

(2010) 04 CAL CK 0061
In the Calcutta High Court
Case No : Writ Petition No. 21262 of 2009

Agnibesh Sengupta

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 13-04-2010

Acts Referred:

Citation : AIR 2010 Cal 188

Hon'ble Judges : Biswanath Somadder, J

Bench : Single Bench

Advocate : Subrata Ghosh and Mahadeb Khan, for the Appellant; Partha Sarathi Mullick, Suchitra Saha and Choudhury Faruk Ali, for the Respondent

Final Decision : Dismissed

Judgement

Biswanath Somadder, J.—Having heard the learned advocates appearing on behalf of the parties, it appears that the grievance of the writ Petitioner is in respect of marks secured by him in the Higher Secondary Examination held in the year 2009. According to the writ Petitioner, he has been awarded low marks in Bengali, Physics and Biological Science papers in the said examination.

2. The instant writ petition has been filed in this Court on 3rd December, 2009, whereas the result of the writ Petitioner was published by the West Bengal Council of Higher Secondary Education (hereinafter referred to as the "Council") on 28th May, 2009. It also appears that the writ Petitioner applied for post-publication scrutiny of his answer scripts through Bikna Khirde Prasad Smrity Vidyapith, Bankura, but the result showed no change of marks and the position remain unaltered. The post-publication scrutiny result, according to the writ Petitioner, was received by him through the concerned school on 18th July, 2009.

3. Learned advocate appearing on behalf of the Council submits that as per the extant Regulations and applicable Rules, the Council cannot preserve the answer scripts of the candidates who appear in the Higher Secondary Examinations, indefinitely. The time frame for preservation of answer scripts is six months from

the date of publication of the result. He further submits that even if a candidate applies for post-publication scrutiny of his/her answer scripts, the preservation of those answer scripts is limited to a time frame of three months from the date of publication of the result of such post-publication scrutiny. He submits that in the instant case, the writ Petitioner has approached this Court in December, 2009, whereas, admittedly, he received the post-publication result from the concerned school on 18th July, 2009, as stated in paragraph 6 of the instant writ petition.

4. Having heard the learned advocates for the parties and upon perusing the instant writ petition, I am of the view that the Council, being a statutory body, is entitled to formulate its own Regulations regarding admission and examination. Accordingly, the Council has an Examination Regulation in place, which is called The West Bengal Council of Higher Secondary Education Examination Regulation, 2006. Regulation 26 reads as follows:

26. Preservation of records.

The Council shall preserve all answer scripts, marks foils in respect of the Higher Secondary Examination of a year for a period of six months from the date of publication of the results of such Examination of that year and on the expiry of the said period all such documents connected with the Examination, other than the tabulation record, shall be disposed of and no demand for production of the same shall thereafter be entertained:

Provided that the answer scripts of post-publication scrutiny shall be preserved for three months from the publication of the post-publication scrutiny results of that year or a period of six months from the date of publication of the results of Higher Secondary Examination, whichever is later.

The above Regulation clearly indicates a time frame for the purpose of preservation of records. In the facts of the instant case, the answer scripts of the writ Petitioner were to be kept preserved by the Council for three months from the date of publication of the result of the post-publication scrutiny. That three months elapsed in October, 2009, since the writ Petitioner himself has stated in paragraph 6 of the writ petition that he received the post-publication scrutiny result on 18th July, 2009.

5. That apart, he has approached the writ Court by filing the instant writ petition in December, 2009. Even if the writ Petitioner approached this by filing the writ petition within the time-frame stipulated in the above Regulation, unless an interim order was obtained by the writ Petitioner for preservation of the answer scripts, it was not incumbent on the part of the Council to keep the answer scripts preserved indefinitely as that would have surely frustrated the scheme of Regulation 26, which has been reproduced hereinabove.

6. For reasons stated above, I am of the view that no useful purpose will be served in keeping the instant writ petition pending since the answer scripts of the writ Petitioner, as submitted by the learned advocate appearing on behalf of the

Council, have already been destroyed.

7. The writ petition is thus liable to be dismissed and is hereby dismissed.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.