

Vinod Kumar Pathak Vs. State of M.P. and Others

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Court : Madhya Pradesh

Decided On : Feb-13-2001

Reported in : 2001(3)MPHT247; 2001(3)MPLJ348

Judge : Mr. Dipak Misra, J.

Acts : Board of Secondary Education Madhya Pradesh Regulations, 1965 - Regulation 117; [Constitution of India](#) - Articles 226 and 227

Appeal No. : Writ Petition No. 7010/2001

Appellant : Vinod Kumar Pathak

Respondent : State of M.P. and Others

Advocate for Def. : Smt. J. Choudhary, Adv.

Advocate for Pet/Ap. : Shri R.S. Chaturvedi, Adv.

Disposition : Writ petition dismissed

Judgement :

ORDER

Dipak Misra, J.

1. Invoking the extra-ordinary jurisdiction of this Court under Articles 226 and 227 of the [Constitution of India](#) the petitioner has prayed for issue of a writ of

mandamus commanding the respondents to declare the results of the petitioner and further to declare him to have passed in the subject of English.

2. The facts as have been unfolded are that the petitioner was prosecuting his studies in Higher Secondary School, Hinauti, Distt. Rewa. He filled up his form for appearing in the Higher Secondary School Certificate Examination and admit card was issued for the said purpose. He appeared from the examination centre, namely, non-Government Degree College, Lalgaon, Centre No. 1. As averred in the writ petition the petitioner completed his examination and was hopeful for being successful. It is set forth in the petition that the petitioner's result was published in the newspaper as well as in the booklet and it was reflected therein that he had passed the examination in the first division. It is further put forth that he obtained the mark-sheet from the internet. As he intended to obtain admission he requested the Principal of the school for recommendation of his case for taking admission in the college. The Principal of the School vide Annexure P-3 recommended his case for admission indicating therein that he had not yet received the marksheet but the same has been reflected in the internet. On the basis of the aforesaid recommendation the petitioner took provisional admission in the Science College, Rewa. While the matter stood thus, on 9-9-2000 he received his mark-sheet which reflected that he had been awarded zero in the English Paper due to use of unfair means in the examination. Being dissatisfied he submitted a representation on 20-9-2000 to the Secretary of Board of Secondary Education to declare his correct result on the ground that he had not taken recourse to any unfair means during the examination period. The petitioner has also brought on record Annexure P-6 a certificate of the Centre Incharge of Non-Government Degree College No. 1, Lalgaon, Distt. Rewa which indicates that the petitioner was not involved in the mass-copying. With these averments the petitioner has prayed for the relief as has been indicated above.

3. A return has been filed by the respondent/Board contending, inter alia, that the Board has constituted a number of committees which deal with all matters connected with declaration of the results. It is pleaded in the return that a report was received by the Board on 22-5-2000 from the valuation centre at Hoshangabad. In the said report it was mentioned that in 17 centres of the District

of Rewa there were number of answer books where there were double handwriting, use of capital letters and the answer-sheets indicated that mass-copying has taken place in all these centres. Based on the confidential report from the evaluation centre the answer books of these centres were sent for scrutiny to the Result Committee even though results had already been published in the booklet. However, as the mark-sheet had not been sent they were withheld till the scrutiny in respect of the answer books was completed. On a scrutiny of the answer books, it was found in relation to centre No. 32095 from where the petitioner appeared, 24 students were engaged in mass-copying in the subject of General English. Being satisfied that there was mass-copying a decision was taken to award zero marks and the amended results were published.

4. In course of hearing of this writ petition Mr. R.S. Chaturvedi, learned counsel for the petitioner has made a colossal complaint that the Board had reflected the mark-sheet in the internet and on that basis the petitioner was extremely enthralled and has taken provisional admission in the college. The learned counsel has vehemently urged that once the marksheet was shown in the internet it was not open to the Board to amend the results and declare the petitioner to have failed in the examination.

5. Keeping in view of the aforesaid submission this Court by order dated 25-1-2001 directed the Chairman of the Result Committee to remain personally present on the date of hearing, Accordingly when the matter was taken up on 9-2-2001 the Chairman of the Result Committee Mrs. Tajwar Rehman Sahani remained present.

6. A query being made that on what basis the mark-sheet was reflected in the internet, the Chairman of the Result Committee stated that with the advancement of modern technology the Board wanted to reach the students as quickly as possible so that the students would be in a position to note their results and be aware of the marks awarded in their favour. It was also stated by her that publication of results in the internet is a boon to the majority of students and if due to certain peculiar circumstances a little change occurs no fault should be found with such reflection and further an individual agony cannot override the collective

utility.

