
(2015) 09 MP CK 0051
In the Madhya Pradesh High Court
Case No : Writ Petition No. 5667 of 2014

Ayushi	Vs	APPELLANT
The State of Madhya Pradesh		RESPONDENT

Date of Decision : 04-09-2015

Acts Referred:

Citation : (2015) 09 MP CK 0051

Hon'ble Judges : Prakash Shrivastava, J

Bench : Single Bench

Advocate : D.K. Rathore, Learned Counsel, for the Appellant; Yogesh Mittal, Learned Counsel, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Prakash Shrivastava, J—Heard finally with consent.

2. This writ petition has been filed by the petitioner seeking a direction to the respondents to reevaluate the answer sheet of the petitioner in the English (General) subject.

3. In brief, the petitioner had appeared in the 12th examination in the year 2014 and has been awarded 57 marks out of 100 in English (General). Thereafter the petitioner had applied for re-totalling but apparently there was no change in the marks, therefore, the petitioner has filed the present writ petition for revaluation of the answer sheet.

4. A reply has been filed by the respondents taking the plea that in terms of Regulation 119 of the Board of the Board of Secondary Education Madhya Pradesh Regulations, 1965, the revaluation of the answer sheet is not permissible and that no strong case is made out by the petitioner for revaluation of the answer sheet.

5. Having heard the learned counsel for the parties and on the perusal of the record, it is noticed that the petitioner is seeking the revaluation of the answer

sheet of the subject English (General), the question paper of which is descriptive in nature. The petitioner has raised the plea that the answers have been marked correct, therefore, higher marks should have been granted but keeping in view the fact that the question paper relates to the language subject and the examiner has awarded the marks on the descriptive answers given by the petitioner considering the relevant requirement, the petitioner's assertion that the answer is not wrong therefore full marks or near full marks should be granted, cannot be accepted. There are some objective type questions also but it has not been pointed out by counsel for the petitioner that in any of the objective type questions, though the answer is correct, the requisite marks have not been awarded.

6. The Division Bench of this Court in the matter of *Ku. Neha Indurkha Vs. M.P. Board of Secondary Education*, (2003) 3 MPHT 311 : (2003) 3 MPLJ 368 considering the earlier judgment of this Court as well as the Supreme Court, has affirmed the judgment of the Single Bench refusing to direct for revaluation of answer sheet of the English subject by holding as under :-

"11. The desirability/permissibility of "Revaluation of Answer Papers" in the examination conducted by the Board came up for consideration before the Apex Court, in the case of *Maharashtra State Board of Secondary and Higher Secondary Education and Another Vs. Paritosh Bhupeshkumar Sheth and Others*, AIR 1984 SC 1543 : (1984) 2 SCALE 30 : (1984) 4 SCC 27 : (1985) 1 SCR 29 : (1984) 16 UJ 1107 . Thus, Regulation 104 of Maharashtra Regulations expressly bars "Revaluation of Answer Papers" and there is no such corresponding express provision barring "Revaluation of Answer Papers", in the Madhya Pradesh Regulations.

12. The Apex Court, in Para 26, of the above case, observed as under:-

"26. We are unable to agree with the further reason stated by the High Court that since "every student has a right to receive fair play in examination and get appropriate marks matching his performance" it will be a denial of the right of such fair play if there is to be prohibition on the right to demand revaluation and unless a right to revaluation is recognised and permitted there is an infringement of rules of fair play. What constitutes fair play depends upon the facts and circumstances relating to each particular given situation. If it is found that every possible precaution has been taken and all necessary safeguards provided to ensure that the answer-books inclusive of supplements are kept in safe custody so as to eliminate the danger of their being tampered with and that the evaluation is done by the examiners applying uniform standards with check and cross-checks at different stages and that measures for detection of malpractice etc. have also been effectively adopted, in such cases it will not be correct on the part of the Courts to strike down the provision prohibiting revaluation on the ground that it violates the rules of fair play. It is unfortunate that the High Court has set out to detail in either of its two judgments the elaborate procedure laid down and followed by the Board and the Divisional Boards relating to the conduct

of the examinations, the evaluation of the answer books and the compilation and announcement of the results..... In the circumstances, when we find that all safeguards against errors and malpractices have been provided for, there cannot be said to be any denial of fair play to the examinees by reason of the prohibition against asking for revaluation."

