
(1983) 01 GAU CK 0011
In the Gauhati High Court
Case No : Civil Rule No. 1048 of 1982

Shri Ekram Hussain Barlaskar and Others	APPELLANT
Vs	
The State Madrassa Board and Others	RESPONDENT

Date of Decision : 06-01-1983

Acts Referred:

Citation : (1983) 1 GLR 306

Hon'ble Judges : T.C. Das, J;B.L. Hansaria, J

Bench : Division Bench

Advocate : T.S. Deka and N.S. Deka, for the Appellant; A. Bari, for the Respondent

Final Decision : Allowed

Judgement

B.L. Hansaria, J.—There is a centre for Madrassa examinations in rangiya arabic college. the title, final and Intermediate madrassa examinations for the year 1980-81 were held in the above centre from 19.4.82 to 3.5.82 and 8 candidates appeared for the title examination, 28 for the Final and 47 for the Intermediate. As such in all 83 students appeared in the aforesaid centre, it however, so happened that on 20th April 1982 one Md. Basaharat Ali, an Intermediate examinee, adopted unfair means. The supervising Officer who detected copying was subsequently threatened with physical harm. Undaunted, the officer continued his ask and on 22nd April, 1982 .found one Mr. Abdul Gofur again. an Intermediate examinee, indulging in copying. On that day somebody also threw ink and threatened the detector. It is stated that on these acts being brought to the notice of the Secretary of the State Madrassa Board (hereinafter, the Board), a visit was paid to the examination centre on 23.4.82 and another Supervisor was appointed. The Board discussed the matter in its meeting held on 18.6.82 and 19.6.82; and decided to cancel the centire examination. As to the two particular examinees who had taken to copying their expulsion order was approved. In pursuance to the resolution of the Board a formal order was issued on 7.9.82 cancelling the examination held at the above centre.

2. Three examination of the above Centre have approached this Court challenging the above cancellation. After Rule was issued, the Board notified its intention to hold fresh examination and the Petitioner Prayed to this Court for stay of the same. By an order passed on 6.11.82 this Court, however, did not feel inclined to grant stay as it felt that this would be harmful to the cause of the students. It is stated by Shri Deka that in the fresh examination only 5 candidates appeared of whom four regularly passed and one was put in the category of "compartmental pass.

3. Shri Deka has attacked the impugned order of cancellation on the ground that no case at all existed for such a drastic action which has seriously affected a large number of students who had sat in the regular examination but could not appear-in the fresh examination because of paucity of notice to them, It is also urged that for the sin committed by two individual examinees it would be highly improper, really illegal, to punish all who bad sat at the above Centre without hearing them at all in any manner. Shri Bari appearing for Respondent No. 3 has "duty supported the case of Petitioners and we find from the affidavit filed by this Respondent that apart from the unfair means adopted by aforesaid Basaharat Ali and Abdul Gofur, the examination been conducted smoothly and systematically.

4. We have considered the justice, of the case and we are satisfied that the cancellation of the entire examination was not warranted Cancellation of an examination is a serious matter as it vitally affects the students who after hard work appear in the examination; and if they are called Upon again to undertake the exercise the same would definitely hit then hard. Of course if recourse is taken to miss copying or copying by a majority of examinees the matter has to be viewed differently. Such was the position in the Bihar School Examination Board v. Subhas Chandra AIR 1979 SC 1269. In that case the facts clearly revealed large scale copying and adoption of unfair means at the centre whose examination was ultimately cancelled. On these facts the cancellation without affording any opportunity to the examinees was upheld. The present case is entirely different as there is nothing. before us to show that apart from the unfair means Adopted by the two individual candidates named above, if any thing was done by other examinees to require them to undergo another test. The only counter affidavits in the case is that Respondent No. 3, and already stated, he has clearly averred that unfair means had been adapted only by two individual candidates.

5. In view of the above, we cannot uphold the cancellation the entire examination. But as five candidates have subsequently appeared in the wake of refusal of the prayer for stay by this Court, we do not think if these candidates should also suffer. Accordingly, it is ordered that candidates who bad appeared in the fresh examination held in the month of November, 82 would at the benefit of the results as pronounced by the Board. As in the rest, the Board is directed to publish their results on the basis of the examination held at the aforesaid Centre between 19.4.82 to 3.5.82. The two candidates, namely Basaharat Ali and Abdul

Gofur who were expelled cannot however take advantage of this order. So far as the five candidates who had appeared subsequently, it is made clear that the results as already announced by the Board would in no way be affected by their performance in the earlier examination.

6. The petition is allowed as aforesaid. Before parting we state that if on publication of the result it is found that in the present case recourse was taken to copying in a large measure, it would be open to the authorities to take such action may be available to them Under the law.