

Devendra Singh Bhatia

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Court : Allahabad

Decided On : Apr-06-2011

Judge : Sudhir Agarwal, J.

Appeal No. : WRIT - C No. - 53835 of 2006

Appellant : Devendra Singh Bhatia

Respondent : State of U.P. and Others

Advocate for Def. : C.S.C.; P. Padia; R.P.Tiwari; Vivek Mishra, Advs

Advocate for Pet/Ap. : Vikas Budhwar; Ankush Tandon; Parmatma Rai, Advs

Judgement :

1. Writ petition is directed against the order dated 15.9.2006 (Annexure 28 to the writ petition) passed by Registrar, Bundelkhand University cancelling mark-sheet and degree of B.Ed. issued to petitioner in 1994 being forged and fictitious having been obtained by playing fraud and thus cancelling his result of the said course.
2. The facts giving rise to the present dispute, as stated in writ petition, are that petitioner obtained his academic qualification of High School in 1978, Intermediate in 1980, B.S. in 1989 and M.Sc. in 1996. He was temporarily appointed as Teacher in Sri Guru Nanak Khalsa High School, Sipari Bazar, Jhansi on 9.8.1993 for imparting education in the subjects of Science and Maths. The initial engagement of petitioner was without any remuneration or in other words, on honorarium basis, but subsequently he received salary with effect from 1.8.1994.

He sought admission in B.Ed. course conducted by Bundelkhand University, Jhansi in 1994. For that purpose he claims to have appeared in entrance examination. Petitioner submitted an application dated 6.1.1994 before Principal, Guru Nanak Khalsa High School, Jhansi stating that he has been selected for B.Ed. course of Bundelkhand University and, therefore, be allowed to join the said course as an institutional candidate. The permission said to have been granted by the Principal on 6.1.1994 itself. Petitioner paid examination fees of Rs. 475/- vide bank draft no. 507843 for appearing in B.Ed. course for the academic session 1993-94. An admit card was issued to him for appearing in B.Ed. examination 1993-94 bearing roll no. 2241. A photocopy of the said card has been placed on record at page 52 of the writ petition. Petitioner appeared in all five papers mentioned in his admit card. The result was declared in November 1994 and a mark-sheet bearing sl. no. 682 dated 16.11.1994 was issued to the petitioner. He applied for provisional certificate by depositing requisite fee on 12.10.1998 which was issued to him on the same date. He deposited requisite fees for issuance of "B.Ed. Degree" which was also issued to him. A photocopy of B.Ed. degree has been placed on record as Annexure 12 to the writ petition. He also required duplicate mark-sheet of B.Ed. examination 1993-94 for which requisite fee was deposited on the same date i.e. 21.9.1998 and the same was also issued on 21.9.1998. Possessing the above qualification of B.Sc., M.Sc. and B.Ed., petitioner applied for appointment on the post of Principal and was ultimately appointed as Principal, Sri Guru Nanak Khalsa Inter College on 7.9.1999. His appointment was duly approved by Joint Director of Education on 7.9.1999. After appointment, petitioner was continuously working on the post of Principal and was confirmed later on.

3. In the daily newspaper "Dainik Jagran" dated 22.1.2001, a news item was published by Bundelkhand University that eleven B.Ed. degrees were found forged and fictitious, hence, their result of B.Ed. has been cancelled. These eleven names included petitioner's name also. It was stated that a high level committee for enquiring the matter has been constituted to find out whether any higher qualification was obtained by these persons based on the aforesaid B.Ed. degree. Pursuant to the said news item. Management of the College by order dated 27.1.2001 terminated the petitioner. Challenging the order of termination as also

University's order dated 22.1.2001, the petitioner filed writ petition no. 3424 of 2001 which was allowed vide judgment dated 5.2.2001. The relevant³ extract of the judgment reads as under:

"It is not in dispute that neither any show cause notice nor any opportunity of hearing was given to the petitioner before the cancellation of the B.Ed. degree of the petitioner by the Registrar. Thus, the said order have been passed in gross violation of the principle of natural justice and cannot be sustained. It is hereby set aside. However, it will be open to the University authorities to give an opportunity of hearing to the petitioner before taking any action. If the University authorities issues notice to the petitioner, the petitioner shall submit his reply within 15 days from the receipt of the said notice and the Registrar shall decide the matter in accordance with law within one month thereafter after giving an opportunity of hearing to the petitioner. Consequential order passed by the respondent no. 5 terminating the service of the petitioner cannot be permitted to stand and is hereby set aside. In the result, the writ petition succeeds and is allowed."

