

Orissa High Court

Pramatha Kumar Mishra vs Board Of Secondary Education And ... on 12 February, 2002

Equivalent citations: 2002 I OLR 361

Author: P Ray

Bench: P Ray, C Pal

JUDGMENT Pradipta Ray, J.

1. Petitioner, Pramatha Kumar Mishra, appeared at the Annual High School Certificate Examination, 2001 (in short "H.S.C. Examination"), as a regular student of Gadi Brahma Bidyapitha, Kaduapara in the district of Jagatsinghpur. He was allotted Roll No. 27 RAO 32. The petitioner appeared at the said Examination from Nuagaonhat High School Centre. The result of the Annual H.S.C. Examination, 2001 was published on May 28, 2001. The petitioner was shown to have been booked for adopting malpractice in the examination. The petitioner immediately approached the Headmaster of Nuagaonhat High School, who was the Centre Superintendent. The petitioner has stated that he was not given any show cause notice or opportunity of hearing before awarding punishment for alleged malpractice. The said Headmaster wrote to the Board of Secondary Education on June 2, 2001 that the petitioner was never booked for any malpractice from the said Centre. The petitioner's guardian-mother sent a representation to the Secretary of the Board requesting him to look into the matter and to publish the petitioner's result. As no response was received, the petitioner has filed this writ petition.

2. This Court directed production of the records relating to the alleged malpractice against the petitioner Mr. Nayak, learned Advocate appearing for the Board has produced records. It appears that the Inspector of Schools, Jagatsinghpur Circle, sent a consolidated statement of malpractice cases. Although the said statement includes the roll number of the petitioner, but it does not mention anything under the column - "Details of incriminating materials seized." It appears from the broad-sheet prepared by the Officer, who opened the packet that there was no material whatsoever excepting the inclusion of roll number in the consolidated statement of the Inspector of Schools. An endorsement has been made on the broad-sheet that the booking of the petitioner's roll number is "debatable". Admittedly, no report has been received from the Centre Superintendent or any Invigilator. It is not clear on what basis the Inspector of Schools included the petitioner's roll number in his consolidated statement. The Board has issued instructions how to report cases of malpractice. According to the said instruction, it is the Centre Superintendent, who is to report the cases of malpractice to the Board even if it has been detected by the "Flying Squad" or "Special Squad". The said instruction also requires seizure of the incriminating materials and the Admit Card of the concerned candidate. Not a single instruction has been followed in the present case.

3. Upon receipt of notice of this writ petition, the Headmaster of Nuagaonhat High School has sent a letter to this Court reiterating that the petitioner was never booked for any malpractice and the petitioner has been penalised without his knowledge.

4. It is well settled that in case of individual malpractice show-cause notice is required to be given to the concerned candidate and principles of natural justice are to be followed before awarding any punishment. The Board has shown total disregard to basic Principles of natural justice and fair play

in its action.

5. Considering the materials on record, we are of the view that the allegation of malpractice against the petitioner is totally unfounded and the punishment for alleged malpractice is liable to be set aside.

6. For the reasons aforesaid, we allow this writ petition, set aside the decision of the Board and its Examination Committee booking the petitioner for malpractice and withholding his result. We direct the Board of Secondary Education, Orissa to forthwith publish the result of the petitioner and send to him the marksheet in accordance with prescribed procedure within two weeks from to-day. In case, it is found that the petitioner has failed to secure pass marks in the H.S.C. Examination, 2001, he will be allowed to fill up the form to appear in the H.S.C. Examination, 2002, as a special case notwithstanding that the last date is over. It is made clear that it will be the Board's responsibility to see that necessary formalities are complied with to enable the petitioner, if necessary, to appear at the H.S.C. Examination, 2002.

An authenticated plain copy of this order be given to Mr. Nayak, learned Advocate for the Board for compliance.

Urgent certified copy of the order be given immediately on proper application.

C.R. Pal, J.

I agree.