
(1994) 04 AHC CK 0004

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 6286 of 1994

Laxmi Narain Sharma

APPELLANT

Vs

U.P. Board of Secondary Education and Others

RESPONDENT

Date of Decision : 01-04-1994

Acts Referred:

Uttar Pradesh Intermediate Education Act, 1921 — Section 10, 12(4A), 2
Uttar Pradesh Intermediate Education Regulations, 1921 — Regulation 1, 2

Citation : (1994) 2 AWC 1222

Hon'ble Judges : Sudhir Narain, J

Bench : Single Bench

Advocate : P.C. Mishra, for the Appellant;

Judgement

Sudhir Narain, J.—There is an institution known as Sri Lal Bahadur Shastri Inter College, Iglas, Aligarh, here in after referred to as the college. It is recognized under the provision of the U.P. Intermediate Act, 1921.

2. The U.P. Board of Secondary Education, hereinafter referred to as the Board, established examination centre in the college in 1975 and it was permitted to continue the same every year. In the year 1991 when the examination took place, the envelop of Urdu IInd paper of High School examination was opened on 20th April, 1991, when the date fixed for examination was 22nd April, 1991.

3. In the year, 1993 the State Government framed a policy to provide self examination centres to the recognized institutions. A D.O. letter dated 21st December 1993 was issued to all the District Inspector of Schools. The letter provided the guidelines for permitting the colleges to have self examination centre on certain conditions. It, however, provided that those institutions which were either guilty of any misconduct or their examinations were not conducted fairly they may not be provided self examination centres.

4. In the letter dated 21st December, 1993 a list of various institutions were given which were black listed on the ground that in the previous examinations

conducted in that centre certain irregularities were committed in conducting the examination. The name of the Petitioner was shown as one of the such institutions. The Petitioner have challenged this order in this writ petition.

5. I have heard the learned Counsel for the Respondents. The learned Counsel for the Petitioner urged that it is only the examination committee who can recommend the name for an examination centre in an institution. The Secretary has no power to black list the Petitioner's institution. He placed reliance upon Regulation 2(h) contained in Chapter VI of the Regulations framed under the U.P. Intermediate Education Act, 1921. Regulation 2(h) reads as under:

2. Subject to the sanction and control of the Board, it shall be the duty of the Examination Committee:

(h) to make recommendations in regard to the policy to be adopted for the opening and closing of centres of examination and centres of evaluation;

The Examination Committee has been empowered only to make recommendation but it has nowhere provided that the Examination Committee is the only authority to pass a final order in regard to opening and closing of centres of examination.

6. The Petitioner has further averred that the Examination Committee has recommended the name of the Petitioner for opening an examination centre. The State Government framed a policy and the policy indicates that only such institutions will be permitted to have the examination centres whose past conduct indicate that it conducted examination fairly. There is nothing wrong with the policy of the Government laying down such conditions.

7. The learned Counsel for the Petitioner then urged that the Secretary has no power to permit any centre to open or close a centre. It is necessary to examine the relevant provisions indicating the powers of the Secretary of the Board. Section 2(a) defines the Board as under:

2 (a). "Board" means the Board of High School and Intermediate Education.

Section 10 provides that the Chairman, the Secretary and such other officers as may be declared by the regulations to be officers of the Board.

Section 12(4-A) of the Act provides that the Secretary shall exercise such powers as are necessary for the conduct of the examinations. These provisions clearly indicate that the Secretary is entrusted with the duty to conduct the examinations. The Secretary of the Board is also ex-officio Convener of the Examination Committee under Regulation 1 (b) of Chapter VI of the Regulation. The Secretary has thus full power to lay down the conditions for opening and closing of the examination centres.

8. The learned Counsel for the Petitioner then urged that the Petitioner was not given an opportunity of hearing before its name was included in the list of the institutions who were not entitled for opening a centre. The Petitioner has not

denied that in the year 1991 an irregularity was committed while conducting the examination of High School of the Board in the institution. The IInd paper of Urdu, of High School Examination was opened on 20th July, 1991 while the date fixed for examination of the said paper was 22nd April, 1991. The Petitioners has submitted an explanation in the writ petition that the examination papers were contained in two envelopes and it was by mistake that the first envelop was opened but the second envelop was not opened in which the examination papers were kept. The teachers who were responsible for committing the mistake were removed and the Centre Superintendent has been punished.

9. It was open for the Petitioner to approach the Secretary of the Board who could have considered the representation of the Petitioner and examine as to whether the Petitioner can in future conduct the examination fairly. The Secretary is responsible to see that in an examination centre no irregularity is committed and the examination is conducted there fairly.

10. In case the Board finds that in the past an irregularity was committed by mistake in an examination centre, it may consider the circumstances under which mistake was committed and whether such mistake can be condoned. It may allot the examination centre to such an institution if it is assured that in future the examination shall be conducted fairly.

11. In case the Petitioner makes a representation before Respondent No. 2, it shall consider the same after making necessary investigation and pass a speaking order within a period of one month from the date of making representation alongwith the certified copy of this order.

12. The writ petition is accordingly finally disposed of.