



HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Civil Writ Petition No. 6261/2021

Risha Lodha D/o Bhagwat Singh Lodha, Aged About 21 Years,
R/o Rao Ji Ki Nai Haveli, Nursingh Dhara, Opp. Hanuman Temple,
Jodhpur- 342001.

-----Petitioner

Versus

1. The Institute Of Chartered Accountants Of India, Through
Its President Ca Nihar N Janbusaria, Icai Bhawan,
Indraprastha Marg, Post Box No. 7100, New Delhi -
110002.

2. The Deputy Secretary (Examination), The Institute Of
Chartered Accountants Of India, Icai Bhawan, C-1,
Sector1, Noida - 201301.

-----Respondents

For Petitioner(s)	:	Mr. Vikas Balia
For Respondent(s)	:	Mr. Manoj Bhandari Mr. Anjay Kothari, all through Cisco Webex

JUSTICE DINESH MEHTA
Judgment

Reportable

13/05/2021

(1) The petitioner, a young girl-student of 21 years of age, has knocked at the doors of this Court being aggrieved by extreme oppressive action of a professional body-The Institute of Chartered Accountants of India (for short, 'Institute'), which enjoys a long earned reputation of setting high standards of professional excellence, discipline and meeting the timeline especially when it comes to holding of examinations and declaring results.



(2) Although the chronological facts are handful but their culmination has been dreadful and concussion thereof could have been doomful.

(3) Aspiring to become a Chartered Accountant, the petitioner cleared her CA Foundation Examination in the year 2018 in the very first attempt. Consequently, she became eligible to appear in CA Intermediate Examination scheduled for May, 2020.

(4) On account of unprecedented situation of spread of Covid-19 and imposition of lock-down, the exams due in May, 2020 were cancelled.

(5) Thereafter, a new schedule for CA Examinations came to be published according to which the exams were re-scheduled to be conducted between November 21st and December 14th, 2020.

(6) Owing to the said rescheduling, the respondent-Institute gave an option to all those candidates, who had filled-in application forms for the examinations of May, 2020 to appear in the examinations to be held in November, 2020.

(7) Meanwhile, being wary of uncertainty about candidates' ability to appear, arising out of Pandemic, the Institute permitted the students to opt-out of examinations scheduled in November, 2020 with a liberty to appear in subsequent examinations, which were planned to be convened in January, 2021. In this regard, a Press Note, well in advance, came to be issued by the Institute on 7th November, 2020.

(8) On 20.11.2020, the petitioner chose to address an e-mail to the office bearers of the Institute, including its President on the following e-mail addresses:

- (i) jnihar@icai.in
- (ii) kdhiraj123@yahoo.co.in
- (iii) vicepresident@icai.in



(9) In the said e-mail, the petitioner highlighted the situation of spread of Covid-19 and cautioned that if the examinations are held, it will lead to exponential growth in number of Covid cases. Though the petitioner made many emotional comments, but the thrust of her e-mail was only to suggest that online infrastructure be developed so that all levels of CA Examinations be conducted online.

(10) As luck would have it, the petitioner and her father got infected with Covid as is evident from their reports dated 21.11.2020, which are on record.

(11) The petitioner opted out of the November exams and was thus, issued admit card to appear in the examinations held from 22.1.2021 to 7.2.2021.

(12) Petitioner appeared in all the papers/exams held as per above schedule.

(13) On 22.2.2021, as a bolt from the blue, she received an e-mail dated 22.2.2021 from the Dy. Secretary (Examinations) – respondent no.2, informing that her result had been put on hold, because of derogatory remarks she had made in her e-mail. An explanation was simultaneously sought as to why disciplinary proceedings not be initiated against her for the same.

