

## **Madhyamic Shiksha Mandal, M.P. vs Abhilash Shiksha Prasara Samiti And Ors. on 21 January, 1997**

**Equivalent citations: 1998(2)BLJR1562, JT1997(10)SC363, (1998)9SCC236**

**Bench: A.M. Ahmadi, Sujata V. Manohar**

### **ORDER**

1. Special leave granted.

2. We feel a little distressed that in matter like this the High Court should have interfered with the decision taken by the Board. The contention was that the examination was cancelled on the report of a Naib Tehsildar dated 18-3-1996 who was not authorised by the Board to visit the examination center. It is irrelevant whether the Naib Tehsildar was authorised by the Board to visit the center or not but what is of importance is the fact that he did visit the center and found the students copying even before the question papers were distributed. This clearly implies that the students were aware of the questions indicative of the leakage of the question paper. The Naib Tehsildar even complained that the teachers did not object to the students entering the examination hall with books and copying material. That would mean that either they were hand in glove with the students or, they were, for some reason not able to stop the students from copying. This is also evident from the report of the Superintendent of the center. The Naib Tehsildar states that neither the Superintendent of the center nor the invigilators were prepared to interfere and were not able to explain how the students could enter the hall with books, etc., and copy therefrom with impunity. The Superintendent of the center states that he had requested the Naib Tehsildar to stay for three hours but the Naib Tehsildar did not stay. The report of the valuers at p. 81 also goes to show that there was mass copying. The High Court brushed it aside as subsequent material. But it supports the Board's decision and it was improper in a sensitive matter like this to ignore it on such a technical ground. In the face of this material, we do not see any justification in the High Court having interfered with the decision taken by the Board to treat the examination as cancelled. It is unfortunate that the student community resorts to such methods to succeed in examinations and then some of them come forward to contend that innocent students become victims of such misbehavior of their companions. That cannot be helped. In such a situation the Board is left with no alternative but to cancel the examination. It is extremely difficult for the Board to identify the innocent students from those indulging in malpractices. One may feel sorry for the innocent students but one has to appreciate the situation in which the Board was placed and the alternatives that were available to it so far as this examination was concerned. It had no alternative but to cancel the results and we think, in the circumstances, they were justified in doing so. This should serve as a lesson to the students that such malpractices will not help them succeed in the examination and they may have to go through the drill once again. We also think that those in charge of the examinations should also take action against their Supervisors/Invigilators, etc., who either permit such activity or become silent spectators thereto. If they feel insecure because of the strong-arm tactics of those who indulge in malpractices, the remedy is to secure the services of the Uniformed Personnel, if need be,

and ensure that students do not indulge in such malpractices.

3. In the result, we think that this was not a case in which the High Court should, at all, have interfered. We, therefore, allow the appeal and set aside the order of the Division Bench of the High Court and affirm the decision taken by the Board. There will be no order as to costs.