7. Mrs. J. Choudhary, learned counsel appearing for the Board has submitted that the Board had the authority under Regulation No. 117 of the Regulations of the Board of Secondary Education Madhya Pradesh, Bhopal to rectify the results. The said regulation reads as under:

'117. Except when otherwise provided in these Regulations, the names of candidates who have passed an examination of the Board shall be placed in the division specified in the prospectus, and further the names of the students from the recognised Institutionsshall be grouped according to the Institution in which they have studied:

Provided that in any case where it is found that the result of Examination has been affected by error, malpractice, fraud, improper conduct, or other matter of whatsoever, nature, the Results Committee shall have power to amend such result in such manner as shall be in accord with the true position and to make such declaration as it may consider in that behalf, provided that except as provided in a proviso below no result shall be amended after the expiry of six months from the publication of the result:

Provided further that in any case where the result of the examination has been ascertained and published and it is found that such result has been affected by any malpractice, fraud or any other improper conduct whereby an examinee has, in the opinion of the Result Committee, been a party to or privy to, or convinced at such malpractice, fraud or improper conduct, the Results Committee shall have power, at any time, notwithstanding the issue of the certificate or the award of the prize of scholarship, to amend the result of such examinee and to make such declaration as it may consider necessary in that behalf.'

On a reading of the aforesaid regulation in proper perspective, it is quite clear that the Board has authority to rectify the results. The stand of the petitioner that once his result was published in the booklet and mark-sheet was reflected in the internet, the Board is estopped to rectify the result does not merit acceptance. I am of the considered opinion, there is no impediment on the part of the Board to

rectify the results.

8. The second limb of argument of Mr. Chaturvedi is that the petitioner was not engaged in the mass-copying. The Board has taken the stand that after the confidential report was received from the evaluation centre the Results Committee on proper scrutiny had found that there was mass-copying. It is worthwhile to mention here that Mrs. J. Choudhary, learned counsel appearing for the Board produced answer papers to prove the bona fide of the Board that there was mass-copying. Learned counsel specifically referred to the question where a candidate was expected to write an essay on 'Wonders of Science'. Bestowing my anxious consideration, I have carefully perused the answer papers to satisfy myself whether as an actual fact there was mass-copying. On a scrutiny of them there remains no iota of doubt that the answers are peculiarly similar and it does not require Solomon's wisdom to arrive at the conclusion that candidates were involved in mass-copying. At this stage, I may refer to a decision rendered in the case of Ramgopal Bhadoriya and others v. The Secretary, Board of Secondary Education and others (W.P. No. 3818/99, decided on 24-2-2000) wherein this Court while holding that principles of natural justice are not applicable to case of mass-copying observed as under:

'18. Before parting with the case, I may observe that students are the future of the Nation and they are the real backbone. If they get themselves involved in adopting summary method to achieve success the said success shall not only be shortlived but would not be beneficial for them in the long run. An examination should not be perceived as a battle and the professors and invigilators as enemies. The students, while appearing in an examination, must create an atmosphere where the professors and invigilators may realise that their presence in the examination hall is a formality, a redundant one. But presently the situation is just the reverse. The students take recourse to various tactics to instill a sense of fear in those who invigilate and supervise as a result of which sometimes the police force is requisitioned. Every student must remember by indulging in copying he does not acquire knowledge but becomes a liability to himself. A student who does not perform his duties of a student cannot claim the rights and cannot claim the privileges of a new generation. Every student must remember that he has to follow

the rule of law. He must recall that Greek Philosopher Socrates refused to run away from the jail in spite of request by his disciples as he felt that he would amount to violation of law. A student should not forget that his primary duty is to study and appear in an examination in the most fair and scrupulous manner. Threatening the invigilators or Superintendent is not an act of heroism but is one of cowardice. A student must keep in his mind that a hero is a 'living light fountain' and has 'heroic nobleness' and a 'natural luminary shining by the gift of heaven' and involvement in copying and only destroys his basic native heroic nobility but sends him to the depths of abysmal hell. In my view no student would like to exhibit cowardice. He must sanguinely believe in the concept of upheaval as preached by Swami Vivekanand. Let conscience prevail and let the truth reign. Let copying be buried in its coffin failing which the Board shall be compelled to seek appropriate assistance from the State Government to control the situation at the examination centres. It is hoped that examinations shall be conducted in peaceful, fair, scrupulous and dignified manner.

I have quoted the said paragraph in extenso with the hope and trust that the sacrosanctity of an examination is maintained and authorities from all quarters and the students make a noble endeavour to ostracize mass-copying.

9. Resultantly, the writ petition being devoid of merit stand dismissed without any order as to costs.

10. Writ Petition dismissed.

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