

(2007) 02 AHC CK 0028
In the Allahabad High Court
Case No : Civil M.W.P. No. 57533 of 2006

Radha Krishna

APPELLANT

Vs

Vice-Chancellor, Dr. Bhim Rawa Ambedkar University and
Others

RESPONDENT

Date of Decision : 14-02-2007

Acts Referred:

Citation : (2007) 5 AWC 4927 : (2007) 2 UPLBEC 1061

Hon'ble Judges : Vineet Saran, J

Bench : Single Bench

Advocate : S.N. Tiwari, for the Appellant; Anil Tiwari, A.K. Tripathi and S.K. Singh and S.C., for the Respondent

Final Decision : Allowed

Judgement

Vineet Saran, J.—Heard learned Counsel for the Petitioner as well as Sri A. K. Tripathi, learned Counsel holding brief of Sri Anil Tiwari, learned Counsel for the Respondent-Dr. B.R. Ambedkar University, Agra. Pleadings have been exchanged between the parties and with consent of the learned Counsel, this writ petition is being disposed of at this stage.

2. The Petitioner appeared in M. A. Previous Examination, 2003 and was declared pass with first division marks. He thereafter appeared in M.A. Final Examination, 2004 but his result has not been declared. The Petitioner approached the Respondent-University time and again but since his result was still not declared, he filed this writ petition.

3. In the counter-affidavit the Respondent-University has taken the stand that the copy of 3rd Paper, i.e., History of Modern World (1919-45) was not available and hence his result has not been declared.

4. Alongwith the writ petition the Petitioner has filed a copy of the attendance sheet (Annexure-3) certifying that the Petitioner has appeared in all the papers. The said sheet is duly signed by the Petitioner as well as the invigilator of the

examination, Senior Superintendent of the University and other officials.

5. In the counter-affidavit the said attendance sheet has not been denied nor has any proof been given to show that the Petitioner did not appear in the said paper. The stand of the Respondent-University in paragraph 5 of the counter-affidavit is that "it is not clear as to whether the Petitioner had appeared in the examination or not". In view of the fact that the Petitioner has given a positive evidence of his having appeared in the said paper of M.A. Final Examination, 2004 and the Respondent-University has taken it very lightly and made a vague statement that it is not clear as to whether he had appeared in the said paper or not, in my view, withholding of the result of the Petitioner of M.A. Final Examination, 2004 is totally unjustified. The Petitioner is a good student, who had passed M.A. Previous Examination with first division marks. In the circumstances when one answer copy of the Petitioner is missing from the records of Respondent-University, the Respondent-University ought to pass some orders so that justice was done to the Petitioner. Learned Counsel for the Respondent-University states that there is no provision in the Examination Rules of the University to deal with such situation.

6. Accordingly, in the interest of justice, it is directed that since sufficient proof has been given by the Petitioner of having appeared in 3rd Paper (History of Modern World (1919-45) of M.A. Final Examination, 2004, the copy of which is missing from the records of the Respondent-University, the Respondent-University shall award average of the marks awarded to the Petitioner in 3rd Paper (History of Modern World (1919-45) and issue the mark-sheet to the Petitioner forthwith, but not later than three weeks from today.

7. This writ petition stands allowed. However, there shall be no order as to cost.