4. Respondent no. 2, thereafter, issued a show cause notice dated 16/17.4.2001 to the petitioner asking him to file his reply. The notice contains certain points on which petitioner's clarification was sought. Petitioner submitted his reply on 2.5.2001. In a daily newspaper dated 27.6.2001 shows cause notice was also published by respondent no. 2 in respect to other ten candidates. Since the name of petitioner was not included in the published news item dated 27.6.2001, petitioner presumed that matter against him has been dropped. In the meantime, a writ petition no. 35206 of 2001 was filed by by the parent body of the College, namely, Society, Sri Guru Singh Sabha seeking a mandamus commanding the University to declare result of enquiry. This writ petition was disposed of on 6.11.2001 directing the University to publish result of enquiry within four weeks provided there is no legal impediment against thereto. A fresh shows cause notice was issued⁴ to petitioner on 4.9.2006 by University. The university sent letter dated 2.9.2006 requiring the petitioner to appear before Registrar on 12.9.2006 for oral haring. The petitioner, thereafter, submitted a detailed reply dated 12.9.2006 and also availed oral opportunity of hearing before the Registrar. Thereafter, the impugned order has been passed on 15.9.2006.

5. It is contended that petitioner has appeared in B.Ed. examination as a regular institutional candidate and, therefore, all the grounds, which have been relied on by respondent no. 2 in order to cancel his result of B.Ed. examination, are baseless and illegal.

6. Separate counter affidavits have been filed by the University, the State-authorities as also the Management. The counter affidavit on behalf of respondent 1, 3 and 4 has been sworn by Sri C.L. Chaurasia, District Inspector of Schools, Jhansi (hereinafter referred to as "DIOS") stating that in the approval letter dated 7.9.1999 passed by Joint Director of Education, it was clearly mentioned that in case any fact has been concealed, the approval shall become inoperative suo motu. It is also said that so far as his appointment as untrained teacher is concerned, the said appointment was made without seeking approval from DIOS. It further referred to the proceedings initiated by University for cancellation of the degree and in reference thereto, it is said that since petitioner's B.Ed. degree has been cancelled by University, therefore, he is not competent to hold the office of Principal of the College.

7. On behalf of respondent no. 5, counter affidavit has been sworn by Sardar Balvinder Singh, Manager of Committee of Management of the College. It has disputed even other qualifications of petitioner, namely, Intermediate, B.Sc. and M.Sc. besides B.Ed stating that the same are also bogus and forged. The petitioner was initially appointed as Clerk in the College and was receiving salary regularly. The letter dated 9.8.1993 alleged to have been issued by President has been challenged as not a genuine document. It is said⁵ that the petitioner has obtained appointment on the post of Principal fraudulently. He was admitted in B.Ed. course as a regular student in RAS J.B. College, Datia, Madhya Pradesh in the year 1996-97 without permission from Management of College. The averments made regarding permission to undergo B.Ed. course as a regular student with Bundelkhand Jhansi is denied. It is said that he for the first time sought admission in RAS J.B. College, Datia, Madhya Pradesh in the year 1996-97 and, hence, question of taking permission in 1993-94 B.Ed. course would not arise. All the documents in this regard are forged. The enquiry committee constituted by University consisted of Prof. P.S. Bishain, Director Madhav Institute and

Technology and Prof. G.S. Randhawa, Ex-vice Chancellor, Chandigarh University who submitted report observing that B.Ed. as well as M.Sc. degree of petitioner are fabricated and they also recommended for enquiry by C.B.I. since matter pertain to fraud and forgery. The DIOS sent a letter dated 29.6.2006 observing that certificates submitted by petitioner are all doubtful since he has never worked in the pay scale of Education Board recognized for the post of Teacher, he has never worked in graduate grade even for a single day. With regard to his claim of B.Sc. degree, it is said that he obtained admission in Vipin Bihari Degree College and as per letter dated 9.10.2004 received from Vipin Bihari Degree College, petitioner passed B.Sc.-1 st year in 1991 but remained absent in second year, though took admission in 1982. It is said that his claim to have passed B.Sc. from D.V. College., Orai also does not appear to be genuine. In the documents pertaining to his appointment as Clerk, qualification of petitioner has been mentioned as B.Sc. as on 1.7.1994 but on that day he was appointed for the first time as Clerk. All the documents submitted by petitioner with respect to his alleged admission in B.Sc. and passing thereof are forged.

