

A

K.R. SRINIVAS

v.

R.M. PREMCHAND AND ORS.

SEPTEMBER 30, 1994

B

[MADAN MOHAN PUNCHHI AND
K. JAYACHANDRA REDDY, JJ.]

C

University—Examination—Revaluation of answer sheets—Son of Vice-Chancellor seeking revaluation—Award of higher marks—Allegation of manipulation because of father's interest—Destruction of answer sheets as per university regulations—Writ in public interest challenging result after a long time and subsequent to destruction of answer sheets held not maintainable—Expunction of adverse remarks against Vice-Chancellor ordered.

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The appellant appeared for final examination of Bachelor of Marine Engineering in Andhra University in 1988. During that time his father, appellant in the connected appeal, was Vice Chancellor of the University. He passed the examination in Second Division but sought revaluation of his answer books of three subjects and that brought him substantially higher marks as a result of which he was awarded degree with First Division. Under the relevant Regulations of the University the answer books were destroyed within six months from the examination. In 1991 the respondent, a Research Scholar of the University, filed a writ petition in public interest in the High Court challenging the appellant's result on the ground that neither the University was competent to reevaluate the papers nor could such result be achieved since there were procedural irregularities as also that the result had been manipulated because of Vice-Chancellor's interest in his son.

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A single judge of the High Court dismissed the petition. On appeal a Division Bench held that the appellant's result was manipulated but the degree awarded was not cancelled. The appellant filed an appeal in this Court. While disposing the appeal the Division Bench made certain adverse remarks against the appellant's father i.e. the then Vice-Chancellor of the University. The connected appeal has been filed by him seeking expunction of the remarks.

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Allowing the appeals, this Court

HELD : 1. A Writ petitioner who comes to the Court for relief in public interest must come not only with clean hands, like any other writ petitioner, but must further come with a clean heart, clean mind and a clean objective. It cannot be assumed that the respondent who at the relevant time was a Research Scholar and part and parcel of the University, did not know the regulations whereunder the answer books are destroyed within six months from the examination under formal orders of the functionaries. It cannot be assumed that he did not know about the destruction of the answer books at the time when he moved the High Court. The respondent had no locus standi to move the High Court in public interest at that belated point of time. [117-F, G]

2. As a sequel all remarks against appellant's father in the judgment of the Division Bench of the High Court not only get expunged but the whole basis on which they rest stands effaced. [118-B]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 6589 of 1994 Etc.

From the Judgment and Order dated 17.12.93 of the Andhra Pradesh High Court in W.A. No. 53 of 1993.

P.P. Rao and K. Ram Kumar for the Appellants.

S. Siva Subramaniam and R.A. Perumal for the Respondent No.1.

C. Sitaramaha and Ms. Vrinda Dhar for the Respondents.

The following Order of the Court was delivered :

Leave granted in both matters.

K. R. Srinivas, the appellant in Civil Appeal arising out of S.L.P. (C) No. 2828 of 94 is aggrieved against the order of a Division Bench of the Andhra Pradesh High Court dated 17.12.1993 passed in Writ Appeal No. 53 of 1993 whereby the writ petition No. 2082 of 1991, preferred by Dr. R.M. Premchand the first respondent under Article 226 of the Constitution, was allowed in public interest. Since certain adverse remarks came to be made by the Division Bench against the father of K.R. Srinivas i.e., Professor K.V. Ramana, the then Vice Chancellor of the Andhra University, the other appeal arising out of S.L.P. (C) No. 2392 of 94 seeks the

A limited..... relief of expunction of all those remarks.

We are refraining from giving herein the facts elaborately, for we have felt a sense of discomfort and uneasiness in which the High Court's jurisdiction in public interest was invoked at a point of time when the appellant stood cornered and cross checking became impossible by the court.