(14) No sooner had the petitioner received the notice aforesaid than she sent an e-mail (in the evening of 22.2.2021 itself) expressing her unconditional apology for her inappropriate remarks. In addition thereto, she clearly wrote that she lost her cool because of constant delay due to Pandemic and also because of safety concerns of her and her father. It will not be out of place to reproduce in extenso, the apologetical e-mail, which she had sent:



"Respected Sir/Ma'am

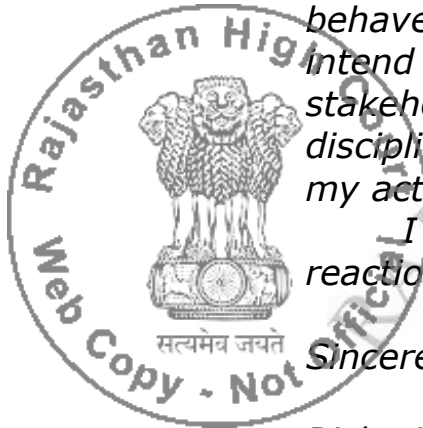
I'm so sorry for my inappropriate remarks. I completely failed to think about my words and ended up saying something hurtful and insensitive. I just lost my cool because of the situation i.e. constant delays due to the pandemic and safety concerns regarding my family, and now that I think of it, I acted in a very silly and childlike manner. I'm truly ashamed of myself. I wish I could undo the damage I have done. Sadly, I can't. Hence, an apology letter.

Please forgive me. I promise that I will not behave in such a manner again. I did not in any way intend to hurt or harm the institute and its stakeholders. I sincerely request you to not initiate a disciplinary proceeding against me as I really regret my actions and will not repeat this in the future.

I apologize for all the inconvenience and my reactions.

Sincerely,

Risha Lodha"



(15) Regardless of the aforesaid letter, vide which, the petitioner had literally eschewed whatever she had written in her e-mail, respondent No.2 proceeded to send her a communication dated 7.3.2021 requiring her presence on 10.3.2021 at Jaipur. The subject of said e-mail needs special mention, for which, it is being extracted:

"Alleged resort to unfair means/derogatory remarks during Chartered Accountants Examinations – November 2020."

(16) The petitioner appeared on the scheduled date and time at Jaipur and put forth her explanation, but she was kept uninformed about the order/result of the hearing.

(17) Various e-mails were exchanged between petitioner and respondent no.2 in the meantime, but the same are not of much significance.



(18) On 26.3.2021, the Institute declared result of CA Intermediate Examinations. The petitioner surfed official website of the Institute for her result, only to find that her result has been cancelled, under caption "ADOPTED UNFAIR MEANS. LETTER FOLLOWS". The screen shot depicting such information has been placed on record by the petitioner.

(19) Faced with such situation, the petitioner sent an e-mail to respondent no.2, inter alia, showing her concern that the result had been cancelled indicating that she had adopted unfair means. She submitted that a letter was to follow as per the information, but she had not received any such letter. While reiterating that she had not used any unfair means, she submitted that her result had perhaps been cancelled due to misunderstanding.

(20) In response to petitioner's above e-mail, the respondent no.2 responded vide e-mail dated 30.3.2021 and informed that the Examination Committee had reached a conclusion that she was guilty of making derogatory remarks in the captioned examination and thus, her result of CA Intermediate Examination held in January, 2021 had been cancelled. Said e-mail records that a hard copy would follow.

(21) The petitioner preferred the present writ petition on 5.4.2021, opposing respondents' actions.

(22) When the matter came up for admission hearing, simultaneous with the issuance of notices, the Court had directed respondent-Institute to produce petitioner's result in a sealed envelop.

(23) Mr. Manoj Bhandari and Mr. Anjay Kothari, learned counsel appeared for the respondent-Institute and informed that



petitioner's result has been produced in a sealed envelop and a reply to the writ petition has also been filed.

(24) Mr. Vikas Balia, learned counsel appearing for the petitioner at the outset submitted that in many a cases, the Court opens the envelop to see as to whether the concerned petitioner has passed or not before proceeding to decide the case on merits-considering that if the candidate has cleared the examination, the matter would be heard and if not, it can be dismissed as infructuous. But in the instant case, irrespective of the result, he would insist rather implore the Court that the matter be heard and the result be ordered to be declared, only if the Court found substance in petitioner's submissions and merits of the case.

