

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.227 of 2020

In

Civil Writ Jurisdiction Case No.21303 of 2019

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1. Arayabhatta Knowledge University, Mithapur, Patna through its Vice Chancellor.
 2. The Vice Chancellor, Arayabhatta Knowledge University, Mithapur, Patna.
 3. The Examination Controller, Arayabhatta Knowledge University, Mithapur, Patna.

... .. Appellant/s

Versus

Mamta Kumari, S/o Bhagwan Das Paswan, Resident of Village-Bathoi, P.O.-
Pandarak, P.S.-Bhadhor, District-Patna.

... .. Respondent/s

with

Letters Patent Appeal No. 226 of 2020

In

Civil Writ Jurisdiction Case No.21500 of 2019

-
1. Arayabhatta Knowledge University, Mithapur, Patna through its Vice Chancellor.
 2. The Vice Chancellor, Arayabhatta Knowledge University, Mithapur, Patna.
 3. The Examination Controller, Arayabhatta Knowledge University, Mithapur, Patna.

... .. Appellant/s

Versus

Rahul Raj, S/o Pramod Singh, Resident of Village- Beri, Post Office- Beri,
Police Station- Salaiya, District- Aurangabad.

... .. Respondent/s



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with

Letters Patent Appeal No. 237 of 2020

In

Civil Writ Jurisdiction Case No.21426 of 2019

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1. Arayabhatta Knowledge University, Mithapur, Patna through its Vice Chancellor.
2. The Vice Chancellor, Arayabhatta Knowledge University, Mithapur, Patna.
3. The Examination Controller, Arayabhatta Knowledge University, Mithapur, Patna.

... .. Appellant/s

Versus

Ashutosh Kumar, Son of Ramesh Ram, Resident of Village- Mathanpura,
P.O.- Pipra, P.S.- G.B. Nagar Tarwara, District- Siwan.

... .. Respondent/s

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with

Letters Patent Appeal No. 241 of 2020

In

Civil Writ Jurisdiction Case No.21660 of 2019

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1. Arayabhatta Knowledge University, Mithapur, Patna through its Vice Chancellor.
2. The Vice Chancellor, Arayabhatta Knowledge University, Mithapur, Patna.
3. The Examination Controller, Arayabhatta Knowledge University, Mithapur, Patna.

... .. Appellant/s

Versus

Md. Naurez Alam, Son of Md. Naeem, Resident of Village- Rampur, P.o.-
Muskipur, P.S.- Tarapur, District- Munger.



... .. Respondent/s

with

Letters Patent Appeal No. 244 of 2020

In

Civil Writ Jurisdiction Case No.22071 of 2019

1. Arayabhatta Knowledge University, Mithapur, Patna through its Vice Chancellor.
2. The Vice Chancellor, Arayabhatta Knowledge University Mithapur, Patna.
3. The Examination Controller, Arayabhatta Knowledge University Mithapur, Patna.

... .. Appellant/s

Versus

Aakash Kumar @ Akash Kumar, S/o Shiv Shankar Singh, Resident of Mohalla-Shivaji Colony, Ward No. 6, P.O.-Purnea, P.S.-K. Hat, District-Purnea.

... .. Respondent/s

with

Letters Patent Appeal No. 247 of 2020

In

Civil Writ Jurisdiction Case No.21287 of 2019

1. Arayabhatta Knowledge University, Mithapur, Patna through its Vice Chancellor.
2. The Vice Chancellor, Arayabhatta Knowledge University, Mithapur, Patna.
3. The Examination Controller, Arayabhatta Knowledge University, Mithapur, Patna.

... .. Appellant/s

Versus



Roushan Ranjan, S/o Jayram Yadav, Resident of Village-Mohanpur, P.O.-
Sripurhati, P.S.-Pandol, District-Madhubani.

... .. Respondent/s

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with

Letters Patent Appeal No. 252 of 2020

In

Civil Writ Jurisdiction Case No.22804 of 2019

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1. Arayabhatta Knowledge University, Mithapur, Patna through its Vice Chancellor.
2. The Vice Chancellor, Aryabhatta Knowledge University, Mithapur, Patna.
3. The Examination Controller, Arayabhatta Knowledge University, Mithapur, Patna.

