

(1966) 01 MP CK 0010

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 395 of 1965

Abdul Haque Naseem

APPELLANT

Vs

Board of Secondary Education and Others

RESPONDENT

Date of Decision : 06-01-1966

Acts Referred:

Constitution of India, 1950 — Article 226

Madhya Pradesh Secondary Education Act, 1959 — Section 22, 23

Madhya Pradesh Secondary Education Board Regulations, 1959 — Regulation 2, 2(10), 2(11), 20

Citation : AIR 1966 MP 228 : (1968) ILR (MP) 879 : (1966) JLJ 629 : (1966) 11 MPLJ 439

Hon'ble Judges : P.V. Dixit, C.J.; R.J. Bhawe, J

Bench : Division Bench

Advocate : Y.S. Dharmadhikari, for the Appellant; L.K. Dubey, for the Respondent

Final Decision : Allowed

Judgement

Dixit, C.J.

By this application under Article 226 of the Constitution the petitioner challenges the validity of an order passed by the respondent No. 2, the Controller of Examinations, Board of Secondary Education, Bhopal, hearing the date 2nd July 1965 (sic) cancelling the petitioner's result at the Higher Secondary School Certificate "A" course Examination held in March 1965 and debarring him from appearing at the examination for the ensuing year 1966.

The petitioner appeared at the Higher Secondary School Certificate "A" course examination of 1965 (hereinafter referred to as the examination) as a student of Saifia Higher Secondary School, Bhopal. The examination commenced on 8th March 1965 and ended on 27th March 1965. On the last date of the examination while he was answering "Urdu Second Paper" he was found by the invigilator Shri Shamim Akram talking with other examinees. The invigilator warned him

repeatedly but he paid no heed to the warnings. It appears that at the close of the examination on 27th March 1966 the petitioner got annoyed with the invigilator and threw his answer-book at the face of the invigilator and went away. Thereupon, Shri Akram made a report in writing to the Superintendent, Examinations, Saifia Higher Secondary School Centre, Bhopal, Shri Azimulla Khan, against the petitioner which was as follows:

"One candidate bearing roll No. 78861 was found talking to his fellow students in Urdu Second Paper of II. S. "A" course. Repeated warnings in this respect went flat and the threatened to use force against me outside the school premises. At the close of the examination he threw away his answer book at my face and went away. Necessary disciplinary action be please taken against the student otherwise it will be difficult to invigilate the examination smoothly."

The Superintendent, Examinations. Saifia II, S. School Centre, forwarded the report of the invigilator to the Controller of Examinations along with the petitioner's answer book in Urdu Paper II. In his letter addressed to the Controller of Examinations forwarding the report of the invigilator the Superintendent said:

"The answer book Urdu II roll No. 78861, together with the statement of the invigilator Mr. Shamim Akram are enclosed for your disciplinary action. The candidate deserves exemplary punishment, so that it should serve the purpose of an eye-opener to those who do not take the examination seriously."

On 11th May 1965 a notice was issued to the applicant Abdul Haque by the Controller of Examinations intimating him that it had been brought to the notice of the Results Committee of the Board of Secondary Education that while answering the Urdu Second Paper he was "found using unfair means or in possession of unauthorised or prohibited articles" and that he had thus violated the rules framed by the Board with regard to examinations and asking him to show cause why under Rule 20 of Chapter XVI of the Regulations framed by the State Government under the Madhya Pradesh Secondary Education Act, 1959 (hereinafter referred to as the Regulations) action should not be taken against him. The applicant was also informed by the said notice that if after considering the complaint of the Superintendent, Examinations, Safia H. S. School Centre, and his reply thereto, the Results Committee reaches the conclusion that he had used unfair means or that he was in possession of unauthorised or prohibited articles, then the Committee could cancel his result and/or debar him from appearing at the examination for the next two years. The applicant was asked what he had to say with regard to this punishment.

