

**Shiv Upendra Kumar and ors. Vs. State of U.P. and ors.**

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**Court :** Allahabad

**Decided On :** Nov-14-2002

**Reported in :** 2003(1)AWC331

**Judge :** Sunil Ambwani, J.

**Appeal No. :** C.M.W.P. Nos. 22475, 22511 and 22597 of 2001 and 14405 of 2002

**Appellant :** Shiv Upendra Kumar and ors.

**Respondent :** State of U.P. and ors.

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

**Advocate for Pet/Ap. :** I.N. Singh, ;V.B. Singh, ;Ajay Yadav and ;Vijay Sinha, Advs.

**Disposition :** Petition dismissed

**Judgement :**

**Sunil Ambwani, J.**

1. Heard Sri V.B. Singh, senior advocate, assisted by Sri Vijay Sinha for petitioners and learned standing counsel for respondents.

2. In pursuance of an advertisement dated 15.6.1999 for selections to the post of Sub-Inspectors/Platoon Commanders in U. P. Police and P.A.C. respectively,

petitioners applied for the post of Sub-Inspector. They succeeded in preliminary examination held on 6.2.2000, and also in physical test. In the main written examination held on 29.4.2001, they were not found successful and their roll numbers were not reflected for being called for interview in the final result published on 2.6.2001. Aggrieved, they have filed these writ petitions.

3. The substance of challenge in the writ petitions is that petitioners have excellent academic record and that they had done fairly well in the main written examination. They have alleged that the answer books have not been properly evaluated. The examiner concerned did not have knowledge in particular subject and that respondents have also manipulated the examinations more particularly the evaluation of answer books for illegal considerations. The secrecy of result was not maintained and in case the assessment was made fairly, the petitioners would have succeeded in the main written examination. Counsel for petitioners has prayed for summoning the answer books for evaluation by Court. He has also challenged the process adopted for selections.

4. Self-assessment cannot be a ground to reopen or re-examine the answer books in selections to public services. There is no basis or foundation for the allegations of manipulations in the writ petitions. The petitioners have not disclosed the source of their knowledge with regard to supposition of the irregularities in valuation of their answer books. They appeared in the examination and succeeded in preliminary test and physical examination. It is only when they were eliminated after main written examination, that they have challenged the process. The fixation of minimum qualifying marks for main written examination was known to them and that having appeared in the examination, they cannot be permitted to challenge the same. In *Union of India and Anr. v. Chandra Shekharan and Ors.*, (1998) 3 SCC 694 ; *Om Prakash Shukla v. Akhilesh Kumar Shukla*, 1986 Supp SCC 284 : *Chandra Prakash Ttwari v. Shakuntala Shukla and Ors.*, 2002 (4) AWC 2657 (SC) ; (2002) 6 SCC 127, it was held that when a candidate appears in the examination without protest, and was subsequently found not to be successful, cannot be allowed to question the process and such pleas should not be entertained, at his instance. In the matters of competitive examination of public services, a very heavy burden lies upon the candidate to assail the fairness in the process, which

has not been discharged. The fact that petitioners have good academic record by itself is no. ground to call for their answer books for re-evaluation. No other ground was pressed.

5. In similar circumstances and on same allegations, Writ Petition No.2825 (S/S) of 2001, Kamlesh Yadav v. State of U. P. and Ors., has been dismissed by Lucknow Bench of this Court on 11.7.2001.

6. For the reasons, stated above, all the writ petitions lack merit and are dismissed.

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