(25) Hence, with the consent of both the parties, the matter was finally heard.

(26) Having laid the factual fulcrum, learned counsel for the petitioner raised a number of grounds; some of them are enumerated hereunder:

(a) The action of the Examination Committee in cancelling result of the petitioner is per-se without jurisdiction inasmuch as Regulations 41 and 176 of the Chartered Accountants Regulations, 1988 (hereinafter referred to as 'the Regulations or the Regulations of 1988') authorize the Examination Committee to take action in the matters relating to examination and to adjudge behaviour of a candidate in or near an examination hall, whereas the contentious letter was written about 2 months ahead of exams.

(b) On receipt of the contentious e-mail dated 20.11.2020, the Institute had sent a registered notice dated 22.11.2020 asking the petitioner to refrain from addressing any such communication



concerning the examination, failing which, the Institute would be constrained to initiate legal proceedings against her. He submitted that the notice sent by Institute's advocate was clear and categorical. Any legal action could therefore, be taken only in case the petitioner further indulged in any such correspondence with the Institute. Emphasising that e-mail dated 20.11.2020 is the only e-mail and the petitioner had not sent any other mail, learned counsel argued that according to the respondents' own notice, they were estopped from taking any legal action against the petitioner until the petitioner sent any further e-mail/letter.

(c) During the entire hearing Mr. Balia maintained that the e-mail written by the petitioner could not be said to be derogatory in any manner eliciting disciplinary action. He navigated the Court through the body of the e-mail dated 20.11.2020 and contended that there was hardly any offending remark against the Institute or any of its office bearers, though he meekly added that may be, certain things could have been avoided by the petitioner. But in any case, petitioner's anxiety was only to request the Institute to develop online infrastructure, so that the CA Examinations at all levels could be conducted online, added learned counsel.

(d) Mr. Balia took the Court through e-mail dated 22.2.2021 which was immediately sent by the petitioner on receipt of the notice (dated 22.2.2021) given by the respondent no.2. He was at pains, when he submitted that petitioner's reply/response dated 22.2.2021 is reflective of the enormous pressure and repentance, which she would have felt on receiving the notice and highlighted that the petitioner not only apologized, but also went to the extent of feeling ashamed of herself. Then, he posed a question: "what else did the respondent Committee expect of the petitioner? "



(e) Without prejudice to his basic contention that e-mail dated 20.11.2020 was in no manner derogatory, learned counsel submitted that the ego of respondent No.2 ought to have been satisfied on receiving the apology and instead of continuing with the proceedings, the respondents ought to have closed the matter. He submitted that the Institute has failed to show the usual grace, for which it is known.

(f) Learned counsel expressed his concern, rather anguish about the words used by the Institute on its official portal in relation to petitioner's result. He submitted that use of expression "adopted unfair means" was factually incorrect on the face of it. He added that such reflection in relation to petitioner's result shows not only vindictiveness of the respondent No.2, but also irresponsible and unprofessional approach of a professional body.

(27) While summing up the arguments, learned counsel would submit that not only does the writ petition deserve to be allowed, but also the glaring facts of the case at hand warrants imposition of exemplary cost for the harassment meted out to the petitioner and to recompense her image that has been tarnished.

(28) Mr. Bhandari, learned counsel appearing for the respondents firstly raised a preliminary objection that in the face of an efficacious alternative remedy of filing a review before the Council against the decision taken by the Examination Committee, as provided in Regulation 176(3) of the Regulations, the writ petition is not maintainable.

(29) It was also contended that as the petitioner has concealed a material fact of receiving a notice dated 22.11.2020 sent to her by the Institute's counsel, her writ petition is liable to be dismissed.



(30) A preliminary submission was also made by the respondents that though the petitioner had been informed vide communication dated 30.3.2021 that her result had been cancelled, but she has chosen not to assail the same and hence, her writ petition seeking a declaration of result simplicitor, is not maintainable.