In reply, the applicant wrote to the Controller of Examinations on 17th May 1965 denying the allegation that he was found using any unfair means at the examination or that he was found in possession of any unauthorised or prohibited articles. He added that his relations with Shri Shamim Akram were strained for some lime; that he was not on talking terms with him, that he had

once threatened him saying that "he would see him"; and that it was possible that because of this ill-feeling Shri Akram had by making a false report attempted to ruin his career. In his reply the applicant admitted that during the course of the examination there was a heated discussion between him and Shri Akram and expressed his regret for that. He expressed the hope that the matter would be thoroughly enquired into and that the Superintendent, Examinations would be asked to send a second report about the "truth of the matter"

On receipt of this explanatory letter of the petitioner the Board of Secondary Education asked both the Superintendent Sbri Azimulla Khan and the invigilator Shri Akram to submit their fresh reports in the light of the explanation offered by the petitioner. They were furnished with copies of the explanatory letter of the applicant. This time Shri Azimulla Khan, the Superintendent, informed the Board of Secondary Education that the petitioner did not copy; that he was also not found in possession of any unauthorised or prohibited articles; that he was simply found talking in the Examination-Hall; and that at the close of the examination he threw his answer-book at the face of the invigilator. The Superintendent said that the statement of the petitioner that his relations with Shri Akram were strained and that Shri Akram had once threatened him was utterly false. The Superintendent ended his letter by saying that the petitioner had apologized both to him as well as to Shri Akram and it appeared that he was now realising his mistake; and that he had no objection if the Board of Secondary Education desired to pardon the petitioner for his behaviour. The invigilator Shri Akram also addressed a letter to the same effect to the Board of Secondary Education on 13th July 1965. He also said in his letter that the petitioner did not "copy" and was also not found in possession of any unauthorised or prohibited articles; that he admonished and warned the petitioner when he found him talking; that thereupon the applicant getting angry with him threw the answer-book on him and went away Shri Akram added that the applicant had apologized to him for his misbehaviour and that he was willing to apologize even to the Board and the Board could pardon him if it so desired.

The Results Committee then considered the original complaints made by the invigilator and the Superintendent, Examinations, and the subsequent elucidation given by them as also the explanation offered by the petitioner and decided on 18th July 1965 that the applicant's result for the 1965 examination should be cancelled and that he should be debarred from appearing at the 1966 examination. The Board's resolution taking this decision mentioned that the decision had been taken after submission of a fresh report by the Superintendent, Examinations, in the matter of "insolent behaviour of the petitioner with the invigilator and of his throwing at the invigilator's face his answer-book while leaving the Examination-Hall."

Shri Dharmadhikari, learned counsel appearing for the petitioner, argued that the Results Committee discharged a quasi-judicial function while passing an order under Regulation 20 of Chapter XVI of the Regulations against a candidate for

using unfair means or for being in possession of unauthorised or prohibited articles at the time of the examination and that the Results Committee was, therefore, bound to act justly and fairly and to give adequate and reasonable opportunity to the candidate of defending himself against the charge levelled against him. It was said that the notice which was issued to the petitioner on 11th May 1965 did not at all indicate precisely whether the petitioner was found using unfair means at the examination or was found in possession of any unauthorised or prohibited article; it stated these allegations alternatively against him without giving any particulars; and that the Results Committee, without finding him guilty either of using unfair means or of being found in possession of any unauthorised or prohibited article, passed the impugned order against him merely because according to the report of the Superintendent, Examinations, Saifia H. S. School Centre, the petitioner had behaved insolently with the invigilator and had thrown his answer-book at his face.

Learned counsel proceeded to say that under Regulation 20 of Chapter XVI a candidate could be expelled from the examination and/or otherwise punished only if he was found using unfair means or in possession of unauthorized or prohibited articles in any of the Board's examinations; that the said regulation did not permit any action against a candidate in respect of his alleged indisciplined behaviour in the Examination-Hall; and that thus the impugned order was not based on any evidence at all justifying action under Regulation 20. Learned counsel also made the grievance that the petitioner was not given a reasonable opportunity of defending himself in that no enquiry was at all held by the Results Committee and no witnesses were examined by the Committee in support of the charge and thus he was not given any opportunity of testing by cross-examination the evidence on which the Committee acted; and that he was also not given any opportunity of leading evidence in defence.

