

Hartej Bahadur Singh
v.
The State of Punjab
and others
Harbans Singh, J.

with the consolidation proceedings and the records prepared as a result thereof. The Collector under section 43 of the Tenancy Act, has no jurisdiction to interfere in anything done under the Consolidation Act even if some mistake has been made by the authorities during consolidation proceedings. The appeal, therefore, must be accepted, the order of the learned Single Judge set aside, the rule made absolute and the impugned orders quashed. The order of the Collector will stand. This will not, however, in any way prevent the tenant from pursuing any remedy that may be open to him. There will be no order as to costs.

K.S.K.

CIVIL MISCELLANEOUS

Before Prem Chand Pandit, J.

KAVITA,—Petitioner.

versus

THE PUNJAB UNIVERSITY,—Respondent.

Civil Writ No. 2378 of 1963.

1964
April, 27th

Punjab University Calendar 1962, Vol. I at page 97—Regulation 1 under the head 'Rectification of results'—Candidate—Meaning of—Person declared to have passed Matriculation Examination and granted certificate—Whether still continues to be a candidate—Result of such person—Whether can be quashed.

Held, that according to Regulation 1 under the Head 'Rectification of results' on page 97 of the Punjab University Calendar, 1962, Volume I, the result of a candidate can be quashed, even after it had been declared. With the declaration of the result, a candidate is entitled to a certificate, which bears the same date, on which the result is announced. If, the result is quashed, the certificate automatically falls and is of no use. A 'candidate' remains a 'candidate'

so far as the University is concerned, even after the result is declared and the certificate has been issued to him or her. Clause (iii) of this very Regulation states that the result of a candidate can be quashed, if he is found ineligible to appear in the examination. No time limit has been fixed for the discovery of this fact. Cases may arise where the fraud etc. may become known even after a number of years and if it is proved to the satisfaction of the University Authorities that a particular candidate had defrauded them and was not, as a matter of fact, eligible to appear in a certain examination, then his result can be quashed and the certificate, which is based upon the result, would automatically be rendered useless and of no significance. Similarly, according to clause (ii), where a mistake is found in the result, then the same can be quashed irrespective of the fact as to when the mistake is discovered and whether the certificate in that particular case has been issued to the candidate or not.

Petition under Articles 226/227 of the Constitution of India praying that a writ of certiorari or any other appropriate writ, order or direction be issued quashing the order dated the 25th October, 1963, passed by Shri Iqbal Singh, Assistant Registrar (Examination)-II, for Registrar, by which the petitioner has been disqualified for two years.

T. N. BHALLA, ADVOCATE, for the Petitioner.

G. P. JAIN, ADVOCATE, for the Respondent.

ORDER

PANDIT, J.—This is a petition under Articles 226 and 227 of the Constitution filed by Kavita, daughter of one Hans Raj; challenging the validity of the order of the Punjab University, respondent, quashing her Matriculation result and disqualifying her for two years, that is, 1963 and 1964.

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According to the allegations of the petitioner, she appeared in the Matriculation Examination of the Punjab University held in March, 1963 and

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her Roll No. was 32020. Later on, the results were announced and she was declared to have passed the said Examination. In due course, the Registrar of the Punjab University issued a certificate to her to the effect that she had passed the Matriculation Examination in the Second Division obtaining 469 marks. Subsequently, she was telegraphically asked to appear before the Deputy Registrar, Punjab University on 5th August, 1963. She, accordingly, did so and gave her replies to certain questions, which were put to her which apparently, satisfied him. Later on, to her great surprise, she received a letter dated 25th October, 1963 from the Registrar to the effect that the unfair means case pending against her had been decided and she had been disqualified for two years, that is, 1963 and 1964; under Regulation 12(b) at page 89 of the Punjab University Calendar, 1962, Volume I. Her result had also been quashed by the Syndicate,—*vide* Paragraph 109 of its proceedings dated 28th September, 1963. She was advised to surrender the certificate already issued to her and send the same to the Deputy Registrar (Examinations) by 31st October, 1963, failing which the matter would be reported to the Police. In 1st November, 1963 she submitted a representation to the Syndicate of the Punjab University praying that her case be reconsidered and fresh enquiry be made and she be afforded an opportunity to place her case before them. This representation was rejected by the Vice-Chancellor of the Punjab University and information was conveyed to her by the Assistant, Registrar (Examination),—*vide* his letter dated 30th November, 1963. This led to the filing of the present writ petition on 30th December, 1963.

In the return filed by the respondent, it was stated that there was a complaint of using unfair means during the course of the Matriculation Examination held in March, 1963 at Sarhali Centre.

