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**Neeraj Kumar and Another Vs. Board of High School and Intermediate Education, U.P., Allahabad and Others**

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**SooperKanoon Citation : [sooperkanoon.com/483868](http://sooperkanoon.com/483868)**

**Court : Allahabad**

**Decided On : Sep-11-2000**

**Reported in : 2000(4)AWC3067; (2001)1UPLBEC82**

**Judge : A.K. Yog, J.**

**Acts : Uttar Pradesh Intermediate Education Act, 1921; Uttar Pradesh Intermediate Education Regulation, 1921 - Regulations 2(1) and 19**

**Appeal No. : S.M.W.P. No. 35499 of 2000**

**Appellant : Neeraj Kumar and Another**

**Respondent : Board of High School and Intermediate Education, U.P., Allahabad and Others**

**Advocate for Def. : S.C.**

**Advocate for Pet/Ap. : Raj Kishore Yadav, Adv.**

**Judgement :**

**A.K. Yog, J.**

1. The case involved question of general importance as to what shall be the result if a student fills up two forms from different places to appear in one and same examination in the same year conducted by the U. P. High School and Intermediate Board, and what shall be the consequence if the two forms contain same and correct information and, on the other hand, in a case where student has given incorrect contradictory information.

2. In spite of direction being given by this Court vide its order dated August 16, 2000, no counter-affidavit has been filed. It is evident that the Board of High School and Intermediate Education, U. P., Allahabad Board (called the 'Board') is not serious to contest the petition and has shown unexplained apathy to participate in the proceeding and assist Court in deciding relevant issues raised at the Bar for the purposes of final adjudication of the petition. The Court has two options today. One to Issue notice for contempt against concerned officers/ authorities of the Respondent Board or to follow the Judgment of the learned single Judge in the case of Priyanka Singh v. Madhyamik Shiksha Parishad and others rendered in Civil Misc. Writ Petition No. 14042 of 2000, decided vide judgment and order dated July 24, 2000 in a mechanical manner under excuse of parity and judicial discipline.

3. Since the case relates to a student and by passage of time, petitioners are likely to suffer irreparably while the examining body, on the other hand shown Its indifference, I adopt the course to follow the judgment dated July 24, 2000. Priyanka Singh (supra) particularly when a statement has been made at the Bar on behalf of the petitioners that this petition is identically situated as the bunch petitions decided vide judgment and order dated July 24, 2000, in the case of Priyanka Singh (supra) and the learned standing counsel concedes that he is not in a position to dispute the same.

4. The learned standing counsel has, however, placed a booklet, issued by Secretary of the Board containing amended regulations relating to Niyam Sangrah-83-88 and its Chapter VII of the Regulations deals with examinations conducted by the Board. By virtue of the amendment incorporated under Government Order dated November 9, 1990 (notified by the Board on September

20, 1990), a new Regulations 19-Ka has been added after original Regulation 19. The said regulation merely provides that a candidate shall not, in any situation, fill up simultaneously forms both as regular as well as private candidate in the same examination and he shall not be granted permission on that basis. Reference has been made to the amended Regulation 2 (1) of Chapter VI 6. Kha of the Regulations wherein certain punishments have been provided for violating aforesaid condition.

5. Counter-affidavit was directed to be filed by the respondents to inform the Court regarding various other situations, namely, a candidate having filled up a form twice under some exigency or unavoidable circumstances like parents transfer and only as a private or regular student on each occasion correctly, as the case was in fact. Such a situation is not contemplated under said Regulation. The Regulations does not separately indicate punishment to be awarded in case of mere filling up application form vis-a-vis a case where candidate had thereafter managed to sneak in and to appear in the examination. Whether in a given case, both the examinations and if not, which examination as regular and/or as private candidate shall be cancelled? Consequently, Court has no option but to direct the Board to declare the result of the petitioner. This petition deserves to be allowed on the same terms and conditions as contained in the judgment and order dated July 24, 2000 in Civil Misc. Writ Petition No. 14042 of 2000. Priyanka Singh v. Madhyamik Shiksha Parishad and others).

6. Writ petition allowed as indicated above with costs quantify at Rs. 5,000 (Rupees Five Thousand only) to be paid to the petitioners by an account payees Dank Draft within one month of the receipt of a certified copy this judgment.

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