In reply Shri Dube, learned counsel appearing for the respondents, submitted that there was no vagueness in the notice issued to the petitioner on 11th May 1965 informing him of the charges against him; that he fully knew what they were and submitted his explanation accordingly; that after receiving the petitioner's explanation fresh reports from the Centre Superintendent and the invigilator were called by the Board and thus the matter was fully enquired into; and that it was not necessary for the Results Committee to examine any witness or afford an opportunity to the applicant to adduce evidence or to cross-examine any witnesses. Learned counsel said that the reports of the Centre Superintendent and the invigilator clearly showed that the applicant was guilty of using unfair means at the examination by repeatedly talking with the co-examinees; that he was also guilty of misbehaviour with the invigilator; and that for these acts of the petitioner the Results Committee was competent to take the decision it did on 18th July, 1965, against the applicant. It was also pointed out by learned counsel that at its sittings held on 27th and 28th June 1965 the Results Committee laid down certain guiding principles with regard to the punishment to be imposed under Regulation 20, Chapter XVI of the Regulations;

that according to these principles the result of a candidate found guilty of having used unfair means or of being in possession of unauthorised or prohibited articles and also found guilty of indiscipline and misbehaviour in the Examination-Hall could be cancelled and that in addition he could be debarred from appearing at the next year's examination: and so also a similar punishment could be meted out to a candidate found guilty of indiscipline and misbehaviour simpliciter.

Before examining the tenability of the arguments advanced by learned counsel appearing for the parties, it would be convenient to refer here to the relevant provisions of the Regulations. The Regulations have been made by the Government under Sections 22 and 23 of the M.P. Secondary Education Act, 1959. Section 22 empowers the Board of Secondary Education to make regulations for the purpose of carrying into effect the provisions of the Act and for the matter enumerated in Sub-section (2) thereof, which include the conditions under which candidates shall be admitted to the examinations of the Board and shall be eligible for diplomas or certificates, and the conduct of examinations. Section 23 says that the first regulations shall be made by the State Government and they shall be deemed to have been made by the Board and shall continue in force until altered or modified by the Board. Chapter VII of the Regulations deals with the Constitution of the Results Committee and the duties of the Committee. According to Clauses (10) and (11) of Regulation 2 of Chapter VII, it is the duty of the Results Committee to decide cases of candidates who have used unfair means and to decide such other matters connected with the declaration of results as may be referred to the Committee. Regulation 20 of Chapter XVI runs thus:

""Candidates found using unfair means or in possession of unauthorised or prohibited articles (papers, books, notes, etc.) in any of the Board's examinations will be liable to be expelled from the examination of the paper concerned. The Results Committee shall be the final authority to decide whether the candidate is guilty under this regulation. The Committee may impose a higher penalty if it thinks that mere expulsion is not enough."

It will be seen from the above provisions and specially regulation 20 that the Results Committee has the power of expelling a candidate from the examination of the "paper concerned" and to impose on him any other penalty only if the candidate has been found using unfair means or in possession of unauthorised or prohibited articles such as papers, books, notes, etc., in the examination. The Results Committee has not the power of expelling a candidate from any examination, or cancelling his result at an examination or excluding him from any subsequent examination for any act of his done during the examination which has no connection whatsoever with, or which does not involve, the use of unfair means or possession of unauthorised or prohibited articles. Thus, a candidate may behave rudely with an invigilator during the course of an examination or may also act in an undisciplined manner. But such behaviour or act of the candidate will not expose him to any punishment under regulation 20 if

it did not result or was not calculated to result in the candidate using unfair means or gelling in possession of unauthorised or prohibited articles. It follows, therefore, that the decision reached by the Results Committee" at its meeting on 27th and 28th June 1965 to cancel the results and to debar from appearing at any examination for one year those candidates found guilty of insolent behaviour and indiscipline during the course of an examination, has no sanction in law; and if the result of any candidate has been cancelled and if he has been debarred from appearing for one year at the examination merely because of his insolent behaviour or indiscipline unconnected with the use of unfair means or possession of unauthorised or prohibited articles, then the action of the Committee in relation to the candidate would be ultra vires.

