

(1978) 02 AHC CK 0018

In the Allahabad High Court

Case No : Civil Miscellaneous Writ No. 5181 of 1972

Vishnu Kumar Dwivedi

APPELLANT

Vs

Board of High School and Intermediate Education

RESPONDENT

Date of Decision : 03-02-1978

Acts Referred:

Citation : (1978) AWC 455

Hon'ble Judges : M.P. Mehrotra, J;Gopi Nath, J

Bench : Division Bench

Advocate : S.D. Pathak, for the Appellant;

Final Decision : Allowed

Judgement

M.P. Mehrotra, J.—By this writ petition the Petitioner has sought that the order dated 31st March, 1972, a true copy whereof is annexure 7 to the petition, should be quashed. He has further sought a direction that the Respondent be directed to declare the Petitioner's result of Intermediate Examination held in 1969.

2. The facts, in brief, are these. The Petitioner was a regular student of Public Intermediate College Bidhuna district Etawah and from this institution he appeared in the Intermediate Examination held in 1969, conducted by the Respondent Board, The examination centre from which the Petitioner appeared was the said intermediate college at Bidhuua district Etawah. The Petitioner's case is that he has been a good student throughout his academic career and he had done well in all the examination papers in the said examination. The Petitioner alleged that there was a group feeling and rivalry in the Institution as a result of which the Principal of the institution bore ill-will against the Petitioner's brother, Daya Ram. One Sri Prem Chand Gupta who had come to act as an invigilator in the said examination wanted to please his Principal who happened to be a relative of the Principal of the Public Intermediate College. In view of these intrigues and schemes, the Petitioner was involved in a false accusation by

the said Sri Prem Chand Gupta. The latter alleged that the Petitioner had sought his premission to go out of Examination hall to copy answers of the examination papers and on his refusal to accord such a permission, he has assaulted by the Petitioner and others after the examination was over and when he, i.e., the said Sri Prem Chand Gupta, was on his way back to his home. It seems that a FIR was also lodged by Sri Prem Chand Gupta in regard to this alleged Incident and the criminal court was seized of the matter. The result of the Petitioner was withheld and was not declared in respect of the examination of 1969. It seems that the Petitioner during the pendency of the criminal trial approached the Respondent. The latter wrote back to say that the criminal Court's judgment was being awaited. This is clear from annexure 1 and annexure 2 appended to the writ petition. Ultimately the Petitioner was acquitted by the Criminal Court on 9th January, 1971. This is clear from annexure 6 to the writ petition. Thereafter the District Inspector of Schools addressed a letter to the Respondent stating that in view of the criminal Court's judgment acquitting the Petitioner, his result should be announced. This is proved by annexure 3, which is a true copy of the said letter dated 20th July, 1971, However, the Respondent issued a charge sheet dated 1st November, 1971 to the Petitioner, a true copy whereof is annexure 4. The Petitioner submitted his explanation and denied the allegations made against him. He contended that in view of the criminal court's judgment acquitting him, he was not guilty of the charges made against him. The Respondent, however, by its communication dated 31st March, 1972 (a true copy whereof is annexure 7 to the petition) informed the Petitioner that he had been found guilty having assaulted the invigilator along with his associates and, therefore, his result of 1969 examination was being cancelled and so also the result of 1970 in case he appeared in the latter. The Petitioner thereafter filed the instant petition seeking the quashing of the said order dated 31st of March, 1972 and seeking a direction that the Respondent should be directed to announce the result of 1969.

3. We have heard learned Counsel for the parties in support and opposition of the petition. Two main questions which would have needed detailed considerations are:

4. Could the examination Committee of the Respondent take into consideration the conduct of an examinee after the examination was over? Learned standing Counsel's contention is that such a conduct if it has its origin and motivation and if something happened during the examination serving as the basis of such conduct then the same could entitle the Examination Committee to proceed against the examinee under the relevant regulation. Sri Pathak, on the other hand contended that the conduct of an examinee outside an examination hall and when the examination was over could never be the subject matter of a decision by a Departmental Committee like the Examination Committee of the Respondent. The second important aspect of the matter would be what is the effect of the criminal Court's verdict acquitting the Petitioner of the criminal charge against him and can an examination committee base its decision on a contrary finding in respect of such criminal charge.

5. However, in the instant case we do not propose to go into these aspects of the matter inasmuch as we have found that in the charge-sheet, which was issued to the Petitioner by the Respondent and a true copy whereof is annexure 7 to the petition, the Respondent itself had, treated the first charge as a separate one from the second charge. In the first charge it is stated that the Petitioner sought permission from the invigilator to go out but such permission was not given. The second charge is that when the examination was over and the invigilator was going back to his house he was beaten by the Petitioner and his friend Daleep Singh Rathore. It is not stated in the charge-sheet that the second charge was in any manner related to the first charge. Both the charges have been separately numbered and have been treated as independent charges. In the second charge it is not said that the beating was in consequence of the refusal of the invigilator to allow the Petitioner to go out. Therefore, in such a situation it is not open to the learned standing Counsel to seek to connect the two and to contend that the alleged beating was in consequence of some thing which happened during the course of the examination. Even if we would have found merits in the said contention we would not wish to express any opinion on the said aspect of the matter. In the instant case the very basis for such an argument is lacking. Such an argument would have been available to the learned Counsel in case the Respondent Board had come out with a charge-sheet charging the Petitioner with having beaten the invigilator in consequence of something having taken place in the examination hall but that allegation factually is not contained in the charge-sheet. In this view of the matter it is clear to us that the alleged incident of beating stands in isolation and not necessarily connected with something which may be said to have taken place in the examination hall and will not entitle the Respondent to take any action against the Petitioner. It is not disputed that if some such incident takes place which cannot be directly related with the conduct in the examination hall, then the Examination Committee of the Respondent will have no right to take action against the examinee.

6. The writ petition is accordingly allowed and the order dated 31st March, 1972, a true copy whereof is annexure 7 to the writ petition is hereby-quashed and the Respondent is directed to declare the Petitioner's result of Intermediate Examination held in 1969 forthwith and without any delay. In the circumstances, the parties shall bear their own costs.