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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision : 11.07.2022

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W.P.(C) 6872/2021

MRS MANHARLEEN KAUR

..... Petitioner

Through: Mr. Gurmukh Singh Arora,
Mr.Kapil Madan & Mr.Saurabh Gauba, Advs.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr.Jaswinder Singh, Adv. for R-1
Ms.Avnish Ahlawat, SC, GNCTD with
Mr.Nitesh Kumar Singh, Mr.Palak Rohmetra,
Ms.Tania Ahlawat, Ms.Lavanya Kaushik &
Ms.Aliza Allam, Advs.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

1. The petitioner, who is a lady belonging to the Sikh community, has approached this Court being aggrieved by the action of respondent nos.3 & 4 in not permitting her to appear in the examination for selection to the post of PGT-Economics (Female) held on 17.07.2021 even though she had, on the basis of the admit card issued to her, reached the examination centre before the closing time. It is the petitioner's case that she was informed that she would not be permitted to appear in the examination till she removed her metallic *kara*.
2. Learned counsel for the petitioner submits that the petitioner is a

lady following the Sikh religion and merely because she was wearing a *kara* when she reached the examination centre, she could not be denied permission by respondent nos. 3 & 4 to appear in the examination. He submits that respondent nos.3 & 4 were wholly unjustified in directing the petitioner to remove her *kara* as a precondition for appearing in the examination which she rightly refused to remove as the wearing of the metallic *kara* is one of the basic tenets of Sikh religion. By placing reliance on the decision dated 03.05.2018, of a Division Bench of this Court in W.P.(C) 7550/2017, '*DSGMC and Ors. vs. Union of India and Ors.*', he contends that every person practicing the Sikh religion is enjoined to wear a *kara* and/or a *kirpan* as they are the primary articles of faith for professing the Sikh religion.

3. He further submits that the reliance placed by the respondent nos.3 & 4 on the circular dated 19.07.2021 to urge that in case the petitioner wanted to appear in the examination wearing a *kara*, she ought to have reached the examination centre at least one hour before the reporting time, is wholly misplaced as the said circular was issued only on 19.07.2021, i.e., two days after the examination was scheduled to be held. He, therefore, submits that the respondents are wrong in urging that there was already a notification/ circular informing the candidates desirous of wearing a *kara* and/or *kirpan*, to reach the examination centre atleast one hour before the reporting time.
4. He, therefore, contends that the respondent nos.3 & 4, having wrongly denied the permission to the petitioner to appear in the

examination, be now directed to make special arrangements for holding a fresh examination for the one post which was directed to be kept vacant pursuant to the interim directions issued by this Court on 08.09.2021.

5. On the other hand, Ms. Avnish Ahlawat, learned counsel for the respondent nos.3 & 4 submits that the said respondents have always been permitting all Sikh candidates wearing *kara* and/or *kirpan* to appear in examinations provided they reach the examination centre one hour before the reporting time, and therefore the petitioner's plea that the action of the respondents in not permitting the petitioner to appear in the examination is violative of her right to practice Sikh religion, is wrong and without any basis. She submits that the petitioner having reported at the examination centre at 1:28 pm on 17.07.2021, that is barely two minutes before the closing time and that too in a full sleeves dress, is herself to be blamed for being not permitted to appear in the examination at that belated stage and therefore cannot now shift the blame on the respondent nos.3 & 4 in missing the examination. She, therefore, prays that the writ petition be dismissed.
6. Having considered the submissions of learned counsel for the parties and perused the record, more especially the Clauses of the notification dated 24.06.2021 vide which applications were invited for the aforesaid examination to be held on 17.07.2021, I find that the petitioner is justified in urging that nothing was ever brought to her notice that in case she wanted to appear in the examination

