

(2010) 06 DEL CK 0063

Delhi High Court

Case No: Writ Petition (C) No. 2275 of 2010

Dr. Rajeev Kumar

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision: June 2, 2010

Acts Referred:

- Constitution of India, 1950 - Article 136

Citation: (2010) 172 DLT 493 : (2010) 6 SLR 599

Hon'ble Judges: Dipak Misra, C.J; Madan B. Lokur, J

Bench: Division Bench

Advocate: Pranav Sachdeva, for Prashant Bhushan, for the Appellant; Meera Bhatia and S. Aggarwal for UOI, R. Venkatramani Arjun Mitra and Nikhilesh Ramachandran, for the Respondent

Final Decision: Dismissed

Judgement

1. In this public interest litigation the petitioner Dr. Rajeev Kumar, currently a Professor of Computer Science and Engineering at IIT Kharagpur, has prayed for the following reliefs:

1. Direct an investigation by an SIT into the irregularities, tampering and fraud in the conduct of Joint Entrance Examination and in granting admissions in IITs.
2. Direct the Government to constitute a committee of independent experts to prescribe a rational system for determination of subject cut-offs and for eliminating other discrepancies and irregularities. This committee should then work in a transparent manner and also elicit views from all the stakeholders.
3. Direct the Joint Admission Board (JAB) to release the model answers along with solutions immediately after the examination is over. JAB should also take steps to minimize errors in question setting.

4. Direct the JAB to take additional safeguards to prevent tampering of the optical response sheets and to make the system foolproof. Direct the JAB not to repeat same set of persons as question setters or JEE administrators for then 2 years and also to ensure strict vigilance.
5. Direct the JAB to announce the marks obtained by the candidates at the time of result declaration along with the cut-off marks.
6. Direct the JAB to discard the concept of Extended Merit List, and to give All India Rank to all the candidates.
7. Direct the JAB to publish status of vacant seats and filled-in seats on day to day basis during the admission counseling.
8. Direct the JAB to set conceptual and analytical questions, and evaluation based on differential grading in lieu of binary grading. Direct JAB to take steps to minimize mistakes in the setting of questions.
9. Direct that the unilateral declaration given by a candidate, behind which the IIT takes shield when challenged with irregularities in JEEs, to be of no legal consequence.
10. Direct the Government to constitute an expert committee of independent experts to formulate a single examination for entrance to engineering institutions replacing the current JEE, AIEEE, separate entrance tests of numerous individual universities / colleges and state and central board examination.
11. Any other writ, order or direction this Court may deem fit and proper under the facts and circumstances of this case.

2. This Court by a detailed order on 19th May, 2010 in CM No. 6706/2010 did not pass an ad-interim order. The said order came to be challenged before the Apex Court by Chetan Upadhyay, the petitioner in W.P.(C) No. 2874/2010. Their Lordships by order dated 25th May, 2010 have passed the following order:

The petitioner, who claims to be a journalist and Secretary of Satya Foundation, a Registered Society has, without any tangible interest in the examination conducted by respondent Nos. 2 and 3 for admission to IITs" filed this petition under Article 136 of the Constitution for setting aside order dated 19.5.2010 passed by the Division Bench of Delhi High Court in C.M. No. 6706/2010 in Writ Petition (C) No. 2275/2010 Dr. Rajiv Kumar v. Union of India and Ors. refusing to stay the declaration of result of IIT Joint Entrance Examination conducted on 11.4.2010.

We have heard Mr. Ajay Kumar, learned Counsel appearing on behalf of the petitioner for about 20 minutes and perused the record. In our view, the petitioner does not have the locus standi to question the legality and correctness of the order passed by the High Court because he has miserably failed to show any tangible interest in the joint entrance test conducted by respondent Nos. 2 and 3. The

petitioner's position in relation to the examination conducted by respondent Nos. 2 and 3 is nothing more than that of a busybody-bystander and meddlesome interloper, who has moved the Court for gaining publicity. That apart, it is extremely difficult, if not possible, to fathom gravity of adverse consequences of staying the declaration of result of an examination in which four lakhs students are said to have appeared. In such matters, no court could pass an order of injunction / stay ignoring the magnitude of injury which may be suffered by the young students who are aspiring to joint IIT and similar other courses. Even if, in a given case, the petitioner is able to demonstrate that he has some legitimate grievance in the matter of conduct of examination or the question papers, the court is duty bound to keep in mind that the elements like the balance of convenience, irreparable injury and above all public interest are clearly against injuncting the declaration of result. Therefore, we do not see any valid ground to entertain his prayer for staying the declaration of result of the joint entrance examination and that too by ignoring the well reasoned order passed by the Division Bench of Delhi High Court which, as mentioned above, refused to stay the declaration of result.

For the reasons stated above, the SLP is dismissed.

Ordinarily, we would have saddled the petitioner with exemplary cost of more than five figures but keeping in view the fact that he is a young man and seems to be misguided in filing this type of litigation in the name of public interest, we refrain from imposing cost. At the same time, we hope and trust that the learned Counsel representing the petitioner will be more discreet in future and avoid filing of such type of litigation, disposal of which has consumed substantial time of the Court which could have been utilized for deciding other cases.

As a sequel to dismissal of the special leave petition, the application filed by the petitioner for permission to file SLP is also dismissed.

3. In view of the aforesaid order, we are of the considered opinion that the petitioner does not have the locus standi to challenge validity of Joint Entrance Test conducted by the respondent No. 2. Resultantly, the writ petition has to pave the path of dismissal and accordingly we so direct. There shall be no order as to costs.