

Prem Parkash Kaluniya

Vs

The Punjab University and Others

Civil Appeal No. 526 of 1971

(K. S. Hegde, A. N. Grover, A. N. Ray JJ)

25.01.1972

JUDGMENT

GROVER, J. -

1. This is an appeal from an order of the Punjab and Haryana High Court dismissing a petition filed under Article 226 of the Constitution in limine.

2. The facts of the case are as shortly stated.

3. The appellant joined the Jat College, Rohtak for the Three Years Degree Course (B.Sc.) after passing the Higher Secondary Examination. In April, 1970 he appeared in Part I examination of that Degree Course. His Roll No. was 11743. The result of the examination was declared on July 3, 1970, but his result was withheld. On being required the appellant appeared before the Registrar of the Punjab University on August 10, 1970, to answer a questionnaire. On October 7, 1970, the Standing Committee of the University gave him a hearing and put certain questions to him. On November 17, 1970, the University was asked by the appellant to supply copies of certain documents. These documents were supplied including the order of the Standing Committee by which the appellant was disqualified from sitting in any examination for two years. On November 24, 1970, a petition was filed by the appellant under Article 226 of the Constitution challenging the order of the Standing Committee. That petition was dismissed in limine by the High Court on December 1, 1970.

4. Now what appears to have happened is that the Sub-Examiner who examined the answer books of the appellant as also of Roll No. 11750 made a report to the following effect :

"Roll No. 11750 appears to have copied Q. No. 1(b) from Roll No. 11743. Detailed notes are given in the answer books at the proper places."

The Head-Examiner also made a report forwarding the above remarks to the University and saying that he had actually gone through the answer books and was of the opinion that the remarks made by the Sub-Examiner were correct. The matter was referred to the Subject Expert, Dr. V. S. Bhatia, Lecturer, Department of Physics, Punjab University for his independent opinion. He made the following report :

"I again agree with the allegations of the Sub-Examiner that Roll No. 11750 has copied from Roll No. 11743 (or both have copied from the same source). Roll No. 11750 is a very weak student (as one can see from his performance in the rest of

paper) and has been unable to give correct solution of Q. No. 1(a). But still he tackles the Q. No. 1(b) in an almost satisfactory way. He puts a wrong value in a sum of three numbers but still gets the same result of addition as in the answer book of Roll No. 11743. The result of division of 12.0984 by 2 has been wrongly given as 6.01306 in both cases. Again both of them wrongly state that escape velocity is 10.3 km. instead of saying 10.3 km./sec. Thus it is clear that both have copied from the same source."

5. In the Questionnaire which the appellant was called upon to reply relevant questions were put to him to which he gave answers. It was pointed out by the appellant that he and the student bearing Roll No. 11750 were sitting in different rows and the seat of the other candidate was not parallel to his seat but he was sitting behind one or two boys. He further stated that he was busy in answering the question paper and he did not know whether the other candidate had copied from his answer book or not. He denied having given any help to Roll No. 11750 or to have taken any help from him. According to him, he answered the question "with my own knowledge". He expressed a desire to be heard in person by the Standing Committee but stated that he did not want to produce any witness or other evidence in his defence. The Standing Committee also put to him certain questions. He stated that he had done Q. No. 1(b) in the Physics paper independently and he could not explain how the mistakes were common in both the answer books. He was specifically asked if there was any common incrimination slip which passed between him and the other candidate to serve as a common source for copying and he replied that there was no such common source. He could not say how the candidate bearing Roll No. 11750 copied his answers. He maintained that he had not copied from the candidate bearing Roll No. 11750 nor had he allowed him to copy from his answer book. He could not say whether the other candidate had copied from his answer book without his knowledge. The other candidate Shri Virender Singh bearing Roll No. 11750 was also examined by the Standing Committee on the same date. He could not give any explanation for putting a wrong value in a sum of three numbers but still getting the same result of addition as in the answer book of the appellant. He admitted that he had obtained only seven marks in the whole paper while the appellant had obtained 15 marks.

6. The Standing Committee stated in its order all the relevant facts and came to the conclusion that the Head-Examiner had thoroughly examined the answer books of both the candidates and had pointed out the common mistakes committed by them. The mistakes were such which could have been committed only if copying had been done from a common source or by the two candidates from each other. The statements of the appellant as well as the other candidate were not accepted and both were found guilty of having violated the provisions of Regulation 13(b), appearing in the Punjab University Calendar, 1970. Regulation 13(b) is as follows :

"If an answer book of an examinee shows or it is otherwise established that he has received or attempted to receive help from any source or in any manner or has given help or attempted to give help to another candidate in any manner, he shall be disqualified from appearing in any University examination for two years, including that in which he is found guilty if he is a candidate for an examination held once a year, or for four examinations, including that in which he is found guilty, if he is a candidate for an examination held twice a year."

