

**THE HIGH COURT OF MADHYA PRADESH
W.P.18734.2019**

Karan Jadon vs. Board of Secondary Education, Bhopal & Anr.

Gwalior, Dated :17/10/2019

Shri Arun Katare, Counsel for the petitioner.

Shri Arun Dudawat, Counsel for the respondents.

I.A.No.4939/2019 has been filed seeking permission to implead “M.P. State Open School Education Board, Bhopal” as respondent No.3.

For the reasons mentioned in the application, the same is allowed. Let necessary amendment be carried out.

This petition under Article 226 of the Constitution of India has been filed seeking the following reliefs:

(i) That, the present petition filed by the petitioner may kindly be allowed;

(ii) That, the respondents may kindly be directed to treat the mark-sheet Annexure P/3 as a final mark-sheet or in alternative the respondents may kindly be directed to pay Rs.1,00,000/- spent by the petitioner due to negligence of the respondents and also pay compensation of Rs.1,00,000/- on account of spoiling the future of the petitioner and exemplary costs of Rs.10,000/- may kindly be imposed on the erring official.

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(iii) That, any other just, suitable and proper relief, which this Hon'ble Court deems fit, may also kindly be granted to the petitioner. Costs be also awarded in favour of the petitioner.

It is the case of the petitioner that he had appeared in Class XII Examination, 2019 as a regular student, however he was declared failed by the Board of Secondary Education, M.P., Bhopal and the mark sheet is Annexure P/2. It appears that the petitioner once again appeared in the examination of Class XII conducted by State of M.P. State Open School Education Board, Bhopal under their "Ruk Jaana Nahi Scheme 2019" and according to the petitioner, the petitioner was declared pass and the mark sheet was uploaded in the month of June 2019 which is Annexure P/2. On the basis of the said mark sheet, the petitioner has taken admission in JEE for Bachelor of Science in Hospitality and Hotel Administration in the Institute of Hotel Management, Jyotisar, Kurukshetra, Haryana. Accordingly, the petitioner deposited fees of Rs.68,200/- and further an amount of Rs.10,000/- was deposited with the institute under the head of uniform as well as miscellaneous expenses. It is further submitted that the petitioner has already spent Rs.1,00,000/- from the date of admission to till date. It is submitted that thereafter the M.P. State Open School Education Board, Bhopal has uploaded another mark

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sheet of the petitioner in which he has been shown failed, as a result of which, the admission of the petitioner in the Institute of Hotel Management, Jyotisar, Kurukshetra, Haryana has come under cloud. It is submitted by the counsel for the petitioner that the action of the respondents in uploading the fresh mark sheet of fail (Annexure P/1) by the respondent No.3 is absolutely illegal and contrary to law. The mark sheet of pass (Annexure P/3) was issued in the month of June 2019 and on the basis of said mark sheet the petitioner had taken admission in the Institute of Hotel Management, Jyotisar, Kurukshetra, Haryana. Because of the negligence of respondent No.3, the petitioner has suffered a loss of Rs.1,00,000/-. Thus it is submitted that the fresh mark sheet which has been uploaded by the respondent No.3 (Annexure P/1) be quashed and it be declared that the mark sheet issued by the respondent No.3 (Annexure P/3) would prevail or in the alternative it is submitted that the respondent No.3 be directed to pay the compensation of Rs.1,00,000/- towards the expenses made by the petitioner as well as a compensation of Rs.1,00,000/- on account of spoiling the future of the petitioner and exemplary cost of Rs.10,000/- may also be imposed. By way of interim order, it has been prayed that the mark sheet (Annexure P/1) may kindly be stayed and the mark sheet (Annexure P/3) may be treated as final mark sheet of the petitioner.

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Initially the petitioner had not made the M.P. State Open School Education Board, Bhopal as respondent and only the Board of Secondary Education and the Divisional Officer, Board of Secondary Education, City Centre, Gwalior were made respondents. The notices were issued and the respondents No.1 and 2 have filed the return and they have taken a specific stand that there are two Boards in the State of M.P. i.e. one is Board of Secondary Education and another is M.P. State Open School Education Board, Bhopal. Since the petitioner was declared failed by the Board of Secondary Education, therefore, he had appeared in Class XII examination in an examination conducted by M.P. State Open School Education Board, Bhopal under the “Ruk Jaana Nahi” and, therefore, the M.P. State Open School Education Board, Bhopal is the necessary party. Accordingly, the petitioner has filed I.A.No.4939/2019 for impleading “M.P. State Open School Education Board, Bhopal” which has been allowed by this Court by this order itself.