It was not disputed, and indeed it could not be, in view of the decision of The Supreme Court in Board of High School and Intermediate Education, U.P., Allahabad Vs. Ghanshyam Das Gupta and Others, that the Results Committee acting under regulation 20 of Chapter XVI functions as a quasi-judicial authority and the very nature of this quasijudicial power imposes a limitation that it must be exercised in conformity with the principles of natural justice. The nature of exercise of quasi-judicial power has been discussed in a large number of cases of the Supreme Court covering a wide field. It is not necessary to refer to these authorities. But the principle deducible from these cases is that, where quasi-judicial powers or duties are entrusted to a body or an authority, then the principles of natural justice require, first, that the body or authority should inform the person accused or charged of the nature of accusation made against him; secondly that person should be given an adequate opportunity of presenting or stating his case; and thirdly that the authority or the body must act in good faith. In Nages-wara Rao v. Andhra Pradesh State Road Transport Corporation AIR 1950 SC 308: 1959 Supp (1) SCR 319 the Supreme Court said :--

"" The mode of performing quasi-judicial acts by administrative tribunals has been the subject of judicial decisions in England as well as in India. The House of Lords in in the context of the Housing, Town Planning, Etc. Act, 1909, made the following observations at page 132 :

" My Lords, when the duty of deciding an appeal is imposed, those whose duty it is to decide must act judicially. They must deal with the question referred to them without bias, and they must give to each of the parties the opportunity of adequately presenting the case made. The decision must be come to in the spirit and with the sense of responsibility of a tribunal whose duty it is to mete out justice. But it does not follow that the procedure of every such tribunal must be the same."

"In New Prakash Transport Co. Ltd. Vs. New Suwarna Transport Co. Ltd., this Court reviewed the case law on the subject and came to the conclusion that the rules of natural justice vary with varying constitutions of statutory bodies, and the rules prescribed by the legislature under which they have to act, and the question whether in a particular case they have been contravened must be

judged not by any pre-conceived notion of what they may be but in the light of the provisions of the relevant Act. This Court reaffirmed the principle in Nagendra Nath Bora and Another Vs. The Commissioner of Hills Division and Appeals, Assam and Others, ."

In the case of 1915 AC 120 Lord Haldane, after making the observations just reproduced, proceeded to say:--

" In the case of a Court of law tradition in this country has prescribed certain principles to which in the main the procedure must conform. But what that procedure is to be in detail must depend on the nature of the tribunal.

* * * * When, therefore. Parliament entrusts it with judicial duties, Parliament must be taken, in the absence of any declaration to the contrary to have intended it " to follow the procedure which is its own, and is necessary if it is to be capable of doing its work efficiently". " (Underlining here in " "is ours)

In that case Lord Shaw of Dunfermline said in his speech :

"The words "natural justice" occur in arguments and sometimes in judicial pronouncements in such cases. My Lords, when a central administrative board deals with an appeal from a local authority it must do its best to act justly, and to reach just ends by just means. If a statute prescribes the means it must employ them. If it is left without express guidance it must still act honestly and by honest means. In regard to these certain ways and methods of judicial procedure may very likely be imitated; and lawyer-like methods may find especial favour from lawyers. But that the judiciary should presume to impose its own methods on administrative or executive officers is a usurpation. And the assumption that the methods of natural justice are ex necessitate those of Courts of justice is wholly unfounded."

12-a. There are two decisions of the Supreme Court which directly deal with the question of the opportunity which an examinee against whom a charge of using, unfair means at an examination has been made is entitled to get for stating his case. In Board of High School and Intermediate Education, U.P., Allahabad Vs. Ghanshyam Das Gupta and Others, the Supreme Court considered the nature of power exercised by the Examinations Committee of the Board of High School and Intermediate Education appointed under the U. P. Intermediate Education Act of 1921 and held that the Committee, when it exercised powers under Regulations relating to examinations and dealt with cases of examinees using unfair means at the examinations, acted quasi-judicially and was required to follow the principles of natural justice. It was observed by the Supreme Court in that case :--