Consequently, the Head Examiners were requested to scrutinise the papers of all the candidates and to report if they found that any of the candidates was guilty of using unfair means during the said examination. Shri Badri Nath, Head Examiner, Mathematics Paper 'B', reported that amongst others candidates bearing Roll Nos. 32019 and 32020 also copied from each other. Their solutions agreed almost word for word in questions Nos. VII (a), V(a) and (b) and XI(a). Both these candidates committed the same kind of mistakes and had attempted the questions almost in the same order. On receipt of this report, the Registrar sent for the petitioner and other candidates and telegraphic intimation was sent to them to appear before the Deputy Registrar (Examinations) on 5th August, 1963. The petitioner presented herself before him on this date, when she was fully explained the charge against her and was required to explain her position and answer the questionnaire according to her own free will, which she did. She was also shown the answer book of the candidate bearing Roll No. 32019 and her own answer book in Mathematics Paper 'B'. It was denied that after this enquiry any office of the University told her that everything was all right. Thereafter, the scripts of the candidates, including the petitioner, in Mathematics Paper 'B', were again referred to an Expert in this Subject for his consideration and report if the candidates were guilty of using unfair means during the Examination. He fully agreed with the Head Examiner's opinion. Subsequently, the whole case was thoroughly examined by the Standing Committee appointed under Regulation 19 and after considering the report of the Head Examiner, the opinion of the Expert, the answer books, and the explanation offered by the petitioner, it unanimously came to the conclusion that the petitioner was guilty of using unfair means and

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she was consequently disqualified for two years. As the petitioner's result was declared before the completion of the enquiry against her, the same was quashed by the Syndicate under the Rules, in view of the disciplinary action taken against her for using unfair means in the said Examination. Proper opportunity had been given to the petitioner to establish her innocence before the impugned order was passed. The Vice-Chancellor also thoroughly examined the whole case, in spite of the fact that no appeal or representation lay to him against the unanimous decision of the Standing Committee.

Two contentions were raised by the learned counsel for the petitioner—(1) that no adequate and proper opportunity had been afforded to the petitioner to explain her position and establish her innocence and (2) that the University authorities had no jurisdiction to quash the result of the petitioner under Regulation 1, appearing under the head 'Rectification of results' at page 97 of the Punjab University Calendar 1962. Volume I, after she had been granted a certificate by the Registrar, because she was no longer a 'candidate' as mentioned in this Regulation.

As regards the first contention, there is no merit in the same. Under similar circumstances, it has been held by a Bench decision of this Court consisting of Mehar Singh and Khanna JJ., in *Karamjit Kaur v. Punjab University*, Civil Writ No. 1911 of 1963, decided on 20th November, 1963, that adequate opportunity had been afforded to the petitioner before the impugned order was passed by the University.

As regards the second contention, Regulation No. 1, referred to above, reads as under:—

"1. The Syndicate shall have power to quash the result of a candidate after it has been declared, if—

- (i) he is disqualified for using unfair means in the examination; or
- (ii) a mistake is found in his result; or
- (iii) he is found ineligible to appear in the examination."

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The argument of the learned counsel for the petitioner was that the term 'candidate' had not been defined in the Regulations and, therefore, one had to look to its ordinary Dictionary meaning; where it was defined as under:—

"One who offers himself or is put forward by others as aspirant to be elected or appointed to an office, privilege or position."

After the certificate was granted to the petitioner, she no longer remained an aspirant to be declared a Matriculate and, as a matter of fact, she had become one and thus it could not be said that she was still a 'candidate'. There is no force in this contention, because it is clearly provided in this Regulation that the result of a candidate can be quashed, even after it had been declared. With the declaration of the result, a candidate is entitled to a certificate, which bears the same date, on which the result is announced. If the result is quashed, the certificate automatically falls and is of no use. A 'candidate' remains a 'candidate' so far as the University is concerned; even after the result is declared and the certificate has been issued to him or her. Clause (iii) of this very Regulation states that the result of a candidate can be quashed, if he is found ineligible to appear in the examination. No time limit has been fixed for the discovery of this fact. Cases may rise where

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the fraud etc., may become known even after a number of years and if it is proved to the satisfaction of the University Authorities that a particular candidate had defrauded them and was not, as a matter of fact, eligible to appear in a certain examination, then his result can be quashed and the certificate, which is based upon the result, would automatically be rendered useless and of no significance. Similarly, according to clause (ii), where a mistake is found in the result, then the same can be quashed irrespective of the fact as to when the mistake is discovered and whether the certificate in that particular case has been issued to the candidate or not.

In view of what I have said above, this petition fails and is dismissed, but in the circumstances of this case, however, I will leave the parties to bear their own costs in these proceedings.

B.R.T.

REVISIONAL CIVIL

Before Inder Dev Dua and Shamsher Bahadur, JJ.

SAVITRI AHUJA.—*Petitioner.*

versus

HARBANS SINGH MEHTA.—*Respondent.*

Civil Revision No. 56-D of 1963.

1964

April, 30th

Delhi Rent Control Act (LIX of 1958) Ss. 14 (1)(e) and 50—Order of ejectment passed by the Rent Controller on the basis of compromise between the parties—Order not involving any judicial finding—Whether a nullity—Suit to challenge the order—Whether maintainable—Order or decree of a Court—When can be displaced on ground of fraud.