

(2005) 05 DEL CK 0085

In the Delhi High Court

Case No : LPA 477 of 2005

University of Delhi and Others

APPELLANT

Vs

Prachi Singh

RESPONDENT

Date of Decision : 06-05-2005

Acts Referred:

Citation : (2005) 05 DEL CK 0085

Hon'ble Judges : B.C. Patel, C.J.;Sanjay Kishan Kaul, J

Bench : Division Bench

Advocate : Anurag Mathur, for the Appellant; Nemo, for the Respondent

Final Decision : Allowed

Judgement

B.C. Patel, C.J.—The respondent was a third year student of B.Sc. (Hons.) Botany and was appearing for paper No. VII on 24.04.2004 when she was found copying from a slip. The respondent was searched and six slips/notes were recovered from the pocket of her trouser. The respondent candidate sought to explain the same in writing by stating that the slips were accidentally left in her pocket.

2. The respondent was served a memorandum to show-cause for using unfair means and the respondent submitted the reply. The appellant University vide memorandum dated 10.08.2004 communicated the decision of the Executive Council of Delhi University whereby she was disqualified from passing the examination and was further debarred from appearing in any examination of the Delhi University for a period of one year.

3. The respondent impugned the said decision in writ petition being WP (C) No. 18093/2004, which was allowed vide Order dated 08.12.2004 In terms of the said judgment, the respondent has been granted partial relief whereby instead of cancellation of the entire examination, the punishment has been reduced to cancellation of only paper No. VII.

4. The original records had been produced before this Court, which showed that the expert has opined that the note/slip No. 1 has been used by the respondent for answering the question paper on 24.04.2004. The other records also showed that the remaining slips, which were stated to be irrelevant, in fact, had been used for the previous answer scripts as per the opinion of the expert.

5. It is not necessary to go into details on this issue on account of the fact that even learned Single Judge did not find that there was no case made out against the respondent for being proceeded for use of unfair means. However, only the punishment was said to be reduced. It is this aspect of punishment which has to be considered in the present appeal.

6. Learned Single Judge while dealing with this issue has observed as under:-

"...It is incumbent for the University to ensure that the inquiry which is conducted assumes almost the same precision enjoined in criminal trials. An overwhelming preponderance of evidence should be available before a student's future is irretrievably and irreversibly affected."

7. We are unable to accept the aforesaid conclusion. There can be no parity with criminal proceedings and the proceedings relating to unfair means. Such strict proof cannot be required. The fact that the student was found with slips itself raised a presumption against her. It is possible that the slips may not have been used at all since the candidate did not get an opportunity, but mere possession of the slips itself would raise a presumption against the candidate. In the present case, a finding has been reached of use of the slips for the purpose of answering the question paper.

8. The Apex Court has on numerous occasions cautioned on the issue of interference in matters of examination and unfair means where the University on consideration of the matter finds a case for imposition of the punishment. It cannot be said that the punishment was disproportionate. It has to be noticed that the effect of the debarment is that the respondent can take the examination for the year 2005. The question, thus, is only whether the respondent should be taking the complete examination in the year 2005 or only for one paper. The University authorities in their wisdom considered it appropriate to cancel the examination which ought not to be interfered with.

9. The operation of the impugned order had been stayed by a reasoned order dated 14.03.2005. The result would be that the appellant would have been able to take the examination for the year 2005 as a whole and not limited to a particular paper.

10. In view of the aforesaid, we set aside the impugned order thereby quashing cancellation of the entire examination and the decision of imposition of punishment taken by the University is upheld.

11. Appeal is allowed accordingly.