

(1986) 09 RAJ CK 0036
In the Rajasthan High Court
Case No : Civil Spl. Appeal No. 1008 of 1986

Mohan Lal Sukhadia University and Another	APPELLANT
Vs	
Miss Anita Mittal	RESPONDENT

Date of Decision : 25-09-1986

Acts Referred:

Citation : (1986) 2 WLN 741

Hon'ble Judges : J.S. Verma, C.J;Shyam Sunder Byas, J

Bench : Division Bench

Judgement

1. This is an appeal against a judgment of a learned Single Judge by which a writ petition has been allowed setting aside the cancellation of the petitioner's candidature at the Pre-Medical Examination held in the year 1986.

2. The petitioner's examination had been cancelled on the ground that she was found in possession of objectionable material at the time she was appearing at the Chemistry Examination. Admittedly, the alleged objectionable material was some writing on one of her palms, which by itself was unintelligible in as much as it merely contained the abbreviations of the chemical names of certain metals. This alone was held to be sufficient by the Centre Superintendent to construe possession of objectionable material in order to direct cancellation of the petitioner's candidature at the examination. The petition challenging the action has been allowed. The learned Single Judge has held that the report of the Invigilator and the writing on the palm were wholly insufficient to lead to the inference that the writing constituted objectionable material indicating any attempt to use unfair means at the examination. It has, therefore, been held that the action taken by the University, in cancelling the petitioner's candidature, was arbitrary.

3. Learned counsel for the appellant strenuously urged that in the circumstances of the case, this material was sufficient to indicate use or atleast an attempt to use unfair means at the examination. He argued that even otherwise, the greater probability was of this kind, and therefore, no interference should have been

made by the learned Single Judge with the action taken by the University.

4. We are unable to accept this contention. The matter found written on the palm of the candidate which is reproduced in the Invigilator's Anx. R. 1 together with the facts mentioned in the report, do not make it more probable that the candidate had even attempted to use unfair means. At any rate, the possibility of the writing being innocuous, is a reasonable inference and therefore, the conclusion reached by the learned Single Judge on this point does not call for any interference in an appeal. We may observe that it is not the case of the University, that the candidate had attempted to rub off the writing in her palm and it was thereafter that only this writing remained thereon. Had any such attempt to rub off the writing been made by the candidate, that may have been an additional circumstance leading to the inference of use of unfair means by the candidate. However, that is no body's case. In such a situation, interference with the conclusion by the learned Single Judge is not called for.

5. Learned counsel for the appellant then contended that the order of the learned Single Judge, directing the holding of a special examination of this candidate, requires some clarification since the manner in which its effect has to be considered has not been indicated. In our opinion, it is clear that (he candidate will be considered for admission to a Medical College only if she obtains a position in order of merit as required, according to the rules of the examination, as a consequence of the examination. We have no doubt that the University will now take the necessary steps at the earliest so that the out-come of the examination is known without loss of any further time.

6. Subject to these observations, the appeal is dismissed.