
(2006) 11 AHC CK 0032
In the Allahabad High Court

Chhail Bihari Gautam

APPELLANT

Vs

Secretary Board of High School and Intermediate, Regional
Secretary, Madhymik Shiksha Parishad and Committee for
Disposal of Cases of Unfair means

RESPONDENT

Date of Decision : 27-11-2006

Acts Referred:

Citation : (2007) 1 ADJ 161 : (2007) 5 AWC 4991 : (2007) 1 AWC 918

Hon'ble Judges : S.N. Srivastava, J

Bench : Single Bench

Final Decision : Allowed

Judgement

S.N. Srivastava, J.—Heard learned Counsel for the petitioner and learned Standing Counsel as well as perused the materials available on record.

2. Learned Counsel for the petitioner urged that the finding of Unfair Means Committee to the effect that answers of petitioner's Answersheet were copied and are similar to the Answers of a student having Role No. 815657 is perverse and is vitiated in law and as such impugned order is liable to be quashed., if is clear from Answersheets produced before the Court that the mistakes occurred in the answers of the student of Role No. 815657 were not found in the answers of the petitioner and thus it could not be said that the petitioner indulged in copying to the answersheet of the student of Role No. 815657.

3. Learned Standing Counsel produced relevant answersheets before this Court.

4. Considered arguments of learned Counsel for the parties and carefully gone through the materials on record.

5. The allegation against the petitioner (Role Number 815692) in the Chargesheet was that his answers in the answersheets of Intermediate Examination were found to have been copied from the answersheet of the student whose Role Number was 815657. On the basis of these charges petitioner's result of Intermediate Examination was with-held, but on the basis

of Provisional Marksheet petitioner continued his further studies in B.A-I. Subsequently petitioner's result of Intermediate Examination was cancelled.

6. There are charges against the petitioner that his answers in the Answersheet are similar to the answers scribed in the answersheets of a student of Role No. 815657, but allegations against the petitioner are not that he copied the answers from some common source. The charges of using unfair means against the petitioner would have been proved in case the mistakes in his answers would have been similar to that of answers in the Answersheet of student of Role No. 815657, but in the present case some mistakes found in the answers of student of Role No. 815657 have not been found in the answers of petitioner and, therefore, it may be safely considered and presumed that the charge of copying against petitioner from the answersheet of student of Role 815657 could not be established.

7. In a judgment reported in Harish Chandra Tewari and Others Vs. The Board of High School and Intermediate Education, Uttar Pradesh, Allahabad, similar view has been taken. In other cases on this point decided by this Court, it has been settled in case of copying with common source with the other student in case mistakes are not similar then it could not be presumed that it is a case of using unfair means or copying. Paragraph 4 of the judgment in Harish Chandra Tewari and Ors. v. The Board of High School and Intermediate Education, Uttar Pradesh, Allahabad (Supra) is relevant which is being reproduced below:

4. There is, however, another test which may be regarded as more dependable in ascertaining whether there was copying and that test is the nature of the common mistakes shared. Here against it must be immediately added that a single common mistake found in the answers and that too of a casual nature would not justify a presumption of copying but if there are numerous mistakes which appear to be of an uncommon character, amounting to absurdity and they are found identically occurring in the various answer books, surely there would justification for saying that they flow from copying. In other words, if the magnitude of the mistakes committed is such that the answers written by the candidates sound like as "howlers" to use a colloquial expression, it would make the conclusion irresistible that copying had been done. To assert that such bizarre mistakes were spontaneous or that the resemblances were accidental is to travel beyond the realm of probabilities. When identical absurdities synchronise in abundant profusion, one cannot but hold that there was copying. It is this test which we have applied to the answer books produced before us. Having carefully scrutinized them we were unable to discover anything in the answer books of the petitioner No. 1, namely, Harish Chandra Tewari, Petitioner No. 4, Narendra Singh, Petitioner No. 5 Rakesh Kumar Pathak, Petitioner No. 6, Ram Chandra Pandey, Petitioner No. 7, Om Prakash Upadhyaya, Petitioner No. 8, Radhey Shyam Pandey, Petitioner No. 9, Jeet Narain Pandey, Petitioner No. 10, Salik Ram Pandey, Petitioner No. 11, Jeet Bahadur Singh and Petitioner No. 13, Prem Shankar Misra, which may suggest copying. So far as they were concerned

we found absolutely no evidence of the alleged copying and consequently the charge levelled against them could not be sustained. Those petitioners are entitled to a direction commanding the respondent to declare their results for the High School examination held In the year 1981. Their writ petition, therefore, must be allowed.

8. In view of the above, this Court is also of the view that the charges of using unfair means levelled against the petitioner could not be proved and the finding of the Unfair Means Committee is perverse.

9. In view of the discussions made above, writ petition succeeds and is allowed. The order dated 6.12.2000, so far as it relates to petitioner, is quashed. The Board of High School and Intermediate is directed to declare the result of the petitioner with Role No. 815692 within one month from the date of production of a certified copy of this order.