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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 284/2010

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Judgment Delivered on: 25.03.2010

RUCHITA DHAWAN

..... Petitioner

Through: Mr.Arun Kumar Sharma, Adv.

versus

THE CHAIRMAN/VICE CHANCELLOR & ORS.

..... Respondent

Through: Mr.M.J.S. Rupal and Ms.Preeti

Maniktalya, Adv. for respndt-University

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to Reporter or not?
3. Whether the judgment should be reported in the Digest?

G.S.SISTANI, J. (ORAL)

1. In the year 2008 petitioner sought admission in B.Com (Hons.) in the Mata Sundari College. Petitioner appeared in the 1st year annual examination. During the course of examination held on 20.4.2009 for the paper "Micro Economics Theory and Applications-I", the Invigilator found some material close to the petitioner's foot. The invigilator thereafter made a report that last paragraph of the students' answer-sheet matches with the paper. The petitioner was asked to give her explanation. Petitioner denied the allegation and stated that she had nothing to do with the material found near her. The petitioner was thereafter issued a show cause notice dated 27.7.2009 for use of unfair means, to which a reply has been filed. The university was not satisfied with the explanation rendered by the petitioner. Consequent thereto after hearing the petitioner an order dated 15.09.2009 was passed, by virtue of which entire examination of the petitioner was cancelled and she was debarred from appearing in any examination of the university within a span of 12 months. Order dated 15.09.2009 has been challenged by the petitioner. The

petitioner had preferred an appeal to the Vice-Chancellor of the Executive Council, which was not decided at the time when the writ petition was filed. Consequently this court had requested the Executive Council to take a decision on the appeal filed by the petitioner before the next date. The Executive Council has rejected the appeal of the petitioner.

2. Counsel for petitioner submits that the university has not followed proper procedure and further that the material which was found near the foot of the petitioner did not belong to the petitioner. It is submitted that the invigilator had also searched the pockets of the candidate, but no material was found. Counsel has also submitted that there is no specific charge against the petitioner; neither the expert has mentioned the answer to which question the printed material has been used. It is also submitted that the material which has been recovered did not belong to the petitioner but was picked up from the floor near the seat of the candidate which was thrown from outside the window in the examination hall. It is further submitted that the Memorandum dated 15.09.2009 was issued in a stereotype manner and the Examination Disciplinary Committee has passed the order without any application of mind. Counsel for the petitioner also submits that the Executive Council of the University has blindly followed the earlier decision taken and the hearing granted was a mere formality.
3. Counsel for petitioner has also drawn attention of the Court to a certificate which has been duly signed by the invigilator by which it was announced that the students should search their pockets, etc. and see that all written notes, books, etc. are kept outside the Examination Hall. They should satisfy themselves that no material is written on the desk, geometry box, card board in their possession. They should also satisfy that no material having direct bearing on the question paper or the syllabus covered is laying near his/her desk. The said certificate is reproduced hereunder:

“UNIVERSITY OF DELHI
CERTIFICATE

This is to certify that the following announcement was made to the candidates taking examination in Room No.205 of the *Mata Sundri College* Examination Centre, immediately after the commencement of the examination (*at 9:00 a.m. Time*) and conveyed to the candidates admitted to the Examination Hall late individually.

“The candidates should search their pockets, etc. and see that all written notes, books, etc. are kept outside the Examination Hall. They should satisfy themselves that no material is written on the desk, geometry box, card board in their possession. They should also satisfy that no material having direct bearing on the question paper or the syllabus covered is laying near his/her desk. They should note that any candidate found in the possession of written notes, books, etc. either in his/ her pockets or on/in his/her desk, or below his/her seat will be dealt with according to the rules prescribed by the University in this connection and sent to the candidates alongwith the admission tickets. They should further note that the minimum punishment of possessing relevant material in the examination is the “CANCELLATION OF THE ENTIRE EXAMINATION..”

