

Km. Renu Tyagi and Others Vs. State of U.P. and Others

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Court : Allahabad

Decided On : Oct-16-1990

Reported in : AIR1991All126; (1991)1UPLBEC71

Judge : B.L. Yadav, J.

Acts : [Constitution of India](#) - Articles 14 and 226

Appeal No. : Civil Misc. Writ Petn. No. 20899 of 1990 with Civil Misc. Writ Petn. No. 22986 of 1990

Appellant : Km. Renu Tyagi and Others

Respondent : State of U.P. and Others

Advocate for Def. : Standing Counsel

Advocate for Pet/Ap. : Mr. C.L. Pandey, Adv.

Judgement :

ORDER

1. Km. Renu Tyagi, Roll No. 182691 along with 30 more students whose roll numbers have been given below their names in Writ Petition No. 20899 of 1990 (hereinafter referred to as the first petition) and Arun Kumar, Roll No. 1139851 along with 21 more students whose roll numbers have also been given below their names in Writ Petition No. 22986 of 1990 (hereinafter referred to as the

second petition), have filed these petitions under Art. 226 of the [Constitution of India](#) seeking the relief for a writ of Mandamus directing the respondents to declare the result of the petitioners of the High School Examination, 1989. It has further been prayed that the respondents may be directed to allow the petitioners to appear in the Intermediate Examination, 1990-91 as they are studying in the 2nd year of the Intermediate.

2. As the points involved for consideration in both these petitions are similar, hence it is convenient to dispose of these petitions by a common judgment.

3. In the first writ petition the petitioners appeared from K. B. Intermediate College, Machra, Meerut and the same institution was the centre for High School Examination, 1989. All the petitioners were regular students of the said college except petitioners Nos. 28 to 31 (in the first petition). The petitioners are studying in the 2nd year of Intermediate in K. B. Intermediate College, Machra, Meerut as regular students and they had to submit their examination forms by 31-8-90. The result of about 511 students of the centre K. B. Intermediate College, Machra, Meerut, was withheld by the respondents on the ground of mass copying on the report of examiner, particularly in subjects, Social Science 1st Paper, Mathematics 2-II and Science 2-1, whereas the results of other students including Roll No. 1139849 and 1139841 etc. were declared, while the charges against them were similar and mistakes in answer books are also almost the same.

4. Sri C. L. Pandey, learned counsel for the petitioners in both the petitions urged that the petitioners did not copy from the answer books of other students nor they used any unfair means. With considerable amount of clarity the learned counsel urged that the Founding Fathers of the Constitution were conscious in employing the proper language of a very wide sweep in Art. 14 of the Constitution to the effect that the State shall not deny to any person equality before the laws or equal protection of the laws. It was urged that an individual need not be discriminated against in the matters of exercise of his or her rights or in the matters of imposing liabilities on him or her. In substance action taken against an individual may be at the hands of an authority or court or the State, but it must not be arbitrary, discriminatory or irrational. In brief, it was urged that the answer books of students

with roll Nos. 1139849 and 1139841 etc. contained similar answers and mistakes, and they were declared successful. whereas the result of petitioners in both the petitions have been withheld. The petitioners were similarly situated to those other students who have been declared successful even though their results were also withheld along with the petitioners. The petitioners must receive fair treatment in connection with their withheld results along with other students referred to above. The orders of respondent Nos. 2 & 3 withholding and later on cancelling the result of petitioners of the High School Examination, 1989, is in violation of the principles of equality enshrined under Art. 14 of the Constitution and in such matters there must be positive proof and evidence led by the respondents and the petitioners also must have been given sufficient opportunity of hearing. Even in administrative or quasi-judicial actions also there must be fair play in action. The respondents committed error apparent on the face of record in withholding the result of petitioners and later on cancelling the same in both the writ petitions. The learned Standing Counsel, on the other hand, supported the impugned orders.