8. Petitioner had filed a supplementary affidavit sworn on 6.3.2008 appending thereto certain award list (9 sheets) as Annexures 4 to 6 13 stating that those sheets contain marks awarded to the examinees and they contain roll no. 2241 of the petitioner also. Besides it, a copy of cross sheet is also filed as Annexure SA-2, which contains the details of marks awarded to ten candidates bearing roll nos. 2235 to 2244.

9. There are four more supplementary affidavits filed by petitioner. One is sworn on 26.9.2006 stating that the attendance sheet (Annexure 6 to the writ petition) shows that there were students having roll no. 1782 , 1881, 1798, 1799, 1794, 1964 and 1899 meaning thereby it was wrongly stated in the impugned order that the roll no. awarded to the Institutional candidates were 1561 to 1730 only.

10. In the supplementary affidavit sworn on 15.12.2006 certain subsequent developments have been shown. The DIOS's letter dated 21.9.2006 states since petitioner's B.Ed. degree has been cancelled by University, the approval of his appointment granted on 7.9.1999 stands revoked. He has also recommended for

stoppage of payment of salary to petitioner. It is said that DIOS by letter dated 8.12.2006 has required the Management to allow senior most Teacher to function as Principal of College.

11.The supplementary affidavit sworn on 29.3.2007 is to the effect that the Government Order dated 24.12.1988 provides for exemption of B.Ed. qualification for appointment as Principal or Head Master of the College.

12.In the supplementary affidavit sworn on 23.7.2007, petitioner has stated that he appeared in B.Ed. examination with roll no. 2241 and in this regard relevant record he has also placed on record. He says that once he has appeared in B.Ed. examination, the question whether he appeared in entrance examination for B.Ed. or not becomes irrelevant since nobody is supposed to keep such record after eight to ten years.

13.The University has taken a clear and firm stand before this Court that petitioner never appeared and passed any entrance examination held for B.Ed. course and hence, question of his admission in B.Ed. course does not arise. The degree obtained by petitioner is not a valid degree and has rightly been cancelled by University. An affidavit to this effect as supplementary counter affidavit sworn by Sri Bhagwan Singh, Registrar, Bundelkhand University, Jhansi on 21.6.2008 has also been filed.

14.In the rejoinder affidavit filed by petitioner, he has reiterated to what he has stated in the writ petition.

15.There are some additional facts which may also be noticed hereat. In the rejoinder affidavit in reply to counter affidavit of respondent no. 5, petitioner has denied that he was ever appointed as Clerk. He has filed photocopy of attendance register of August 1994 showing that he has signed therein as Teacher. The allegation that he took admission in B.Ed. course in 1996-97 in RAS J.B. College, Datiya, Madhya Pradesh has been denied and it is said that in 1996-97 there was no such course prescribed by the aforesaid College.

16. The real controversy in this matter, therefore, revolves around the fact, "whether admission said to have been obtained by petitioner in B.Ed. course-1993-94 of Bundelkhand University was genuine and valid or his degree and mark sheet are all bogus, forged and fictitious".

17. The Registrar, in the impugned order, has referred to the following aspects of the matter in order to record a finding that petitioner's mark-sheet and degree of B.Sc. course are forged and fictitious:

[illegible]

2. ??????????? ?????? ??????????????? ?? ????? 1993-94 ??0??0 ??????? ??
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 1993-94 ?? ?????????????? ????????????????? ?? ?????????? ??????? ?? ??????????????
 1561 ?? 1730 ?? ??????? ??.

4. ?????????? ?????????? ????? ?? ??? 1993-94 ?? ??????? ?????? ??
 ??????????? 2201 ?? 2234 ?? ?????? ??.

5. ?????? ?? ?????? ?? ?? ????? ?????????? ????? ?????? ?? ????? ?????????????
2241 ?????????????? ??????? ?????? ??? ?????? ???, ?????????????? ???
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6. *???? ????????? ???? ????? ????? ????????? ???? ??????? ?? ?? ? ?.*
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15.9.06

(????? ?????)

