year Examinations have been postponed by the Universities. Presently, the Universities, the Autonomous Engineering Colleges and the Autonomous Degree Colleges have declared their schedule for examinations. Therefore, the issue before this Court presently is whether the examinations should be held in online mode or offline mode? For, the petitioners claim that due to the continuation of the COVID-19 pandemic, due to the escalation in the cases of COVID-19 throughout the State, the examinations should be held only in online mode. According to the petitioners, the students of the Final Year Under Graduate/Post Graduate Courses should not be forced to take their examination in physical form.

Since whether to permit the students to take up examination in physical form or online mode is a policy decision, this Court had directed the State to take a clear decision on this issue. Consequently, Mr. B.S. Prasad, the learned Advocate General, has produced a letter dated 14.09.2020 issued by the Commissioner of Collegiate and Technical Education, Hyderabad. The said letter shall be taken on record.

The letter dated 14.09.2020 reads as under:

“In continuation to the letter 6th cited, I am to state that all Autonomous Engineering Colleges and Autonomous Degree Colleges are free to conduct examinations either in online or offline mode. Further, Autonomous Engineering and Degree Colleges have freedom to design their own curriculum. In the examinations held by Autonomous Engineering Colleges and the Autonomous Degree Colleges, the paper setting and evaluation of the answer scripts is done by the respective Autonomous Engineering/Degree Colleges only, which is different from the paper which is administered by the respective Universities to the Candidates of affiliated Engineering and Degree Colleges. The details of students appearing for examinations in Autonomous Engineering / Degree Colleges are as follows (list enclosed):-

S.No.	Autonomous Colleges	Students appearing Final Year Examination
1	Engineering Colleges (8 No.)	6776
2	Degree Colleges (3 No.)	2437
	Total	9213

It is also to state that Osmania College of Engineering and Osmania College of Technology, which are conducting online examinations, are autonomous Colleges only and they do not have affiliated Colleges.

I am to inform that as per the data available from universities, approximately 2,40,346 final year students are appearing for exams of B.A, B.Com, B.Sc, BBA, B.E, and B.Tech under various Universities of Telangana as follows:-

S.NO.	Name of the University	Students appearing Final Year Examination
1	Osmania University	70598
2	Kakatiya University	35522
3	Mahatma Gandhi University	18601
4	Satavahana University	19294
5	Palamuru University	14834
6	Telangana University	7811
7	JNTU Hyderabad	73686
	Total	240346

Further, as per the data available from universities, approximately 30,922 final year students are appearing for exams of M.A, M.Com, M.Sc, MBA, M.E. and M.Tech under various Universities of Telangana.

Further, I am to state that all affiliated Engineering Colleges and affiliated Degree Colleges will be having the examinations in offline mode only with common question paper given by the respective Universities to which they are affiliated.”

A bare perusal of this letter clearly reveals that the State has divided the colleges into two categories, namely (i) Autonomous Engineering Colleges and Autonomous Degree Colleges, and (ii) Affiliated Engineering Colleges and Affiliated Degree Colleges. As far as the first category is concerned, the State Government has given freedom to the Autonomous Engineering Colleges and Autonomous Degree Colleges to decide for themselves whether to have an online or offline examination. As far as the second category is concerned, the State has directed them to have the examination only in the physical form.

Moreover, by letter dated 11.09.2020, the State has also directed that those students who are unable to appear in the examination due to any reason, they shall be permitted to take special examinations “which may be conducted by the University as and when feasible, so that the students are not put to any inconvenience/disadvantage”. Similarly, the JNTU has also submitted instructions to the Principals by its letter dated 07.09.2020. The same also

shall be taken on record. According to the instructions, *“any student who is unable to attend the IV B.Tech/B.Pharma II semester examination due to mobility restrictions caused by corona pandemic, such students can appear for the advanced supply exams which shall be scheduled within two months after the conduct of regular B.Tech/B.Pharma II Semester exams. It will not be treated as supplementary examinations for those who do not appear for even a single examination.”* Similar instructions have also been issued by the JNTU by its letter dated 12.09.2020.

Mr. C. Damodar Reddy, the learned counsel for the petitioner in WP(PIL).No.138 of 2020, submits that both the Department of Collegiate Education and Technical Education, respondent No.10, and the JNTU, in fact, should announce and inform this Court as to how soon the supplementary examination can be held. According to him, any delay in holding the said examination may adversely effect the academic career of the students.

On the other hand, the learned Advocate General, Mr. B.S. Prasad, submits that it is not possible for the Department to decide and to make a commitment at the Bar to hold the examination immediately. It is the prerogative of the Department to take a policy decision and to decide the date.

Mr. Dharmesh J K Jaishwal, the learned counsel appearing for the JNTU, informs this Court that JNTU has already committed that *“it shall hold advanced supplementary examination within a period of two months from the date of the announcement of the result of the regular examinations, which are scheduled to begin shortly”*.

Since the Government has taken a policy decision, which seems to be most reasonable, that the Autonomous Engineering Colleges and the Autonomous Degree Colleges would be given the freedom to decide whether to hold the examination in online or offline mode, and has taken a policy decision to direct all the Affiliated Engineering Colleges and the Affiliated Degree Colleges to hold physical examination, this Court would not be justified to

interfere with the policy decision. After all, the petitioners have not pointed out any illegality in the process of taking the said decision. Furthermore, this Court cannot sit as a Court of appeal over a policy decision in the garb of judicial review under Article 226 of the Constitution of India.

As far as holding of the advanced supplementary examination is concerned, keeping in mind that the academic career of the students is involved, this Court can only request the Department to ensure that the advanced supplementary examinations are held within a reasonable time, after the results of the regular examinations are declared. Since JNTU has already made a commitment that it will hold the examination within two months from the date of declaration of the result of the regular examination, no directions need to be issued to JNTU.

However, the Commissioner, Collegiate Education and Technical Education, Government of Telangana, is directed to ensure that all the safety precautions are taken while conducting the final examination in physical form.

With these observations, the Writ Petitions filed in public interest stand disposed of. There shall be no order as to costs.

The miscellaneous petitions pending, if any, shall stand closed.

RAGHVENDRA SINGH CHAUHAN, CJ

B. VIJAYSEN REDDY, J

15th September, 2020
JSU

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THE HON'BLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN

AND

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WRIT PETITION (PIL) Nos. 138 and 143 of 2020

(Per the Hon'ble the Chief Justice Sri Raghvendra Singh Chauhan)

Date: 15.09.2020

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