

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.26260 OF 2015

ORDER :

In this Writ Petition, petitioner questions the proceedings dt.20.06.2015 issued by the 2nd respondent canceling the results of BA I year (Mass Communication) Examination of the petitioner held in March/April-2015.

2. The petitioner is student of BA I year(Mass Communication) in the 3rd respondent-College which is affiliated to the 1st respondent-University. The I year Examination for the said course commenced in April, 2015 and the exam centre was the 4th respondent-College.

3. On 01.04.2015, when the petitioner was writing Political Science-I exam paper from 2.00 p.m. in the 4th respondent-College, a squad member of the 2nd respondent visited the 4th respondent-College and at about 2.30 p.m., certain chits were found lying in and around the desk, where the petitioner was writing the exam paper.

4. On suspicion that petitioner had indulged in copying from the chits, the petitioner was frisked but no other chits were discovered. Petitioner denied before the squad that he had copied from the said chits. However, the squad members of the 2nd respondent snatched both the hall ticket and answer sheet of the petitioner on the ground that the issue of alleged malpractice would be decided by the Malpractice Committee of the 1st respondent-University.

5. Petitioner contends that without conducting enquiry as contemplated in the Mal Practice Rules (contained in University Rules and Regulations under Ordinance-N.VII Conduct of

Examinations Part IV), the impugned order has been passed and in view of the said order, petitioner was also not allowed to appear for two subjects of Political Science exam and also in Modern English exam held subsequently.

6. In the counter affidavit filed by the 1st respondent the procedure for enquiry into the allegations of malpractice is set out, which reads:

“ Malpractice Committee and its functions:

- 1 . All instances of malpractices relating to the Examinations, detected and reported by Chief Superintendents/Flying Squads/Observers/Invigilators/Valuers/Tabulators shall be examined and disposed off by a Malpractice Committee appointed as per the rules approved by the Vice-Chancellor. The Malpractice Committee shall award punishment, if in its opinion the guilt of the Candidates is established by the evidence available, such as, the prohibited material, reports of Chief Superintendents, Invigilator/Squad Member/Observer and explanation of the candidate admitting his/her guilt.
2. (a) In case a candidate denies the allegation against him/her, or if the Committee feels it desirable, it shall fix a date, time and place for holding an enquiry and give at least seven days notice to the candidate to give him/her an opportunity of being heard, by sending the information by post to the address given in the Examination Application Form. On the date and time mentioned in the notice, the Committee shall meet at the place mentioned in the notice and hear the candidate, if present. The Committee thereafter shall take a decision in the matter. No candidate shall be permitted to represent his/her case before the committee through a person other than himself/herself.
- (b) If an examiner reports to the Controller of Examinations indication of act of unfair means, which could be, detected during the course of valuation of Answer Books the same shall be referred to the chairman, Board of studies to determine if there is a *prima facie* case. If the chairman is satisfied that there is a *prima facie* case, it shall be referred to the Malpractices Committee. If the Chairman, Board of Studies decides otherwise, the Controller of Examinations shall have the option to refer it to the committee of malpractices. The Malpractices Committee shall make appropriate recommendations in the matter to the Vice-Chancellor after getting the Answer Books revalued, and

giving a reasonable opportunity to the candidate(s) to defend. However no such opportunity is to be given to the candidate(s) if it is a group malpractice.

3. In case it is brought to the notice of the University at any stage after the examination, that a candidate is suspected to have indulged in malpractice, his/her case shall be referred to the Malpractice Committee by the Controller of Examinations. The Committee on the basis of such evidence, as is made available to it, and after giving a reasonable opportunity to the candidate to defend himself/herself shall recommend the punishment to be awarded to him/her or them, if any.
4. If a candidate is found guilty of Malpractice after declaration of the result, the result shall be cancelled besides awarding him/her the punishment that would have been awarded to him/her, had the facts come to the notice of the University before the declaration of the results.
5. Any other act of unfair means, misconduct by an examinee during the course of or after examinations, not contained in these provisions shall be dealt with by the Malpractices committee following principles of natural justice and make suitable recommendation to the Vice-Chancellor for necessary action.”

But, in the said counter filed by 2nd respondent, nowhere is it stated that the procedure prescribed above was followed by the 1st respondent or 2nd respondent.

7. When the petitioner has categorically denied the allegation of malpractice and in fact had taken a defense that the chit allegedly found by the Flying Squad of the 2nd respondent was probably already in the room and was probably used by a student who had appeared for III year political science exam held in the same room in the morning session, not only was the said plea not considered, but no allegation as to the nature of malpractice allegedly indulged by the

petitioner in the form of show cause notice was given to the petitioner inviting his explanation thereto as contemplated in the above referred regulations. The impugned order also does not refer to any material evidence in support of its decision to cancel the results of all papers of theory and practical examinations of the petitioner held in March/April, 2015.

8. Therefore the impugned order, being in gross violation of the above University Malpractice Regulations and also principles of natural justice, cannot be sustained.

9. Counsel for the petitioner submits that since the petitioner was not allowed to appear for two subjects of Political Science and Modern English exams held in April, 2015 on account of the impugned order, he had appeared for the said subjects in the supplementary examinations held in September, 2015 and the result of the said subjects was also not declared by the respondents.

10. Though the learned Standing Counsel for 3rd respondent-College states that the petitioner had done well in the internal examination conducted by their college and that the 3rd respondent has no objection for permitting the petitioner to appear for II year Course, the counsel for the petitioner expressed an apprehension that since the petitioner was not allowed to attend classes at the instance of respondents 1 and 2 by the 3rd respondent, an objection as to inadequate attendance might be raised by the respondents 1 to 3 to prevent the petitioner from appearing for II year examinations.

11. Since it is not denied by the Standing Counsel for 3rd respondent that at the instance of 1st respondent, petitioner was not allowed to attend the II year classes by the 3rd respondent-College, the

petitioner cannot be made to suffer for lack of attendance for which respondents 1 to 3 are responsible.

12. Therefore, this Writ Petition is allowed. The order dt.20.06.2015 passed by the 2nd respondent is set aside, directing the respondents 1 and 2 to declare the results of all papers of theory and practical examinations of the petitioner held for BA I year(Mass Communication) in March/April,2015 and September, 2015. The respondents 1 to 3 shall also permit the petitioner to appear for final examination of the BA II year(Mass Communication) by excluding the period of absence up to 29.09.2015 for the purpose of attendance. The 1st respondent shall personally pay costs of Rs.5,000/- to the petitioner.

13. Consequently, Miscellaneous Petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

18th November, 2015

Note: Issue C.C. in one week.

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