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English translation by the Court:

"1- Sri Devendra Singh Bhatia did not at all appear at the B.Ed. Entrance Examination held by the University in the session 1993-94. For this reason, the name of Sri Devendra Singh Bhatia does not figure in the list released by the University for admission to B.Ed. Course in Bundelkhand Mahavidyalaya, Jhansi. For this reason, Sri Bhatia was not selected/admitted as a regular student in Bundelkhand Mahavidyalaya.

2- Sri Devendra Singh Bhatia's application-form for the Examination has not been found in the examination forms and Roll List of candidates for appearance in the B.Ed. Examination in the session 1993-94 provided by the University to the said Degree College. This fact gets corroborated by Letter No. Maha 256/200-01 dt-23-6-2001 of Dr. S.P. Pathak, the then Principal of Bundelkhand Mahavidyalaya, Jhansi.

3- Roll nos. 1561 to 1730 are allotted to the regular students of Bundelkhand Mahavidyalaya in the session 1993- 94.

4- Roll nos. 2201 to 2234 are allotted to ex-students of Bundelkhand Mahavidyalaya, Jhansi in the session 1993-94. 5- From the above it is clear that Sri Devendra Singh Bhatia's alleged roll no. 2241 of Sri Devendra Singh Bhatiya was not allotted by the University. In collusion with the employees of Mahavidyalaya and the Confidential Department of the University, conspiracy has been resorted to in adding a forged Tabulation Register page serial number in the Confidential Department at which page the name of Sri Bhatiya is mentioned .

7- On the B.Ed. Marksheet of Sri Devendra Singh Bhatia son of Sri Indra Singh Bhatia being tallied with the Tabulation Register, it came to light that the Confidential Department's page no. 27 in the Tabulation Register is forged and

fabricated for the following reasons and appears to be added separately because -

(i) Serial number is printed on all the pages in the Tabulation Register but no serial number is printed on page 27 of the doubtful Chart.

(ii) Page 27 of the doubtful Chart bears no signature of tabulator; whereas all the pages of the Tabulation Register bear signatures of tabulators.

(iii) On signatures of comparers as on the doubtful page number 27 of the Tabulation Register being tallied with the signatures of comparers as on other pages of Tabulation Register, the signature of Registrar was also found to be fabricated and forged.

(iv) No date of declaration of result is mentioned on the doubtful page; whereas the date of result declaration is mentioned on other pages of the Tabulation Register. (v) The doubtful page 27 of the Confidential Chart and the copy of said Chart in the Examination Department have different comparers; whereas both the Charts have the same comparer.

(vi) The word 'Jhansi' as on page 27 of the Tabulation Register is different from the word 'Jhansi' as on other pages. (vii) It is also necessary to mention here that for nefarious activities of fabricating mark sheets and degrees in the University, Sri Munna Lal Rajpoot, the then Assistant of Brief Confidential Department has compulsorily been retired.

Hence, in the light above, after due thought to the explanation given by Sri Devendra Singh Bhatia and after scrutinizing the records of the University it was found that by resorting to dubious means and by indulging in collusion the B.Ed. marksheet and degree have been procured by Sri Bhatia in the year 1994 which deserve to be cancelled. Hence Sri Devendra Singh Bhatia's 1994 B.Ed. result (Roll No. 2241), degree serial no. 001135 and marksheet serial no. 602 are hereby cancelled.

Sd/- illegible 15.09.06 (Sushil Kumar) Registrar"12

18.The matter could not have been decided obviously without perusing the original record of University. Therefore, this Court directed the University vide order dated 1.12.2010 to produce the original record like cross sheet etc. which was produced and perused by Court.

19.Heard Sri A.B. Saran, learned Senior Advocate, assisted by Sri Ankush Tandon, learned Standing Counsel for official respondents of State Government and Sri Neeraj Tiwari, learned counsel appearing for University.

20.Learned counsel for University stated that the procedure for admission in B.Ed. course contemplate an entrance examination and unless one has appeared therein and has passed with sufficient marks so as to qualify for the sanctioned numbers of seats for B.Ed. course, no admission in B.Ed. course of the University can be given. It is the specific case of University that petitioner at any point of time did not appear in any such entrance examination of 1993-94 so as to seek admission in B.Ed. course.

