

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**Civil Appeal Nos.6036-6040 of 2019
Special Leave Petition (C) Nos.7015-7019 of 2019**

UNION PUBLIC SERVICE COMMISSION & ANR. Appellant (s)

VERSUS

MAYANK RAI ETC. Respondent(s)

O R D E R

Leave granted.

We have heard learned counsel for the parties.

The impugned order is not sustainable for the reason that it is predicated on a reasoning that the materials discovered from the respondent(s) cannot be said to be used while undertaking the examination. That appears to be the reason for the High court to have quashed the decision of the appellants of debarring the respondent(s) for ten years and for the learned single Judge and the appellate court to confine the punishment to debarment of only that examination. We do not think that such a course

of action is admissible in judicial proceedings where the candidates are found using unfair means.

The issue has received attention of this Court on more than one occasion in Board of High School and Intermediate Education, U.P. Vs. Bagleshwar Prasad & Ors.¹; Karnataka Public Service Commission and Ors. Etc. Vs. B.M. Vijaya Shankar and Ors.²; Central Board of Secondary Education Vs. Vineeta Mahajan and Ors.³; Director (Studies) and Ors. Vs. Vaibhav Singh Chauhan⁴; Secretary, Tamil Nadu Public Service Commission Vs. A.B. Natarajan & Ors. Etc.⁵.

An analysis of the aforesaid judgments shows that educational institutions and more so the recruitments as in the present case would require high probity to be maintained. In fact, learned counsel for the appellants is right in contending that the present examination would facilitate an entry into NDA where higher

1(1963) 3 SCR 767

2 (1992) 2 SCC 206

3 (1994) 1 SCC 6

4 (2008) 14 SCALE 554

5 (2014) 14 SCC 95

standards are expected in a job profile to defend the country. The position would be no different for the Civil Services Examination. The discovery of relevant material with such candidate, would suffice and it is not as if only on actual use being made of the material detected by the examiner that action can be taken. It would otherwise amount to misplaced sympathy.

Only one aspect does find some sympathy with us i.e. the age profile of the candidates ranging from 16 ½ years to 19 years. They are the students of the Sainik School, Ghorakhal, District Nainital. Ofcourse being from such a disciplined school, infact a greater responsibility is expected from them. The punishment of debarment for ten years would also not only exclude them from that exam for which the permissible age is 16 to 19 years but would also prevent them from appearing in further examinations as the debarment is for a long period of ten years.

Insofar as conduct of examination by the UPSC is concerned, learned counsel for the appellants

did submit that since the maximum age for appearing for examination in some of the examinations is 30 years, the respondent(s) would be able to take the examination after the debarment period of ten years. However, that position is not very helpful to the line of reasoning of the appellants, as it would amount to preventing the respondent(s) from taking the examination at a younger age of 16 to 19 years while permitting them at a more advanced age.

We are also informed that the debarment is of four categories:(a) Life debarment, (b) bar of 10 years (c) bar of 5 years and (d) debarment for that examination. In all probability, all of them, if not most of them, would have become overage for taking the examination in question as the next examination is only in the year 2020.

We, thus, consider it appropriate to direct the appellants to re-examine the quantum of punishment in the given facts of the case at their own discretion as to whether the punishment of debarment can be lowered from 10 years to not more than five years.

The decision on that behalf be taken within a period of two months from the date of receipt of the order.

The civil appeals are accordingly disposed of.

.....J.
[SANJAY KISHAN KAUL]

.....J.
[K.M. JOSEPH]

NEW DELHI,
AUGUST 2, 2019.

ITEM NO.47

COURT NO.12

SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) Nos.7015-7019/2019

(Arising out of impugned final judgment and order dated 26-10-2018 in Special Appeal Nos.793/2018, 795/2018, 796/2018, 798/2018 and 799/2018 passed by the High Court of Uttarakhand at Nainital)

UNION PUBLIC SERVICE COMMISSION & ANR.

Petitioner(s)

VERSUS

MAYANK RAI ETC.

Respondent(s)

Date : 02-08-2019 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE K.M. JOSEPH

For Petitioner(s) Mr. Naresh Kaushik, Adv.
Mr. Omung Raj Gupta, Adv.
Mr. Rahul Sharma, Adv.
Mrs. Lalita Kaushik, AOR

For Respondent(s) Shaila Arora, Adv.
Ms. Nalini Singh, Adv.
Mr. Badri Prasad Singh, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeals are disposed of in terms of the
signed order.

Pending application(s), if any, shall also stand
disposed of.

(POOJA ARORA)
COURT MASTER

(ANITA RANI AHUJA)
COURT MASTER

(Signed order is placed on the file)