

(1986) 01 RAJ CK 0069
In the Rajasthan High Court

Dilip Singh Patni	Vs	APPELLANT
State of Rajasthan and Others		RESPONDENT

Date of Decision : 01-01-1986

Acts Referred:

Citation : (1986) 1 WLN 621

Hon'ble Judges : M.B. Sharma, J

Bench : Single Bench

Judgement

Mahendra Bhushan Sharma, J.—This writ petition relates to the result of the petitioner Dilip Kumar Patni for 3rd Year Diploma (Civil) in Khetan Polytechnic in Sixth Semester. The result of the petitioner for the aforesaid Semester for complete theory and practical as well as for the additional papers has been cancelled under the order (Annex. 7) dated 30th Januarys 1986.

2. The challenge to the aforesaid order (Annex-7) of the non-petitioner is that the same was made without affording an opportunity of being heard to the petitioner and thereby the principles of natural justice have been violated. The petitioner took admission in the year 1977 in Diploma course in Engineering (Civil) in Khetan Polytechnic, non-petitioner No. 3. The petitioner appeared in the Sixth Semester 3rd Year examination in Civil Engineering from the examination Centre of Khetan Polytechnic in the year, 1985 bearing roll No. 4722 and in additional papers with Roll No. 7437. On 18th September, 1985, the petitioner was to appear in the examination of the subject of Mechanical Engineering. The examinations were to held from 2 to 5 p.m. The petitioner went at about 4.30 p.m. to the toilet and when he returned from the toilet with a paper the petitioner was asked by the Invigilator to give that paper but first it is said that he gave out that the paper was confidential. Thereafter placed the paper in his mouth and chewed it. A notice was issued to the petitioner and he was called upon to send his reply through the principal by 4th November, 1985. In case, he wanted to give his explanation personally, he was called upon to appear before the Registrar on 6-11-1985. The petitioner did not submit any reply in writing

before the Registrar on 6-11-1985 and thereafter the result of the petitioner as aforesaid was cancelled.

3. The main contention of the petitioner is that neither the copy of the Invigilator's report was supplied to the petitioner nor any other evidence was examined in his presence and his statement was also not recorded. It amounts to the denial of a right of hearing to the petitioner and the petitioner has been condemned unheard. The State has not filed any reply but they placed the file for the perusal of the Court. It does not appear from the perusal of the file and from the contentions of the Government Advocate that the copy of the Invigilator's report was furnished to the petitioner. It also does not appear that on 6th November, 1985 when the petitioner appeared before the Registrar, the report of the Invigilator or of the Principal was read over to the petitioner. The petitioner is said to have given his explanation orally. No statement of the petitioner was ever recorded. Only it was recorded that the petitioner admitted orally that he had eaten the paper and a punishment be imposed on him. Even in the oral statement of the petitioner wherein he is said to have admitted his guilt it is not mentioned that what was contained in the paper which is said to have been chewed. Whether it related to the subject of Mechanical Engineering, the examination of which was taking place on 18th September, 1985, I am therefore, of the opinion that the petitioner has been condemned unheard, and there has been violation of principle of natural justice.

4. Consequently, the order (Annex. 7) dated 2nd January, 1986 is hereby quashed. The non-petitioners are directed to give an opportunity of hearing to the petitioner, supply a copy of the report of Invigilator and Principal, call for the explanation of the petitioner and consider the same if he furnishes one and decide the matter afresh. The petitioner is directed to appear before the Registrar, Board of Technical Education, Rajasthan, Jodhpur on 21st April, 1986 and on that date a copy of the report of invigilator and of the Principal shall be furnished. Any other material on which reliance is to be placed against the petitioner will also be furnished to him on that date. The petitioner shall furnish his reply in writing within 7 days. Thereafter, the case shall be decided in accordance with the relevant rules latest by the end of this month.