21.Interestingly, either in the writ petition or in several supplementary affidavits and rejoinder affidavit filed by petitioner, there is not even a whisper as to whether petitioner ever appeared in such entrance examination or not. In a cleverly manner, in the rejoinder affidavit filed in reply to supplementary counter affidavit of the University, the petitioner has said that he cannot be expected to possess the documents of entrance examination of eight to ten years back, but he has not taken care of a positive assertion that he appeared in entrance examination of B.Ed. course for 1993-94 and was successful therein. During the course of arguments Sri Saran did not give any direct reply on this aspect and simply said that once the petitioner had passed B.Ed. examination, having been permitted to appear in the final examination, all the questions relating to admission stage becomes irrelevant. It could be the requirement of entrance examination would have been non statutory. However, he could not dispute that entrance test was actually held by University. University made provision for giving admission in B.Ed. course only to such students who qualify and are selected according to merit in entrance examination held for the said purpose. In 1993-94 also entrance examination was conducted for giving admission in B.Ed. Course-1993-94. There

is no such denial of the petitioner that no such examination was conducted. The petitioner only said that he cannot be expected to keep the record of such examination but has not stated whether he actually appeared in any such examination and if so, from which examination centre, even if this Court may presume that after such a long time he may not have remembered roll no. awarded for such examination etc. This Court has no hesitation in recording its finding that from the record, it is evident that petitioner did not appear in entrance examination for admission in B.E. Course- 1993-94 of Bundelkhand University.

22. Whether it would have any consequence or not, I may consider later but first I propose to consider the documents relating to his admission in B.Ed. course as also the examination.

23. Sri Neeraj Tiwari, learned counsel appearing for University stated at the bar that someone in the University having sufficient influence in the matter may have caused manipulation and forgery in the record. Such is a possibility which cannot be ruled out for the reason that in the record of University, a cross sheet is available in respect to ten candidates which included the petitioner but ex facie the document would show that the same is forged and fictitious. He has produced cross sheet of B.Ed. examination 1994 bearing pages no. 21, 22, 23, 24, 25 and 26 which contain the names and other details as also the marks obtained by several candidates bearing roll no. 1561 to 2234. In all these sheets signatures of Tabulator and the persons who compared, verified, have been shown. Then he produced a cross sheet bearing page no. 13 and 27. Both contain the details of ten candidates including the petitioner and the marks awarded to them in B.Ed. examination 1994 bearing roll no. 2235 to 2244. Both these sheets are identical except of hand written page number thereof and certain other details.

24. In the cross sheet bearing page no. 27, there is no signature of Tabulator, but Comparer and Verifier, two illegible signatures are there. Besides, there is a signature over the column "Kul Sachiv Ke Hastachar" of some Chaturvedi. In the cross list bearing page no. 13, in addition to the Comparer and verifier, signature of Tabulator is there but here the signature of Kul Sachiv is absent. There is a column of "specimen signature" in cross list bearing page no. 13, which bears

some signature but no such signature is available on cross list page 27.

25. Similarly in the entries made in the column under title statistics, difference is as under:

26. Similarly, there is a minor distinction in the earlier part also but I need not go into this aspect further for the reason that both these sheets are claimed to be forged and fictitious by University. What they submit is that the sheets are available in University. Somebody may have obtained and manufactured it but while preparing, certain important information has missed which show¹⁵ that both these cross lists at page no. 13 and 27 are not same as page no. 21 to 26.

27. In all these sheets, in the left side column, there is a seal of the College as also the roll numbers and other details. Cross list pages no. 21, 22, 23, 24 and 25 relates to the institutional candidates of Bundelkhand College, Jhansi bearing roll no. 1561 to 1729 and the seal is as under:

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???0 1561 - 1729

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28. The cross list page no. 26 relates to ex-students and seal therein reads as under:

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???0 2201 - 2231

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29. However, on cross list (pages 13 and 27), the seal is as under:

????????????? ?????, ?????

???0 2235 - 2244

30. In the seal the word "Jhansi" is printed in different manner in pages 13 and 27 which contain petitioner's name in comparison to the cross lists pages 21 to 26, as is evident from the above. Over the alphabet 'Jha' in the the cross list page 21 to 27, there is only a point while in the cross list page 13 and 27, it is not only a point but a half circle and thereon there is a point. Further, whether it relates to institutional candidates or ex-students is also not mentioned which show that the seal is different in both these cross lists. Further, in cross list page 27, in the seal, the roll no. 2243 there is overwriting over no. 3 and columns of the candidates and their father's name, subjects. At sl. no. 4 "Mangal Singh" has been scored out and "Ram Singh" has been mentioned which is again scored out but nothing further is mentioned. Similarly in the column father's name, "Jagram Singh" is scored out and mentioned as "Srimat". The subjects "Hindi" and "Nag0" are also scored out¹⁶ and mentioned as "Vigyan" and "Ganit" but these corrections or scoring out are not in cross list, page 13. Moreover the signatures of Comparer and Verifier in the cross list page 13 and 27 do not tally. So far as Tabulator's signature is concerned, it is only on page 13 and not on page 27. None of these signatures on page and 27 tally with the the signatures on pages 21 to 26 produced by University claimed to be genuine documents where all the three signatures in those sheets i.e. 21 to 26, exist and tally in entirety.

