

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

PIL-CJ-LD-VC-18 OF 2020

Arvind Tiwari	}	Petitioner
versus		
Union of India and Ors.	}	Respondents

WITH
INTERIM APPLICATION NO. 1 OF 2020
IN
PIL-CJ-LD-VC-18 OF 2020

Shailesh Pathak	}	Applicant
in the matter of		
Arvind Tiwari	}	Petitioner
versus		
Union of India and Ors.	}	Respondents

WITH
INTERIM APPLICATION NO. 2 OF 2020
IN
PIL-CJ-LD-VC-18 OF 2020

Faiszal Zakaullah Siddiqui	}	Applicant
in the matter of		
Arvind Tiwari	}	Petitioner
versus		
Union of India and Ors.	}	Respondents

WITH
INTERIM APPLICATION NO. 3 OF 2020
IN
PIL-CJ-LD-VC-18 OF 2020

Umang Goswami	}	Applicant
in the matter of		
Arvind Tiwari	}	Petitioner
versus		
Union of India and Ors.	}	Respondents

WITH
INTERIM APPLICATION NO. 4 OF 2020
IN
PIL-CJ-LD-VC-18 OF 2020

Raju Tanwani	}	Applicant
in the matter of		
Arvind Tiwari	}	Petitioner
versus		
Union of India and Ors.	}	Respondents

WITH
INTERIM APPLICATION NO. 5 OF 2020
IN
PIL-CJ-LD-VC-18 OF 2020

Ramchandran Narayanan	}	
and Ors.	}	Applicant
in the matter of		
Arvind Tiwari	}	Petitioner
versus		
Union of India and Ors.	}	Respondents

Mr.Arvind Tiwari petitioner in-person, with Mr.Yuvraj Narvankar, Mr.Atal Bihari Dubey and Mr.Devendra Shah.

Mr.A. A. Kumbhkoni-Advocate General with Ms.P.H.Kantharia-Government Pleader, Ms.Jyoti Chavan-AGP and Mr.Manish Upadhye-AGP for Respondent-State.

Mr Anil C. Singh-Additional Solicitor General with Mr.Sandesh Patil and Mr D. P. Singh for Union of India.

Mr. Aditya Mehta with Mr.Pratik Kothari, Mr.Hemant Shah, Mrs.Ankeeta Choradia, Ms. Komal Agarwal i/b IC Legal for Respondent No. 2.

Mr.Shailesh S Pathak with Mr.Jay Vora for Intervenor : (PIL-CJ-LD-VC-IA-1-2020).

Mr.Karl Tamboly with Malcolm Singanporia, Kausar Banatwala and Ms.Gauri Sakhardande i/b Tushar Goradia for Intervenor : (PIL-CJ-LD-VC-IA-2- 2020).

Mr. Rahul Tanwani i/b Mr. Shalabh K. Saxena for Applicant/Intervenor : (PIL-CJ-LD-VC-IA-4-2020).

Dr.Birendra Saraf-Senior Advocate i/b Rakesh Agarwal for the Applicant/ Intervenor : (PIL-CJ- LD-VC-IA-5-2020).

**CORAM :- DIPANKAR DATTA, CJ &
S.S.SHINDE, J.**

DATE :- JUNE 22, 2020

PC :-

1. On Thursday last, we had deferred hearing of this PIL petition and the intervention applications filed therein till today with the expectation that the second respondent would finalise its grading plan and be in a position to place it before us. However, we are informed that for unavoidable reasons, the grading plan could not be finalised and an adjournment has been sought till Friday next.

2. While there can be no impediment to grant an adjournment, we wish to be apprised as to whether the Central Government has taken any decision pursuant to an order dated 15th June, 2020 passed by an Hon'ble Division Bench of the Allahabad High Court in regard to the remaining subjects of the Class X and XII examinations, due to be conducted by the Central Board of

Secondary Education as well as by the second respondent in July, 2020.

3. Mr.Anil Singh, learned Additional Solicitor General appearing for the Union of India has assured us that he would obtain instructions and report by the next date if at all any decision is taken by the Central Government.

4. We have also explained to Mr.Kumbhakoni, learned Advocate General for the State of Maharashtra our concern for the examinees in view of the prevailing situation, where number of persons testing positive for COVID-19 in the State is on the rise together with the toll. Mr.Kumbhakoni has also assured us to return by the next date with the stand of the State Government in respect of the ensuing examinations.

5. Mr.Tiwari, the petitioner appearing in-person has reiterated that the examinations scheduled in July, 2020 ought to be cancelled and the results completed on the basis of the pre-board examinations and internal assessment report.

6. Mr.Mehta, learned advocate appearing for the second respondent has informed us that a proceeding instituted before the Hon'ble Supreme Court in respect of the selfsame issue is expected to be listed tomorrow for consideration.

7. Dr.Birendra Saraf, learned senior counsel appearing for the intervener in Interim Application No.5 of 2020 has, however, contended that a number of examinees are willing to write the remaining papers of the examination physically, having put in hard work to prepare, and that any decision taken by the State or by the second respondent to cancel the examinations would be detrimental to their interest; hence, an option ought to be left open for such examinees to write the examinations physically.

8. We have heard the parties. The grading plan is expected to be finalised by the second respondent by Thursday next whereafter it could be circulated for the examinees to make an informed choice. The respective stands of the Central and the State Governments are required to be known. That apart, there is a pending proceeding before the Hon'ble Supreme Court on the selfsame issue. The order passed by the Hon'ble Supreme Court, if any, on such proceeding may also be seen.

9. In view of all these circumstances, we defer further hearing till June 24, 2020 at 10.45 a.m. to enable Mr.Singh and Mr.Kumbhakoni to apprise us the stand that the Union and the State would wish to take in regard to the ensuing examinations as per the revised schedule.

10. At this stage, Mr.Tamboly and Mr.Tanwani, learned advocates for two other intervenors have complained of certain school Principals insisting on the examinees to exercise options by tomorrow. They have, accordingly, prayed for a prohibitory order.

11. No order, in our opinion, is required at this stage. The entire matter is before us, and as and when the situation requires, we may intervene to protect the interest of both sets of examinees, to the extent possible, in accordance with law.

12. This order will be digitally signed by the Private Secretary of this court. All concerned will act on production by fax or e-mail of a digitally signed copy of this order.

(S.S.SHINDE, J.)

(CHIEF JUSTICE)