

(1994) 03 AHC CK 0055

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 6119 of 1993

Naresh Pal

APPELLANT

Vs

High School and Intermediate Education Board, Branch
Office, Bareilly

RESPONDENT

Date of Decision : 21-03-1994

Acts Referred:

Constitution of India, 1950 — Article 226
Evidence Act, 1872 — Section 114

Citation : AIR 1995 All 81 : (1994) AWC 1356 : (1994) 2 UPLBEC 1216

Hon'ble Judges : Sudhir Narain, J

Bench : Single Bench

Advocate : P.N. Gangwar, for the Appellant; Standing Counsel, for the Respondent

Final Decision : Allowed

Judgement

1. The petitioner appeared at High School examination 1991. His result was withheld. He was, however, given a provisional mark-sheet in which he was shown to have secured 346 marks out of 600.

2. The petitioner received a show cause notice to appear before the Enquiry Committee. The charge against the petitioner was that he did not show calculation work to answer question No. 8(Kha) of Mathematics 1st Paper but the answer was correct which indicates that he used unfair means. The petitioner denied the charge. The Board cancelled the result of the petitioner by order dt. 9th Feb. 1993, a copy of which has been annexed as Annexure-2 to the writ petition. The petitioner has filed this writ petition in this Court against the order.

3. On behalf of the respondent a counter affidavit has been filed. This Court summoned the record. Learned Standing Counsel has produced the answer book of the petitioner in Mathematics 1st Paper. The petitioner was allotted Roll No. 1404940. The charge-sheet, which was issued to the petitioner, was also produced. The charge indicates that while answering Question No. 5(Kha) he did

not show calculation work though his answer was correct.

4. The answer book has been produced before me. It certainly indicates that calculation has not been shown in detail while answering Question No. 8(Kha) but the answer is correct. This only shows that the candidate could not come to a conclusion without doing calculation work on the basis of which the correct conclusion could have been drawn. It may be that the student may have learnt the answer by heart regarding the question which was asked in the question paper. In that situation the answer may be correct though the calculation work has not been shown. A student is awarded marks on the basis of the correct procedure being adopted while solving a question. He may not be entitled to any marks in answering such a question even though the answer may be correct.

5. There is, however, no basis for holding that the student had used unfair means. There is no presumption that while the answer is correct but the calculation work in solving a question in Mathematics in detail has not been given, he must have used unfair means by copying from the answer book of any other candidate or from any other material.

6. There is no charge against the petitioner that he had copied from any answer book or used any other material for answering Question No. 8(Kha) in Mathematics 1st Paper. As there is no material on the basis of which any conclusion could have been drawn that the petitioner used unfair means, the order of cancellation of result of the petitioner is illegal.

7. The order cancelling the result of the petitioner is quashed and the respondent is directed to declare the result of the petitioner within three weeks from the date of production of a certified copy of this order.

8. Petition allowed.