wearing a *kara*, she had to reach the examination centre at least one hour before the reporting time. It is an admitted position that the notification dated 19.07.2021, which was in fact based on the decision dated 03.05.2018 of this Court, was issued only two days after the conduct of the aforesaid examination. Mr. Arora is, therefore, justified in contending that the respondents' plea that all the candidates were aware that in case they wanted to wear a *kara* or a *kirpan*, they had to report at the examination centre one hour before the reporting time, is not borne out from the record. Once there is nothing to show that any circular or notice to this effect was issued by the respondent nos.3 & 4 at any point of time before the conduct of the examination, the respondents could not have denied permission to the petitioner from appearing in the examination and that too when the examination was to commence from 2 pm. It is thus evident that the respondents had enough time to properly check her *kara* for any possible misuse, after the petitioner reported at the examination centre at 1:28 pm.

7. In fact, during the course of hearing, it has been put to the learned counsel for respondent nos. 3 & 4 as to why, prior to the conduct of the examination on 17.07.2021, no such circular in consonance with the decision of this Court dated 03.05.2018 was issued by the said respondents informing the candidates that in case they wanted to appear in the examination wearing a *kara* and/or *kirpan*, they should reach the examination centre atleast one hour before the reporting time. Unfortunately, she has no answer to the said query and merely reiterates that in case the petitioner had reported well

in time, she would have been permitted to appear in the examination.

8. It is highly unfortunate that a specialised body like the DSSSB, which is regularly conducting examinations for selection to various posts in the public sectors in Delhi and in which examinations, a large number of Sikh candidates regularly appear, did not bother to take any timely action to inform the candidates that if they were desirous of wearing a *kara* and/or *kirpan*, they were required to reach the examination centre atleast one hour before the reporting time. Moreover, once directions to this effect had already been issued by this Court on 03.05.2018 in W.P.(C)7550/2017, in a similar matter pertaining to the CBSE, it was incumbent upon the DSSSB to take timely appropriate steps in this regard.
9. The respondent nos. 3 & 4, having not taken any steps to inform the prospective candidates about this requirement to reach the examination centre atleast one hour before the reporting time and having prevented the petitioner from appearing in the examination till she removed her *kara* and permitted the sleeves of her dress to be cut to half, have wrongly prevented the petitioner from appearing in the examination wherein she had an opportunity of being selected and appointed as PGT-Economics (Female). The action of the respondent nos. 3 & 4 is therefore, clearly unsustainable and is liable to be quashed.
10. Having said so, what next. Learned counsel for the petitioner has vehemently contended that since one post for PGT-Economics

(Female) was directed to be kept vacant by the interim order issued by this Court, the petitioner should be appointed against this vacant post. In my considered view, this plea of the petitioner overlooks the fact that the examination in question was a competitive examination, where she had to compete with other candidates for selection to the post of PGT Economics (Female). Merely because the respondent nos. 3 & 4 were at fault in not permitting the petitioner to appear in the examination, the same, however, cannot be a ground to permit the petitioner to be appointed against the available vacant post.

11. At this stage, learned counsel for the petitioner submits that the petitioner has no objection to appear in the examination for the said post subject to her being granted requisite age relaxation and the examination being conducted in a time bound manner.
12. In the light of the aforesaid, Ms. Avnish Ahlawat prays for and is granted time to obtain instructions regarding the timeframe within which a fresh examination for the said post is likely to be held and also as to whether a fresh requisition for filling up the said post has been received from the concerned employer.
13. Before I conclude, I deem it appropriate to direct the DSSSB to ensure that adequate notice regarding this additional requirement for candidates desirous of wearing a *kara* and/or *kirpan* to reach the examination centre one hour before the reporting time, be given well in advance so that no undue hardship is caused to them as caused to the petitioner in the present case. It is expected that not only the DSSSB but all other recruiting agencies who conduct

similar examinations will take appropriate steps in this regard well before the conduct of the examinations.

14. At request, list on 02.08.2022.

(REKHA PALLI)
JUDGE

JULY 11, 2022

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