" As to the manner in which it should give an opportunity to the examinee concerned to be heard, that is a matter which can be provided by Regulations or Bye-laws if necessary. As was pointed out in 1915 AC 120, all that is required is that the other party should have an opportunity of adequately presenting his

case. But what the procedure should be in detail will depend on the nature of the tribunal. There is no doubt that many of the powers of the Committee under Chap. VI are of administrative nature; but where quasi-judicial duties are entrusted to an administrative body like this it becomes a quasi-judicial body for performing these duties and it can prescribe its own procedure so long as the principles of natural justice are followed and adequate opportunity of presenting his case is given to the examinee. "

The other decision of the Supreme Court, namely *The Board of High School and Intermediate Education U.P. Vs. Bagleshwar Prasad and Others*, , makes the matter of the procedure to be followed in cases such as the one before us very clear. That was a case where an examinee was alleged to have used unfair means at an examination. A charge was given to him and his explanation was obtained which the sub-Committee set up to enquire into the allegation did not find convincing. Thereupon, the Board of High School and Intermediate Education cancelled the result of the candidate. The Allahabad High Court allowed a petition filed by the candidate challenging the validity of the order cancelling his result. When the matter went up before the Supreme Court in appeal, the Supreme Court while accepting the appeal said :--

" In dealing with petitions of this type, it is necessary to bear in mind that educational institutions like the Universities or appellant No. 1 set up Enquiry Committees to deal with the problem posed by the adoption of unfair means by candidates, and normally it is within the jurisdiction of such domestic Tribunals to decide all relevant questions in the light of the evidence adduced before them. In the matter of the adoption of unfair means, direct evidence may sometimes be available, but cases may arise where direct evidence is not available and the question will have to be considered in the light of probabilities and circumstantial evidence. This problem which educational institutions have to face from time to time is a serious problem and unless there is justification to do so, courts should be slow to interfere with the decisions of domestic Tribunals appointed by educational bodies like the Universities. In dealing with the validity of the impugned orders passed by Universities under Article 226, the High Court is not silting in appeal over the decision in question; its jurisdiction is limited and though it is true that if the impugned order is not supported by any evidence at all, the High Court would be justified to quash that order. But the conclusion that the impugned order is not supported by any evidence must be reached after considering the question as to whether probabilities and circumstantial evidence do not justify the said conclusion. Enquiries held by domestic Tribunals in such cases must, no doubt be fair and students against whom charges are framed must be given adequate opportunities to defend themselves, and in holding such enquiries, the Tribunals must scrupulously follow rules of natural justice; but it would, we think, not be reasonable to import into these enquiries all considerations which govern criminal trials in ordinary courts of law. In the present case, no animus is suggested and no mala fides have been pleaded. The enquiry has been fair and the respondent has had an opportunity of making his

defence. That being so, we think the High Court was not justified in interfering with the order passed against the respondent."

It would be pertinent to refer also to the decision of the Privy Council in *University of Ceylon v. Fernando* 1960 1 All ER 631. That was a case in which the Vice-Chancellor appointed a commission of inquiry consisting of himself and two others to enquire into an allegation of having acquired knowledge of a paper before taking the examination against a student who appeared at a University examination. The candidate was informed by letter of the allegation against him. He was asked to attend before the commission on two occasions. When he appeared before the commission, he was informed what the charge was and given an opportunity to state his case. Some witnesses including a woman student who made the allegation gave evidence before the commission. At that time the candidate was not present. He did not ask that he should be allowed to question any of those witnesses. Two witnesses, other than the candidate and the woman student who made the allegation, were questioned by the Vice-Chancellor alone in the absence of the other members of the commission. The commission found the allegation to be true and ultimately an order was passed by the University authorities debarring the candidate indefinitely from all University examinations. The examinee then brought an action against the University for a declaration to the effect that the decision of the University authorities was null and void on the ground that the enquiry was not conducted in accordance with principles of natural justice. The decision of the Supreme Court of Colombo granting a declaration was reversed in appeal by the Privy Council. The Privy Council held that the fact that the commission did not tender the woman student making the allegation or any other witness for cross-examination by the candidate was not a failure to comply with the rules of natural justice, but that the position might have been different if the candidate had asked to be allowed to cross-examine the woman student and had not been allowed to do so; and that neither was the fact that two witnesses had been questioned by the Vice-Chancellor alone a failure to comply with the principles of natural justice. On the question of the procedure which the Vice-Chancellor was required to follow while making the enquiry, the Privy Council said :

