

Pawan Kumar and Others Vs. Board of U.P. High School and Intermediate

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Court : Allahabad

Decided On : May-24-1999

Reported in : 1999(3)AWC2472

Judge : A.K. Yog, J.

Appeal No. : Civil Misc. Writ Petition No. 17804 of 1999

Appellant : Pawan Kumar and Others

Respondent : Board of U.P. High School and Intermediate

Advocate for Def. : Atul Mehra, Adv.

Advocate for Pet/Ap. : Madhav Jain, Adv.

Judgement :

A.K. Yog, J.

1. Four students, who appeared in the Intermediate Examination, 1997, held by the U. P. Board, filed this petition seeking a writ in the nature of mandamus to command the U. P. Board of High School and Intermediate Regional Office, Meerut (hereinafter called 'the Board') to declare the result of the petitioners as successful exonerating them of charge of using unfair means and mass-copying.

2. At the outset Court would like to record its anguish over the tenor and the expression used in the petition by these student-petitioners, in Paragraph Nos. 13 and 14 of the petitioner, serious allegations leveling charges against the Board officials have been made, which, if found to be correct, will expose the Board officials to criminal charges. Wild allegations against the Board officials have been made without giving requisite particulars and details so as to inspire confidence necessarily required to initiate action. Such a practice of making allegation lightly and only to lend colour to prejudice the Court 'is to be deprecated. The conduct of the petitioners in this respect is reprehensive. Court cannot, at the same time, close its eyes to the fact that the pattern and expression chosen for submitting pleading is in control of an advocate and in this view of the matter, coupled with the circumstance that it concerns future career of four young students, the Court refrains from taking any stern action but desires to issue a caution for future.

3. On 10th May. 1999 an order was passed directing the learned standing counsel Sri Atul Mehra, representing Respondent Board, to produce the Answer Books in question and particularly those, which were said to be containing identical answers and were the foundation of coming to the conclusion of having adopted unfair means leading to the cancellation of the examination of the petitioners. These answer books are thus available in Court.

4. List has been revised. No one is 'present on behalf of the petitioners.

5. Brief facts of the case are that the petitioners appeared as regular students, in Intermediate Examination. 1997 conducted by the Board (sole respondent). Roll number of the petitioners are as given below :

Serial No Name of Petitioner Roll Number

1 Pawan Kumar 904490

2 Rajesh Kumar 904495

3 Suresh Kumar 904509

4 Lokendra Pal Singh 904470

6. It appears, white Answer Books were being examined. Examiner suspected that certain students had resorted to unfair means and thus exposed themselves for action and consequently report was sent to the concerned authority. The Board through the Principal/Centre Superintendent gave a notice and therein roll numbers of 31 students were mentioned who were charged of suspicion of using unfair means (Code WB). Petitioners have alleged that they were making repeated representations, but all went in vain. Petitioners have, however, not given details of the representations. This part of pleading is highly vague as neither copies of representations have been filed, nor date has been disclosed. It is also not mentioned as to how said representations were submitted/filed and before whom such alleged representations have been submitted.

7. In the present case the petitioners have, however, filed letter dated 24.9.1998 (Annexure-6 to the petition) issued by the Regional Secretary of the Board addressed to the Principal of the College informing that one student, namely, Sunil Kumar is being exonerated of the charge and his result be declared. Petitioners plea that there is nothing different in their case vis-a-vis the case of said Sunil Kumar and claiming parity, they contend that they should also be exonerated of the charge and their result be declared. It is possible that the petitioners might not have pursued the matter whole heartedly earlier. But after Sunil Kumar, aforementioned, has been exonerated and declared successful, it must have given them hope of being successful and thereafter these students appear to have become active and started pursuing their rights. Keeping in view, that Board itself took time to declare the result of other similarly situated students as late as in September, 1998, the Court decides to consider the matter on merit.

8. Petitioners were charged that their answers with respect to Question Nos. 4, 5, 6 and 7 are identical to the one given by other candidates bearing roll numbers as mentioned below :

1. Petitioner No. 1 : 904507, 904509 and 904512

2. Petitioner No. 2 : 904496, 904491 and 904507

3. Petitioner No. 3 : 904508, 904507 and 904516

4. Petitioner No. 4 : 904409, 904476, 901469 and 904479

9. The charge memorandum which finds place in the original Answer Books, has been perused and it is found that charge was that there are common mistakes, and use of language is the basis on which Examiner had suspicion of the candidates in question using unfair means.

10. I have perused and compared, with the help of learned standing counsel, original Answer Books of the petitioners' vis-a-vis those of other students.

11. I do not find an striking similarity as such in majority of the answers in respect of Question No. 7. Question No. 7 required narration of 'Unseen Passage' and the other questions required the candidate to write a letter to the District Magistrate and/or to a brother. Students, who have written letter to the District Magistrate, might have similarity as far as language and expression is concerned, but the spelling mistakes are different. One cannot loose sight that such similarity in answers are bound to occur if the source from which the students have prepared is the same. If several students prepared and crammed from a model letter given in a particular book, their expression is bound to be similar. For example. similarity in the answers of mathematical questions, cannot be a ground to reach a conclusion of students adopting 'Unfair Means'. The view taken by me is supported by decisions in AIR 1998 SC 5 : 1998 (1) AWC 158 (SC)

12. Court finds no striking similarity so as to form a firm opinion of using unfair means.

13. There appears to be no material difference in the case of Sunil Kumar, bearing Roll No. 904508 vis-a-vis the present petitioners.

14. In view of the above, a writ of mandamus is issued against respondent to declare the result of the petitioners without attaching stigma in case their result is not withheld on any other ground. Respondent-Board shall declare result and issue 'clear and clean' marks sheet and certificate within six weeks of furnishing a certified copy of this judgment.

15. Writ petition is allowed. No order as to costs.

