
(2003) 10 MP CK 0021
In the Madhya Pradesh High Court
Case No : Writ Petition No. 3935 of 2001

Poonam Singh and Others

APPELLANT

Vs

Board of Secondary Education and Others

RESPONDENT

Date of Decision : 10-10-2003

Acts Referred:

Citation : (2004) 1 MPHT 145 : (2004) 1 MPLJ 473

Hon'ble Judges : Dipak Misra, J

Bench : Single Bench

Advocate : K.P. Mishra and Pramod Pandey, for the Appellant; None, for the Respondent

Final Decision : Dismissed

Judgement

Dipak Misra, J.

By this writ petition the petitioners have prayed for quashment of Annexures A-11 to A-20 by which the Board of Secondary Education has recorded UFM in the mark-sheets against certain subjects of the petitioners without examining the answer books and awarding marks to which they are entitled to. Various facts were asseverated in the petition and the same were controverted in the counter affidavit.

Keeping in view the rival stances addressed at the Bar this Court on 29-1-2002 passed the following order:--

"The petitioner Nos. 1 to 3 appeared in High School Examination Certificate, 2001 and other petitioners appeared in the Higher Secondary Examination, 2001 from the centre Govt. Boys Higher Secondary School, Lalgaon, Dist. Rewa. It is put-forth in the petition that they had performed extremely well in the examination and the same was conducted in a very fair manner but when the mark-sheets were issued to them they were shown to have adopted unfair means in certain subjects and declared failed. It is urged that vide Annexures A-21 and A-27 inspection reports were submitted indicating that the petitioners

were not involved in the mass copying. It is pleaded that the Board has not kept these reports in view and passed the order vide Annexure P-11 in a most arbitrary manner.

(2) It is submitted by Mrs. J. Choudhary, learned Counsel appearing for the Board that the said centre is a part of the same building which is the subject-matter in W.P. No. 4368/2001. The learned Counsel has submitted that the report of the competent authority of the Board clearly shows that there was mass copying.

(3) Submission of Mr. K.P. Mishra, learned Counsel for the petitioners is that the Board has not kept in view the other reports.

(4) Appreciating the rival submissions raised at the Bar, it is thought apposite to direct an enquiry to be conducted by the CBI for the simple reason, it has been pleaded before this Court that Pramod Saraswat, who is working as S.D.O. (PWD), Rewa has submitted a report in favour of the students. The Director General of CBI shall depute an officer to conduct an investigation and submit a report to this Court.

(5) Mrs. J. Choudhary, learned Counsel appearing for the Board shall supply a copy of the writ petition along with the report obtained by the Board to the Director General (CBI), Bhopal. The inquiry shall be completed within a period of six weeks.

(6) Let the matter be listed on 14-3-2002 for further hearing."

After the aforesaid order certain time was sought by the Central Bureau of Investigation and eventually the report was submitted. It is pertinent to mention here that the CBI had submitted status report from time to time. The relevant portion of the result of the enquiry conducted by the CBI reads as under:--

"During enquiry the statement of Shri Pramod Saraswat s/o Shri Mahender Pal Saraswat r/o New F-5 Civil Lines, Rewa, M.P. was recorded. He stated that he was deputed by District Collector, Rewa to act as independent invigilator at examination centre No. 32103, i.e., Government Girls Higher Secondary School, Lal Gaon in the aforesaid examinations conducted by the Board in March, 2001. He stated that the examination started on 15-3-2001 and conducted till 31-3-2001 at the aforesaid examination centre. He also stated that nearly 200-1000 anti social elements remained present in each and every examination conducted at this centre and all the examinees used unfair means in their respective examinations with the help of these anti social elements. Such was the terror of these anti social elements that the Superintendent and other invigilators were doing nothing to prevent the mass copying at the centre. He also stated that he was so afraid of these anti social elements that he was forced to write in the local inspection register maintained in the examination centre that the examinations were peaceful though facts were contrary to it. He also stated that he was coming to examination centre from Rewa on his scooter and no

police guard was provided to escort or protect him from those anti social elements and for the sake of his life, he just completed the formalities to write the inspection notes in the local inspection register maintained in the examination centre as directed by Centre Superintendent and other invigilators. He also stated that when the inspection team of the Education Board visited/inspected this examination centre he told them truth and wrote the actual developments which took place at this examination centre from 15-3-2001 to 19-3-2001. He identified his signatures on the reports of inspection team of the Education Board.

Statement of Shri M.L. Ahirwar s/o Late Shri D.S. Ahirwar r/o Village Luherta, Distt. Sagar, M.P. was also recorded during enquiry. He stated that he has been working as Executive Engineer in Madhya Pradesh Electricity Board at Sirmour, M.P. He was deputed by District Collector, Rewa to act as an independent Invigilator in Examination Centre No. 32104 (Govt. Boys Higher Secondary School) at Village Lal Gaon in the Board Examinations conducted during March, 2001. He stated that all the examinees who appeared from this examination centre from 15-3-2001 to 29-3-2001 had used unfair means in their respect examination with the help of anti social elements who remained present in and around the examination centre. He identified his signatures on the report made to the inspection teams who visited/inspected this examination centre on 19-3-2001 and 27-3-2001.

During enquiry it also revealed that not only the examinees of above two centres were declared failed for adopting unfair means but also nearly 18750 students, who appeared for 10th Class examination and nearly 7380 students, who had appeared for 12th Class examination from Distt. Rewa were awarded UFM's in their mark-sheets on the reports of the inspection teams.

Besides declaring the concerned examination null and void in the aforesaid examination centres, the Result Committee also debarred the Superintendents, Asstt. Superintendents and Invigilators for three years for nomination in the Board Examination process for failing in their duty to conduct the examinations properly and fairly.

From the enquiry conducted so far the decision taken by the Board in awarding UFM's to the petitioners seems to be justified as the petitioners were not victimised because all the students appearing from the aforesaid two centres were declared failed by the Board after getting reports regarding use of unfair means in large scales/mass copying.

During enquiry the I.O. was provided by the Board of Secondary Education, M.P., Bhopal the judgment of the Apex Court in Civil Appeal No. 470 of 1997 arising out of SLP (Civil) No. 19819 of 1996 (Madhyamic Shiksha Mandal, M.P. v. Abhilash Shiksha Prasara Samiti and Ors.). The Apex Court has decided "It is unfortunate that the student community resort to such methods to succeed in the examinations and then some of them come forward to contend that innocent

students become victims of such misbehaviour of their companions. That can not be help. In such a situation the Board is left with no alternative but to cancel the examinations. It is extremely difficult for the Board to identify the innocent students from those indulging in malpractices. One may feel sorry for the innocent students but one has to appreciate the situation in which the Board was placed and the alternatives that were available to it so far as this Examination was concerned. It has no alternative but to cancel the results and we think, in the circumstances, they were justifying in doing so. This should serve as a lesson to the students that such malpractices will not help them succeed in the examination and they may have to go through the drill once again."

After the report was submitted the learned Counsel for the petitioner argued criticising the report from various angles and submitted that same does not deserve acceptance. Upon perusal of the report in entirety I am of the considered opinion that there is no reason to throw the report overboard. The same has been founded on proper analysis of fact. In the report the action of the Board is found to be correct. True it is there are two separate reports and keeping in view the said facet this Court had directed investigation by the CBI. When an independent agency had conducted enquiry and the report seems to be prima facie correct, there is no reason to discard it. Accordingly, it is accepted.

In view of my preceding analysis I do not find any substance in the writ petition and accordingly the same stands dismissed without any order as to costs.