
(1994) 02 AHC CK 0076

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 43304 of 1993

Sachin Kumar and Another

APPELLANT

Vs

Vice-Chancellor, Purvanchal University and Another

RESPONDENT

Date of Decision : 01-02-1994

Acts Referred:

Citation : (1994) 1 AWC 562 : (1994) 2 UPLBEC 719

Hon'ble Judges : M.P. Singh, J

Bench : Single Bench

Advocate : Ashok Bhushan, for the Appellant; Ajit Kumar Singh, for the Respondent

Final Decision : Allowed

Judgement

M.P. Singh, J.—Himtaj Maha Vidyalaya Newarhia, District Jaunpur is a Degree College affiliated to Purvanchal University, Jaunpur. The Petitioner No. 1 is the student of B. Sc Part-II and Petitioner No. 2 of B. Sc. Part-I in the said Degree College. Both appeared in the examination in year. 1993.

2. The examinations are conducted by the Purvanchal University according to the U.P. State Universities Act and the Statute. The examination Committee of the University conducts the examination under its supervision.

3. The University appointed Dr. R. P. Singh, the Lecturer in the Degree College as centre superintendent. In addition to that in order to conduct the examination fairly, flying squads of the teachers and officials of the University have been constituted which during the conduct of the examination visit institutions and submit report. Every centre maintains a register known as "Flying squad visit register". Each visit of the said squad is recorded. The convener puts his signature in the squad Register after noting its observations and comments in the register.

4. During the course of examination in the said Degree College nine times Flying squad visited (the centre. At no point of time it reported about any unfairness in

the conduct of the examination or allegation of mass copying,

5. B.Sc. Part-I examination was held on 13-8-1993 and in the register the flying squad has made endorsement that the examination was conducted satisfactorily. There was no report of using unfairmeans. The B. Sc. Part-II examination was held on 14-8-1993. The report of the flying squad is that the conduct of the examination was very good". Obviously- it ruled out a case of mass copying. The said endorsements have been signed by Dr. R.P. Singh, the convener of the squad.

6. It appears that subsequently Dr. R.P. Singh gave a different information to the Vice-Chancellor of the University expressing his doubt about the fairness of the examination conducted in the said Degree college. After getting the report from Dr. R.P. Singh, the Vice-Chancellor appointed Dr. Dhananjay Singh as observer and directed him to visit the Degree College and submit his report. He visited the said college on 23-8-1993 and gave his report on the same day. His report also shows that there was no evidence of mass copying or any irregularity in the conduct of the examination.

7. Reports of Dr. Dhananjay Singh and Dr. R.P. Singh have been considered by, ?? the examination committee on 27-11-1993. By this time the result of B.Sc. Part-II had already been declared and published in the daily news paper "AAJ" on 27-11-1993. The result of B. Sc Part-I was also released by the University. Roll numbers of both the Petitioners appeared in the list. They had been declared successful. .

8. On 2-12-1993 the University informed the Petitioners that the examinations held on 13th and 14th August, 1993 have been cancelled on the ground that the examination was not conducted fairly and ordered for holding afresh examination. This order as well as the decision of the examination committee dated 27-11-1993 are under challenge.

9. Heard the learned counsel for the parties.

10. The most important document on record is the Flying Squad Visit Register maintained by the College and the report of Dr. R. P. Singh, the convener of the squad which bears his signature. It shows that on 13th and 14th August, 1993 the examination was conducted satisfactorily and there as no report of using unfairmeans. Even the report of Dr. Dhananjay Singh, who was appointed as-observer, proves that there was no material on record on the basis of which it could be said that the examination was not conducted fairly. His reports mentions that only one candidate having roll No. S0077 was caught using unfairmeans. Thus, even Dr. Dhananjay Singh, the observer-was satisfied that no unfair means had been used in the examination. There is no material on record on the basis of which the examination could be cancelled and order for fresh examination could be passed by the University.

11. Mr. Ajit Kumar Singh, learned counsel for the opposite party has produced

the original examination record before me. I have seen the report of the examination committee dated 27th November, 1993. It runs as follows:

Himtaj Maha Vidyalaya Newarhia, Jaunpur Ka Varsh 1993 Ka Pariksha Phal Ghoshit Kiye Jane Ke Vishai Par Uraka Dal Ke Sadasyon Ki Report, Samiti Ke Samaksh Par hi Gayee. Bicharoprant Samiti Ne Yah Nirnai Liya Ki Dinank 13-8-1993 Tatha; 14-8-1993 Ki Pariksha Ukt Kendra Par Punah Karayi Jay.

12. The Court is really surprised to see as to how the order for cancellation of the examination which was held on 13-8-93 and 14-8-93 could be passed on the basis of the report of the examination committee in the absence of any evidence of use of unfair means. The order of the examination committee is wholly arbitrary and unreasonable. The administrative orders are expected to be fair and reasonable. The instrumentality of the State can never be permitted to be irrational or unreasonable. If it departs from such standard or norms in any case, its action would be liable to be struck down as arbitrary. As held by the Supreme Court, in the case of Ramana Dayaram Shetty Vs. International Airport Authority of India and Others, and Kasturi Lal Lakshmi Reddy, Represented by its Partner Shri Kasturi Lal, Jammu and Others Vs. State of Jammu and Kashmir and Another, .

13. After giving my anxious consideration to the matter I am of the view that the order is wholly without jurisdiction and suffers from an error apparent on the face of record.

14. Accordingly the writ petition succeeds and is allowed. The order dated 2-12-1993 passed by the University and the decision of the Examination Committee dated 27-11-1993 are hereby quashed.

15. The opposite party No. 1 is directed to declare the result of all the candidates, who have appeared from Himtaj Maha Yidalaya Newarhia, District Jaunpur, whose examinations have been cancelled on the ground of mass copying on 13th and 14th August, 1993 within a period of two weeks from the date of filing of a certified copy of this order before him. The mark-sheets Shall also be issued within a period of two weeks thereafter. The candidates will be permuted to appear in the next higher examination in 1994.