... .. Appellant/s

Versus

Shyam Sundar Choudhary, S/o Ram Bilash Choudhary, Resident of Village -
Hansi, P.O.- Garhbanaili, P.S.- Begumpur, District- Purnia.

... .. Respondent/s

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Appearance :

(In Letters Patent Appeal No. 227 of 2020)

For the Appellant/s : Mr. Anand Kumar Ojha, Adv.

For the Respondent/s : Mr.

(In Letters Patent Appeal No. 226 of 2020)

For the Appellant/s : Mr. Anand Kumar Ojha, Adv.

For the Respondent/s : Mr.

(In Letters Patent Appeal No. 237 of 2020)

For the Appellant/s : Mr. Priyank Deepak, Adv.

For the Respondent/s : Mr.

(In Letters Patent Appeal No. 241 of 2020)

For the Appellant/s : Mr. Priyank Deepak, Adv.

For the Respondent/s : Mr.



(In Letters Patent Appeal No. 244 of 2020)

For the Appellant/s : Mr. Awadhesh Kumar, Adv.

For the Respondent/s : Mr.

(In Letters Patent Appeal No. 247 of 2020)

For the Appellant/s : Mr. Awadhesh Kumar, Adv.

For the Respondent/s : Mr.

(In Letters Patent Appeal No. 252 of 2020)

For the Appellant/s : Mr. Awadhesh Kumar, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE JITENDRA KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 10-10-2022

Re. I.A. Nos. 1/2021 in L.P.A. No.
227/2020, 1/2021 in L.P.A. No. 226/2020,
1/2020 in L.P.A. No. 237/2020, 1/2020 in
L.P.A. No. 241/2020, 1/2021 in L.P.A. No. 244
of 2020, 1/2021 in L.P.A. No. 247/2020 and
1/2021 in L.P.A. No. 252 of 2020 :-

After perusal of the records, we find that the delay in preferring these appeals by the Arayabhata Knowledge University, Patna have not been condoned.

2. In view of the explanation given in the



afore-noted interlocutory applications, the delay of 16, 18 and 19 days respectively in preferring these appeals are, hereby, condoned.

3. All the interlocutory applications, afore-noted, are allowed.

Re. L.P.A. Nos. 227/2020, 226/2020, 237/2020, 241/2020, 244/2020, 247/2020 and 252/2020 :-

All these appeals have been taken up together and a common judgment is being passed.

2. Heard Mr. Anand Kumar Ojha and Mr. Awadhesh Kumar, the learned Advocates for the appellants/University.

3. The respondents/students have already passed the M.B.B.S. examination. While they were writing Semester 2 examination, they were alleged to have used unfair means in the examination hall, leading to cancellation of their result.

4. This led the respondents/students to



challenge the aforesaid decision of the Arayabhata Knowledge University, Patna (*in short the University*), which was primarily based on the report of the Unfair-means Committee, which relied upon the statement made by the Invigilator of the rooms in which the respondents/students were writing their examinations. Some of them were charged with the offense of copying from a chit of paper while others had mobile phones in their possession which was capable of mass storage of answers.

5. In any view of the matter, what surprises us today is that when the Invigilator caught them/students in adopting unfair-means in the examination hall, still they were permitted to write their examination. It was only later that a complaint was made by the Invigilator, which necessitated a referral to the Unfair-Means Committee and final cancellation of their result and their further debarment from appearing in any examination in the current session.



6. The learned Single Judge, after taking note of the facts, found that the Invigilator had reported about the matter on 06.07.2019 and 08.07.2019, but no chit or mobile phone was seized by such Invigilator. The Invigilator, according to the learned Single Judge, reported the matter to the Centre Superintendent only after the examination was over. The fact that the respondents/students were not stopped from writing the examination was taken as a clinching evidence of the fact that the respondents/students were not at fault.

7. In that background, the learned Single Judge seriously took note of the denial of the factum of recovery of any chit or mobile or smartphone from their respective possession.

8. Additionally, the learned Single Judge also found that the Unfair-Means Committee did not record any specific finding on the basis of the facts that the show-cause given by the students made out any



case of unfair-means of any grade as defined under the regulation framed by the University, necessitating cancellation of the result of such students.