5. Several answer books have been obtained including the answer book of petitioner No. 4 in the first petition (Roll No. 1140158). The answer books of petitioners and those students whose results were declared, have been perused by me in the presence of both the learned counsel. The charge against petition No. 4 was in respect of question No. 8 particularly with the words 'Videshi Vastron Ki Holi Jala Di' in Social Science Ist paper. Similar is the expression in the last sentence of the answer book of Roll No. 1139849 in Social Science Ist Paper whose result has been declared and the expression is 'Bhartiyon Ne Naukri Chhor Di Aur Videshi Vastron Ki Holi Jala Di'. In question No. 5 also the expression was 'Vyavasthaon Ke Vikas Ke Sath Samudayik Bhawna Parne Lagi' as is clear from a perusal of the answer book of Roll No. 1139849. Question No. 8 also is answered in Roll No. 1139841 as 'Videshi Vastron Ki Holi Jala Di Gayee'. Similar is the expression of petitioner No. 4 Km. Babita. A perusal of the answer books of students whose results have been declared and of those whose results have been withheld and later on cancelled, it is obvious that the answers are not exactly the same with mathematical accuracy, but except a word or so it is the same. But this is possible in case in respect of Social Science subject the answers are written and the language used is Hindi. On a perusal of answer books of those students

whose results have been declared, I am of the view that similar expression in answers of question Nos. 5 & 8 in Social Science Ist Paper are in the answers of petitioners in both the petitions. The impugned orders of the respondents 2 & 3 in withholding the results of petitioners in both the petitions and later on cancelling the same are arbitrary, irrational and Discriminatory. Art. 14 requires that an administrative or quasi judicial authority must always be guided by some standards or norms so that it does not degenerate into arbitrariness and operate unequally on persons similarly situated. In the present case in withholding and cancelling the result of petitioners unguided and unfettered discretion has been conferred on respondents Nos. 2 & 3. The principles to be applied in such matters where future career of students of High School age are involved, the principles to be applied must be equal and they must be applied with almost mathematical accuracy with absolutely no discrimination. The discrimination and arbitrariness is anathema in our secular, socialist democratic Republic.

6. The petitioners being students of High School Examination, from a perusal of their answer books it is crystal clear that they did not copy the answers from other students. As the students read and they are taught from the same book and by the same teacher, consequently some similarity is bound to occur and some allowances have to be made for the same. Just on the basis of slight similarity it cannot be said that the students have copied. It is to be noticed that during the course of examination there was no report of the invigilator or from any other quarter that the petitioners have copied on a large scale so as to assign the nomenclature of 'mass copying'. This is not the case of the respondents that the invigilators supervising the examinees were assisting them in answering their questions. Consequently the charge of mass copying against the students in both the petitions appears to be based just on suspicion. There was no positive evidence whatsoever in support of charge of mass copying.

7. Reverting to submissions of Sri Pandey in respect of violation of principles of natural justice, the Audi-Alteram Partem rule in its fullest amplitude means that the person against whom the order to his prejudice is sought to be passed, must be afforded reasonable opportunity of hearing. How respondent Nos. 2 & 3 appear to have just inferred that the petitioners appeared to have copied in question Nos. 5

and 8 was not sufficient. The petitioners were not afforded any positive opportunity of hearing. Just on the basis of similarity of somewords or sentences in the answers of students the charge of mass copying could not be inferred.

8. Mass copying is a grave charge. An order to the prejudice of the petitioners jeopardising the future career was sought to be passed. In such asituation the petitioners ought to have been informed not only of the vague allegations but precise charges to every student must have been pointed out and they must have been indicated the evidence in support of those charges and an opportunity of submitting their explanations there to and also permitted to inspect the documents in support of the charges and there after they must have been afforded sufficient opportunity of hearing or explaining their case. But all this was not done. Applying priori and posteriori reasonings, the impugned orders could not be sustained.

9. In the result, both the petitions succeed and are allowed. The impugned order dated 25-2-90 (Annexure-2 to both the petitions) arequashed so far as they are in respect of petitioners. The respondent Nos. 2 & 3 are directed to declare the result of petitioners in both the writ petitions within a week from the date a certified copy of this order is furnished before them. The respondents are further directed to accept the examination forms of the petitioners for Intermediate Examination, 1990-91 and permit them to appear in the said examination after complying with the formalities. There shall, however, be no order as to costs.

10. A copy of this order may be given to learned counsel for the petitioners within three days on payment of usual charges.

11. Petitions allowed.