

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF MAY, 2020

PRESENT

THE HON'BLE MR.ABHAY S. OKA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.KRISHNA BHAT

WRIT PETITION NO.7201 OF 2020 (EDN-RES) PIL

BETWEEN:

1. SRI LOKESH M.
S/O MOHANRAJU
AGED ABOUT 36 YEARS
ADVOCATE
NO.57/35, III CROSS
KALIDASA LAYOUT, SRINAGARA
BENGALURU – 560 050
2. SRI PRASHANTH U.T.
S/O T.S.BHAGWAT
AGED ABOUT 35 YEARS
ADVOCATE
NO.66, 'AKSHARA NILAYA'
2ND MAIN, 2ND CROSS
SIR M.V.LAYOUT, THINDLU
BENGALURU – 560 097
3. SRI PRITHVEESH M.K.
S/O KARTHIK M.V.
AGED ABOUT 30 YEARS
ADVOCATE
NO.101, 'POORVI' APARTMENTS
19, WEST PARK ROAD
MALLESHWARAM
BENGALURU – 560 003

(BY SRI M.S.BHAGWAT, ADVOCATE)

... PETITIONERS

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY
DEPARTMENT OF EDUCATION
(PRIMARY AND SECONDARY)
M.S.BUILDING, BENGALURU – 560 001
2. KARNATAKA SECONDARY EDUCATION
EXAMINATION BOARD
REPRESENTED BY ITS SECRETARY
6TH CROSS, MALLESWARAM
BENGALURU – 560 003

... RESPONDENTS

(BY SRI PRABHULING K.NAVADGI, ADVOCATE GENERAL A/W
SRI R. SUBRAMANYA, ADDITIONAL ADVOCATE GENERAL &
SMT.PRAMODHINI KISHAN, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OR ORDER IN THE NATURE OF MANDAMUS DIRECTING THE RESPONDENTS TO CANCEL THE SSLC EXAMINATIONS FOR THE ACADEMIC YEAR 2019-2020 IN THE STATE OF KARNATAKA AND CONSEQUENTLY DECLARE THE STUDENTS WHO HAVE REGISTERED FOR SSLC EXAMINATION ELIGIBLE FOR PROMOTION TO THE NEXT HIGHER CLASS BASED ON THE MARKS OBTAINED IN THE PRE-BOARD/PREPARATORY EXAMINATIONS IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.

THIS PETITION COMING ON FOR ORDERS THROUGH VIDEO CONFERENCING THIS DAY, **CHIEF JUSTICE** MADE THE FOLLOWING:

ORDER

We have heard the learned counsel appearing for the petitioners and the learned Advocate General appearing for the respondents. Formal notice is issued to the respondents and it is taken by the learned Advocate General.

2. The issue raised in this petition concerns SSLC examination conducted by the second respondent – Karnataka Secondary Education Examination Board (for short 'the said Board'). The petitioners are the practicing advocates. They have filed this petition for inviting the attention of the Court to the hardships which may be faced by lakhs of students if SSLC examination is held by the said Board as proposed between 25th June 2020 to 4th July 2020. The only substantive prayer in this petition is for issuing a writ in the nature of a mandamus directing the respondents to cancel the SSLC examination for the academic year 2019-2020 in the State of Karnataka and consequently, to declare the students who have registered for SSLC examination eligible for promotion to the next higher class based on the marks obtained by them in the Pre-Board/ Preparatory examinations, in the interest of justice and equity.

3. The learned counsel appearing for the petitioners firstly submitted that in view of the provisions of the Karnataka Education Act, 1983, the academic year 2019-2020 came to an end on 11th April 2020 and therefore, after the end of the academic year, SSLC examination cannot be held. He pointed out that about 8.48 lakhs students will be appearing for SSLC examination. His submission is that forcing such a large

number of young students to appear for the examination will amount to exposing them to the risk of getting infected with corona virus. He, therefore, submitted that in the larger interest of so many students, the SSLC examination should be cancelled as prayed for in the petition. In paragraph 2.9 of the writ petition, the petitioners have relied upon the fact that in the State of Maharashtra, the Government has cancelled SSLC examination for Geography subject which could not be held due to lockdown.

