

(1982) 02 AHC CK 0026

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 984 of 1982

Kumari Sandhya Sharma

APPELLANT

Vs

Board of High School and Intermediate Education

RESPONDENT

Date of Decision : 25-02-1982

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1983 All 44

Hon'ble Judges : S.D. Agrawala, J;A.N. Varma, J

Bench : Division Bench

Advocate : L.P. Haithani, for the Appellant; Standing Counsel, for the Respondent

Final Decision : Allowed

Judgement

S.D. Agrawala, J.—This is a petition under Article 226 of the Constitution of India. The Petitioner Kumari Sandhya Sharma appeared in the High School examination for the year 1980-81 conducted by the U.P. Board of High School and Intermediate Education. On 7th April, 1981 she appeared in the English II paper along with other candidates from the centre. Public Inter College, Doiwala, Dehradun. When the result came out, the Petitioner's result was not declared and her examination was cancelled on the ground that she had used unfair means on 7th April, 1981 when she was answering the English II paper. It may be stated here that the Petitioner was not caught when she was answering the paper in question and there is no report of any sort from the Invigilator. When the examiner examined the copy, he reported that in regard to question No. 2 (b) of English II paper there was a striking similarity in pattern and language of the translation from Hindi to English with other candidates bearing Roll Nos. 154839, 154840 and 154845. The Petitioner's Roll No. was 154844. It was further reported that the difference in answers of the candidates of Roll No. mentioned above was only due to mistakes of omission and commission resulting from deciphering errors. The petition was filed in this Court on 4th February, 1982 and the learned Standing Counsel was directed to produce the original

answer-books of the above-mentioned candidates as well as the examiner's report.

2. We have examined the answer-books supplied by the learned Standing Counsel. On a perusal of these answer-books, we find that the answer given to question No. 2 (b) by the other candidates having the abovementioned roll numbers is not exactly in similar terms (sic) given by the Petitioner. In one of the answer-books, namely, the answer-book of the candidate having Roll No. 154840 there is no similarity at all. In the answer-book of Roll No. 154845 there (sic) over-writings and cuttings etc. In this answer-book word "lion" has been wrongly spelled by the candidate. It cannot be said that the answer-book of the Petitioner is absolutely identical with that of these roll numbers. In regard to the candidate having Roll No. 154839 also, we find that there are many cuttings and there is difference of spelling mistakes also. In all the three above- mentioned answer-books, the answers given to question No. 2 (b) do not tally absolutely with the answer-book of the Petitioner. In these circumstances, we are of the opinion that there is no intrinsic evidence on the record to prove the charge levelled against the Petitioner. The examination cannot be cancelled on mere suspicion.

3. One more material thing, which is relevant to mention here, is that the Petitioner has throughout been a first class student. We have examined her answer-book. She has given answers to various questions in very clear terms. There are no cuttings etc. There is possibility that the other candidates might have copied from the answer-book of the Petitioner, but there is no positive evidence to that effect also. In these circumstances the Petitioner's result could not have been cancelled.

4. In the result, the petition is allowed. The order of the Respondent cancelling the result of the Petitioner is quashed and a writ of mandamus is issued to the Board of High School and Intermediate Education, U.P., Allahabad to declare the result of the Petitioner forthwith. The parties are, however, directed to bear their own costs.