9. Thus, on finding that the opinion of the Unfair-Means Committee was based merely and solely on the report of the Invigilator, who reported the matter only after the examination was over, the decision of the Unfair-Means Committee as also of the University, cancelling the result of the students was set-aside and the University was directed to publish the result of the students.

10. Mr. Anand Kumar Ojha, the learned Advocate for the appellants/University has contended that while dealing with the question as to whether the Committee was justified in coming to a conclusion that the respondents/students had indulged in unfair-means, it was not appropriate to exclude from consideration the circumstances under which the enquiry was held and the general background prevailing



in the educational institutions during examination. He has further submitted that only recently, when a move was made by an Invigilator of a college, preventing a student from writing further when he was caught cheating, a ruckus was created. The college administration, therefore, was very cautious and allowed the examination to go unhindered and undisturbed so that other students, who were not adopting any unfair-means in the examination hall, were not disturbed.

11. It has also been submitted that the learned Single Judge mistakenly recorded that no chit of paper was produced before the Unfair-Means Committee.

12. Mr. Ojha has referred to some of the decisions of the Supreme Court while assailing the order of the learned Single Judge and vindicating the decision making process as well as the decision of the University based on the report of the Unfair-Means



Committee.

13. In the ***Board of High School and Intermediate Education, U.P. Allahabad & Anr. Vs. Bagleshwar Prasad and Anr.; AIR 1966 SC 875***, the Supreme Court took into account that the enquiry committee did not write an elaborate report for understandable reasons. The atmosphere prevailing in any examination hall is a factor to be taken into account by the authorities/school/college/administration and the possibility of disturbing the entire examination module, cannot be ruled out. The Supreme Court, therefore, held that not writing an elaborate report by a committee dealing with the matter ought not to be construed as if it did not consider all the relevant factors before concluding that the concerned student had used unfair-means. While saying so, the Supreme Court had taken note of the fact that in cases of adoption of unfair-means, direct evidence may not be available at times and the issue has to be decided in



the light of the probabilities and circumstantial evidence.

14. This gives the justification to the internal committees to address the issue and Courts should be slow to interfere with such decision of the domestic Tribunals appointed by the educational bodies like the Universities.

15. The background circumstance for such exposition is that the University authorities/College administration is not expected to have any animus against their own students and in the absence of any *mala fides* having been alleged, a decision by an internal committee ought not to be normally interfered with.

16. In ***Prem Parkash Kaluniya Vs. The Punjab University & Ors.; (1973) 3 SCC 424***, the Supreme Court found that it was difficult to entertain any petition under Article 226 of the Constitution of India in relation to the finding of the internal committee



about unfair-means having been adopted as it was for the committee to arrive at its own conclusion on the evidence before it which could not have been re-examined except on very very limited grounds which would be required to be established. The Supreme Court came to such conclusion on the ground that in dealing with cases of students charged with adopting unfair-means, the Institutions face myriad problems which ought to be appreciated by the Courts. As long as any enquiry in that regard is held to be fair and of such a nature which affords the candidate an opportunity to defend himself, the final decision of such committee or the Institution ought not be examined with the same strictness as applicable to a criminal charge in an ordinary Court of law.

17. Similarly in ***Controller of Examinations & Ors. Vs. G.S. Sunder & Anr.;*** ***1993 Supp (3) SCC 82***, the Supreme Court has been very candid in admitting that in matters of enforcement



of discipline, the Courts should act with ultimate restraint. The authorities in charge of education, whose duty is to conduct examination fairly and properly, know best how to deal with situations of that kind. "One cannot import fine principles of law and weigh the same in golden scales. Interference by Courts in every case might lead to unhappy result, making the system of examination a farce".

18. The Supreme Court went even further to declare that technicalities of law ought not to be imported to further the cause of a student who indulges in malpractice.

19. On the basis of the afore-noted and other decisions cited, it has been urged by Mr. Anand Kumar Ojha and Mr. Awadhesh Kumar, the learned Advocates appearing for the University, that in the absence of any animus of the University or the Committee against the students or the allegation of *mala fides* against the Universities, the report of the



Unfair-Means Committee ought not to have been discarded so casually. It has further been submitted that seizing mobile telephones of the students of a college would have been very difficult, given the scenario in medical colleges which has residential facilities, accommodating a number of students, who normally come to the aid and rescue of their compatriots. It has further been submitted that allowing such students to continue writing their papers was with the sole purpose of carrying out the examination of the day in that particular room peacefully or else, the students may have created a pandemonium like situation, creating difficulties of genuine students.