31. Besides, on all the sheets bearing page no. 21 to 26, there is a round seal of University containing the remark but no such seal I find on the cross list page 13 and 27. This Court is therefore inclined to observe and hold that cross list, pages no. 13 and 27 are not genuine. The University is right in contending that these two documents have been manufactured at some point of time. The person responsible for such forgery and fraud, in the interest of maintaining purity of system deserves to be identified by holding a proper investigation in the matter else such kind of forgery may cause much more harm not only to the institution but also to public at large.

32. Besides it, an admission tabulation chart of 1993-94 has been placed for perusal of the Court to show that it does not contain name of the petitioner and this conclusively prove that petitioner never appeared in entrance test of the aforesaid course. Hence, the question of his admission in said course does not arise. The

University's documents, this Court permitted to be seen by Sri A.B. Saran, Senior Advocate, appeared for the petitioner and whatever I have observed hereinabove, Sri Saran could not point out anything else or otherwise could not explain the difference between the two as noticed above. List of selected candidates for B.Ed. admission has also been produced and it does not contain name of the petitioner.

33. Now there are some further aspects which have been noticed by this Court which also show that there appears to be a well planned¹⁷ mischievous action in the matter and petitioner knew well about all these things.

34. From the own showing of petitioner, events took place in the following manner from 1994 to 1998:

6.1.1994:

Petitioner sought permission from Principal to undergo B.Ed. course as institutional candidate which was permitted by him on the same date.

30.3.1994:

Petitioner obtained bank draft no. 507843 of Rs. 475/- in favour of Bundelkhand University, Jhansi from State Bank of India, Sipari Bazar, Jhansi.

16.8.1994, 20.8.1994, 25.8.1994 and 31.8.1994:

Petitioner claim to have appeared in examination of B.Ed. in the subjects mentioned in his admit card.

16.11.1994:

Mark sheet of B.Ed. examination-1994 bearing sl. no. 602 was obtained by petitioner from University.

10.7.1998:

Petitioner deposited fees for B.Ed. degree.

21.9.1998:

Petitioner deposited fees for duplicate mark sheet of B.Ed.

21.9.1998

Duplicate mark-sheet issued to petitioner.

12.10.1998

Petitioner deposited fees of Rs. 30/- for B.Ed. provisional certificate.

12.10.1998

Provisional certificate issued to petitioner by University.

27.8.1999:

Letter sent by Manager of the College seeking approval of appointment of petitioner as Principal.

7.9.1999:

Joint Director of Education granted approval.

35. It has not been explained to the Court when the petitioner had already applied and obtained degree of B.Ed. depositing fees on 10.7.1998, what was the occasion for him to deposit fee after three months, i.e. on 12.10.1998 for obtaining provisional certificate of B.Ed. when degree was already with him. Moreover, when the mark-sheet was issued to petitioner on 16.11.1994, what was the occasion for the petitioner to obtain duplicate mark-sheet after almost four years, i.e. 21.9.1998. This is also not made clear. 36. Then comes another aspect. Petitioner claims that he was paid salary with effect from 1.8.1994 as Teacher of the College where he joined on 11.8.1993. It has not been explained why petitioner could not receive salary prior to 1.8.1994 when in 1994 itself, he appeared in the examination held on 16.8.1994, 20.8.1994, 25.8.1994 and 31.8.1994. More so, petitioner himself has claimed that he was allowed to undergo B.Ed. course as a regular institutional candidate, meaning thereby he was granted education leave by the College. When somebody is allowed to undergo an

educational course as a regular student continuing with his lien in service, it results in granting a kind of leave generally termed as "education leave" and during this period, the incumbent does not discharge any duty with the employer. Whether petitioner could have claimed such kind of leave or not is not the question I am considering but I am trying to find out whether his claim that he passed B.Ed. examination as a regular candidate, even from the facts mentioned in his writ petition, is believable. I come to the conclusion that on this score also petitioner has miserably failed to satisfy this Court and point out any error apparent on the face of record in the impugned order warranting interference by this Court.

