
(2009) 04 AHC CK 0032

In the Allahabad High Court

Case No : Criminal Miscellaneous Writ Petition No. 5961 of 2009

Prem Shankar Yadav

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 06-04-2009

Acts Referred:

Uttar Pradesh Public Examinations (Prevention of Unfair Means) Act, 1998 — Section 10, 4B, 7

Citation : (2009) 2 ACR 1756

Hon'ble Judges : R.D. Khare, J; Amar Saran, J

Bench : Division Bench

Advocate : C.B. Yadav, for the Appellant; A.G.A., for the Respondent

Judgement

Amar Saran and R.D. Khare, JJ.—Heard learned Counsel for the Petitioner and learned Additional Government Advocate.

2. This writ petition has been filed for quashing of an F.I.R. at case Crime No. 199 of 2009, u/s 4B read with 7/10 of Uttar Pradesh Examinations (Prevention of Unfair Means) Act, 1998, police station Geanpur, lodged by the District Inspector of Schools, Azamgarh on 21.3.2009.

3. Briefly, the allegations in the F.I.R. were that there was information that in the examination Mafias had leaked out the English I High School paper and were getting the paper solved by persons connected with different colleges after taking money. Thereupon, the team headed by the District Inspector of Schools and the police force conducted raids at various places in District Azamgarh on 21.3.2009. At about 4.00 a.m. when the team reached the gate of Sunarika Balika Inter College of which the Petitioner was the Manager, the Petitioner who was present there at that time and was directing the public to make markings on the paper, fled from the spot. The motorcycles of two persons, who had also fled from the scene were found lying there. On checking the motorcycles were found to contain the English I paper and some English high school guide books etc. The paper contained references to the solutions in the guide books. According to the

peon Jai Pratap who was present there the Petitioner was dictating the answers to the persons who had gathered.

4. It was argued by the learned Counsel for the Petitioner that the examination was to be conducted at 7.30 a.m. hence there was no question of persons gathering at 4.00 a.m. for being informed about the answers to the questions paper. We fail to appreciate this argument, as there was nothing improbable in the Petitioner's calling the concerned persons at 4.00 a.m. for furnishing them with the answers to the paper for price if the Petitioner wanted to assist in the use of unfair means by the examinees.

5. Also nothing would turn on the argument of the learned Counsel for the Petitioner that there was no averment in the report of the Centre Superintendent and Centre Magistrate of suing unfair means between 2.3.2009 and 26.3.2009. That could not give rise to an inference that no such incident as alleged could have taken place in the morning.

6. We are also not impressed with the Petitioner's counsel as to how the Petitioner could have escaped when the team of the educational authority and the police force reached there, if he was present at the spot. What was there to stop the Petitioner from making good his escape from the spot the moment he saw or heard about the visit of the raiding team. We also find no good reason for the Petitioner being implicated in this case if he had nothing to do with the offence.

7. It may be pointed out that the offence of using unfair means has become a scourge in our society and sadly managers, principals and teachers of educational institutions willingly join hands with examination mafias and play an active role in facilitating the use of unfair means during examinations. It is high time that the police and the Courts come down with a heavy hand against such activities, which are making our youth hollow and inept who are meant to be the future torch bearers of our nation.

8. Furthermore the contentions raised by the learned Counsel for the Petitioner relate to the merits of the case, which cannot be considered in a writ petition. The observations hereinabove have only been made for dealing with the arguments raised by the Petitioner's counsel. The investigating agency and the Courts at the appropriate stage must of course reach an independent finding on the material on record unfettered by the observations of this Court. No ground is made out for quashing the F.I.R. or for staying the Petitioner's arrest. The writ petition has no force and it is dismissed.