

(2003) 02 SC CK 0109

In the Supreme Court Of India

Case No : Civil Appeal No. 1859 of 2003

Sarat Kumar Panigrahi

APPELLANT

Vs

The Secretary, Board of Secondary Education, Orissa

RESPONDENT

Date of Decision : 28-02-2003

Acts Referred:

Citation : AIR 2003 SC 3560 : (2003) AIRSCW 2206 : (2003) 5 ALT 12 : (2003) 2 JCR 218 : (2003) 2 JKJ 40 : (2003) 134 PLR 248 : (2003) 3 RLW 362 : (2003) 2 SCALE 513 : (2003) 9 SCC 83 : (2003) 2 Supreme 386 : (2003) 2 UJ 797

Hon'ble Judges : R. C. Lahoti, J;Brijesh Kumar, J

Bench : Division Bench

Advocate : Manoj Kumar Das and Sibbo Sankar Mishra, for the Appellant;
Janaranjan Das, G. Biswal and S. Mishra, for the Respondent

Final Decision : Dismissed

Judgement

R.C. Lahoti, J.—Leave granted.

2. Chandra Shekhar Panigrahi, the appellant's son, was a candidate for Annual HSC Examination, 2001 appearing in all subjects of the Board of Secondary Education, Orissa along with Third Language Oriya (TLO). On 20.3.2001 while the examination was being held a flying squad visited the examination hall wherein the appellant's son was sitting. A piece of paper containing some Sanskrit scripts was found lying near his table. The flying squad seized the paper and prepared a report showing the appellant's son as having adopted unfair means in the examination. On 26.5.2001 the Board of Secondary Education, Orissa (hereinafter, the BSE) issued a show cause notice accusing Chandra Shekhar of being in possession of incriminating materials in the examination hall. Chandra Shekhar controverted the allegation defending himself on all the counts. However, his result was withheld. Feeling aggrieved, the appellant filed a writ petition in the High Court of Orissa, which was dismissed. This is an appeal by special leave.

3. According to the respondent-Board, it is true that the seized piece of paper was of no use for Chandra Shekhar, as it contained no material which could have had any relevance to the Paper which was being answered by Chandra Shekhar. Nevertheless, that slip could be useful for other students who were sitting in the same hall. As per the rules of the Board and the instructions in the Admit Card issued to the candidates, no candidate shall possess or use any incriminating material in the examination hall. Inasmuch as the candidate committed a breach of the rule, the same would amount to malpractice and therefore the action taken against the candidate was justified.

4. According to the appellant, Chandra Shekhar has never committed any malpractice. He has been a brilliant student throughout his educational career, having secured first-class and places of merit in all the examinations undertaken by him, and this year too he has secured a first-class. There was no reason and no occasion for him to take a slip in the examination hall, much less a slip which was of no relevance or use for him.

5. During the course of hearing in this Court, upon the request of the appellant, the respondent-Board has made available the record of the proceedings dated 20.3.2001 from its custody. Without entering into an enquiry into disputed questions of fact and recording a finding thereon, suffice it for our purpose to notice two glaring facts. The report which is alleged to have been prepared on the date of the incident under signatures of the Central Superintendent is in a proforma prescribed for the purpose of preparing a report of any malpractice detected at the examination hall/center. The proforma contemplates column numbers 16 and 17 being signed by the invigilator, but the invigilator has not signed the report. Admittedly the center superintendent, who has signed the report, was not present in the hall. Then there is controversy, firstly, as to whether the seized material was a handwritten slip or a printed paper, and secondly, as to whether the paper was seized from the floor of the examination hall or from inside the pocket. Two facts are undisputed: firstly, that the seized paper was not related with the examination--as per column 20 of the proforma report, and secondly, it was not used--as per column 11 of the proforma report. In these proceedings the candidate has lost one year and at the subsequent examination taken by him he has come out with flying colours.

6. We have some doubts if the material (slip of paper) was really seized in the manner in which it is alleged to have been seized. We leave the matter at that. We asked the learned counsel for the appellant that in view of the candidate having already cleared the examination and that too with first division why is he interested in pursuing the matter in the Court? The learned counsel stated, under instruction, that the candidate, a meritorious student otherwise, has lost one valuable year's time of his career and a stigma attaches with him on account of the accusation. We, therefore, dispose of this appeal by setting aside the judgment of the High Court and directing that all the proceedings taken against the student Chandra Shekhar Panigrahi shall stand quashed. He shall be deemed

to have passed the HSC examination conducted by the Board of Secondary Education, Orissa, at Cuttack, in the first attempt and without any stigma. The writ petition filed by the appellant and this appeal shall be treated as disposed of in the abovesaid terms.

7. The appellants has asked for suitable compensation being awarded for the loss of one year's time in the educational career of his son. However, we do not think that the present one is an appropriate case where we may be inclined to grant such a relief. The learned counsel for the appellant very fairly gave up the prayer at the end though he had pressed for the same initially. No orders are therefore needed on that application.