

Durga Prasad Vs. Examination Controller, University of Allahabad

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Court : Allahabad

Decided On : Aug-16-1999

Reported in : (1999)3UPLBEC1996

Judge : A.K. Yog, J.

Appeal No. : Civil Misc. Writ Petition No. 14960 of 1999

Appellant : Durga Prasad

Respondent : Examination Controller, University of Allahabad

Advocate for Def. : S.P. Singh, Adv. ;holding brief of P.S. Baghel, Adv.

Advocate for Pet/Ap. : V.K. Nagaich, Adv.

Disposition : Petition allowed

Judgement :

A.K. Yog, J.

1. Petitioner took admission in B.A. Part I and pursued his said course in academic session 1995-96. Having passed his B.A. Part II he got admission in B.A. Part III. He appeared in the examination with Roll No. 15070 conducted by the University of Allahabad through Examination Controller (Respondent). As a consequence of Petitioner being declared successful in B.A. Part II examination, he was allowed by

the university to take admission in B.A. Part III course and he accordingly joined the said course. At the close of the academic session 1997-98 he was allowed to appear in examination of B.A. Part III along with all other similarly situated students without any rider. It is stated in Paragraph 5 of the Writ Petition that Petitioner appeared in B.A. Part III examination without any objection on the part of the university.

2. Petitioner asserts that result of B.A. Part III examinations of the petitioner has not been declared. The Petitioner however, received a letter dated 16th February, 1999 from respondent informing that his B.A. Part II examination has been cancelled and that his mark-sheet of B.A. Part II has been cancelled on the ground that he was amongst the students who were caught using unfair means while appearing in B.A. Part II examination of 1997 Petitioner was directed to return the mark-sheet of B.A. Part II vide letter dated 16th February, 1999 (Annexure-3 to the Writ Petition). Admittedly, said letter dated 16th February, 1999 was issued on the ground that petitioner was guilty of using unfair means.

3. Heard Sri S.P. Singh Advocate holding brief of Sri P.S. Baghel, Advocate learned Counsel for the respondent.

4. It is too late in the day for the university or its authority to issue the impugned letter requiring Petitioner to surrender his B.A. Part II mark-sheet. Assuming Petitioner was guilty of using unfair means, there is nothing to indicate that there was material to show that Petitioner is himself responsible for not getting enquiry initiated, or impugned order is issued delayed because of some collusion or pressure exerted by the Petitioner on the University officials.

5. The Petitioner has certainly spent time and money in pursuing B.A. Part III Examination without objection. He was not even made aware by the University that his admission to B.A. Part III Course was subject to some enquiry. The petitioner pursued his B.A. Part III Course, without any tremor or apprehension from any corner that he will not be allowed to appear in B.A. Final Examination, he had legitimate expectation of his result being declared after he appeared in the B.A. Part III Examination.

6. The University is now estopped under law from cancelling B.A. Part II mark-sheet of the petitioner because of inaction on his part. University cannot ask the petitioner to surrender mark-sheet of B.A. Part II.

7. The Writ Petition is allowed. Respondent (Examination Controller, University of Allahabad) is further directed to declare result of the Petitioner pertaining to B.A. Part III Examination, 1997-98 within two weeks of the filing of a certified copy of this judgment.

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