

Single Bench**IN THE HON'BLE HIGH COURT OF CHHATTISGARH**
AT BILASPUR**Writ Petition (C) No. 604 /2014****PETITIONER**

Board of School & Technical Education
C.G., through its Secretary Nitin
Lamba, S/o. Balbir Singh Lamba, aged
about 28 years, R/o. Building No. A-6
Nature City Mungeli Road Bilaspur,
Tahsil Bilaspur, Police Station Civil
Lines, Civil & Revenue District Bilaspur
495001 Chhattisgarh

RESPONDENTS

- VERSUS**
- 1] State of Chhattisgarh through
Secretary, School Education
department, Mahanadi Bhawan,
Mantralaya, Capital Complex, Naya
Raipur, District Raipur (C.G.)
 - 2] Chhattisgarh Board of Secondary
Education, Raipur through its
Secretary, Chhattisgarh Board of
Secondary Education Pension Bada,
Raipur, Police Station & Post Raipur,
Civil & Revenue District Raipur (C.G.)
 - 3] Secretary, Chhattisgarh Board of
Secondary Education, Pension Bada,
Raipur, Police Station & Post Raipur,
Civil & Revenue District Raipur (C.G.)

WRIT PETITION UNDER ARTICLE 226 & 227 OF THE
CONSTITUTION OF INDIA

HIGH COURT OF CHHATTISGARH : BILASPUR

W.P.(C) No.1286 of 2014

PETITIONERS

Anjali Verma & others

Versus

RESPONDENTS

State of Chhattisgarh & others

W.P.(C) No.604 of 2014

PETITIONER

Board of School & Technical Education

C.G.

Versus

RESPONDENTS

State of Chhattisgarh & others

W.P.(C) No.1092 of 2014

PETITIONERS

Aashish Kumar Singh & others

Versus

RESPONDENTS

State of Chhattisgarh & others

W.P.(C) No.1308 of 2014

PETITIONER

Mohd. Umair Raza

Versus

RESPONDENTS

State of Chhattisgarh & others

And

W.P.(C) No.1310 of 2014

PETITIONER

Pukhraj Sharma

Versus

RESPONDENTS

State of Chhattisgarh & others

**Division Bench : Hon'ble Acting Chief Justice Navin Sinha &
Hon'ble Mr. Justice Prashant Kumar Mishra.**

Present :- Ms. Fouzia Mirza, Shri Sunil Otmani, Shri Romit Goyal,
Shri Prafull N. Bharat, Additional Advocate General for the
State, Shri NK Vyas, Asst. Solicitor General for Union of
India, Shri VVS Moorthy, Sr. Advocate with Shri Alok Bakshi
and Shri Anumesh Shrivastava counsel for the respective
parties.



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ORAL ORDER

(Passed on this 14th day of November, 2014)

1. This batch of writ applications raises a common question of law and facts for consideration. They have therefore been heard together and are being disposed by a common order.
2. WP (C) 604/2014 has been preferred by the Board of School & Technical Education, Chhattisgarh. It was granted temporary equivalence by the Chhattisgarh Board of Secondary Education on 7-11-2012 (hereinafter called 'the Board'). The temporary equivalence has been suspended on 11-3-2014 pending enquiry. The other writ petitions are on behalf of the students who are affected in pursuing education in higher studies because of the suspension of the equivalence. The facts shall therefore be taken from WP (C) 604/2014 as a lead case for decision.
3. Learned counsel for the petitioner submits that temporary equivalence was granted in accordance with law on 7-11-2012 after proper consideration and due application of mind. The order dated 11-3-2014 suspending the same and directing the students who have already passed Class 10 and 10+2 examination from their institution to be adjusted as private students in other recognized institutions has been passed in violation of the principles of natural justice without any opportunity to the petitioner for satisfying the authorities that temporary equivalence was granted in accordance with law and that the suspension was unjust and improper.
4. The submission on behalf of the petitioner students in the remaining writ applications is that they obtained their Class 10 and 10+2 qualifications

from the Board at a time and there was valid order for equivalence. The order for suspension of equivalence cannot be applied retrospectively. What was done validly then cannot be declared invalid today.

5. Learned Counsel for the State and the Board submit that there was no provision for grant of temporary equivalence. The original order itself was contrary to law. The equivalence has only been suspended pending enquiry. The petitioner institution should not fight shy of participating in the enquiry if it is sanguine about a valid grant of equivalence.

6. At this stage we are not concerned with the merits of the grant of equivalence whether it was granted rightly or wrongly. Grant of temporary equivalence on 7-11-2012 is not in dispute. Our concern is also not whether the defence that the petitioner has is valid or acceptable or not. Our concern in judicial review is only with regard to the manner in which the decision has been taken without issuance of a show cause notice. The records apparently reveal that no show cause notice with opportunity to defend the temporary equivalence was granted before issuance of the impugned order. We are satisfied that a post decisional hearing in the facts of the case shall not meet the requirements for compliance with the principles of natural justice.

7. Suspension in service jurisprudence is an accepted phenomenon. No show cause notice need precede it unless statutorily provided. The causal effect is individual. The suspension of an equivalence granted to an educational institution is an entirely different matter affecting persons beyond the individual institution visiting the students of the institution also with its consequences. The students obtained their qualifications at a time when the institution had valid equivalence. Though couched in an interim form it is in effect final in its





operation. In (1989) 1 SCC 764 (H.L. Trehan v. Union of India) holding post – decisional hearing as no substitute for pre-decisional hearing it was observed :-

“12.....In our opinion, the post-decisional opportunity of hearing does not subserve the rules of natural justice. The authority who embarks upon a post-decisional hearing will naturally proceed with a closed mind and there is hardly any chance of getting a proper consideration of the representation at such a post-decisional opportunity.....”

8. Simultaneously we are of the considered opinion that the respondents possess complete jurisdiction in law to hold an enquiry into the grant of equivalence dated 7-11-2012. But unless a proper show cause notice is given to the petitioner institution stating the grounds why the grant of temporary equivalence was bad, the institution will not be able to file a proper reply to protect its interests. Unless it is told of the grounds it is required to meet natural justice shall remain an empty formality.

9. We therefore, now pass the following order :-

(A) The respondents shall give a proper show cause notice to the petitioner institution stating the grounds why they were of the opinion that the order dated 7-11-2012 was contrary to law. The latter must answer the queries raised by the authorities within the time provided for the same or any other extended period that the respondents may allow.

(B) If such reply is not filed within the time granted or such extended period of time the respondent may pass reasoned and speaking orders to their satisfaction ex-parte.

(C) If reply is filed by the petitioner institution within time granted and it requests for a personal hearing also, it shall be granted to them.

(D) The State authorities shall then take a final decision expeditiously

within a period of 3 months from the date of filing of such reply by the petitioner institution and grant of personal hearing. If the order is to the prejudice of the petitioner institution it must be reasoned and speaking in nature.

(E) Pending such enquiry and final orders by the respondents the students who have obtained their qualification of Class 10 and 10+2 at a time when valid temporary equivalence subsisted before suspension shall not be disturbed in any manner by the State authorities in pursuing higher academics in their present institutions and appear in the examinations. Any consequential action by the respondents pursuant to the order dated 11-3-2014 stands nullified at this stage.

This order has been passed in presence of counsel for the parties



10. The writ petitions stand disposed.

Sd/-
Navin Sinha
Acting Chief Justice

Sd/-
Prashant Kumar Mishra
Judge

