
(1990) 11 AHC CK 0036

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 18011 of 1990

Kumari Savita Singh

APPELLANT

Vs

Board of High School and Intermediate Education

RESPONDENT

Date of Decision : 27-11-1990

Acts Referred:

Citation : (1991) 1 AWC 7

Hon'ble Judges : Madan Mohan Lal, J

Bench : Single Bench

Advocate : N.D. Chaubey, for the Appellant;

Final Decision : Allowed

Judgement

Madan Mohan Lal, J.—Although the list has been revised yet non is present for and on behalf of the Respondent Board.

2. I have heard learned Counsel for the Petitioner and have perused the material on record.

3. In this writ petition the Petitioner has sought a writ of certiorari to quash the order passed by the Respondent Board by which the result of the Petitioner of the Intermediate Examination for the year 1990 has been cancelled. The Petitioner has also sought a writ of mandamus commanding the Respondent Board to issue marksheet to the Petitioner for the said examination.

4. The Petitioner had passed her High School examination in the year 1987. Thereafter she filled up her examination form for appearing as a private candidate in the Intermediate Examination for the year 1990; and she was also allotted Roll Number as 6,90284. She appeared in the said examination. However her result was not declared on the ground that the combination of the subjects offered by her was not permissible under the regulations.

5. Learned Counsel for the Petitioner has urged before me that once the admit card was issued to the Petitioner and the Petitioner did appear in the

examination, the Respondent Board could not have possibly cancelled the result of the Petitioner. There is merit in the said submission. In my view if once the Respondent Board had permitted the Petitioner to appear in the aforesaid examination then the Board was estopped from cancelling the result of the Petitioner solely on the ground that the combination of subjects offered by the Petitioner was not permissible. In this respect Hon. Supreme Court has also observed in *Shri Krishnan Vs. The Kurukshetra University, Kurukshetra*, that once the candidate was allowed to take the examination even wrongly then the Statute which empowers the University to withdraw the candidature of the applicant has worked itself out and the candidate cannot be refused admission subsequently for any infirmity which could have been looked into before giving permission to the candidate to appear. Therefore, the Respondent Board could not have possibly cancelled the result of the Petitioner on the aforesaid technicality after the admit card had been issued to her.

6. Learned Counsel for the Petitioner has also urged that she was not given any show cause notice before cancelling her result. Despite opportunity the Respondent Board has not filed any counter affidavit. The said assertion of the Petitioner has also gone un rebutted. Therefore, the principles of natural justice were also violated and breached by the Respondent Board by cancelling the result of the Petitioner.

7. In view of the discussions made above, and for the reasons stated this petition has to be allowed.

8. Accordingly, this writ petition is allowed. The order dated 20th May 1990 by which the Respondent Board has cancelled the result of the Petitioner is hereby quashed, and the Respondent Board is hereby directed by the writ of mandamus to declare the result of the Petitioner for the year 1990 and to issue the mark sheet to her within one week from the date of presentation of certified copy of this order. No order as to costs.

9. A certified copy of this order may be issued to the learned Counsel for the Petitioner on payment of usual charges within three days.