
(2008) 01 OHC CK 0006
In the Orissa High Court
Case No : Writ Petition (C) No. 8307 of 2007

Principal, Ghanteswar Mahavidyalaya	APPELLANT
Vs	
Council of Higher Secondary Education	RESPONDENT

Date of Decision : 15-01-2008

Acts Referred:

Citation : (2008) 2 OLR 302

Hon'ble Judges : A.S. Naidu, J

Bench : Single Bench

Advocate : Sameer Kumar Das, R.N. Mishra-II and S.K. Mishra, for the Appellant; Anup Bose, for the Respondent

Judgement

A.S. Naidu, J.—15.1.2008 - Heard.

2. The Principal, Ghanteswar Mahavidyalaya, has filed this writ petition inter alia praying to quash the Notification dtd. 30th May, 2007 issued by the Council of Higher Secondary Education, Orissa, cancelling the second sitting examination held on 12.3.2007 in the subject of Pol. Science-II (Regular, Ex-regular and Private) in respect of 60 examinees who were appearing in one hall. According to learned Counsel for the Petitioner, there was absolutely no reason for cancelling the examination and the order has been passed at the behest of some of the lecturers of nearby Colleges who had a grudge and were hostile against the Petitioner college. It is further submitted that a very Sr. Lecturer of S.N. College, Rajkanika, was appointed as the Centre Superintendent to conduct the examination and he had submitted a report stating that the examination was conducted in the College smoothly and no untoward incident had occurred at any time.

3. On receiving Rule, a counter affidavit has been filed on behalf of opposite parties 1 to 3 and so also by opposite parties 6 to 7. In paragraph-2 of the counter affidavit, opposite parties 1 to 3 have averred as follows:

The Flying Squad inspected the examination centre on 12.3.2007 at 2.45 P.M.

while the 2nd sitting of the examination was going on in political science paper-II. The squad members reported that there was mass malpractice in the said examination. They have further reported that the Invigilator Dr. Radhapada Ghose, Lecturer in Sanskrit was dictating to the students by holding something to the candidates by holding printed and hand written manuscripts in the above manner the Invigilator were abettor to the mal practice. The Squad members felt that everything was going on as per the dictation through the Centre Supdt. and College Authority. Hence, they recommended to tag the college for further examination and not to make the same college as examination centre in future.

4. Opposite parties 6 and 7 who were members of the squad have denied all the allegations levelled against them in the writ petition and have stated that the incriminating materials seized by the Squad were placed before the Chairman of the committee which has taken a decision on its own motion.

5. In course of hearing, learned Counsel for the Petitioner reiterated his stand and submitted that the order of cancellation of examination had absolutely no legs to stand and unless the same is quashed the academic career of 60 students would be jeopardized for no fault of theirs, It is further submitted that among 50 examinees there were some brilliant students with good academic career and due to the whimsical action of the Council they will be subjected to irreparable loss and insurmountable hardship. Learned Counsel for opposite parties 1 to 3 however submitted that the incriminating materials collected by the Squad were placed before the committee and committee after considering the same have taken a decision to "cancel the examination in question. The decision of the committee which is vested with power to conduct the examination fairly may not be interfered with by this Court.

6. I have heard learned Counsel for the parties at length and perused the counter affidavit. Fact remains, on 12.3.2007 in course of examination squad members visited the Petitioner's college as would be evident from the averments made in paragraph-2 of the counter affidavit supra. The Squad reported that the Invigilator Dr. Radhapada Ghose, the Lecturer in Sanskrit was dictating answers to the students by holding printed and hand written materials and as such he was an abettor to the malpractice. It is further stated in the affidavit that the Squad members felt that everything was going on as per the dictation of the Centre Supdt and the College Authority recommended not to make the college an examination centre in future.

7. Perusal of the averments made in paragraph-2 of the counter affidavit clearly reveals that the Squad members did not suggest for cancellation of the examination. They only suggested cancellation of the Centre for future examination. That apart according to the report of Dr. Radhapada Ghose, a Lecturer in Sanskrit was dictating answers to be examiners from some printed and hand written materials held by him. Admittedly, the subject of examination was Political Science. This Court fails to understand as to how a Lecturer of Sanskrit could dictate the answers of Political Science, and that too from the

materials both manuscript and printed. Looking at the entire matter from another angle this Court feels that if in fact the plea taken by the Council was correct then the answer papers of all examinees who had appeared in the hall in question and had answered all the questions according to the dictation of Dr. Ghose would be same. In other words, even the mistakes committed by one student would be noticed with others as the source was one. The Council though took the stand that all the examinees were writing answers according to the dictation of Dr. Ghose, it did not take pain to scrutinize the answer sheets of all the examinees by constituting a Committee of Experts in Political Science. If such an endeavour would have been made real things would have come to light as to whether there was mas malpractice or not. Law is well settled that a Council which is vested with power to conduct examination in a fair manner owes an onerous duty to see that the genuine and meritorious students do not suffer for the laches of others. No doubt the Council has a right to cancel the examination of those students who involved in mas malpractice, but then before arriving at such conclusion the Council is required to make all endeavour to find out who were involved in malpractice. In the case at hand the Council indiscriminately cancelled the examination of all the examinees without conducting a proper enquiry. It is bound to cause a dent in the academic career of meritorious students and that too irreparable. In the case at hand, the Council failed to take proper follow up action and thus the ultimate conclusion arrived at by the Council cancelling the examination of all the students cannot be sustained. This Court therefore has no hesitation to quash the Notification dtd. 30.5.2007 and direct the Council to publish the results of the students as expeditiously as possible.

8. With the aforesaid observation/direction, this Writ Petition is disposed of.

9. Petition disposed of.