

Subhash Chand and Others Vs. State of U.P. and Others

Subhash Chand and Others Vs. State of U.P. and Others

SooperKanoon Citation : sooperkanoon.com/462419

Court : Allahabad

Decided On : Jan-03-2001

Reported in : 2001(1)AWC818; (2001)2UPLBEC1085

Judge : V.M. Sahai, J.

Appeal No. : C.M.W.P. No. 50723 of 2000

Appellant : Subhash Chand and Others

Respondent : State of U.P. and Others

Advocate for Def. : S.C.

Advocate for Pet/Ap. : Narendra Kumar Yadava, Adv.

Judgement :

V. M. Sahat, J.

1. The short question that arises for consideration in this petition is whether the answer books of the petitioners can be rechecked or revalued in absence of any statutory rule.

2. For appointment of teachers in Government Primary Schools, B.T.C. Entrance Examination was held for the session 1998-99 by the Principal, District Education and Training Centre, Saidpur, district Ghazipur. The petitioners being qualified and

eligible for appointment as teacher applied. They appeared in the examination but the result was not declared. This Court issued a direction 6.2.2000 for declaration of results and the respondents declared results of both sessions 1997-98 and 1998-99. In the merit list declared by the respondents, the petitioners were not selected.

3. This petition has been filed by the petitioners on the allegations that the petitioners should have been awarded 90% marks in the B.T.C. entrance examination 1998-99, but the respondents intentionally disqualified the petitioners though they were sure that they would get sufficient marks and qualify in the entrance examination. It is prayed that the answer books of the petitioners be summoned and be rechecked and revalued with model answer books and thereafter declare the result of the petitioners of B.T.C. entrance examination 1998-99.

4. Shri Narendra Kumar Yadav. the learned counsel for the petitioner has vehemently urged that the petitioners are good students and according to their self-assessment, they should have secured about 90% marks in the B.T.C. entrance examination session 1998-99, but the respondents intentionally declared the petitioners to be unsuccessful. He urged that the answer books of the petitioners be summoned and rechecked and revalued with the model answer books and the result of the petitioners be declared. The learned counsel further urged that this Court has summoned the answer books of the petitioners on 23.11.2000. Since the respondents have not produced answer books, therefore, this petition cannot be decided till the respondents comply with the order of this Court.

5. On the other hand, Shri S. N. Srivastava the learned standing counsel appearing for respondents has urged that there is no provision under which rechecking or revaluation of the answer book can be done by the respondents and in absence of any statutory provision, the petitioners are not entitled for any relief. He further urged that self-assessment made by the petitioners is no ground for inferring that the marks awarded by the examiners to the petitioners in the entrance examination were incorrect. The learned counsel further urged that even

though the answer books have not been produced by the respondents nor any counter-affidavit has been filed, this Court may accept the allegations made in the writ petition and decide it on merits.

6. The question is whether in absence of any statutory rule, this Court can direct rechecking or revaluation of the answer books of the petitioners. The petitioners appeared in B.T.C. entrance examination 1998-99 and were declared unsuccessful. Answer books could be revalued or rechecked if the rules provide for it. In absence of any statutory rule, the answer books cannot be rechecked or revalued by the respondents nor such a relief can be granted by this Court. The petitioners may be good students but that cannot entitle them to make self-assessment and claim that they should have been awarded 90% marks. If self-assessment is adopted as the basis of evaluating answer books in an examination and this Court is asked to interfere on this ground, then the entire system of competitive examination shall come to a standstill and this Court shall stand converted into an evaluating body of answer books.

7. The Apex Court in 'Bhushan Uttam Khare v. Dean, B. J. Medical College, 1992 (2) SCC 200 : AIR 1992SC 917. has held as under :

'in deciding the matters relating to orders passed by authorities of educational institutions, the Court should normally be very slow to pass orders in its jurisdiction because matter falling within the jurisdiction of educational authorities should normally be left to their decision and the Court should interfere with them only when it thinks it must do so in the interest of justice.'

8. The Apex Court in 'Arun Desai v. High Court of Bombay through Chief Justice. 1984 (Supp) SCC 372, has held as under :

'Students who fail in their examinations are generally prone to make allegations that the assessment of their answer scripts is defective, arbitrary or partial to explain their failure and to console themselves with the thought that not they but the examiners are to be blamed for that.'

9. The learned counsel for the petitioners could not point out any statutory rule which permits rechecking or revaluation of answer books. Therefore, in absence of any statutory rule permitting rechecking or revaluation of the answer books in B.T.C. entrance examination the petitioners have no right to claim rechecking or revaluation of their answer books.

10. The other argument of the learned counsel for the petitioners is that the respondents intentionally declared the petitioners unsuccessful. No material has been filed along with the petition to establish that the examiners or the respondents were actuated by any malice or bias or any other consideration for which the petitioners were given lesser marks than what they actually deserved. Self-assessment has been made by the petitioners without any basis. This Court in writ jurisdiction cannot direct for rechecking or revaluation of the answer books of the petitioners.

11. The Apex Court in Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupesh Kumarasheth, AIR 1984 SC 1543, has held as below :

'a process of evaluation of answer papers or of subsequent verification of marks does not attract the principles of natural justice since no decision making process which brings about adverse evil consequences to the examinee is involved. The principle of natural justice cannot be extended beyond reasonable and rational limits and cannot be carried to such absurd lengths as to make it necessary that candidates who have taken a public examination should be allowed to participate in the process of evaluation of their performances or to verify the correctness of the evaluation made by the examiners by themselves conducting an inspection of the answer books and determining whether there has been a proper and fair valuation of the answers by the examiners.

It was further held in this decision that it is in the public interest that the results of public examination when published should have some finality attached to them. If inspection and verification in the presence of the candidates and revaluation are to be allowed as of right. It may lead to gross and indefinite uncertainty, particularly in regard to the relative ranking etc. of the candidates, besides leading to utter

confusion on account of the enormity of the labour and time involved in the process.

It was further held in the instant case that the Court should be reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day-to-day working of educational institutions and the departments controlling them.'

12. The petitioners have neither given facts nor they have filed any material to show that the respondents intentionally declared them unsuccessful. The vague allegations made in this petition cannot be accepted.

13. The next argument of learned counsel for the petitioners is that once this Court summoned the answer books, the petition could not be decided unless the respondents complied with the order. The argument of the learned counsel for the petitioners is devoid of any merit. Interim order is not binding and the Court can decide the petition finally on merits. The learned standing counsel has very fairly urged that the order of this Court has not been complied nor any counter-affidavit has been filed, therefore, the Court may accept the allegations made in the writ petition to be correct and decide the petition on merits. I have examined the records of the petition but I am not able to persuade myself to accept the claim of the petitioners. The petitioners cannot succeed on the basis of self-assessment made by them nor this Court can issue a direction for rechecking or revaluation of the answer books of the petitioners in absence of any statutory rule.

14. For the aforesaid reasons. I do not find any merit in this petition.

15. The writ petition fails and is accordingly dismissed.