Heard on the question of admission.

It is submitted by the counsel for the petitioner that once the newly added respondent No.3 had declared the petitioner pass and had uploaded the mark sheet in the month of June, 2019 and on the basis of the same the petitioner had taken admission in the Institute of Hotel Management, Jyotisar, Kurukshetra, Haryana and has spent

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a considerable amount of Rs.1,00,000/- including all the expenses, then uploading of the fresh mark sheet on 28.7.2019 thereby declaring the petitioner as failed in Class XII examination is bad and, therefore, not only the fresh mark sheet is liable to be quashed but the petitioner is also entitled for exemplary cost.

Heard on the question of admission.

The petitioner in the writ petition has nowhere mentioned that on what date he had downloaded the mark sheet (Annexure P/3) by which he was declared pass. The Mark sheet (Annexure P/3) contains the following disclaimer:-

“Disclaimer: Madhya Pradesh State Open School
Education Board Bhopal is not responsible for
any inadvertent error than may crept in the result
begin published on NET.

Thus it is clear that the mark sheet which was uploaded by the newly added respondent No.3 was purely for information purposes and it was not an authentic mark sheet and it was containing the disclaimer clause. The disclaimer clause means that the authority issuing the document would not be liable to face any civil proceedings or criminal proceedings and the burden is on the person to verify the contents of the said documents before using the same. It appears that the petitioner has taken admission in the Bachelor of

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Science in Hospitality and Hotel Administration. However, the petitioner was clearly knowing the fact that the mark sheet (Annexure P/3) which has been uploaded by the respondent No.3 is not the authentic document and, therefore, he had submitted an undertaking before the Institution which reads as under:

UNDERTAKING

(For Candidate who has yet to submit passing certificate of 10+2 for various reasons)

I, KARAN JADON JEE Roll Number MP02600342 son/daughter of SHEKHAR JADON, state that my result of 10+2 examination is yet to be declared by the Board. I undertake to submit my 10+2 pass certificate on or before **30th September, 2019** to the allotted Institute.

I understand that my admission is provisional to the allotted institute and is liable to be cancelled in case of failure to submit the 10+2 pass certificate by **30th September, 2019**.

I, further understand that in case of cancellation of my provisional admission, I shall have no claim over refund of fee.

(Parent's/Guardian Signature) (Candidate's Signature)

Date: 18.07.2019

Address: L.I.G. 344

Darpan Colony

Thatipur (Gwalior)

Mobile No.7974149715

Email: KARAN-JADON999@gmail.com

For use by Admission Center

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Admission Center: _____

Name & Signature of Official (ACs) _____”

From the plain reading of the undertaking given by the petitioner, it is clear that the petitioner was aware of the fact that the result of 10+2 examination is yet to be declared by the Board and he had given an undertaking to submit his pass certificate on or before 30.9.2019 to the allotted institute. The petitioner was also made known by the institute that his admission is provisional to the allotted institute and is liable to be cancelled in case of failure to submit 10+2 pass certificate by 30.9.2019.

In view of the disclaimer clause in the mark sheet (Annexure P/3) as well as in view of the undertaking given by the petitioner it is clear that the petitioner was not under any dark. He was fully aware that the mark sheet (Annexure P/3) is not an authentic mark sheet and if he had decided to take the provisional admission in JEE for Bachelor of Science in Hospitality and Hotel Administration, then it was purely at his risk. Furthermore, the petitioner has not given the date on which he had downloaded the mark sheet (Annexure P/3). From the undertaking given by the petitioner on 18.7.2019 it appears that the petitioner was not in possession of his 10+2 pass certificate. Thus it is clear that the respondent No.3 is not responsible for the mark sheet (Annexure P/3) which was uploaded on the NET. The

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petitioner has not raised any ground to show as to how the subsequent impugned mark sheet (Annexure P/1) is incorrect.

Accordingly, this Court is of the considered opinion that in view of the disclaimer clause in the mark sheet (Annexure P/3) as well as in view of the undertaking given by the petitioner, no case is made out for either declaring the mark sheet (Annexure P/1) as null and void or for granting any compensation to the petitioner.

Accordingly, this petition fails and is hereby **dismissed**.

(alok)

(G.S. Ahluwalia)
Judge