
(2006) 05 MP CK 0037

In the Madhya Pradesh High Court

Case No : Writ Petition No. 2377 of 2004

Dileep Singh and others

APPELLANT

Vs

Board of Secondary Education, Bhopal and others

RESPONDENT

Date of Decision : 15-05-2006

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2006) 3 MPLJ 300

Hon'ble Judges : Dipak Misra, J

Bench : Single Bench

Advocate : Dileep Pandey, for the Appellant; Rakesh Jain with Abhishek Arjariya, for the Respondent

Final Decision : Dismissed

Judgement

Dipak Misra, J.

In this writ petition preferred under Article 226 of the Constitution of India the petitioners have called in question the action of the Board of Secondary Education M.P., Bhopal (in short "the Board") whereby the Board has cancelled their results.

The facts that have been adumbrated in the writ petition are that the petitioners submitted their examination forms with requisite fees to Government Higher Secondary School, Sirmour, District Rewa and on a scrutiny of the forms the Board issued admit cards in their favour. Initially the Board had fixed Kiran Jyoti School, Indira Nagar, Rewa as examination centre and thereafter it was changed to Community Hall Tones Hydrel Project, MPEB, Sirmour. As there was no sufficient space in the Community Hall Tones Hydrel Project, MPEB, Sirmour the centre of the petitioners was again changed to Siddarth Higher Secondary School Sirmour, examination centre No. 32090.

It is set forth in the petition that during holding of the examination at the aforesaid centre an inspection team headed by the District Education Officer,

Rewa, inspected the centre on 15-3-2004 and found that 10 students were involved in copying. The petitioners were not found copying but the entire results of the centre have been cancelled on the basis of the report submitted by the District Education Officer/Assistant Director, Rewa. It is contended that another examination centre at Sirmour where students of Rajeev Gandhi Shiksha Samiti were undertaking the examination 37 students were caught copying but the Committee did not submit report against them which reflects the bias of the District Education Officer, R. P. Tiwari. A reference has been made to the report submitted by the Centre Superintendent, who has reported that there has been no mass-copying at the centre. It is urged that there had been no mass-copying at the centre but the Board cancelled the results by holding that there was mass-copying and such an action of the Board is totally arbitrary, unreasonable and vitiated being based on biased report of the District Education Officer. It is also contended that the results have been cancelled without affording an opportunity of being heard which also makes the action totally indefensible.

A counter-affidavit has been filed by the respondent No. 1, the Board, contending, inter alia, that the students of the Centre No. 32090 from which the petitioners appeared in the examination were involved in mass-copying and, therefore, the results of the entire centre was cancelled. The flying squad inspected the centre and during inspection it was found that 259 students had undergone the examination in General English and 29 students in Sanskrit and when the flying squad inspected in classroom No. 7 it was found that all students were in possession of books for copying the answers. Similar situation was also found in the classroom No. 1 where 10 students were caught along with copying books copying the answers. As there was copying on a mass scale the cases of all the students could not be prepared. The Co-ordinator, Biresh Patel informed that at the time of commencement of the examination staff had checked the students and nothing was found from their possession but later on many people surrounded the centre and supplied the material for copying. It was also informed by him that some teachers also helped the students in this regard. The flying squad seized number of copies and other materials in the examination centre. The District Education Officer prepared "Panchnama" and the inspection report in Form 3. The report was submitted to the Collector along with documents as per Annexure-R-1/1 to Annexure R-1/3. The Collector, Rewa, considered the report submitted by the flying squad and recommended to the Board to cancel the results of all the students. A reference has been made to the Madhya Pradesh Madhyamik Shiksha Mandal Adhiniyam, 1965, to highlight that Board has the authority to make rules and issue instructions for conducting examination. Instructions were given to all schools/centres providing, if unfair means are being adopted, the whole examination of the centre would be cancelled. In the instant case, as there has been report by designated authorities the Result Committee after adverting to the same decided cancellation of the results and accordingly issued a notification on 20-5-2004 as per Annexure-R-1/6. It is put forth that action taken by the Board cannot be regarded as faulty

on the ground that there has been no mass-copying and, there has been violation of the principles of natural justice.

I have heard Mr. Dileep Pandey, learned counsel for the petitioners and Mr. Rakesh Jain, learned Senior Counsel with Mr. Abhishek Arjariya for the respondent No. 1.

The seminal question that arises for consideration is whether the Board is justified in cancellation of the results of the petitioners who appeared from the centre No. 32090 in the academic year 2003-2004 without following the principles of natural justice. Submission of Mr. Pandey, learned counsel for the petitioner is that the conclusion arrived at by the Board with regard to the mass-copying at the centre is based on the report of the District Education Officer who had a bias against the centre. As far as bias is concerned, in paragraph 5.4 of the petition the singular line has been mentioned that the District Education Officer, R. P. Tiwari was bias. To establish bias there has to have a strong foundation. What is stated in the petition is that in another centre more students were involved in copying but no action had been taken. But action has been taken against the present centre. I am of considered opinion, the said comparative factor need not to be debated upon. What really is required to be delve upon is whether there has been mass-copying in the present centre. If the facts are not correct and the Board had not applied its mind, definitely the matter would be different. The stand of the Board is that the Coordinator was not present and a report was prepared by the District Education Officer who is an authorised officer. In addition, the plea of the Board is that the Collector, Rewa has also scrutinised the report. In view of the aforesaid it is necessitous to advert to the reports. In the report Annexure-R-1/3 it has been mentioned that in classroom No. 7 all the students were involved in copying. In classroom No. 1, ten students were involved in copying. It is also reflected that almost in all rooms students were sitting with copying material. A reference has been made to the statement of the co-ordinator who had stated that at the time of commencement of the examination checking was done but thereafter the people from outside started supplying material. It was also come out in the report that some teachers were also helping the students in copying. Materials that have been seized were sent to the Collector along with the report. The Collector in his report to the Board has referred to the report of the competent authority and thereafter observed that there has been seizure of copying material from the examination centre and it was quite clear that there has been mass-copying at the Centre No. 32094. Submission of Mr. Pandey is that there should have been inquiry by the Board before acceptance of the report and the petitioners should have been heard.