(31) Joining on merits of the case, Mr. Bhandari did not have much to defend the impugned action, except that petitioner's e-mail dated 20.11.2020 reflected disorderly behaviour on her part. He added that petitioner's contentious e-mail was unwarranted, particularly a day before the scheduled date of examination.

(32) While stating that the respondent-Institute had taken all the measures and precautions to ensure that the examinations be held keeping the safety of all stakeholders, Mr. Bhandari submitted that even Hon'ble the Supreme Court being satisfied with the precautionary measures taken by the respondent-Institute, had dismissed a writ petition filed by one student (Amit Jain) on 4.11.2020 and permitted the respondent-Institute to conduct examinations. He argued that the petitioner ought not have raised doubts about the Institute's preparation.

(33) He argued that in any case, petitioner's e-mail dated 20.11.2020 was disorderly and since the same related to the examinations, Examination Committee did have the jurisdiction to proceed against the petitioner and annul her examination and such action is well within the powers of Examination Committee as conferred by Regulations 41 and 176 of the Regulations.

(34) Having heard learned counsel for the parties and after wading through the record, this Court finds that not only the initiation of proceedings against the petitioner, but also the manner in which, the proceedings have been conducted so also its



culmination in cancellation of petitioner's result suffers from all the vices which have been voiced by Mr. Vikas Balia. They are without jurisdiction and against the principles of natural justice on one hand and capricious and arbitrary on the other.

(35) Before setting out reasons for arriving at such conclusion, this Court would at first, prefer to reproduce petitioner's e-mail dated 20.11.2020, which is the sole bone of contention:



"I want to give exams. If the exams happen, I will appear.

But

If the exams happen, the no. of cases are bound to sky-rocket.

Sir, with all due respect, Do you not understand the seriousness of the situation or are you just ignorant?

I honestly feel the only way forward is to develop online infrastructure and conduct all levels of CA exams online.

From what we know (research & statistics), jan-feb is gonna be worse (conducting exams physically then is a far-fetched dream).

Even if the exams start, they won't conclude successfully. More situations like this (curfew/lockdown) will arise in between exams and a lot of people (students, invigilators, in transit, icai staff, staff at the centre and their families) will get infected.

"Precaution is better than cure"

PLEASE RETHINK YOUR DECISIONS

QUERY:

What happens if a student in my class gives say 2 exams in the first group and then opts out.

Now it may be due to his lack of preparation or that he himself or his family is infected. What will happen next? Will the other students in the class be informed?

Moreover how will you know if he opted out because he has covid or just symptoms (could be a viral fever)

What happens to all the students if the invigilator gets infected?

I'm not expecting a reply but please go through this once



Thankyou for your time.

I will get back to studying now."



(36) A perusal of the above quoted e-mail sent by the petitioner reveals that the same was addressed to Institute's President and other office bearers and not to the Examination Committee. Hence, the Examination Committee ought not have taken cognizance of an e-mail sent to the President of the Institute, unless the President directed it to do so.

(37) That apart, in the opinion of this Court, there is hardly anything in the e-mail, for which it can be alleged/ considered as or even construed to be derogatory. May be, the petitioner could have been more calibrated in her emotional utterness and could have avoided some of the sentences, but then also, this Court is unable to countenance respondents' stand that the contents of her mail were derogatory. The very initiation of the proceedings against the petitioner alleging that the e-mail contains derogatory remarks was uncalled for and unwarranted. On the contrary, this Court feels that action of the respondents was rather over bearing or high handed.

(38) One cannot lose sight of the fact that on receipt of the notice dated 22.2.2021 itself, the petitioner had practically knelt down in subservience before respondent No.2 urging that she regretted her action and would not repeat the same in future. While apologizing in the said reply/letter, she had even gone to the extent of writing that "I am truly ashamed of myself."

