

Chief Justice's Court

Case :- SPECIAL APPEAL DEFECTIVE No. - 690 of 2020

Appellant :- State Of U.P. And 3 Others

Respondent :- Manoj Sirohi

Counsel for Appellant :- Anand Kumar Ray

Counsel for Respondent :- Rahul Kumar Sharma

Hon'ble Govind Mathur, Chief Justice

Hon'ble Siddhartha Varma, J.

Heard Sri Manish Goyal, learned Additional Advocate General for the appellants and Sri Irfan Ahmad, Advocate for the respondent-petitioner.

The respondent-petitioner as per the Advertisement No.P.R.P.B.-I-I(138)/2018 had appeared in the written examination and thereafter had appeared for the physical standard verification and was found to be lesser than 168 centimeters in height. However, since he was confident that he was above 168 centimeters in height and that a wrong measurement had been done, he filed a writ petition being Writ-A No.1382 of 2020 (Manoj Sirohi vs. State of U.P. & Ors.) wherein the following order was passed on 27.1.2020 :-

"Heard counsel for the petitioner, standing counsel for the State and perused the material on record.

In the present petition, similar controversy arises. The contention of the counsel for the petitioner is that the height of the petitioner was above the prescribed height limit of 168 centimeters, however, he has been denied only on erroneous computation of the height of the petitioner. The petitioner claims that he has certificates issued by the Medical Authorities to establish that his height is above the prescribed limit of 168 centimeters.

In view of the contrary reports, I deem it appropriate to direct that the petitioner shall appear along with certified copy of this order before the Chief Medical Officer, Mathura on 6.2.2020. The petitioner shall deposit a sum of Rs. 5,000/- as cost with Chief Medical Officer, Mathura, the Chief Medical Officer, Mathura is directed to constitute a Medical Board constituting of three Doctors of the level of Professor and Associate Professor available at the local District Hospital. The C.M.O. shall also inform the S.S.P. of the District, who shall depute an officer of the rank of Additional Superintendent of Police to remain present before the Board

on 6.2.2020. The petitioner shall also produce materials in support of his identity before the Medical Board. The petitioner shall appear before the Medical Board on 6.2.2020 and he would be medically examined with regard to his height by the Board of three doctors. The report signed by the Chairman of the Board would be sent through the Chief Medical Officer, Mathura before this Court on or before 25.2.2020. This report would constitute the basis for the Court to determine as to whether the report of the Medical Board and the Appellate Medical Board is liable to be questioned or not?

Post this matter in the additional cause list on 25.2.2020 before the appropriate Court.

The matter shall not be treated as tied-up or part heard to this Court."

Thereafter, on 25.2.2020, the result of the re-measurement, as per the order dated 27.1.2020, was sent to the Court and it was found that the petitioner was above 168 centimeters in height. The writ petition on the basis of the communication was disposed of.

The order dated 25.2.2020 passed by the learned Single Bench by which the writ petition being Writ-A No.1382 of 2020 was disposed of, was challenged by means of the instant Special Appeal and it has been argued that the learned Single Bench exceeded its jurisdiction when it directed the Board to re-measure the petitioner's height at Mathura. It has also been argued by the learned Additional Advocate General Sri Manish Goyal assisted by Ms. Akanksha Sharma, Advocate that when an Act provides for the measurement after the written examination only once then the Court could not have got re-measurement done. He has further argued that the procedure when was given out in the advertisement that the measurement would be done at the place where the petitioner had appeared in the examination, then the measurement should have been got done at Agra and not at Mathura. He further submitted that when a procedure has been prescribed to do a particular thing in a particular manner, then there could be no deviation.

Learned counsel for the respondent-petitioner, however, submitted that when now the measurement had been done and it had been found that the petitioner was above 168 centimeters in height, then no further interference was warranted.

Having heard the learned counsel for the parties and after having gone through the records, this Court is of the view that even though there was nothing wrong in the re-measurement with regard to the height of the petitioner as it cleared the doubt which was in the mind of the candidate but that doubt could always have been cleared by repeating the measurement at Agra itself and the Board should not have been re-constituted at Mathura.

Under such circumstances, the order of the learned Single Bench dated 25.2.2020 is modified to the extent that re-measurement may be done at the very same place where the earlier measurement had been done and for this purpose the Board, as had been constituted by the learned Single Judge, would remain the same but with the Doctors and Police personnel would be of Agra.

The Special Appeal is, accordingly, disposed of.

Order Date :- 23.11.2020

GS

(Siddhartha Varma, J.) (Govind Mathur, C.J.)