
(2001) 02 AHC CK 0029

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 7619 of 2001

Mithilesh Kumar Singh

APPELLANT

Vs

Secretary, Madhyamik Shiksha Parishad and Others

RESPONDENT

Date of Decision : 19-02-2001

Acts Referred:

Citation : (2001) 2 UPLBEC 1659

Hon'ble Judges : V.M. Sahai, J

Bench : Single Bench

Advocate : A.K. Yadav, for the Appellant; Abhinaya Upadhaya, for the Respondent

Final Decision : Allowed

Judgement

V.M. Sahai, J.—Heard Sri A.K. Yadav the learned Counsel for the petitioner and Sri Abhinay Upadhyaya the learned Standing Counsel for the respondent Nos. 1 and 2.

2. The learned Counsel for the petitioner has stated that the respondent No. 3 is only a formal party and this petition can be decided in absence of respondent No. 3. Therefore, no notice is issued to respondent No. 3 and the writ petition is taken up for final disposal.

3. Petitioner appeared in the Intermediate Examination, 2000. On 27th March, 2000 while appearing in Chemistry II paper, he was caught by flying squad using unfair means. In his reply the petitioner clearly stated that no incriminating material was recovered from his possession and the flying squad took away the copy of the petitioner and asked him for another copy. It has been further stated in his reply that the invigilator reported that the incriminating material was found in the ventilator of the room. There was no material to connect the petitioner with the incriminating material found in the ventilator. Further alongwith the answer book the form which is filled by the examiner is not on record, therefore, the answers given by the petitioner have to be accepted as correct. The report

furnished by the examiner is that the petitioner has not copies any answer from the incriminating material which could have been used by him since the material was not recovered from the petitioner, appears to have been attached with the petitioner for no fault of his, therefore, the respondents cannot hold the petitioner guilty of using unfair means. The result of the petitioner of Intermediate Examination, 2000 is liable to be declared by the respondents.

4. In the result this petition succeeds and allowed. The order passed by the respondents canceling the Intermediate Examination, 2000 of the petitioner is quashed. The respondents are directed to declare the result of the petitioner of Intermediate Examination, 2000 within a period of two weeks from the date a certified copy of this order is produced before the respondent No. 2.