
(2006) 07 AHC CK 0222
In the Allahabad High Court
Case No : C.M.W.P. No. 15157 of 2006

Vidya Shanker Dinkar

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 06-07-2006

Acts Referred:

Citation : (2006) 6 AWC 6447

Hon'ble Judges : Rakesh Tiwari, J

Bench : Single Bench

Advocate : Bholeswar Gautam, for the Appellant; J.K. Khanna and M.P.S. Niranjan, S.C., for the Respondent

Judgement

Rakesh Tiwari, J.—Heard counsel for the Petitioner and perused the record.

2. The Petitioner has come up in this writ petition for the following reliefs:

(1) issue a writ order or direction in the nature of certiorari quashing the impugned order dated 5.12.2005, passed by the Respondent No. 1 (Annexure-6 to the writ petition).

(2) issue a writ order or direction in the nature of mandamus directing the Respondent No. 2 to issue pass certificate of High School Examination, 1997 to the Petitioner without any favour only one other order.

(3) issue any other writ order or direction as this Hon''ble Court may deem fit and proper in the circumstances of the case.

(4) award cost of the petition to the Petitioner.

3. By order dated 9.5.2006, learned Counsel for the Petitioner was granted time for filing rejoinder-affidavit by 16.5.2006. On that date he again prayed a week time for filing rejoinder-affidavit. It was allowed. Now when the case is listed today after about 20 days, still no rejoinder-affidavit has been filed and the counsel for the Respondents is praying for further time, which is rejected.

4. By impugned order dated 5.12.2005, the result of the Petitioner has been withheld for mass copying and cancelled for submitting forged T.C. and mark sheet for admission in High School Examination, 1997.

5. It appears from the paragraph 3 of the counter-affidavit that the Petitioner had taken admission on the basis of forged T.C. and mark-sheet. An investigation was conducted and it was found that the result of the 1043 candidates was withheld for taking admission on the basis of forged T.C. and mark-sheet and result of 92 candidates withheld for mass copying who had appeared from Vijay Uchhtar Madhyamik Vidhyalaya, Chaukari Chaura, Ghazipur.

6. The Petitioner had taken admission in the aforesaid college on the basis of forged T.C. and mark-sheet and his result was also withheld for mass copying. After investigation the result of the Petitioner was cancelled for the aforesaid illegality. The averments in the counter-affidavit are unrebutted. Paragraph 3 of the counter-affidavit is as follows:

7. The Petitioner has come up in this writ petition praying for quashing of the impugned order dated 5.12.2005, passed by the Zonal Secretary Intermediate Education Board, U.P. Zonal Office, Varanasi/ Secretary Intermediate Board, U.P., Allahabad, by which his result has been withheld and examination cancelled for mass copying and taking admission on the basis of forged documents. The impugned order is as under:

8. The contention of the Petitioner is that before cancellation of his examination he has not been granted opportunity of hearing as such the impugned order dated 5.12.2005 is arbitrary and in violation of principles of natural justice.

9. It is further urged that by order dated 22.7.1998, the Respondents directed the Principal to supply the mark-sheet to the Petitioner and on the other hand states the mark sheet to be forged one. It is submitted that the Petitioner on basis of the High School pass mark-sheet issued by the Principal and continued his studies and has passed Intermediate and B.A. Examination as such the Respondents are estopped from taking a stand at this stage that the admission was taken by the Petitioner in Intermediate and B.A. was on basis of forged documents and that he is not High School pass. It appears from the averments made in paragraph No. 3 of the writ petition that Petitioner appeared in the High School Examination, 1997, with roll No. 1349185 from B.H.S. School, Chaukari Chaura, Ghazipur, as a regular student but his result was withheld as W.E./W.B. after enquiry conducted into the matter by the authorities. The letter dated 22.7.1998 said to have been issued by Respondent No. 2 directly the Principal to issue mark-sheet of the students where roll No. was given therein is appended as Annexure-1 to the writ petition. It is as under:

10. A perusal of the roll numbers given in the aforementioned letters shows that the roll number of the Petitioner is not mentioned therein. A further perusal of Annexure-2 to the writ petition shows that the mark-sheet of High School pass said to be issued to the Petitioner by the Principal bears roll No. 1348185, i.e., all

other particulars of the Petitioner are correct except the roll number which has been endorsed on his alleged pass mark-sheet and which incidentally is one mentioned in letter dated 22.7.1998 for declaration of the result.

11. Admittedly the roll number of the Petitioner is 1349185 and not 1348185. It is observed that the mark-sheet has been got issued fraudulently by the Petitioner of another student in which investigation has already been made by the Parishad.

12. In so far as question of violation of principles of natural justice is concerned suffice it to say that all investigation is matter of record, i.e., whether the roll No. 1348185 and the marks on the mark-sheet are of the Petitioner bearing roll No. 1349185 or not.

13. Since the result of the Petitioner has been cancelled for committing forgery, no mandamus can be issued directing to the Respondents to issue pass mark-sheet and certificate of High School Examination, 1997 to the Petitioner as prayed by him, however as the Petitioner has passed Intermediate and B.A. examination, it would be proper to direct the Respondent No. 2 to ensure whether roll No. 1348185 has been inadvertently/wrongly/by mistake written on the mark-sheet of the Petitioner and that marks shown therein have in fact been awarded to the Petitioner bearing roll No. 1349185 as claimed by him.

14. For the reasons stated above, petition is disposed of with a direction to Respondent Nos. 1 and 2 to verify the application form of both the aforesaid roll numbers. The signatures and photograph as well as marks in the register be tallied with the pass mark-sheet issued to him as claimed by him. If the Petitioner has passed, his result shall be declared and is not withheld for mass copying.