

(1956) 06 SHI CK 0001
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 6 of 1956

Hakim Rai Sharma

APPELLANT

Vs

Punjab University

RESPONDENT

Date of Decision : 30-06-1956

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1958 HP 8

Hon'ble Judges : Ramabhadran, J.C.

Bench : Single Bench

Advocate : M.L. Saxena, for the Appellant;

Final Decision : Dismissed

Judgement

Ramabhadran, J.C.

(1) This writ petition arises under the following circumstances:--The petitioner, who is a B.T., appeared for the simple language test in Hindi at the Sohan Lal Training College, Ambala City, in September 1955. The University authorities came to the conclusion that unfair means had been adopted by the petitioner at the said examination and, consequently, he was disqualified for four years (1955-58 inclusive) under Regulation 13 of the University.

The petitioner contends that he was not guilty of having adopted any unfair means and, consequently, the order passed by the respondent against him is an infringement of his fundamental rights. Consequently, I am requested to issue a writ against the respondent, quashing the order passed by it against the petitioner and directing it to declare the result of the Hindi examination, on the basis of his answers to the Hindi Part of the question paper.

(2) I have heard learned counsel for the petitioner. It is obvious that, in the present case, the petitioner and the respondent do not see eye to eye regarding facts. While the petitioner contends that he had not resorted to any unfair means at the examination, the respondent is of the opinion, vide Annexure B, that the

petitioner had made previous arrangement with another candidate (Roll No. 616), whereby each was to personate for the other. Consequently, action was taken against the petitioner under Regulation 13.

(3) Learned counsel urged that the action of the respondent was mala fide and capricious. Inter alia, it was urged that no opportunity was given to the petitioner to show cause against the action taken against him. Further, it was argued that this was a fit case, where the application should not be dismissed in limine, but the respondent be asked to show cause against the application. Reliance was placed on Shiva Nandan Sinha and Others Vs. State of West Bengal, where a Division Bench of that High Court remarked that:

"This is a case where the respondents should be asked to show cause in view of the fact that some of the questions are not pure questions of law but involve questions of fact."

(4) In my opinion, however, the writ petition is misconceived. As already stated, the facts of the case are disputed. In Ranvijai Singh Vs. Divisional Forest Officer and Others, my learned predecessor indicated that:

"Wherever there is a wrong there is a remedy, but it cannot always be remedy by invocation of the extraordinary jurisdiction of the High Court under Article 226 of the Constitution. There must be exceptional reasons for asking for the exercise of that extraordinary jurisdiction, for otherwise the ordinary legal remedy by a suit under the general law would be rendered wholly nugatory."

In Naresh Chandra Sanyal Vs. The Union of India and Others, a learned Judge of that High Court observed that:

"It was not a case where the facts were admitted and the only question to be decided was a question of law. One of the submissions was that the orders were passed mala fide. This was a question which could be more conveniently disposed of in a suit than in an application under Article 226."

(5) It is not disputed that under Regulation 13, framed by the respondent University, it is empowered to disqualify a candidate for a period extending upto five years, in case he is found guilty of deliberate previous arrangement to cheat in the examination etc. The question as to whether the petitioner was guilty of an attempt to cheat at the examination or not is, obviously, one, which cannot be gone into in these summary proceedings like writ proceedings. In Jai Chand Rai Vs. State of Punjab, I had referred to Bimla Devi v. Punjab University, 54 Pun LR 369 where a Division Bench of that High Court observed that:

"If the regulations under which the University acted are intra vires of the Act of its incorporation and the University acted in accordance with those regulations, the High Court has no jurisdiction to interfere with the decision arrived at by the University."

On the same analogy, it can be said that this Court cannot interfere with the

decision arrived at by the University in the exercise of its powers under Regulation 13. In para. 8 of the petition it is admitted that before he left the examination hall, the petitioner was required to and did furnish, a written explanation to the Superintendent which was forwarded to the University authorities. It would, of course, be open to the petitioner to challenge the decision of the respondent by regular suit, if so advised.

ORDER

(6) The petition fails and is rejected.