
(1992) 06 AHC CK 0004

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 2421 of 1991

Kumari Rekha Mishra and another

APPELLANT

Vs

The Board of High School and Intermediate Examination

RESPONDENT

Date of Decision : 05-06-1992

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1992 All 330 : (1992) 3 AWC 1536

Hon'ble Judges : S.P. Srivastava, J

Bench : Single Bench

Advocate : Ramesh Upadhyaya, for the Appellant; Standing Counsel, for the Respondent

Final Decision : Allowed

Judgement

1. The petitioners appeared at the intermediate Examination of 1991 held by Board of High School and Intermediate Examination. The petitioner No. 1 was allotted roll number 310560, while the petitioner No. 2 was allotted roll number 310443 for appearing in the said examination. Their results were however, not published. Later on they were informed that they had been found guilty of using unfair means, while answering English I paper on 20-4-1991.

2. Vide the impugned order the petitioner No. 1 was informed that her examination for the year 1991 had been cancelled and she had been also debarred from appearing in the Intermediate Examination of the year 1992. The petitioners had denied the charges of using unfair means in the examination in question levelled against them and had categorically stated that unauthorised material was neither recovered from their possession nor they had any access to the said paper during the examination. The petitioners have challenged the action of the respondent Board by means of this writ petition under Art. 226 of the Constitution of India.

3. The respondent Board had been directed to produce the relevant record along

with the relevant answer books for the perusal of the court. Learned Standing Counsel has produced the entire record relating to the proceedings leading up to the passing of the impugned orders.

4. I have heard learned Counsel for the petitioners as well as learned Standing Counsel and have perused the records.

5. From the record relating to the case of petitioner No. 1, it is apparent that the sole basis for initiating the impugned proceedings against her was that on the relevant date, while she was answering English I paper a piece of printed paper was found on the ground near the wall of the room. The said paper had not been recovered from the possession of the petitioner No. 1. The Examination Committee had also found that the petitioner No. 1 was not utilising this paper at all. The material on the record does not indicate that the disputed printed paper could be utilized for answering any question contained in the English I paper. There is nothing on the record to indicate that the petitioner No. 1 had even any access to the aforesaid paper. Further, the impugned order contains no reasons.

6. From the record relating to the case of petitioner No. 2, it is apparent that the sole basis for initiating the impugned proceeding against her was that on the relevant date, while she was answering English I paper, a piece of printed paper was found on the ground. The said paper had not been recovered from the possession of the petitioner No. 2. The Examination Committee had also found that the petitioner No. 2 was not utilising this paper at all. The material on the record does not indicate that the disputed printed paper could be utilised for answering any question contained in the English 1 paper. There is nothing on the record to indicate that the petitioner No. 2 had even any access to the aforesaid paper. Further, the impugned order contains no reason.

7. In its decision in the case of *Km. Arti Srivastava v. Chancellor, University of Allahabad* reported in (1989) 1 UPLBEC 79 : 1988 ALJ 1401 this Court had emphasized that a punishment based on a doubt cannot be sustained and must be set aside. It may further, be noticed that taking into consideration the ratio of the Division Bench decision of this Court in the case of *Daya Shankar Dube v. Secretary. Board of High Schools and Intermediate Education*, reported in 1982 UPLBEC 308 there could be no manner of doubt that an order imposing punishment such as is impugned in the present case, cannot be sustained as it has been passed on mere suspicion rather than on the basis of any material on the record.

8. The writ petition is therefore, allowed. The impugned orders, cancelling the intermediate Examination of the year 1991 of the petitioner No. 1 and cancelling the said examination of the petitioner No. 2 and further, debarring her from appearing in the intermediate examination of the year 1992 are quashed and the respondent no. 1 is directed to declare the result of the two petitioners in this writ petition of their respective examination of the year 1991 within a period of two weeks from the date of production of a certified copy of this order before him.

9. There shall be no order as to cost.

10. Petition allowed.