
(1998) 02 GAU CK 0002
In the Gauhati High Court
Case No : Civil Rule No. 3370 of 1997

Abdul Kalam and Others

APPELLANT

Vs

State of Assam and Others

RESPONDENT

Date of Decision : 27-02-1998

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1998) 1 GLT 495

Hon'ble Judges : M. Sharma, J

Bench : Single Bench

Advocate : N. Dutta, M.H. Choudhury and L.N. Choudhury, for the Appellant;
T.C. Chutia and M.A. Sheikh, for the Respondent

Judgement

M. Sharma, J.—In this application under Article 226 of the Constitution of India Petitioners have prayed for issuance of an appropriate writ or direction to the Respondents to publish the result of the Petitioners who claim to have been given permission/Admit Card for entering and appearing in the HSLC Final Examination by the Board of Secondary Education, Assam (SEBA).

2. Briefly stated, the facts of the case are that the Petitioners are the students of Pub Baralimari High School at village Pub Baralimari under Juria Police Station in the district of Nagaon. They appeared in the HSLC Examination on the basis of the Admit Card issued by the SEBA which was held on and from 11.3.97. Though the result of the said examination had been declared the results of the Petitioners were withheld. On coming to know about this the Petitioners approached the Headmaster and the President of the Managing Committee of the school in question and in time they approached the SEBA by filing application for declaration of their results. As the results were not declared till 6.6.97, the Petitioners again alongwith the Headmaster and the President of the School approached the SEBA with a request to publish the results immediately so that they can take admission in Colleges. In spite of the personal approaches and representations before the authorities no action has been taken till date to

publish the results of the Petitioners. According to the Petitioners they were deprived of getting admission in colleges due to non-declaration of their results. Hence this petition.

3. An affidavit-in-opposition has been filed on behalf of the Respondents 3,4 and 5 through the Respondent No. 3. It has been stated in the affidavit that Respondent No. 6 Abdul Kadir Zillani was the Headmaster of the original Pub Baralimari High School and by a resolution dated 17.7.94 he was placed under suspension by the Managing Committee and subsequently by a resolution dated 29.2.96 he was discharged from the school as Headmaster. After his discharge from the said school the Respondent No. 6 started another school with a few students in the name and style of the earlier school. The Respondent No. 6 without disclosing the de-recognition of his school by SEBA sent the Petitioners to the HSLC examination, 1997 directly to SEBA instead of submitting the documents to the examination centre, that is, Doomdoomia Balisatra. According to this Respondent the Petitioners were not the students of Pub Baralimari High School. According to this Respondent the results of the Petitioners were withheld on receipt of a complaint from the Headmaster of the original school informing that the students of the school of the Respondent No. 6 were sent to the HSLC examination, 1997 without sitting in the Test examination which was a must for appearing in the final examination. It has been further stated that the result of the Petitioners have been withheld as per rules of the Board.

4. I heard Mr. N. Dutta, counsel for the Petitioners, Mr. T.C. Chutia, Govt. Advocate and Mr. M.A. Sheikh for Respondent No. 6.

5. Mr. Dutta counsel for the Petitioner has submitted that the Petitioners accrued the right as they were allowed to sit in the examination by issuing Admit Card and therefore, on point of consideration of equity the Petitioners are entitled to get their results published. Respondent No. 6 has filed an affidavit-in-opposition. Mr. Sheikh, counsel for the Respondent No. 6 has submitted that being satisfied with all the process the SEBA issued Admit cards and the Petitioners were allowed to sit in the examination accordingly. Respondent No. 6 has denied the allegations made in the petition. According to the Respondent No. 6 the Petitioners successfully completed their test examination for the HSLC final examination and accordingly admit cards were issued to them by the SEBA and, therefore, the results of the students cannot be withheld in the manner it has been done.

6. On the basis of the rival contentions of the parties it is to be seen whether the Petitioners passed the test examination qualifying themselves for appearing in the final HSLC examination and whether the school of the Respondent No. 6 has got the necessary permission from the authority.

7. During the course of the argument this Court by order dated 8.1.98 directed the Respondent No. 3 to make an enquiry whether the school in question was un-recognised and whether Petitioners passed the test examination before their

appearance in the final HSLC Examination. Pursuant to the direction the Respondent No. 3 made an enquiry and submitted his report dated 29.1.98.1 have gone through the enquiry report. The enquiry has been conducted by the Deputy Secretary, SEBA and visited the school on 19.1.98. As the Respondent No. 6 was not available at the time of enquiry no materials could be procured from the school regarding the test examination of the candidates for the HSLC Examination, 97. In the report it has been stated thus:

Pub Baralimari High School of Sri Abdul Kadir Zillani, being a non-recognised school should have the permission from the Inspector of Schools to present the students in the Test Examination and also the approval of the results of the students of the schools of the Inspector of Schools. The Asstt. Inspector of Schools vide his letter No. 1321 dated 22.1.98 clarified that Mr. Abdul Kadir Zillani, the Headmaster of Pub Baralimari High School did not obtain permission from the Inspector of Schools for the last 2 (two) years to hold the Test Examination nor did he procure question papers from the District Test Examination Board, Nagaon.