(39) As Voltaire said, "With great power comes great responsibility". Thus, the Institute which is adorned with enormous power to elevate or uplift the lives of vulnerable & struggling students, is required to practice greater restraint in invoking its powers especially against the students. Instant case called for not just restraint but absolute abstinence from initiating any action



against the petitioner, particularly when she had submitted a beseeching response. But for the reasons best known to the Examination Committee, instead of burrying the hatchet, it literally opened a battle-front and issued a notice to the petitioner on 7.3.2021 and summoned her to Jaipur to defend her cause in furtherance of the notice dated 22.2.2021(vide which, the Institute had called upon the petitioner to explain why the disciplinary proceedings not be initiated against her for derogatory remarks she had made).

(40) One would surely wonder as to what more could be expected of the petitioner for seeking redemption of her purported misdeeds or misdemeanor at the altar of the Examination Committee?

(41) It is rather disturbing that the petitioner was personally heard on 10.3.2021 yet no order was ever communicated/supplied to her. She came to know that her result had been cancelled that too, citing "adopted unfair means".

(42) What is more intriguing and perturbing is, that in subsequent mail exchange, the Examination Committee sought to improve upon the earlier reason for cancelling the result by stating that same had occasioned on account of her making derogatory remarks in the examinations. Though the said e-mail indicated that a hard copy would follow, but the same has never seen the light of the day.

(43) The petitioner has been constrained to approach this Court for the following reliefs:

"I. The respondent institution(sic) may be directed to declare the result of the petitioner;



II. Any other appropriate order or direction, which this Hon'ble Court considers just and proper in the facts and circumstances of this case, may kindly be passed in favour of the petitioners.

III. Costs of the writ petition may kindly be awarded to the petitioner."

(44) True it is, that the petitioner has not challenged the communication dated 30.3.2021, as has been argued by Mr. Bhandari. But then, the communication dated 30.3.2021 cannot be said to be an order. It is simply an intimation. Therefore, the petitioner is justified in seeking a prayer for declaration of result. Ideally, the petitioner could have sought quashment of communication dated 30.3.2021 or any corresponding order, but such trivial technicalities cannot come in petitioner's way of getting her grievance redressed and rights adjudicated.

(45) This court hardly finds any substance in Mr. Bhandari's allegation that the petitioner is guilty of concealment of facts in relation to the notice dated 22.11.2020 sent by the Institute's counsel. Firstly, the petitioner does not stand at any advantageous position by its nondisclosure and secondly, it rather gives an additional ground to the petitioner, as noticed in para 26(b) above. One can easily understand that it was nothing more than an oversight, due to which the petitioner failed to bring the same on record.

(46) So far as respondents' preliminary objection regarding availability of alternative remedy before the Council is concerned, in the extant facts, when the respondent No.2 has exceeded its jurisdiction and the impugned decision is arbitrary and further smacks of abuse of authority, this Court cannot relegate the



petitioner to avail alternative remedy. Needless to say, availability of alternative remedy is a rule of discretion. In the present factual backdrop, remedy of review cannot be posited as a road block in petitioner's way of invoking writ jurisdiction, when her fundamental rights have been infringed and when actions of the respondent committee are manifestly arbitrary and de hors its powers.

(47) It is noteworthy that petitioner had addressed her e-mail to the President and other office bearers of the Institute without endorsing/marketing its copy to Examination Committee. Hence, it is apparent that the Examination Committee came into action at the instance of the office bearers. Such a scenario poses a serious question about the efficacy of the remedy of Review before the Council provided under Regulation 176(3) of the Regulations. In the opinion of this Court it will be a farce or just an eye wash.

(48) Further more, when the Institute -respondent No.1 itself has appeared before this Court and has chosen to defend the decision of the Examination Committee-respondent No.2 with full force and vigour, this Court conceives that the so called alternate remedy would be illusory and an exercise in futility. The same would be like asking the petitioner to challenge Caesar's order before Caesar's wife (Re:Ram & Shyam Company Vs. State of Haryana-AIR 1985 SC 1147).