4. In the alternative, he submitted that if at all SSLC examination is to be held, a Committee of experts be appointed under whose supervision the same shall be conducted. He pointed out that a large number of migrants have already left the State and therefore, it will be impossible for the migrant students to appear for the examination.

5. In the morning session, the learned Advocate General relied upon what is set out in the statement of objections. When we made a query regarding the safeguards to be taken for protection of the students, the learned Advocate General stated that the Board will come out with the safeguards by afternoon. At 2.30 p.m., the learned Advocate

General tendered across the Bar a circular of today's date containing the Standard Operating Procedure (for short 'SOP') for conducting SSLC examination in view of COVID-19. He has taken us through the various provisions of the SOP and pointed out that all the necessary provisions have been made therein for protection of students. He stated that as regards the migrant children who have migrated from one place to another in the State and as regards the children staying in hostels/residential schools, an option will be given to them to choose alternate centre which is nearby to their present residence. He also stated that in case of students who have migrated or travelled outside the State or are staying in the bordering States, an option is available to skip the examination commencing from 25th June 2020 and to appear for the supplementary examination which will be conducted two months after 4th July 2020. He stated that in case of students who appear for the supplementary examination, the State Government will endeavor to ensure that the academic year 2020-2021 is not lost due to delay in declaration of results of the examination. He invited our attention to the last page of SOP which contains pictorial representation of examination hall. On a query made by the Court, the learned Advocate

General assures the Court that arrangements shall be made in the examination halls in such a way that minimum distance of one metre will be maintained between two students. He stated that necessary modification will be made to the sitting arrangement shown in the pictorial representation.

6. By way of reply to the submissions of the learned Advocate General, the learned counsel appearing for the petitioners expressed a concern about availability of proper transport facilities to the children and about maintaining social distancing. He again reiterated that the entire exercise will have to be undertaken under the supervision of an expert committee.

7. We have given careful consideration to the submissions. As pointed out earlier, the only substantive prayer is for issuing a writ of mandamus directing the respondents to cancel SSLC examinations for the academic year 2019-2020 and consequently, declare the students who have registered for the examination eligible for promotion to the next higher class based on the marks obtained by them in Pre-Board/Preparatory examinations.

8. As far as the issue of cancellation of SSLC examination and promoting the students to the next higher class is concerned, a writ court should be always slow in interfering with academic matters. These are the matters which should be best left to the decision of the experts in the field. The statement of objections filed by the State Government relies upon the minutes of the meeting conducted on 18th May 2020 which was chaired by the Hon'ble Minister of Education. The higher officers of the Education Department and the Health Department attended the said meeting. The minutes of the meeting are at Annexure-R.3. In the said meeting held under the Chairmanship of the Hon'ble Minister of Education Department in presence of the Principal Secretary of the Education Department, the Commissioner for Public Instructions and the Commissioner of Health, a decision has been taken to hold SSLC examination from 25th June 2020. It is stated in paragraph 7 of the statement of objections that the opinion of educational experts was taken and after detailed deliberations, it was resolved to conduct the examination by taking necessary precautions. In paragraph 8, various measures taken for protection of the students have been set out.

9. We have perused the circular dated 27th May 2020 issued by the Board containing the SOP. Various safeguards are laid down therein. The main safeguards can be listed as under:-

- (a) The examination centres shall not be located in containment zones;
- (b) Apart from maintaining social distance while entering the examination centre as well as in the examination hall, it is provided that one examination hall shall not have more than 18 to 20 children subject to following the norms of social distancing. The learned Advocate General assured us that social distancing of one meter shall be maintained between two students even if they are provided sitting on the same desk;
- (c) If some children having symptoms of COVID-19 report to the examination centre, they will be accommodated in a separate room where their examination will be conducted. The learned Advocate General stated that the children coming from containment zones will be also accommodated in a separate room for writing the examination papers;

- (d) Adequate arrangements have been made for transportation of children from their respective places of residence to the examination centres. The learned Advocate General accepted our suggestion that the Deputy Commissioners of every District will create helplines to enable the students/their parents to contact the authorities through the helplines for making arrangements for transport;
- (e) There is a detailed provision made in the SOP for health screen counter. In what manner sanitization will be done of the staff members and the children is set out therein. Detailed procedure has been laid down in Clause (IV) under the title 'Health Screen Counter'.