4. *Per contra*, counsel for the University has produced the material which is stated to have been found near the foot of the candidate and the original answer-sheet of the petitioner has also been produced. Counsel for the University submits that as per the answer-sheet, answer No.2 is an identical copy of the answer to Question No.14 of the material which was found near the foot of the student. Counsel for University has also produced the order passed by the Chairman of the Review Committee dated 24.02.2010. Relevant portion of the same reads as under:

“The Committee heard Ms.Ruchita Dhawan listed at S.No.1 and despite her repeated denial that she has not copied from the UFM material and written her own in her answer sheet could not convince with her argument and asked to write the phrase “*ceteris*

paribus" on a paper provided to her which phrase she had copied in her answersheet from the UFM material correctly. The candidate in question could not spell the phrase "ceteris paribus" correctly whereas in her answersheet she has correctly written this phrase. On asking the meaning of phrase "ceteris paribus" as well as to which language it belongs to, the candidate stated that the phrase belongs to Greek Language, which is incorrect. The Committee Members further noticed that the candidate has copied verbatim in answering the Q.No.2 from the UFM material till she was caught answering that Question. Therefore, the Committee agreed with the recommendations of the Examinations Disciplinary Committee (s) and reaffirmed the punishment awarded to this candidate as it was considered to be in consonance with the offence committed by her. The Committee, therefore, felt that in her case there was no justification in recommending any further review.

The Committee also heard Sh.Puneet Duggal listed at S.No.3 and despite his repeated denial that he did not copy in the answersheet from the UFM material could not convince with him as he had copied verbatim from very start of the Examination. The Committee agreed with the recommendations of the Examination Disciplinary Committee (s) and reaffirmed the punishment awarded to this candidate as it was considered to be in consonance with the offence committed by him. The Committee, therefore, felt that in his case there was no justification in recommending any further review.

The Committee also reviewed the case of Mr.Visheswar Kumar Basoya (S.NO.2) in absentia as he could not appear before the Review Committee and reaffirmed the punishment awarded to this candidate as it was considered to be in consonance with the offence committed by him. The Committee, therefore, felt that in his case there was no justification in recommending any further review."

5. I have heard counsel for the parties and carefully perused the original record which has been produced by the University. I have examined answer-sheet of the student and also compared the same with the material which was found near the foot of the student and find that the answer is verbatim to the material which was found near the foot of the petitioner. I also find that the

order passed including order passed by the Review Committee is fair and proper and that opportunity was also granted to the student to answer the question, but student was unable to either give the correct spelling of the phrase “ceteris paribus” or even explain the origin of the phrase, which is highly improbable in view of the fact that the answer is only of three lines. The answer reads as under:

“**Price effect.** A change in price of good X brings about a change in the quantity demanded of it, *ceteris paribus*. This change in the quantity demanded is called the Price Effect (PE).”

6. The original record has been inspected by counsel for the petitioner in Court. Counsel for petitioner has been unable to give any satisfactory explanation as to how the answer of the petitioner is verbatim to the answer mentioned in the material found or why the petitioner could not spell the phrase “ceteris paribus”, correctly.
7. Counsel for petitioner has also urged that punishment is not commensurate with the offence committed by the petitioner. I have perused the instructions for candidates appearing in the university examination as also the offence and the punishment to be awarded for the offence. Punishment awarded for such acts as committed by the petitioner, is defined in para (c) of the University Rules, which reads as under:

“(c) Cancellation of the entire examination taken by the candidate during the year and further debarring him/her from appearing at any examination of the university within a span period of one year (12 months).”

8. It would also be relevant to reproduce the decision rendered by the Apex Court in the case of **Director Studies, Dr. Ambedkar Institute of Hotel Management , Nutrition & Catering Technology Chandigarh and Ors. Vs. Vaibhav Singh**

Chauhan reported at (2009) 1 SCC 59, wherein it was held as under:

“12. The learned Single Judge in the interim order has then emphasized on the fact that the respondent had apologized and had confessed to the possession of the chit. In our opinion this again is a misplaced sympathy. We are of the firm opinion that in academic matters there should be strict discipline and malpractices should be severely punished. If our country is to progress we must maintain high educational standards, and this is only possible if malpractices in examinations in educational institutions are curbed with an iron hand.”

9. For the reasons aforestated, there is no infirmity in the impugned order. Accordingly, present petition is dismissed.

CM.No.606/2010 (STAY)

10. In view of order passed in the writ petition, this application stands disposed of.

March 25, 2010
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G.S. SISTANI, J.