In the year 1988 Professor K.V. Ramana appellant was the Vice Chancellor of the Andhra University, during which time his son K.R. Srinivas appellant sat for the final examination of Bachelor of Marine Engineering. His result declared disclosed that he had passed therein in second division. He applied to the University authorities on two different dates for revaluation of his answer books pertaining to three subjects:

1. Industrial Engineering and Management,
2. Production Technology II Metallurgy, and
3. Design and Machine Element Part II.

The revaluated result brought him substantially higher marks. As a result K.R. Srinivas got a first division and a degree in B.E. Marine Engineering on that basis was awarded to him. Allegedly as a result thereof he got a coveted job. There was a furore that the results were manipulated because of the Vice Chancellor's interest in his son. In the meantime since procedural irregularities in the framing of the result of various candidates got to a scandal, the Government of Andhra Pradesh appointed an Enquiry Commission. A couple of years went by. It is in the year 1991 that the respondent Dr. R.M. Premchand moved the High Court in a writ petition under Article 226 of the Constitution challenging the result of the appellant only in public interest *inter alia* on the ground that neither the University was competent to revalue the papers nor could such result be achieved since there were procedural irregularities as also that the result had been manipulated. A learned Single Judge of the High Court elaborately went into the matter. He steered through the air of suspicion dismissing the writ petition. A Division Bench of the High Court reversed the learned Single Judge holding that the result of the appellant had been manipulated. The degree awarded was however not cancelled. On the point of cancellation the Division Bench agreed with the learned Single Judge.

While hearing these petitions on September 15, 1994 we were inspired to have a look at the answer books as also the question papers in which results had substantially been improved. We, therefore, required of the University counsel to produce before us the answer books as also the question papers for our inspection today. Anticipating their production we also required learned counsel for the parties to give us a list of examiners for the subjects involved available in the Universities and Institutions functioning in Delhi, together with there addresses and phone numbers, residential as well as official, if possible, so that we could establish contact with any of them. This effort was made to see for ourselves, on inviting the academics, whether there was a real error of assessment in the first result and further whether the rectification by revaluation was erroneous. The other reason was to take away the exercise from Andhra Pradesh to a neutral place like Delhi and that too under our eye. We were hopeful that we would be able to do substantial justice in this way. Our hopes however stand dashed since we are informed that the answers books stood destroyed way back on 14.8.1989, much before the institution of the writ petition even. Now we have felt driven to the wall and have to submit to the fait accompli. One way is to toe the line of the High Court. The second one is to demolish everything. Pained as we are at the writ petitioner choosing the year 1991 for moving the High Court, when the answers books stood destroyed, we would rather opt for the second course. The only hope of Srinivas to merge innocent, on the destruction of his answer books, stands destroyed. His despair has thus to be met in our remaining masters of the situation.

It cannot be forgotten that a writ petitioner who comes to the Court for relief in public interest must come not only with clean hand, like any other writ petitioner, but must further come with a clean heart, clean mind and a clean objective. We cannot assumed that Dr. R.M. Premchand, who at the relevant time was a Research Scholar and part and parcel of the University, did not know the regulations whereunder the answer books are destroyed within six months from the examination under formal orders of the functionaries. We cannot assume that Dr. R.M. Premchand did not know about the destruction of the answer books of Srinivas at the time when he moved the High Court in public interest. If this be our impression Dr. R.M. Premchand had no *locus standi* to move the High Court in public interest at that belated point of time. Therefore, we allow the appeal of Srinivas, set aside the order of the Division Bench of the High Court dated

- A 17.12.1993 in W.A. No. 53/1993 and restore the operative part of the order of the Single Bench of the High Court, added with the ground that Dr. R.M. Premchand had no *locus standi* to move the High Court, in view of the facts and circumstances afore mentioned. As a sequel all remarks against Professor K.V. Ramana in the Judgment of the Division Bench of the High Court not only get expunged but the whole basis on which they rest stands effaced. His appeal too is allowed.
- B

This is the end result of both the appeals. There shall be no order as to costs.

T.N.A.

Appeals allowed.