10. As regards the migrant children who have gone from their place of residence to another place in the State and as regards the students residing in residential schools and hostels who have gone back to their respective residences, an option has been given to choose alternate centre. In case of migrant children who have left the State and have gone to other States, though there is an option given to appear in the supplementary examination to be conducted two months after

4th July 2020, it is necessary to ensure that the said students are informed about the availability of the said option. If the cell phone numbers of the students or their parents have been mentioned in the application form/enrollment form for appearing for SSLC examination, the Board shall ensure that the students/their parents should be contacted by use of cell phone informing the migrant children about the examination proposed to start from 25th June 2020 and the option of skipping the said examination and appearing for the supplementary examination which will be held two months after 4th July 2020. We may note here that Clause (VIII) of the SOP records that in case of children residing within the containment zones, if they are unable to attend, even the said children will be given an option to appear for the supplementary examination.

11. Thus, we find from the SOP that various safeguards have been provided to the students to ensure that they do not get infected with corona virus. If SOP is effectively implemented, it will take care of apprehensions expressed by the petitioners.

12. The learned counsel appearing for the petitioners submitted that a Committee be appointed to oversee the entire examination process. The law on this aspect is well settled. A writ Court should be very slow in appointing a committee like this. Nevertheless, the decision to hold SSLC examination from 25th June 2020 appears to be taken by a Committee which was headed by the Hon'ble Minister of Education Department. The said Committee, as stated in paragraph 7 of the statement of objections, has taken the opinion of experts. The SOP tendered across the Bar shows that the State Government and the Board are fully conscious about the safety issue of the children who are going to appear for the examination. All the issues of safety have been taken care of by the SOP contained in the circular dated 27th May 2020.

13. One issue of illegality was raised by the learned counsel appearing for the petitioners on the ground that the academic year has come to an end on 11th April 2020. However, he could not show us any statutory provision which prohibits holding of SSLC examination after the expiry of academic year. Therefore, the said contention has no merit.

14. Except for the minor modifications which we have suggested to SOP, this is not a fit case where the writ Court should interfere. Though we are not inclined to grant the relief which is claimed for in this petition, we must note here that it is the duty of both the respondents to take all possible precautions to ensure that the children who are going to appear for SSLC examination are not exposed to any danger.

15. Hence, we pass the following order:

(i) We decline to grant the only substantive prayer made in this petition in terms of prayer (b);

(ii) We direct the respondents to ensure that social distancing norms are scrupulously followed in all the examination halls by ensuring that the distance between two students appearing for the examination shall be minimum one metre;

(iii) The respondents shall ensure that helplines are immediately created by the Deputy Commissioners of every District to enable the registered students/their parents/guardians to seek the help of the State Government machinery for providing public transport to facilitate the children to reach the centre of the examination. Adequate publicity shall be given to the details of the helpline. The Deputy

Commissioners shall ensure that all possible help is rendered to such students;

(iv) The respondents shall ensure that messages are forwarded on the cell phone numbers of the migrant students/their parents available on record of the Board clearly informing them about the option provided in Clause (VII) of the SOP as well as the option provided in Clause (VI) thereof. Wide publicity shall be given by the respondents by all possible modes to the options available to the migrant students as provided in Clauses (VI) and (VII) of the SOP;

(v) As regards the children staying in containment zones, by all possible methods, the students/their parents shall be informed about the option to appear for supplementary examination to be held two months after 4th July 2020;

(vi) If the petitioners who are the members of the Bar have any concrete and constructive suggestions on the manner in which the examination should be conducted, we are sure that if they submit their suggestions in the form of a representation, the respondents shall immediately look into the same;

(vii) In case of students who appear in the supplementary examination and who pass the supplementary

examination, the first respondent shall ensure that their academic year is not lost;

(viii) The petition is accordingly disposed of on the above terms;

(ix) The pending interlocutory application does not survive and is accordingly disposed of.

**Sd/-
CHIEF JUSTICE**

**Sd/-
JUDGE**

bkv/AHB