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**(2013) 07 AHC CK 0148**  
**In the Allahabad High Court**  
**Case No : Writ Petition No.3576 (M/S) of 2011**

Kuldeep Kumar Pathak

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

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**Date of Decision :** 08-07-2013

**Acts Referred:**

**Citation :** (2013) 07 AHC CK 0148

**Hon'ble Judges :** Rajiv Sharma, J

**Final Decision :** Dismissed

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## Judgement

Rajiv Sharma, J.

Heard learned Counsel for the petitioner and learned Standing Counsel and perused the records.

Through the instant writ petition under Article 226 of the Constitution of India, the petitioner has assailed the order dated 20.4.2011 passed by the Regional Secretary, Intermediate Education Board, Regional Office, Varanasi contained in Annexure No. 1 to the writ petition, whereby the petitioner's result of Intermediate Examination, 2002 has been cancelled. Petitioner has also assailed the consequential order dated 18.5.2011 passed by the Principal, Intermediate College, Natuali, Sultanpur contained in Annexure No.2 to the writ petition, whereby petitioner has been compelled to surrender certificate/marksheet of Intermediate Examination, 2002.

Undisputed facts of the case are that petitioner appeared in High School Examination, 1999 as regular student with Roll No. 1141153 from D.K. Inter College Madanpur, Narainpur, Kurebhar, Sultanpur but he was declared unsuccessful. Subsequently, he again appeared in High School Examination 2000 with Roll No. 1309383 from the aforesaid college as regular student and again he could not pass the said examination.

According to learned Standing Counsel, without disclosing the aforesaid facts,

petitioner got admission in Madan Chandra Sanskrit Pathshala, Lucknow Naka, Sultanpur, which is affiliated with Sampurnanand Sanskrit Vishvavidyalaya, Varanasi and also pursued the course in the same academic year i.e. 19992000 and also in Purva Madhyama Examination (Second Year) conducted by Madhyamik Sanskrit Shiksha Parishad in year 2000 itself with Roll No. 61746 and passed the said examination, which was not permissible under the Regulations framed under Intermediate Education Act, 1921. According to him, on the basis of the said marksheet of Purva Madhyama Examination (Second Year) 2000, the petitioner got admission in Class XI on 25.9.2000 in Inter College, Natauli, Sultanpur and after passing XI, he appeared in the Intermediate Examination, 2002 with Roll No. 462821 conducted by Madhyamik Shiksha Parishad, U.P., Allahabad and passed the said examination in Second Division by obtaining 282 marks.

After passing the aforesaid examination, a complaint was made by the opposite party No.6 Santosh Kumar Tewari, stating therein that in the year 2000, petitioner appeared in two examinations, one in Sanskrit stream and the other in the examination conducted by the Board of High School and Intermediate Examination. On the said complaint, an enquiry was instituted. The District Inspector of School, Sultanpur, after enquiry, submitted its report dated 23.7.2007. Thereafter, the matter was placed before the Examination Committee of the Board, in which, it was resolved that since the conduct of the petitioner was violative to the provisions as contained in the Regulations framed under Intermediate Education Act, 1921 and as such, it is appropriate to cancel the result of the petitioner relating to Intermediate Examination, 2002 and also action be taken against the Principal Inter College Natauli, Sultanpur by depriving him from the remunerations of the Board for three years and as such, Regional Secretary, Madhyamik Shiksha Parishad Regional Office, Varanasi issued letter dated 20.4.2011 accordingly. In pursuance thereof, the Principal of Natauli Inter College, District Sultanpur passed the consequential order on 18.5.2011. Hence the instant writ petition.

During the course of arguments, learned Counsel for the petitioner has admitted the facts that petitioner appeared in two streams in two different boards, as stated hereinabove, in the year 2000, which is contrary to law and the said fact was also concealed from the authorities while taking admission to pursue XI & XII year i.e. Intermediate Course but Counsel for the petitioner submitted that at the relevant time, the petitioner was minor and he appeared in two examinations in the same year due to lapses on the part of his father and Principal, Intermediate College, Natauli, Sultanpur.

On placing reliance upon the judgment a Division Bench of this Court in Triloki Nath Bhaskar Versus Board of High School and Intermediate Education, U.P., Allahabad and another reported in 1982 UPLBEC, 211, learned Counsel for the petitioner submits that petitioner's result of Intermediate Examination, 2002 has been cancelled without holding proper enquiry in accordance with law and

principle of natural justice. Therefore, the impugned order is liable to be quashed.

I have heard learned Counsel for the parties and perused the records.

Admittedly, the petitioner appeared in Purva Madhyama Examination (Second Year) conducted by Madhyamik Sanskrit Shiksha Parishad in year 2000, without disclosing the facts that he had failed in the High School Examination conducted by the U.P. Board of High School and Intermediate Examination in the year 1999 and 2000. Petitioner himself has stated in the writ petition that he had appeared in both the examinations as regular student. Thereafter, on the basis of complaint, an inquiry was constituted and in an inquiry, the averments made in the complaint found true and thereafter, the impugned orders have been passed by the Board.

From perusal of the material on records, it is established that the petitioner has played fraud and after misrepresenting the facts, petitioner got an admission. Thereafter, he appeared in the Intermediate Examination, in which he was declared successful. In U.P. Junior Doctors Action Committee v. Dr. B. Sheetal Nandwani, AIR 1991 SC 909 the Supreme Court observed that where admission is obtained by fraud no opportunity of hearing need be given before cancelling it. Thus, there is no occasion to provide an opportunity of being heard to the petitioner insofar as the petitioner himself admitted that he appeared in two streams in two different boards in the year 2000 without disclosing the facts to other board.

So far as Triloki Nath Bhaskar (supra), which has been relied upon by the petitioner is concerned, the same is not applicable in the facts and circumstances of the case, as in Triloki Nath Bhaskar (supra), no case for fraud has been levelled against the petitioner.

For the reasons aforesaid, the writ petition is dismissed.