
(2004) 03 AHC CK 0222
In the Allahabad High Court
Case No : C.M.W.P. No. 23706 of 1996

Nadim Ahmad and Others

APPELLANT

Vs

Regional Secretary, High School and Intermediate Board and
Another

RESPONDENT

Date of Decision : 23-03-2004

Acts Referred:

Citation : (2004) 3 AWC 2826

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : A.K. Dube and V.M. Zaidi, for the Appellant; C.S.C., for the Respondent

Final Decision : Allowed

Judgement

Anjani Kumar, J.—The petitioners who are 36 in number appeared in Intermediate Examination in the year 1996 conducted by the respondents. It is further alleged that these petitioners appeared in the entire examination, solved question and on every day their presence was noted on the relevant register and after solving the question they used to handover the answer-books to the invigilators. After the conclusion of the examination the Board declared the examination result on 7.6.1996 and the petitioners were declared passed in the aforesaid examination. They were issued mark-sheets also. It is after sometime when the petitioners did not receive their certificates they approached the Board, then they were told that their 1996 examination was cancelled. Thus, they have approached this Court by means of this writ petition.

2. Petitioners have further alleged that at no point of time they were given any opportunity nor were they ever informed of the reason as to why their examination was cancelled or likely to be cancelled. A counter-affidavit has been filed on behalf of the respondents wherein it is stated that in fact the petitioners are amongst those students who were allowed to appear from the centres concerned beyond the permissible numbers and in fact their answer books have

not been sent by Superintendent of examination centre for evaluation at the evaluation centre, therefore, in law the petitioners cannot be said to have been declared successful in the aforesaid examination. It is also stated by the respondents that when the aforesaid fact came to the knowledge of the respondents, they cancelled the petitioners' examination as withheld under the "WE" category and this fact was informed to the Superintendent of the centre, i.e., the principal of the college concerned and thus, there is no illegality in cancelling the petitioners' result of intermediate examination of the year, 1996. The fact of petitioners' appearing in the examination and also result having been declared and mark-sheet having been issued has not been disputed by the respondents.

3. Learned counsel for the petitioner has further submitted that in fact the respondents are estopped by principle of estoppel and even assuming for the sake of argument that a fraud had been committed, though it is specifically denied, the petitioner cannot be said to be a party to the aforesaid fraud. Learned counsel for the petitioner relied upon a Division Bench judgment of this Court in Rohilkhand University, Bareilly v. Harjender Singh and Anr. ESC (All) 691 wherein almost in similar circumstances Division Bench relying upon earlier Division Bench decision in Tarkeshwar Lal and Ors. v. University of Gorakhpur and Ors. 1984 UPLBEC 1437 and also case in Pravesh Kumar Dubey v. University of Kanpur and Anr. 1990 (2) AWC 1113 : 1990 (2) UPLBEC 1053. and another decision of the Apex Court in Sanatan Gauda Vs. Berhampur University and others, wherein the Apex Court has held that a student cannot be punished for the negligence of the university authorities and it was the bounden duty of the university to have scrutinized the matter thoroughly before permitting the appellant to appear at the examination and not having done so, it cannot refuse to publish his result. The Division Bench of Tarkeshwar Lal (supra) clearly states that the university is bound and estopped always by principle of estoppel and they cannot cancel the result of the students who are allowed to appear and were declared successful and mark-sheets issued to them.

4. In view of what has been stated above, this writ petition deserves to be allowed and is hereby allowed. The order cancelling the petitioners' intermediate examination result of the year, 1996 is hereby quashed. The respondents are directed to declare the result of the petitioner, if it is not formally declared and petitioners should be issued certificates as if they have passed the intermediate examination of the year, 1996.