
(2019) 08 SC CK 0146

In the Supreme Court Of India

Case No : Civil Appeal Nos. 6036, 6040 Of 2019

Union Public Service Commission & Anr.

APPELLANT

Vs

Mayank Rai Etc

RESPONDENT

Date of Decision : 02-08-2019

Acts Referred:

Citation : (2019) 08 SC CK 0146

Hon'ble Judges : Sanjay Kishan Kaul, J;K.M. Joseph, J

Bench : Division Bench

Advocate : Naresh Kaushik, Omung Raj Gupta, Rahul Sharma, Lalita Kaushik, Shaila Arora, Nalini Singh, Badri Prasad Singh

Final Decision : Disposed Of

Judgement

Leave granted.

We have heard learned counsel for the parties.

The impugned order is not sustainable for the reason that it is predicated on a reasoning that the materials discovered from the respondent(s) cannot be said to be used while undertaking the examination. That appears to be the reason for the High court to have quashed the decision of the appellants of debaring the respondent(s) for ten years and for the learned single Judge and the appellate court to confine the punishment to debarment of only that examination. We do not think that such a course of action is admissible in judicial proceedings where the candidates are found using unfair means.

The issue has received attention of this Court on more than one occasion in Board of High School and Intermediate Education, U.P. Vs. Bagleshwar Prasad & Ors. (1963) 3 SCR 767; Karnataka Public Service commission and Ors. Etc. Vs. B.M. Vijaya Shankar and Ors. (1992) 2 SCC 206; Central Board of Secondary Education Vs. Vineeta Mahajan and Ors. (1994) 1 SCC 6; Director (Studies) and Ors. Vs. Vaibhav Singh Chauhan (2008) 14 SCALE 554; Secretary, Tamil Nadu Public Service Commission Vs. A.B. Natarajan & Ors. Etc. (2014) 14 SCC 95.

An analysis of the aforesaid judgments shows that educational institutions and more so the recruitments as in the present case would require high probity to be maintained. In fact, learned counsel for the appellants is right in contending that the present examination would facilitate an entry into NDA where higher standards are expected in a job profile to defend the country. The position would be no different for the Civil Services Examination. The discovery of relevant material with such candidate, would suffice and it is not as if only on actual use being made of the material detected by the examiner that action can be taken. It would otherwise amount to misplaced sympathy. Only one aspect does find some sympathy with us i.e. the age profile of the candidates ranging from 16 ½ years to 19 years. They are the students of the Sainik School, Ghorakhal, District Nainital. Ofcourse being from such a disciplined school, infact a greater responsibility is expected from them. The punishment of debarment for ten years would also not only exclude them from that exam for which the permissible age is 16 to 19 years but would also prevent them from appearing in further examinations as the debarment is for a long period of ten years.

Insofar as conduct of examination by the UPSC is concerned, learned counsel for the appellants did submit that since the maximum age for appearing for examination in some of the examinations is 30 years, the respondent(s) would be able to take the examination after the debarment period of ten years. However, that position is not very helpful to the line of reasoning of the appellants, as it would amount to preventing the respondent(s) from taking the examination at a younger age of 16 to 19 years while permitting them at a more advanced age.

We are also informed that the debarment is of four categories:(a) Life debarment, (b) bar of 10 years (c) bar of 5 years and (d) debarment for that examination. In all probability, all of them, if not most of them, would have become overage for taking the examination in question as the next examination is only in the year 2020.

We, thus, consider it appropriate to direct the appellants to re-examine the quantum of punishment in the given facts of the case at their own discretion as to whether the punishment of debarment can be lowered from 10 years to not more than five years.

The decision on that behalf be taken within a period of two months from the date of receipt of the order.

The civil appeals are accordingly disposed of.