
(1972) 05 AHC CK 0015
In the Allahabad High Court
Case No : Civil Misc. Writ No. 358 of 1972

Sunil Kumar Jain

APPELLANT

Vs

The Board of High School and Intermediate Education, U.P.,
Allahabad and Others

RESPONDENT

Date of Decision : 17-05-1972

Acts Referred:

Citation : AIR 1973 All 27

Hon'ble Judges : Hari Swarup, J

Bench : Single Bench

Advocate : K.C. Saxena, for the Appellant; Standing Counsel, for the Respondent

Final Decision : Allowed

Judgement

Hari Swarup, J.—The petitioner Sunil Kumar Jain had appeared at the Intermediate Examination of 1971 conducted by the Board of High School and Intermediate Education, U. P. (hereinafter called the Board). His result was withheld. Subsequently an enquiry committee was set up and the petitioner was served with a questionnaire. One of the questions was as to how he had solved the equation $53.5 \times 46/1000$ and got the result 2.461 without doing rough calculation. The petitioner's explanation was that he was in the habit of doing the rough calculation work on his palm or on the desk. This explanation was not accepted by the examinations committee and a report was made to the Board that the petitioner was guilty of using unfair means at the examination. On this report the Board cancelled the examination. Aggrieved by this order, the petitioner has filed the present Writ Petition.

2. In the petition it has been asserted that the rough calculation work has been done on the palm or on the desk. In the counter-affidavit it has been stated that this explanation was not accepted as it was against the instructions printed on the back of the admission card and on the answer book. Learned Standing Counsel has not been able to point out any instruction either on the admission card or on the answer book which prohibits the use of the palm or the desk for

rough calculation work. Hence the very foundation for the inference drawn by the committee is missing. Even if there were such instructions and the petitioner had violated them, he could be punished only for violation of the same if there were a provision for such punishment. "Using of unfair means" has a nexus with the employment of prohibited material and the taking help of an outside agency. If the candidate had, applying his own mind, made calculations on the desk or on the palm he; cannot be said to have used unfair means.

3. Even if the explanation of the petitioner is not accepted as correct, there was no material before the examinations committee to come to the conclusion that the candidate had used unfair means. The equation is a very simple one and required just two steps of multiplication to arrive at the result. It is not denied that the petitioner had obtained a First Class in the High School with distinction in Mathematics. For such a student this simple equation was not at all difficult to solve. The inference drawn by the examinations committee is thus unwarranted and is not based on any material on record. The Board had therefore no authority to withhold the result of the petitioner.

4. The Writ Petition is accordingly allowed. The order of the Board cancelling the petitioner's examination is quashed. Let a writ in the nature of Mandamus be issued to the Board directing it to declare the result of the petitioner's examination of 1971. The petitioner will be entitled to his costs.