20. Thus, it has been vehemently contended that only because the concerned students were allowed to continue with writing their examination papers, the decision of the University was wrongly held to be faulty.



21. We have carefully examined the judgment by the learned Single Judge who has taken note of all the afore-noted submissions advanced on behalf of the University.

22. A Bench of this Court while hearing these matters earlier had called for the report of the Unfair-Means Committee before coming to any conclusion.

23. We have perused the report of Unfair-means Committee.

24. From the perusal of the Committee report, it appears that the cases of the concerned students were dealt with in a very cavalier manner. The particular clause in the Regulation framed by the University was quoted and a decision of cancellation of current examination and debarment from the next University examination was made. Which one of the offences under particular Regulation was committed by the students, has not been stated.



25. True it is, the report of an internal committee appointed by an educational body is not required to be analyzed in a serious manner, but while dealing with the lives of students, especially with respect to the allegation of their having indulged in unfair-means during examination, the specific act of each student has to be taken into account.

26. We also find that the mindset of the Invigilator that catching hold of students indulging in unfair-means would lead to ruckus in the examination hall, is also an illustration of a preconceived notion. For the fear of backlash, no authority ought to restrain itself from taking a rightful action. If such authority does so, he does it at his own peril and such inaction cannot be supported on the ground that any further action in that regard would lead to a backlash, thereby disturbing the entire examination schedule or conducive atmosphere in the examination hall.

27. It would be very difficult for us, we



must admit, to sustain the order of the University as also of the Unfair-Means Committee, especially in view of the fact that the allegations against the students have not even been remotely proved.

28. We, thus, do not find that the learned Single Judge adopted any liberal approach while dealing with the students of the University against whom there was an allegation of using unfair-means in the examination hall.

29. We have not tested the aforesaid order of the learned Single Judge or the decision making process or the decision of the Unfair-Means Committee or the University in any strict fashion. No rules of evidence or principles which are appreciated in a criminal trial have been at the back of our heads while deciding the issue.

30. We find that the allegation of using unfair-means in an examination is a very serious charge against a student, who has many years to go



before he completes the M.B.B.S. course. With such a serious charge comes even more serious responsibility of the educational institutions in charging its own students for the aforesaid act. Once the matter comes to the notice of the Court, no doubt the Courts would be well advised to rely on the report of the internal body constituted for the purpose of determining whether unfair-means was practiced by a particular student, but if the report does not inspire confidence, even in the absence of any animus of the committee or the University against the students or of any *mala fides* against the authorities, such decision making cannot be sustained in the eyes of law.

31. We have not based our opinion only on the fact that the respondents/students have passed their M.B.B.S. examination and any decision by the Courts would undo their results; rather we have examined these cases from a dispassionate view that for holding a person responsible for such a serious



charge during his studentship, a careful approach is require to be adopted or else, the report and the decision dependent on such report loses its significance and the purpose for which such internal bodies are constituted by the educational authorities also gets thwarted.

32. The apprehension of Mr. Ojha that allowing the order of the learned Single Judge to go in the records would lead to a precedent in favour of the students who might commit unfair means during examination.

33. We must say, such apprehensions are absolutely unrealistic and illusory, to say the least. Every case is decided on its own set of facts.

34. In the present case, because of the Unfair-Means Committee not writing any order inspiring confidence of the learned Single Judge as also this Court, the decision of the University becomes suspect in the eyes of law, but it would not be a precedent in



any other case of use of unfair-means and the resultant action by the educational body.

35. We need not reiterate that such decisions are *in-personam*, which cannot be used as a precedent by any misdirected student using unfair-means in an examination.

36. After having said that, we find that the learned Single Judge was absolutely justified in directing the University to publish the result of such students which the University promptly did and those students have passed their M.B.B.S. examination.

37. The appeals fail, but without any order as to costs.

(Ashutosh Kumar, J)

(Jitendra Kumar, J)

Praveen-II/-

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