

(2008) 04 JH CK 0025
In the Jharkhand High Court

Binita Anand

APPELLANT

Vs

Sidhu Kanhu Murmu University and Others

RESPONDENT

Date of Decision : 25-04-2008

Acts Referred:

Citation : (2008) 3 JCR 340

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Judgement

Amareshwar Sahay, J.—Heard Mr. S.N. Prasad, learned Counsel appearing for the petitioner and Mr. Piprawall, learned Counsel appearing for the respondents University.

2. In the present writ application the grievance of the petitioner is that though she appeared in all the papers of B.Sc. Botany (Honours) Part I examination held in the month of December 2006 but she has been wrongly and illegally declared fail in the said examination on the ground that she did not appear and was absent in Botany Paper II examination though she, in fact, appeared in the said Botany Paper II examination and, therefore, the prayer has been made to direct the University to rectify the mistake and declare her result accordingly.

Another prayer of the petitioner is that she may be allowed to appear in the Botany (Honours) Paper II examination, which was going to be held on 16.4,2008. She has also prayed for awarding adequate compensation for her sufferings due to mental agony and harassment at the hands of the University for the serious lapses on the part of the University in declaring her fail.

3. The case of the petitioner is that she had appeared in Bachelor of Science Honours Botany Part I examination held in the month of December 2006 bearing her Roll No. 4545 having Registration No. 4679/05 and she had appeared in all the subjects of the Botany (Honours) paper. i.e., Part I, II as well as in the practical examination. She was shocked and surprised when the result of the said Part I examination was declared declaring her as fail on the ground that in

Botany (Honours) Paper II examination she was shown to be absent.

4. Thereafter, the petitioner made an application to the Controller of Examination through proper channel, which was forwarded by the College through which the petitioner had appeared in the said B.Sc. Botany (Honours) Paper I examination.

5. Respondent No. 4 the Principal-cum-Centre Superintendent, Sahebganj College, Sahebganj after verification found that the petitioner, in fact, had appeared in Paper II of the Botany (Honours) Part I examination on 11.12.2006 and he made an endorsement to that effect and forwarded the application of the petitioner to the Controller of Examination, contained in Annexure-2 to the writ application.

6. It appears that in spite of the said endorsement made by the Principal-cum-Centre Superintendent of Sahebganj College, no action was taken by the University and, thereafter, the petitioner approached this Court for the relief sought for in this application.

7. A counter affidavit has been filed on behalf of the respondents University and its authorities. In the counter affidavit it has been stated that since in the marks foil sent by the examiner of the said exam did not contain the marks secured by the petitioner in Paper II of Botany (Honours) Part I exam and, therefore, she has been declared fail in the said examination on the ground that she was found to be absent in Paper II of Botany (Honours) Part I examination. It is also stated in the counter affidavit that after receiving the representation/application of the petitioner, the University started making enquiry for correction in the mark-sheet on the basis of the claim of the petitioner that she had appeared in Paper II of B.Sc. Botany (Honours) Part I examination and started searching her answer book, but the answer book of the said paper was found to be missing and, thereafter, the matter was placed before the Examination Board and the Examination Board vide its meeting held on 14.3.2008 under the Chairmanship of the Vice-Chancellor, decided to award marks on average basis to the petitioner and one other similarly situated candidate. Accordingly, the petitioner was awarded 53 marks in Paper II, which was equivalent to the marks secured by her in Botany (Honours) Paper I. Thereafter, the University issued the corrected mark-sheet of the petitioner and now she has been declared pass in Part I of B.Sc. Botany (Honours) Examination 2006.

8. In view of the facts noticed herein above, it is apparent that there is serious lapses and negligence on the part of the University and its Officers in declaring the petitioner fail in B.Sc. Botany (Honours) Part I Examination, 2006 treating her to be absent in Botany (Honours) Paper II. Now, after rectification of the mistake the petitioner has been declared as Pass in B.Sc. Botany (Honours) Part I examination therefore, her one of the grievances has now been redressed.

9. So far as the second prayer, for allowing her to appear in B.Sc. Botany (Honours) Paper II examination is concerned, it appears that admittedly, the petitioner has not attended any class of Botany (Honours) Part II and, thereby,

has not pursued her study in the second part of the Honour course and, therefore, in such a situation, it will not be justiciable and proper for this Court to allow her to appear in B.Sc. Botany (Honours) Part II Examination. It also appears even according to the writ petitioner, that Part II examination of Botany (Honours) was to be held from 16.4.2008 and the said date has already passed. In such a situation, it is not possible to accede to the second prayer of the petitioner to allow her to appear in B.Sc. Botany (Honours) Part II Examination.

10. So far as the third prayer with regard to awarding adequate compensation to the petitioner for her sufferings due to mental agony and harassment at the hands of the University is concerned, there is no doubt about it that due to sheer negligence, lapses and serious mistake on the part of the University the petitioner had to suffer much and it has adversely affected her career for no fault on her part. Therefore, this Court feels that the petitioner deserves to be adequately compensated by the University.

In a similar case a Bench of this Court in the case of Md. Obaidullah v. Bihar Intermediate Council and Ors. reported in 2001 (3) JCR 119 allowed compensatory cost/compensation to the tune of Rs. 50,000/- (fifty thousand only).

In my view, in the present case also the petitioner is entitled to be compensated for her sufferings due to mental agony and harassment and for the loss suffered in similar manner.

11. Accordingly, this writ application is being disposed of by directing the respondent Sidhu Kanhu Murmu University, Dumka to pay a sum of Rs. 50,000/- (fifty thousand only) to the petitioner by way of cost/compensation to the petitioner within a period of one month from today.

12. This writ application stands disposed of.