(49) The impugned decision cancelling petitioner's result is nothing short of colourable exercise of powers. It also showcases vindictiveness of respondent Committee. The petitioner had sent the contentious e-mail on 20.11.2020 whereafter on 22.11.2020 the respondent's counsel sent a notice to the petitioner on her e-mail, relevant extract whereof reads thus:



"In view of the above, you are hereby called upon to refrain from addressing any such communication to ICAI or any other organization concerning the examinations currently being conducted by ICAI, failing which ICAI shall be constrained to initiate appropriate legal proceedings against you at your cost and consequences which you may please note."

(50) A perusal of the substance of the notice leaves no manner of doubt that the respondent-Institute had warned the petitioner of dire consequences, if she further indulged in addressing any such communication to ICAI or any other organization concerning examinations.

(51) Indisputably, the petitioner has not written even a single letter to the Institute or to any other authority after 20.11.2020. Neither there is anything on record nor is it the case of the respondents that petitioner has ever communicated with the Institute or published anything on any public platform regarding examination or the manner in which the examinations were held by the Institute. The respondent-Institute, therefore bound by its own notice was estopped from initiating any action much less disciplinary proceedings with respect to petitioner's e-mail dated 20.11.2020. In the opinion of this Court, the impugned proceedings were, therefore, fundamentally without any basis besides being arbitrary.

(52) It is also noteworthy that the first notice, which the petitioner came to receive from the respondent no.2 vide e-mail dated 22.2.2021 was only to the extent of seeking petitioner's explanation as to why disciplinary proceedings not be initiated against her for writing derogatory remarks. On receiving the notice, the petitioner appeared before the Committee by travelling



all the way to Jaipur on 10.3.2021 and put-forth her cause. The petitioner was never informed or put to notice that the respondent committee was even contemplating the extreme action of cancellation of her examination.

(53) The action/punishment of cancellation of result was therefore, not just clearly contrary to principles of natural justice but also against the law laid down by Hon'ble the Apex Court in the case of Gorkha Security Services Vs. Govt. of NCT, Delhi reported in (2014) 9 SCC 105. Though this judgment deals with the issue relating to black listing but the observations made by the Supreme Court in that process makes the legal position clear that a show cause notice should necessarily state the action which is proposed to be taken against the noticee.

(54) Since there was no mentioning or even indication of cancellation of result neither in the e-mail dated 22.2.2021 nor in the subsequent communications, there remains not even an iota of doubt that the impugned order of cancelling the result is inherently illegal, falling foul to Article 14 of the Constitution of India and the same is liable to be quashed.

(55) This Court is unable to accept any excuse or justification offered by the respondents for not even communicating the decision to the petitioner. This Court feels concerned about the petitioner's plight who was confronted with a remark that her result has been cancelled due to use of unfair means, when she searched for her result on 26.3.2021. The respondents' action of reflecting such information rather mis-information in its official website, in clear contrast with the actual facts is beyond acceptable limits. The Examination Committee ought to have realized that such casual rather reckless approach involving



imputation on reputation may have serious repercussions on emotional or mental equilibrium of a student.

(56) The moot question, which remains to be decided is, as to whether the Examination Committee had the jurisdiction to cancel petitioner's result in the present factual matrix. In order to dilate upon this issue, it will be apposite to run through the following provisions dealing with the powers of Examination Committee catalogued in Regulation 41 and 176 of the Regulations of 1988:

"41. Disciplinary action in connection with examination.

If a candidate is reported to have behaved in a disorderly manner in or near an examination hall or is reported to have resorted to or attempted to have resorted to unfair means for the purpose of passing an examination, the Examination Committee may, on receipt of a report to that effect and after such investigation as it may deem necessary, take such disciplinary action as it may think fit, provided that an opportunity shall be given to the candidate of being heard before an order adverse to him is passed.

Explanation — Disciplinary action may include the cancellation of any examination result, or the cancellation of articles or both in relation to the candidate.