7. On behalf of the appellant the following contentions had been raised before us -

(i) The rules of natural justice were violated inasmuch as -

- (a) the appellant was never informed of the precise charge;
 - (b) he had no opportunity of making a statement of his own; and
 - (c) he had opportunity to cross-examine the other candidate or the examiners and the subject expert who had made the reports.
- (ii) the finding of the Standing Committee was vague and based on no evidence; and
 - (iii) on the facts found, no action could have been taken under Regulation 13(b).

8. As regards the requirement of giving information of the precise charge it had been pointed out by the learned counsel for the appellant that the Standing Committee had come to the conclusion that the appellant as well as the other candidate Virender Singh had committed mistakes in the answer books while answering the Q. No. 1(b) and those mistakes were such which could be possibly made only when each had copied from a common source or from each other. It was urged that no such charge was conveyed to the appellant and he was therefore not in a position to adequately explain or meet that charge. The law on this point is well-settled that an examinee must be adequately informed of the case he has to meet and given a full opportunity of meeting it. As to what the extent and content of that information should or ought to be would depend on the facts of each case. The examinee can ask for more information or details with regard to the material or evidence which may be sought to be used against him and normally if he makes a request in that behalf, the University authorities, in order to inform him adequately of the case he has to meet, would supply him the necessary particulars or details of the evidence. In the very nature of things no hard and fast rule can be laid down and so long as the Court is satisfied that the opportunity which was afforded to the examinee was adequate and sufficient, it will not interfere with any orders prejudicial to him which may have been made by the University authorities.

9. The fact that the copies of the reports of examiners were supplied to the appellant as also the questions which were put to him in the questionnaire and by the Standing Committee when he personally appeared before it fully established that he was informed of the charge against him. One of the questions put by the Standing Committee was as follows :

"Did any common incriminating slip pass between you and Roll No. 11750 to serve as a common source for you and Roll No. 11750 for copying and thus committing common mistakes ?"

10. We do not find that the appellant had any doubt about the allegation which he had to meet. So far as the opportunity of making a statement of his own is concerned, he was specifically asked in Q. No. 8 contained in the Questionnaire if he had anything more to state in his defence and it appears that he gave no answer. There is nothing to show that he ever asked for any opportunity to cross-examine the other candidate or the examiners who had made the reports including the subject-expert.

11. A good deal of emphasis had been laid on the answers which were given by the two candidates and our attention had been invited to the discrepancies between the details of the answers contained in the two answer books. It was further pointed out that the appellant had made rough calculations at the back of the answer book which showed that he had worked out the answer on his own without the aid of any other source which could be regarded as common from which the other candidate was alleged to have copied. These, however, are matters on which the court cannot entertain a petition

under Article 226. It was for the Standing Committee to arrive at its own conclusion on the evidence before it and the same cannot be re-examined except on very limited grounds which have not been established. We are also unable to see how the finding of the Standing Committee could be regarded as vague or as having been based on no evidence.

12. In *The Board of High School and Intermediate Education, U.P. v. Bagleshwar Prasad and Others*, ([1963] 3 SCR 767 : AIR 1965 SC 875) in which the facts were very similar, it was held that the identity of the wrong answers given by the respondent in that case with that of the other candidate bearing the consecutive Roll Number rendered the charge of the respondent having employed unfair means highly probable and that the findings of the enquiry committee based upon such probabilities and circumstantial evidence could not be said to be based on no evidence as in such matters direct evidence quite often cannot be available. It was further pointed out that in dealing with these cases the problem faced by such institutions should be appreciated by the High Court and so long as the enquiry held was fair and afforded the candidate an opportunity to defend himself, the matter should not be examined with the same strictness as applicable to criminal charges in the ordinary courts of law. There is hardly any justification for saying in the present case that the finding of the Standing Committee was based on no evidence.

13. Lastly, it has not been shown to us how on the finding of the Standing Committee the case of the appellant would not fall within Regulation 13(b) of the University Regulations. It would certainly cover a case where copying has been done from a common source.

14. In the result, the appeal fails and it is dismissed but without any order as to costs. It has been represented to us by counsel for the appellant that as permitted by the interim order the appellant sat for B.Sc. Part II examination in which he claims to have passed. We can do nothing in the matter. It is open to the appellant to make any representation he likes to the University authorities in this behalf.

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