37.Both the questions thus formulated above are answered against the petitioner.

38.At this stage, this Court finds it necessary to place on record that evidently office of University and, in particular, the confidential section dealing with examination and award of degree etc. is amenable to certain persons for forgery and manipulation etc. Existence of forged cross lists in University office, attempted to be given colour of genuine documents, so as to cause benefit to certain persons in an illegal manner, is self speaking to demonstrate accessibility of unscrupulous persons in the otherwise restricted area of the University. No doubt, University has taken action against the persons who were benefited by such illegal act, but the real culprits are still out of the hands of law. The petitioner and other incumbents like him, who are/were benefited by the degree of B.Ed. examination with fraudulent and forged documents are/were only the beneficiaries. On their own, they could not have managed all these things. Somebody else, may be more than one, definitely would have been the real culprits, instrumental to give effect to this nefarious activity. University has not shown an earnest desire and anxiety to identify such persons and get them punished by law of the land for their illegal and corrupt activities. Unless those persons are brought before Court of law for appropriate punishment, these illegal activities would continue and may happen in future also. I do not know, after the case of petitioner, some more incidents may have occurred which are yet to be discovered. This is all because real culprits have not been booked. Nothing has been placed on record to show that steps were taken by University, and that too, if any steps are taken, whether the same have been expedited to get real culprits punished.

39.Laxity on the part of University at the first instance and the State authorities, being the ultimate prosecutor and investigators in the matter, is really unfortunate and cannot not be appreciated.

40.Obviously, the illegal activities which have caused benefit to²⁰ petitioner in obtaining B.Ed. degree in a fraudulent manner could not have been allowed to happen without extraneous considerations. Those who got this illegal benefit are untouched. They continue to enjoy with the benefit, they have obtained in a corrupt way. The first responsibility of University was to bring those persons before Court of law and get them punishment which has not been done. If this situation is allowed to continue, it would give encouragement to such persons to continue with their nefarious activities and this has to be stopped immediately.

41.Moreover, this Court expresses its anxiety how a person playing fraud to such an extent has been able to function as Principal of a High School deceiving not only the Management of the College but also all educational authorities and in that way must have also cheated the students of the College. This is really unfortunate, must be condemned in the strongest words.

42.So far as criminal proceedings are concerned, nothing has been said, may be, since it was not a matter of enquiry in this writ petition, but if criminal proceedings have yet not attained finality, this is extremely shameful for the system where a person committing such kind of forgery and fraud is still out of the clutches of law having not been imposed suitable punishment so that it may not proved to be a licence for other such mischievous persons. This shows sorry state of affairs in the system of criminal investigation and justice. It appears that investigation agencies are more busy in carrying out flexible investigations to find out influential persons not guilty and in that zeal are completely overlooking other matters. This require immediate attention and serious concern of the Government. In case number of personnel are inadequate constituting criminal investigation agencies, it is high time when it should be brought to adequate strength so that rule of law must prevail at any cost. In a democratic sovereign country, no cost is higher for maintaining rule of law.

43. In view of Court, time has come when appropriate steps to strengthen and effectuate the criminal administration justice system be taken immediately. In a democracy, if breach of law, corruption and defiance of rule of law with impunity is allowed to continue and to spread like a contagious disease, it may cause danger to very democracy. The authorities who really indulge in corrupt activities, it appears, have no fear at all knowing it well that criminal justice system moving with snail pace would not cause any real harm to them in their life span. Firstly, the matters are not prosecuted, the reasons may be many, secondly if prosecuted, ultimate result stretches beyond the normal human life and in rarest of rare cases we find ultimate conviction. This in effect does not act as deterrent to the persons indulged in such activities. What they find that benefit earned out of illegal and corrupt activities is much more beneficial and enjoyable than any action in a Court of law, if they are proceeded against for such activities. The deterrent measure is proving ineffective comparing the fruits of corruption and unlawful activities which the unscrupulous persons are reaping. This is really a matter of serious concern and the situation has come to such an alarming level that it requires immediate action lest it may not be too late.

44. In view of above discussion, the writ petition, being devoid of merit, is dismissed with cost quantified to Rs. 10,000/- (Rupees ten thousand).

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