Also Sri Zillani did not submit the results of 1996 and 1997 of the Test Examinations for approval of the Inspector of Schools, which is a necessary condition for sending up of students from non-recognised schools.

8. As it is seen the stand of the Respondents authority is that Pub Baralimari High School in the district of Nagaon was recognised by the Board of Secondary Education by Annexure-I letter dated 4.4.95 issued by the Respondent No. 4. Subsequently, the Inspector of Schools, Nagaon informed the Respondent No. 2 with a copy to Respondent No. 3 that the school was recognised by SEBA on a forged inspection report (Annexure-II to the affidavit-in-opposition). This position has been admitted by the Respondent No. 6 by Annexure-III to the affidavit-in-opposition dated 14.12.95 in presence of the witnesses mentioned therein. The Respondent No. 6 in the said letter stated thus:

I have the honour to inform you that I am the Headmaster of Pub Baralimari High School. It is a fact that in 1994, I forged the inspection report for Class X recognition by SEBA as prepared and signed by the Asstt. Inspector of Schools, Nagaon....

After coming to know about the forged inspection report by Annexure-IV letter dated 22.12.95 the recognition of the said school was kept in abeyance. Thereafter the Respondent No. 6 was suspended and discharged from the school in question. As per the Regulations for Conduct of Board's Examination issued by the SEBA a private candidate may be allowed to appear at the HSLC/AHM examination even though such student has not undergone the prescribed course of study as may be specified in a Recognised School with such terms and conditions decided by the Board from time to time as per Regulation 5 provided:

a) the student who complete the course of study prescribed for the examination regularly in a school permitted/recognised by the Government to open Class VIII,

permitted by the Board to open Class IX and X, such school shall have to take special permission from the Board to present their students in the examination, as Institutional Private candidates.

b) the student who complete the course of study prescribed for the examination regularly in a school not recognised/permitted by the Govt. even to open Class VIII, such school shall have to take special permission from the Board to present their students, as Non-institutional Private candidates.

As per the SEBA's rules and practice the non-recognised schools are to take permission from the Inspector of Schools to present their students in the test examination after obtaining the permission. Such schools are to present their students through some recognised schools only and there is a Test Examination Board in every district. It is apparent from the enquiry report that during the enquiry the enquiry officer approached the Inspector of Schools, Nagaon District Circle, who is the Chairman of the Nagaon District Test Examination Board. On enquiry it is revealed that all schools in the District procured their question papers for the Test Examination from the District Board and the non-recognised schools after the Test Examination are to get the results of this examination approved by the Inspector of Schools of the District. From the above, it is clear that the Respondent No. 6 did not hold the test examination of the students/Petitioners before their appearance in the HSLC final examination. It is also evident from the enquiry report that the Respondent did not submit the result of 1996 and 1997 of the test examination for approval of the Inspector of Schools which was a necessary condition for sending up students to HSLC Examination. In view of the above, in the facts and circumstances of the case, I hold that the Respondent No. 6 did not hold any test examination in his school which is a non-recognised institution, to enable the Petitioners to sit in the final examination and, therefore, Petitioners are not entitled to get their results declared through this writ Court on the plea of equity and justice. The order dated 28.2.97 passed by this Court in Civil Rule No. 6113/96 has no relevancy in the peculiar facts and circumstances of the case in hand. I also cannot subscribe to the submission of Mr. Dutta that the Petitioners are the victims and they have to suffer for no fault on their part as they were not aware of any procedure or recognition or de-recognition of the school. In a process of examination adopted by an autonomous education institution Court cannot give a different view and this Court cannot do so as such indulgence will vitiate the entire educational atmosphere which is already deteriorated due to some fraudulent action of some of the employees of the SEBA in connivance with the staff of some schools. The concerned authority of the SEBA is directed to make a thorough enquiry regarding this type of anomalies and shall bring to book the actual culprits and take necessary action making them accountable for such unwarranted and fraudulent practices. The Respondent SEBA shall also take immediate decision regarding the school of the Respondent No. 6 and pass necessary orders so that the students of the school shall not suffer in future because of the fraudulent actions of the Respondent No. 6.

9. In view of my above discussion, I am constrained to hold that the writ Petitioners cannot invoke the writ jurisdiction of this Court for a direction to the Respondents to publish their results when the school of the Respondent No. 6 in question has violated the procedure, rules, regulations and practices followed by the SEBA/authority.

10. In the result, the writ petition fails and accordingly it is dismissed. Considering the facts and circumstances of the case parties shall bear their own costs.