
(1982) 08 AHC CK 0032

In the Allahabad High Court

Case No : Civil Miscellaneous Writ No. 4339 of 1982

Kazi Ali Asif

APPELLANT

Vs

U.P.Board of High School and Intermediate Education

RESPONDENT

Date of Decision : 06-08-1982

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1982) 08 AHC CK 0032

Hon'ble Judges : Satish Chandra, CJ and K.C.Agrawal, J

Final Decision : Allowed

Judgement

K. C. Agarwal, J.

The petitioner appeared at the Intermediate examination conducted by the U. P. Board of High School and Intermediate Education, Allahabad, in the year 1981. As the result of the petitioner was withheld, the petitioner made enquiries but could not know the real ground till he received a letter dated 27th February, 1982 from the Board intimating him that his result had been cancelled for using unfair means. The petitioner has come to this Court against the order of the Board of High School and Intermediate Education on the ground that the cancellation of his examination having been ordered without opportunity being given to him, is invalid. In proof of the fact that the petitioner did not have any intimation of the date when the Examination committee visited the College from which the petitioner appeared at the examination, the petitioner has filed a copy of the certificate given by Principal to whom notices were sent by the Board for service on the petitioner. This certificate is dated 18th March, 1982 and is annexed as Annexure III to the writ petition. This certificate admitted nonservice of the notice on the petitioner. Explanation given, however, was that there was shortage of time.

We have heard counsel for the petitioner and the Standing Counsel. The admitted position is that no action against a student on the ground of using unfair means could be taken without giving an opportunity to him to explain his

conduct. In the instant case, admittedly, no opportunity was given. Consequently, the order dated 27th February, 1982 cancelling the petitioner's result is illegal and is liable to be quashed, The Board did not directly send any notice to the petitioner calling upon him to appear before the Examinations Committee, when it visited the College for spot enquiry. What the Board did in the instant case was that it sent the papers to the Principal of the College calling upon him to intimate the petitioner and others against whom proceedings were being taken by the Board, but the Principal did not give intimation to the petitioner. Consequently, when the petitioner did not appear before the Committee, he could not offer any explanation to the charge levelled against him.

Now the only question remains about the course adopted in the instant case. As a result of the discussion made above, the impugned order of the Board dated 27th February, 1982 would be liable to be quashed. The Board may direct the appropriate Committee to reconsider the petitioner's case on merits after giving opportunity of hearing to him.

For the reasons given above, the writ petition succeeds and is allowed. The order of the Board dated 27.2.82 is quashed. The Board is directed to decide the petitioner's case afresh in the light of the observations made above.