

(2003) 03 AHC CK 0102

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 53860 of 2002

Shiv Gopal

APPELLANT

Vs

University of Allahabad through the Registrar and Another

RESPONDENT

Date of Decision : 10-03-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 03 AHC CK 0102

Hon'ble Judges : Ashok Bhushan, J

Final Decision : Disposed Of

Judgement

Ashok Bhushan, J.—Heard Counsel for the petitioner and Sri A.B.L. Gaur appearing for the respondentsUniversity.

2. By this writ petition, the petitioner has prayed for quashing the order dated 17112002 by which petitioner has been communicated that his result of B.ComI of 2002 has been cancelled.

3. Petitioner while appearing in examination of B. ComI on 3rd April, 2002 was alleged to have adopted unfair means in the examination. Petitioner's copy was taken by flying squad and he was asked to fillup the unfair mean form. A showcause notice was issued to the petitioner on 7th April, 2002 alleging that two printed pages have been recovered from him. The petitioner submitted a reply to the said notice. Petitioner stated in the reply that he has not adopted unfair means in the examination and the chit which was said to be of petitioner did not belong to the petitioner. The University by the impugned order has cancelled his result of B. ComI.

4. The Counsel for the petitioner has submitted that unauthorised material did not belong to the petitioner nor the petitioner used the said unauthorised material.

5. Learned Counsel appearing for the University has produced the original records and has also filed a counteraffidavit.

6. The original records produced by the learned Counsel appearing for the University show that in the examination hall when the petitioner was asked to fill up unfair mean form he denied the allegation and stated that someone else has thrown the material. The examiner in his report has also stated that petitioner has not used the material. The examination committee passed following order? cancellation of B.ComI result 2002?.

7. I have considered the submissions of both the parties and perused the records. The petitioner in the examination hall itself has denied that unauthorised material did not belong to him and further in his written reply has denied the said material. It was incumbent on the examination committee to have considered the material and given a reasoned order. From the order of the examination committee as quoted above, it is clear that neither any facts have been noted nor any reason has been given. From the order of examination committee it does not appear that explanation of the petitioner has been considered by the examination committee. The Division Bench of this Court in 1999(1) LBESR 764 (II) : (1999) 1 UPLBEC 734; University of Allahabad and others v. Shailendra Kumar Srivastava, has laid down that regulation dealing with unfair mean require examination committee to pass reasoned order.

8. In view of the aforesaid Division Bench judgment, the order of the examination committee dated 17/11/2002 cannot be sustained and is hereby set aside. The examination committee may consider the matter afresh and take a reasoned decision. The examination committee will decide the matter expeditiously preferably within a period of two months from the date of production of a certified copy of this order:

9. The writ petition is disposed of with the aforesaid directions.