176. Examination Committee

(1) The Examination Committee shall perform all the functions of the Council relating to the examinations, such as holding of examinations, admissions thereto, cancellation of an examination, appointment and selection of examiners, prescription of books for the guidance of candidates, declaration of results, payment of remuneration to examiners and/or assistant examiners, superintendents of the examination and others.

(2) The Examination Committee may delegate any of its functions to the President or the Vice-President or its sub-committee.

(3) The Council shall have the power to review any decision taken by the Examination Committee or its sub-committee or the President or the Vice-President



in the performance of the functions delegated to it or him."

(57) A simple reading of Regulation 41 reveals that the Examination Committee can initiate disciplinary proceedings in connection with the Examination. The language used therein is unequivocal, leaving no room for ambiguity that an action can be taken if a candidate behaves in a disorderly manner **in or near an examination hall or has resorted to unfair means.**

(58) Even if the contentious e-mail written by the petitioner on 20.11.2020 is presumed to be derogatory, then also, it is to be noted that the same was written when the petitioner had not even appeared in the examination. Since the petitioner had appeared in the examinations held by the Institute between 22.1.2021 to 7.2.2021, the respondent no.2 could take action (if any) only in relation to petitioner's behaviour during examination in the examination hall, that too, between 22.1.2021 and 7.2.2021. The incidence or the e-mail in question had no nexus or proximity with the examination hall, hence, the proceedings under challenge were void since their inception or very beginning.

(59) The e-mail in question, which was written in November, 2020 cannot be used rather misused by the Examination Committee to penalise the petitioner while exercising its purported powers conferred by Regulation 41 of the Regulations of 1988. The impugned action so also consequential decision dated 9/10.3.2021 (Annex.R/1) taken by the Examination Committee are both, without jurisdiction and contrary to law i.e. express provisions embodied in Regulations 41 and 176 of the Regulations of 1988.

(60) The Institute of Chartered Accountants of India is a statutory body. Hence, its decisions, actions and adjudication are supposed to conform to the standards expected of State or instrumentality



of a State. A State that suppresses freedom of speech and inflicts or imposes extreme punishment treating an act or attempt of criticism and/or if it treats any suggestion for improvement as a challenge to its authority or supremacy is a State, that disregards rather violates fundamental rights of a citizens guaranteed by Article 19(1)(a) of our Constitution.

(61) As an upshot of discussion foregoing, this Court has no hesitation in holding that the action of the Examination Committee was without jurisdiction; proceedings conducted by it were arbitrary and against the principles of natural justice and their culmination in the form of decision dated 9/10.3.2021 has been contrary to law.

(62) The writ petition is thus, allowed with the cost of litigation, quantified at Rs.20,000/-.

(63) As a natural fallout, the decision dated 9/10.3.2021 of the Examination Committee is hereby quashed and set aside.

(64) The result which was produced by the respondents in a sealed envelop was opened and taken on record. Upon perusal of the same, this Court finds that the petitioner has passed the CA Intermediate Examination. Declared accordingly.

(65) The respondent-Institute is directed to send original mark-sheet and certificate of passing CA Intermediate Examination to the petitioner, forthwith. It will be required of the respondent-Institute to appropriately reflect petitioner's result on its official portal.

(66) Though the facts of the present case warrant imposition of exemplary costs, but this Court feels that quantification of cost would be a guesswork and improper assessment of the agony and trauma which the petitioner has undergone. Hence, this Court



abstains from imposing any cost in the form of damages or otherwise.

(67) While hoping that in future the Institute will not take any such action and take any criticism in positive stride, this Court hastens to add that a professional body like the respondent Institute should introspect and ensure that its overenthusiasm of attaining professional excellence and endeavours of setting high standards of discipline should not silence rather stifle the speech of a student or its member in the manner that has been done in the present case.

(68) The cost of Rs.20,000/- as indicated above, shall be paid by the respondents by way of demand draft to the petitioner within a period of 30 days from today.

(69) The stay application also stands disposed of accordingly.

(DINESH MEHTA),J

44-CPGoyal/-