13. A Division Bench of this Court, while interpreting Regulation 119, of the Regulations, in the case of M.P. Board of Secondary Education and Anr. v. Ku. Vinita Rupra (supra), observed in Paras 6 and 7 :-

"6. We have heard the learned Counsel for the parties and perused the record. So far as the general principle of interpretation is concerned, there is no difficulty and we need not refer to all cases on the subject. Question before us is very limited whether the word "scrutiny" appearing in Regulation 119 and expression appearing in the rules framed by the Board at (A) "for retotalling of the answer book examined" are to be construed to mean "revaluation of the answer books" or not. With great respect, we do not agree with the view taken by learned Single Judge. The word "scrutiny" has been defined in Random House Dictionary of the English Language as "a searching examination or investigation, minute inquiry". In the Legal Glossary, published by the Government of India, "scrutiny" means "examination of anything, an official examination of the votes cast at an election in order to eliminate any votes that are invalid and to rectify or confirm the numbers stated in the return". In the Webster's New International Dictionary, word "scrutiny" has been defined to mean "to search carefully". In Words and Phrases, Permanent Edition, West Publishing Company, the word "scrutiny" means to "examine or observe closely in detail, to investigate minutely without any suggestion of criticism or suspicion". Chambers English Dictionary explains "scrutiny" as close, careful or minute investigation or examination.

7. So far as the dictionary meaning of the word "scrutiny" is concerned, it means close examination. But the word "scrutiny" is further qualified by the word "marks". Thus, what is to be scrutinised is the marks and it does not mean revaluation of the answers given by the students in the answer books. Learned Single Judge has proceeded to extend the meaning of the words "scrutiny" to mean "revaluation of the answer books of the candidates". Scrutiny of marks only means that the marks of the candidate shall be minutely examined by the authorities. Had the word "scrutiny of the answer books" been mentioned without qualifying word "marks", then the finding of the learned Single Judge could possibly have been accepted. Therefore, what is to be scrutinised is the marks shown in the answer given by the candidate. The view taken by the learned Single Judge on the face of it does not appeal to us."

14. The Division Bench, in Para 10 of the judgment, further observed :-

"10. It is no doubt true that every student deserves to be dealt with fairly and honestly but nonetheless the provisions which are appearing in the Regulations

and the Rules cannot be interpreted to mean which is not capable of interpretation. A provision should be interpreted in the manner which may advance the cause of justice and fair play. At the same time, the provision should be given natural meaning without any violence to the language employed by the statute. The Statute should be given ordinary and natural meaning keeping in view the principles of fair play and justice but that does not mean that total violence should be done to the language. For the sake of repetition we against state here that the scrutiny of marks means that marks alone have to be scrutinised or minutely examined. That does not mean that the whole answer-book has to be revalued or the entire revaluation of the answer-sheet should be done. This expression is incapable of interpretation as put by the learned Judge."

15. The matter needs to be examined from yet another angle. Lacs of students appear every year in Final Examinations conducted by the respondent Board, for Classes X and XII. In addition, thousands of student appear every year in the supplementary examinations for these classes. In the above background, any direction for "Revaluation of answer papers" of the students seeking such "Revaluation", the number where of would certainly be in thousands and thousands, if not in lacs, will not only create practical difficulties for the Board, but also is bound to throw the entire system out of gear.

16. The Apex Court, while examining the matter, further observed in Para 27 of the judgment:-

"27..... Further it is in the public interest that the results of Public Examinations when published should have some finality attached to them. If inspection, verification in the presence of the candidates and revaluation are to be allowed as of right, it may lead to gross and indefinite uncertainty, particularly in regard to the relative ranking etc., of the candidates, besides leading to utter confusion on account of the enormity of the labour and the time involved in the process."

17. The Apex Court while sounding a note of caution in interference in academic matters, such as the present one, observed in Para 29:-

"29. Far from advancing public interest and fair play to the other candidates in general, any such interpretation of the legal position would be wholly defeasive of the same. As has been repeatedly pointed out by this Court, the Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day-to-day working of educational institutions and the departments controlling them. It will be wholly wrong for the Court to make a pedantic and purely idealistic approach to the problems of this nature, isolated from the actual realities and grass-root problems involved in the working of the system and unmindful of the consequences which would amenate if a purely idealistic view as opposed to a pragmatic one were to be propounded. It is equally important that

the Court should also, as far as possible, avoid any decision or interpretation of a statutory provision, rule or bye-law which would bring about the result of rendering the system unworkable in practice. It is unfortunate that this principle has not been adequately kept in mind by the High Court, while deciding the instant case."

18. For the foregoing reasons, we do not find any scope for interference in the matter.

19. The Letters Patent Appeal, therefore, fails and is hereby dismissed."

7. Considering the law which has been laid down by the Division Bench as also the fact that the petitioner is seeking re-evaluation of the answer sheet of a paper which relates to descriptive answer and also taking note of the manner of original valuation of the answer sheet, I am of the opinion that no case for interference is made out.

8. The writ petition is accordingly dismissed.

9. C.C. as per rules.