

(1983) 09 AHC CK 0018

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 9540 of 1983

Ajai Bahuguna and Others

APPELLANT

Vs

Zila Basic Shiksha Adhikari/Sachiv Junior High School
Pariksha Samiti and Others

RESPONDENT

Date of Decision : 29-09-1983

Acts Referred:

Citation : (1983) 09 AHC CK 0018

Hon'ble Judges : Satish Chandra, C.J;A.N. Varma, J

Bench : Division Bench

Advocate : S.N. Doval, for the Appellant;

Judgement

A.N. Varma, J.—The Petitioners appeared at the Junior High School Examination conducted by the Junior High School Pariksha Samiti, the Respondent No. 2 herein, in April-May, 1983. The results of the said examination were declared on 1st of July 1983. In the result sheet sent to the Petitioners College, the Petitioners Nos. 1 to 5 were shown to have secured 1st class marks while Petitioners Nos. 6 to 8 second class marks. In the remarks column, however, it was mentioned that the Petitioners' result had been cancelled on the ground of their having used unfair means. Thereupon, the father of the Petitioners Nos. 1 and 2 approached the Secretary of the aforesaid Pariksha Samiti to get the marksheets of the Petitioners and to let him know the grounds upon which the result of the Petitioners examination had been cancelled. However, the Secretary of the aforesaid Pariksha Samiti did not issue any marksheets, and, beyond generally informing the father of the Petitioners Nos. 1 and 2 that the Petitioners result had been cancelled on the ground of their using unfair means, no further details were given by the Secretary. The Pariksha Samiti did not declare the result of the Petitioners even after the enquiry which is stated to have been conducted by the Examination Committee appointed to go into the cases of use of unfair means by the candidates including the Petitioners. The grievance of the Petitioners is that the action of the Pariksha Samiti in withholding/cancelling the

Petitioners" results is ex facie unsustainable as no opportunity whatsoever was given to them to show cause against the alleged use of unfair means by the Petitioners.

2. Having heard learned Counsel for the parties we are clearly of the opinion that the above grievance of the Petitioner is fully justified.

3. In the counter-affidavit which has been filed on behalf of Pariksha Samiti, it is asserted that the Examination committee of the Pariksha Samiti examined the entire material including the answer books of the Petitioners and considered the report of the Centre Superintendent who had reported that the Petitioners had resorted to use of unfair means. Some pieces of papers were found near the Petitioners and that the Petitioners had copied from the same during the examination. On the report of the said Centre Superintendent and other materials which were available the Examination Committee found that the Petitioners had used unfair means in answering certain papers and on the basis of the report of the Examination Committee the results of the Petitioners were cancelled.

4. Significantly, however, despite a specific challenge made in the writ petition in that behalf, it has not been stated in the counter-affidavit that the Petitioners were given any show cause notice against the allegations of unfair means made against them. Indeed, learned Standing Counsel did not dispute the fact that no show cause notice was given to the Petitioners at any stage. His argument, however, was that the Examination Committee had considered the report of the Centre Superintendent and the other material available on the record which clearly indicated that the Petitioners had used unfair means at the examination. He submitted that this was sufficient compliance with the principles of natural justice and the mere fact that no formal show cause notice was given to the Petitioner did not vitiate the enquiry.

5. We are unable to accept the contention of the learned Standing Counsel. Any enquiry which the Pariksha Samiti or the Examination Committee appointed by the former to go into the case of use of unfair means might have been made behind the back of the Petitioners and without affording them any opportunity of showing cause against the charge of use of unfair means was absolutely of no avail. The result of the Petitioners was being sought to be cancelled on grounds of use of unfair means at the examination. The action proposed against the Petitioners was bound to have serious repercussions on their rights and the impugned order cancelling their examination is undeniably one which visited the Petitioners with civil consequences. Under such circumstances it is indisputable, in View of the law which stands firmly established by a series of decisions beginning from the case of Board of High School and Intermediate Education, U.P., Allahabad Vs. Ghanshyam Das Gupta and Others, that the Examining Body (Respondent No. 2) was obliged by principles of natural justice to afford an opportunity to the candidates to show cause against the grounds on which their results were proposed to be cancelled. As mentioned above, it is not disputed

that the Petitioners were not, given any such opportunity. Further, it was not a case of mass copying. The cancellation of the Petitioners results is, therefore, liable to be quashed on this short ground alone. It will, however, be open to the Respondents to hold a fresh enquiry against the Petitioners after giving them an opportunity to show cause against the allegations of use of unfair means by them.

6. In the result, the petition succeeds and is allowed. The orders passed by the Junior High School Pariksha Samiti cancelling the results of the Petitioners Junior High School examination held in April-May, 1983 are quashed. The said Pariksha Samiti is directed to declare the results of the Petitioners forthwith and to issue marksheets to the Petitioners provisionally pending the completion of the enquiry against the Petitioners after making appropriate endorsements thereon. There will be no orders as to costs.