" Turning now to the actual terms in which the Vice-Chancellor is invested with the quasi-judicial function here in question, it is to be observed that all that Clause 8 provides is that where the Vice-Chancellor is satisfied that any candidate has acquired knowledge of the nature or substance of any question of the content of any paper before the date and time of the examination " the Vice-Chancellor . shall report the matter to the Board of Residence and Discipline . . " The clause is silent as to the procedure to be followed by the Vice-Chancellor in satisfying himself of the truth or falsity of a given allegation. If the clause contained any special directions in regard to the steps to be taken by the Vice-Chancellor in the process of satisfying himself he would, of course, be bound to follow those directions. But as no special form of procedure is prescribed, it is for him to determine the procedure to be followed as he thinks best, :but, to adapt

to the present case the language of the judgment of this Board in *De Verteuil v. Knaggs* 1918 AC 557 : (AIR 1918 PC 67), subject to the obvious implication that some form of inquiry must be made, such as will enable him fairly to determine whether he should hold himself satisfied that the charge in question has been made out. "

The principles to be gathered from the decisions referred to can be stated thus. If the relevant statute or Regulations or Bye-laws made thereunder prescribe a particular procedure which the authority entrusted with the duty of enquiring into allegations of use of unfair means has to follow in such an enquiry, then that procedure has to be followed. In the absence of any such express provision, the authority is at liberty to determine the procedure to be followed as it thinks best suited to discharge its duty efficiently. The procedure it may adopt need not follow the pattern of procedure of a trial in a court or of a disciplinary enquiry against a delinquent civil servant under the Civil Service Regulations. The authority need not examine any witnesses. But it must give a fair opportunity to the examinee to correct or controvert any relevant statement brought forward to his prejudice. The governing principle is one of " fairness ". As was succinctly put by Lord Shaw in the case of 1915 AC. 120 (*supra*), the authority concerned " must do its best to act justly, and to reach just ends by just means." If, after following the requirements of natural justice, the competent authority reaches a conclusion which is supported by material, then it would not be open to this Court to examine whether the conclusion of the authority is right or wrong. No doubt, if there is no evidence at all to support the conclusion, then this Court would be justified in quashing the decision of the authority.

Now, here, the complaint of the petitioner that the requirements of natural justice were not complied with in that the allegations contained in the notice dated 11th May 1965 which he was asked to answer were vague and the Results Committee did not examine any witnesses is altogether unsubstantial. The M.P. Secondary Education Act, 1959, and the Regulations made thereunder do not lay down any particular procedure which has to be followed by the Results Committee while enquiring into a complaint against an examinee of having used unfair means. The notice which was issued to the petitioner on 11th May 1965 sufficiently apprised him of the nature of the complaint against him. He was informed that it had been brought to the notice of the Results Committee that he was found using unfair means or in possession of unauthorised or prohibited articles while answering "Urdu Second Paper" on 27th March 1965. It would have been no doubt desirable if in the notice the particulars of the alleged acts constituting unfair means or possession of unauthorised material had been mentioned. But the applicant himself made no grievance about vagueness of the notice given to him when he sent his reply thereto. He denied the allegation that he had used unfair means or that he was in possession of unauthorised or prohibited articles. He admitted that there was a hot exchange of words between him and Shri Shamim Akram during the course of the examination and tendered his apology for this behaviour. He prayed that a fresh report be called from the

Superintendent, Examinations Saifia H.S. School Centre, about the "truth" of the matter.

