

**IN THE HIGH COURT OF JUDICATURE AT
BOMBAY**

ORDINARY ORIGINAL CIVIL JURISDICTION

PUBLIC INTEREST LITIGATION-CJ-LD-VC-18 OF 2020

Arvind Tiwari ... **Petitioner**
Versus
Union of India & Ors. ... **Respondents**

**WITH
INTERIM APPLICATION NO.1 OF 2020
IN
PUBLIC INTEREST LITIGATION-CJ-LD-VC-18 OF 2020**

Shailesh Pathak ... **Applicant**

IN THE MATTER IN BETWEEN :

Arvind Tiwari ... **Petitioner**
Versus
Union of India & Ors. ... **Respondents**

**WITH
INTERIM APPLICATION NO.2 OF 2020
IN
PUBLIC INTEREST LITIGATION-CJ-LD-VC-18 OF 2020**

Faiszal Zakauallah Siddiqui & Ors. ... **Applicants**

IN THE MATTER IN BETWEEN :

Arvind Tiwari ... **Petitioner**
Versus
Union of India & Ors. ... **Respondents**

**WITH
INTERIM APPLICATION NO.3 OF 2020
IN
PUBLIC INTEREST LITIGATION-CJ-LD-VC-18 OF 2020**

Umang Goswami ... **Applicant**

IN THE MATTER IN BETWEEN :

Arvind Tiwari ... **Petitioner**

Versus

Union of India & Ors. ... **Respondents**

**WITH
INTERIM APPLICATION NO.4 OF 2020
IN
PUBLIC INTEREST LITIGATION-CJ-LD-VC-18 OF 2020**

Raju Tanwani ... **Applicant**

IN THE MATTER IN BETWEEN :

Arvind Tiwari ... **Petitioner**

Versus

Union of India & Ors. ... **Respondents**

**WITH
INTERIM APPLICATION NO.5 OF 2020
IN
PUBLIC INTEREST LITIGATION-CJ-LD-VC-18 OF 2020**

Ramchandra Narayan & Ors. ... **Applicants**

IN THE MATTER IN BETWEEN :

Arvind Tiwari ... **Petitioner**

Versus

Union of India & Ors. ... **Respondents**

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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 a/w Mr. Pratik Kothari a/w Mr. Hemant Shah a/w Mrs. Ankeeta Choradia a/w 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- LDVC-IA-5-2020)

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

DATED : 24th JUNE 2020.

P.C. :

1. Mr.Kumbhkoni, learned Advocate General for

the State of Maharashtra has informed the Court that in a meeting of the State Disaster Management Committee held through video conference on June 22, 2020, with the Honourable Chief Minister in the Chair, a decision has been taken not to permit the second respondent to conduct Classes X and XII examinations re-scheduled from July 2, 2020, given the current COVID-19 situation in the State. A communication dated June 23, 2020 addressed to the learned Advocate General by the Additional Chief Secretary to the Government of Maharashtra, in this regard, has been placed before the Court.

2. According to Mr.Kumbhkoni, the decision taken by the State Disaster Management Committee completely addresses the first concern expressed by the petitioner in the PIL petition and since it does not survive, the Court ought to close it here and now. Insofar as the other concern expressed by the petitioner is concerned, Mr.Kumbhkoni submits that the same may be considered after the second respondent finalizes the methodology for completing the results of the examinees.

3. Mr.Mehta, learned Advocate representing the second respondent has urged that the Court may not record any opinion at this stage that the first concern expressed by the petitioner apparently does not survive any further in view of the decision that the State has taken, and that the Court would be considering only the second concern. According to him, the entire decision of the State Disaster Management Committee is not before the Court; only a communication has been placed. The second respondent would like to peruse such decision and he has prayed for a copy thereof in view of his further submission. It is submitted by Mr. Mehta that the State has not taken any decision to prohibit examinations in this State to be conducted by the Central Board of Secondary Education (hereafter “the CBSE”) and, if indeed, the CBSE is permitted to proceed with the Classes X and XII examinations re-scheduled in July 2020, there could be no valid reason not to permit the second respondent to go ahead with its own examinations. He has, however, frankly submitted that should the State

also decide not to permit even the CBSE to conduct examinations pertaining to Classes X and XII, the second respondent would abide by the State's decision.

4. The Court records Mr.Kumbhkoni's reaction that since the Disaster Management Committee of the State has not been required to take a call in respect of examinations to be conducted by the CBSE in this State as per the revised schedule by any order of Court, no decision as yet has been taken; but as and when the situation so demands, appropriate call would be taken.

5. Mr.Singh, learned Additional Solicitor General for the Union of India was requested to obtain instructions from the Central Government as to whether any decision had been taken pursuant to the order dated June 15, 2020 of the Allahabad High Court. Mr.Singh has placed before us orders dated June 23, 2020 passed by the Hon'ble Supreme Court on a batch of petitions (Amit Bathla & Ors. Vs. Central Board of School Education & Anr., as well as Shammi Pant & Ors. Vs. The Council for the Indian School Certificate Examinations). He submits

that a final decision in the matter is in the process and hopefully would materialize by this day. Having been so apprised, the Hon'ble Supreme Court deferred hearing of all the matters to June 25, 2020 at 2.00 p.m. According to Mr.Singh, this Court ought to await the decision taken by the Central Government, which would be communicated to the Hon'ble Supreme Court shortly.

6. Submissions have also been advanced before the Court today by Dr.Saraf, Mr.Pathak, Mr.Tanwani and Mr.Tamboly, learned Advocates appearing for the respective Intervenors. Except Dr.Saraf's submission, the submissions of the others are not required to be recorded in detail since they are supporting the cause espoused by the petitioner in this PIL petition. Dr.Saraf seeks a copy of the decision of the State Disaster Management Committee so that the party represented by him could be appropriately advised.

7. The parties have been heard. The decisions taken by the Central Government and the CBSE are expected to be placed before the Hon'ble Supreme Court tomorrow. The

second respondent through its senior counsel appears to have requested the Hon'ble Supreme Court for deferment of hearing. The Court has also been informed by Mr.Mehta that depending on the decision of the Hon'ble Supreme Court, the second respondent may have to further work out the methodology for completing the results of examinations and, therefore, the second respondent is also awaiting the decision of the Hon'ble Supreme Court. In such a situation, the order(s) passed by the Hon'ble Supreme Court upon consideration of the said decision(s) would have a vital bearing on these proceedings. The Court is thus of the opinion that it ought to await the decision(s)/order(s) relevant to the issue. Accordingly, hearing of this PIL Petition as well as the applications for intervention shall stand over till Monday next i.e. **June 29, 2020 at 10.45 a.m.** It is made clear that any option exercised by any of the examinees is without prejudice and subject to further orders to be passed in these proceedings.

8. The communication of the Additional Chief Secretary addressed to the learned Advocate General does not contain the decision of the State Disaster Management Committee in its entirety. The State is directed to place before the Court the entire decision by the next date. The decision of the State shall also be shared with the parties to these proceedings including the second respondent as well as all the Intervenors in course of this day.

9. This Order will be digitally signed by the Personal Assistant 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