
(1972) 11 AHC CK 0005

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 809 of 1972

Promod Kumar Mittal

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision : 10-11-1972

Acts Referred:

Citation : (1973) 43 AWR 154

Hon'ble Judges : H.N. Seth, J

Bench : Single Bench

Advocate : D.C. Chaturvedi, for the Appellant;

Final Decision : Allowed

Judgement

H.N. Seth, J.—The Petitioner appeared in the Board's High School Examination for the year 1971 as a regular student of Public Inter College Raghupura, Bulandshahr. His result was withheld and subsequently he was informed that he was accused of having used unfair means in answering Science 1st paper. In due course a spot enquiry committee, appointed by the Examinations Committee, visited the Centre from which the Petitioner had appeared. The Committee informed the Petitioner that it appeared that he had used unfair means in the examination as he had found out the square root of 45.5625 without making proper calculations. The Petitioner explained that at that time he did not remember the exact method for calculating the square root of 45.5625. He estimated that the square root would be near about of 6.6. Accordingly, he multiplied 6.6 by 6.6 and found that the product came to something less than 45.4625. Again he multiplied 6.85 by 6.85 and found that the product was a little more than 45.5625. He next tried the multiplication of 6.75 by 6.75 and found that the product came to exactly 45.5625. Accordingly, he wrote down the square root of that expression as 6.75. He did not use any unfair means in answering that question.

2. However, the explanation offered by the Petitioner was not accepted by the

Examinations Committee, with the result it cancelled the Petitioner's High School Examination for the year 1971 and further debarred him from appearing in Board's High School Examination for the year 1972. Decision of the Board was communicated to the Petitioner by the Principal of the Public Inter College, Raghupura vide his letter, copy of which has been filed as Annexure A to the writ petition.

3. The Petitioner has now approached this Court for relief. He has taken a number of grounds for questioning the validity of the order punishing him. One of the objections is that there was absolutely no material before the Board on the basis of which any inference could be drawn that in working out the square root of 45.5625 the Petitioner had used unfair means. The averments made in paragraph 13 of the petition indicate that the Petitioner had actually multiplied 6.6 by 6.6, 6.85 by 6.85 and 6.75 by 6.75 on the left hand page of his answer book. Respondents do not controvert the facts mentioned in paragraph 13 of the petition. Their case, however, is that the working on the left hand page of Petitioner's answer books did not show that he adopted a proper method for finding out the square root. All that the Petitioner could make out was that he made a guess. This showed that he had obtained the correct answer from some source other than a genuine source.

4. The question, therefore, that arises for consideration is, whether in the circumstance of this case, it can be said that there was material on the basis of which any one could conclude that while finding the square root of 45.5625 the Petitioner utilized some external aid. The averments Made in the courtier affidavit indicate that the inference that the Petitioner Was guilty of having used unfair means in answering the question is based merely on the fact that he has not properly calculated the square root. There is absolutely nothing on the record to indicate that the explanation given by the Petitioner was wrong. As a matter of fact, the Respondents seem to accept the correctness of the same when in paragraph 14 of the counter affidavit they state that the working done on the left page of Petitioner's answer books indicated guess-work on his part. If a person guesses the correct answer and Verifies it on the left hand side of his answer book, it cannot be said that he has used some external aid in answering the question or that he used some unfair means. The circumstance that the Petitioner multiplied 6.6 by 6.6 then 6.85 by 6.85 and thereafter 6.75 by 6.75, clearly shows that he was trying to find out the square root of 45.5625 by trial and error method. Adoption of trial and error method for finding out an answer, may not earn marks for a candidate, but certainly use of such, a method cannot be branded as use of unfair means. In the circumstances, merely because the Petitioner did not work out the square root in a regular manner this fact by itself could not furnish; the material for coming to a conclusion that he used some external aid in answering the question.

5. In the result I am satisfied that the finding arrived at by the Board in this case is not supported by material on the record and the petition succeeds on this

ground alone. It is therefore not necessary for me to go into other questions raised in the petition.

6. The petition is allowed with costs. Order of the Board, cancelling Petitioner's High School Examination for the year 1971 and debarring him from appearing in the 1972 examination, as communicated to him through its confidential No. 29/11/71-5 C/1283 dated 12-11-1971 through the Principal of Public Inter College Raghupura is quashed. Respondents are directed to declare Petitioners result forthwith.