First I shall deal with the first facet. On a careful scrutiny of the report contained in Annexure-R-1/3 and R-1/4 it is perceptible that there was enough material to come to hold that there was mass-copying at the centre. The report shows that the whole centre was surrounded by outsiders and the material had been supplied. Co-ordinator of the examination had stated that at the commencement

of the examination there was checking and there was no material with the students but later on they were copying with the help of outsiders and it was found that teachers were also involved in helping the students in copying. Collector opined that there has been mass-copying. In view of the aforesaid, I am of the considered opinion, the plea of bias has to fail. If the centre was suiTounded by the people there has been large scale copying and if the students were writing with the help of the books, there can no iota of doubt that there has been copying.

True, it is the students may not be involved but that cannot be a ground to unsettle or dislodge the conclusion arrived at by the Result Committee that there had been mass-copying at the centre. In view of the aforesaid, I am not inclined to accept the submission put forth by Mr. Pandey. Once there has been conclusion with regard to mass-copying which is founded on the basis of the report of two sets, it cannot be said that the Board was not justified in arriving at the said conclusion. This is not a case where it can be said to be tainted. In fact, there is no reason or justification to say so. In view of the aforesaid the submission of Mr. Pandey that there has been no mass-copying and the Board should have conducted enquiry to arrive such a conclusion has no substance and such a submission has to be repelled.

The second limb of change has a connectivity with the examination centre. It is urged that the principles of natural justice are not attracted. In the case of The Bihar School Examination Board Vs. Subhas Chandra Sinha and Others, a three Judge Bench of the Apex Court expressed the view that if the Examination Board is satisfied that a vast majority of the examinees at a particular centre have adopted unfair means, it is not necessary for the Board before cancelling the examination as a whole of that centre to give opportunity to ail the candidates to represent their cases. Their Lordships further expressed the view that the Board had not charged any one with unfair means so that he could claim to defend himself. The examination was vitiated by adoption unfair means. Under those circumstances the Apex Court expressed the view that it would be wrong to insist that the Board must hold a detailed inquiry into the matter and examine each individual case to satisfy itself which of the candidates had not adopted unfair means. It was further ruled that the examination has a whole had to go.

In this context it is appropriate to refer to a Full Bench decision of the Orissa High Court rendered in the case of Miss Reeta Vs. Berhampur University and Another, . Chief Justice B. L. Hansaria (as His Lordship then was) while speaking for the Court expressed the view that in case where the result is cancelled due to mass copying the principles of natural justice are not required to be followed.

In the case of Chairman, J and K State Board of Education Vs. Feyaz Ahmed Malik and Others, Their Lordships expressed the view as under :

18. While judging the authority or otherwise all steps taken by authorities of the Board to take action against candidates taking resort to mass malpractice it

should be borne in mind that the Board is entrusted with the duty of maintaining higher standards of education and proper conduct of examinations. It is an expert body consisting of persons coming from different walks of life who are engaged in or interested in the field of education and have wide experience. The decision of such an expert body should be given due weightage by Courts.

In the case of *B. Ramanjini and Others Vs. State of Andhra Pradesh and Others*, the Apex Court expressed the view that when there was scope for mass copying and that mass copying did take place in addition there was leakage of question papers which were brazenly published in a newspapers. These facts should be alarming enough for a Government to cancel the examinations whatever may be the position in regard to other centres.

In the case of *Ram Preeti Yadav Vs. U.P. Board of High School and Intermediate Education and Others*, it was been held that the principles of natural justice are not applicable to a case mass-copying.

In view of the aforesaid, I do not find any substance in the contentions raised by Mr. Pandey in this score.

Before parting with the case, it has become imperative to make certain observations. In the report it has been mentioned that the teachers were involved in helping the students in copying. Whether their role is minor in the said help or aid or a major one, is absolutely insignificant. A teacher is required to teach students before examination takes place but has no role whatsoever, to involve himself in any kind of aid or assistance to a student which may be called teaching while the examination being held. The report expositis that teachers were involved in rendering assistance to the students in copying. Nothing can be more alarming or disturbing. A teacher has a sacrosanct role in a society. A teacher teaches students who are going to be the next generation of leaders, scientists, judges and academicians. There can be no shadow of doubt that a teacher has influence on the careers of the next generation who build the nation. A teacher learns the subject when he really teaches and not when he helps in supplying copying material to the students at the time of examination. A teacher can have an impression on the students which only, possibly death can extinguish. The teachers have the effect potentiality to change the national flavour. They have the wisdom to spread articulation which can incessantly galvanise circulation of life-spark in the arteries of a nation. A teacher has a role to enlighten the students and kindle their interests in various fields. His instructions are elan vital for keeping the moral spine of a nation erect. Not for nothing it has been said a teacher gives eyes, a glorious and resplendent ones to the nation. It is extremely shocking that the role that has been assigned to teachers are being marred destroyed and atrophied by some teachers. Such helping of students in copying tantamounts to murder in a temple, for a school is a temple of learning. A centre of an examination is an epitome of pragmatic prayer. The State authorities should be well advised to take action against such teachers, so that they do not spoil and soil the faith, respect and credence

reposed in teachers as a class.

Consequently the writ petition, being devoid of merit, stands dismissed.