On receipt of the petitioner's reply the Results Committee then, as desired by the petitioner, directed the Superintendent Shri Azimulla Khan and the invigilator Shri Akram to give fresh reports in the light of the explanation offered by the petitioner. These subsequent reports of the invigilator and the Superintendent, which were acted upon by the Results Committee, were favourable to the petitioner. Whereas the earlier reports of these two Officers contained a suggestion that the applicant used unfair means by repeatedly talking with other examinees, referred to the insolent behaviour of the petitioner in throwing his answer-book at the face of the invigilator while leaving the Examination-Hall, and contained a request for exemplary punishment being awarded to the petitioner, in the subsequent reports the two Officers said that the petitioner had not used unfair means and also was not found in possession of unauthorised or prohibited articles but that he only behaved rudely with the invigilator by throwing his answer book at his face. By saying in their subsequent reports that the applicant had not used unfair means or was not found in possession of unauthorised or prohibited articles but that his "behaviour with the invigilator was of highly insolent character, both Shri Shamim Akram and Shri Azimulla Khan made it amply clear that the rude behaviour against which they had complained had nothing whatsoever to do with the use of unfair means or possession of prohibited or unauthorised articles.

It no doubt appears to us very strange how Shri Azimulla Khan and Shri Shamim Akram were persuaded to soften their complaint against the petitioner subsequently. It is idle to speculate on the reasons and the circumstances under which the two Officers made their subsequent reports of the kind they did. This was a matter which the Results Committee should have probed into. But the petitioner would not have fared well if after examining Shri Azimulla Khan and Shri Shamim Akram and after giving an opportunity to the petitioner to cross-examine them, the Results Committee had come to the conclusion that the applicant by talking with other examinees used unfair means.

This brings us to the actual decision reached by the Results Committee on the basis of the reports made by the invigilator and the Superintendent. The record of the proceedings held before the Results Committee does not contain anything to show that the Results Committee found the petitioner guilty of having used unfair means or being in possession of unauthorised or prohibited articles while answering Urdu Second Paper" on 27th March 1965. Even "in the return filed on behalf of the respondents it has been nowhere stated categorically that the applicant, by talking with other examinees, used unfair means. On the other hand, in paragraph 5 of the return it has been said:

"Presumably the petitioner was consulting the fellow examinees and taking help from them in solving the question paper and was thus guilty of using unfair means in the examination."

The record of the proceedings of the Results Committee makes no reference even to this presumption. The decision of the Results Committee to cancel the petitioner's result for the 1965 examination and to exclude him from the 1966 examination is founded solely on the ground that the petitioner, when repeatedly warned by the invigilator not to talk with the other candidates, got annoyed with him and threw his answer-book at his face and thus behaved rudely and insolently with the invigilator. As we have endeavoured to point out earlier, under regulation 20 of Chapter XVI of the Regulations the Results Committee is not competent to impose any penalty on an examinee for an alleged rude or objectionable behaviour which has no connection whatsoever with the use of unfair means or possession of unauthorised or prohibited articles. The respondents have relied on Clauses (10) and (11) of regulation 2 of Chapter VII of the Regulations to support the action taken against the petitioner. But these clauses which confer on the Results Committee the duty of deciding cases of candidates who have used unfair means and such other matters connected with the declaration of results as may be referred to the Committee do not give to the Results Committee the power to impose on an examinee a punishment for an act not falling under regulation 20 of Chapter XVI of the Regulations.

For the foregoing reasons, our conclusion is that though there has been no failure to comply with the requirements of natural justice, in the circumstances of the present case, the decision of the Results Committee cancelling the petitioner's result for the 1965 examination and debarring him from appearing at the 1966 examination, based as it is on the petitioner's insolent behaviour with the invigilator unconnected with any use of unfair means or possession of unauthorised or prohibited articles, cannot be sustained, for the reason that such an act is not punishable under regulation 20 of Chapter XVI of the Regulations.

This petition is, therefore, allowed. The order passed by the Results Committee and the Controller of Examinations cancelling the petitioner's result for the 1965 examination and debarring him from appearing at the 1966 examination is quashed. The respondents are directed to value the petitioner's answer-books for the 1965 examination and declare his result accordingly. In the circumstances of the case, there will be no order as to costs of this petition. The outstanding amount of the security deposit shall be refunded to the petitioner.