

(1989) 01 MAD CK 0068
In the Madras High Court

B. Rajappa

APPELLANT

Vs

The Additional Controller of Examinations, University of
Madras and Another

RESPONDENT

Date of Decision : 24-01-1989

Acts Referred:

Citation : (1990) 1 MLJ 330

Hon'ble Judges : Nainar Sundaram, J

Bench : Division Bench

Judgement

Nainar Sundaram, J.—The petitioner in W.P. No. 3572 of 1980 is the appellant in this writ appeal. The respondents in the writ petition are the respondents herein. The parties shall be referred to as per their nomenclature in the writ petition. The petitioner filed the writ petition with the following prayer:

For the reasons stated in the accompanying affidavit, the petitioner prays that this Hon''ble Court may be pleased to issue a writ of certio-rarified mandamus or any other appropriate writ or other direction calling for the records from the University and quash the memorandum issued by the Additional Controller of Communications, Madras University, dated 6.3.1980 in his official memorandum No.B6/B.Arch/1980 and direct the Additional Controller of Examinations to arrange for a revaluation, by objective and dispassionate examiners, of my answer papers in B.Arch. (Final) examination, 1979 in Advanced Architectural Design, Thesis, Town Planning and Advanced Structural Design on a fair comparison with the answer papers of the other candidates with register numbers 280, 281, 282, 284, 285, 291, 292, 296, 301 and 302, who had been declared successful in the same B.Arch. (Final) Examination, 1979 and pass such further or other orders as this Hon''ble Court may deem fit and render justice.

The impugned memorandum reads as follows:

Office of the Registrar, University of Madras, University Buildings, Chepauk, Triplicane P.O., Madras -600 005. Dated 6 March, 1980.

Official Memorandum No. R6/B.Arch./1980

Ref: His request for revaluation of answer papers in Advanced Structural Design and Town Planning, including Civil Architecture, Regional Planning and Housing and Thesis part at the B.A. Arch. (Final) Degree Examination of April. 1979.

The answer paper in Town Planning including Civic Architecture, Regional Planning and Housing of candidate with Register Number 279 at B.Arch. Degree (Final) Examination of April, 1979 has been revalued and he is awarded 45 marks out of 100.

The paper on Advanced Structural Design and the Thesis submitted by him have also been revalued and there no change in the marks already awarded to him in any of them. He is therefore directed to fill in and submit the enclosed application form together with the prescribed fees on or before 10.3.1980. The original statement of marks issued to him should be returned to this office for issuing a fresh one.

A sum of Rs. .50/- (Rupees Fifty Only) will be refunded to him by Money Order less commission in due course.

To

Thiru Balasubramanyan Rajappa, Son of Hon''ble Mr. Justice V. Balasubramanyan, No. 10, Bheemasena Mudali Garden St., Alwarpet, Madras-18. Copy to the Director, School of Architecture and Planning, for information.

2. Padmanabhan, J., who heard the writ petition, along with another writ petition, countenanced the prayer of the petitioner with reference to regulation of answer papers in Advanced Structural Design. Thesis and Advanced Architectural Design. However, the learned single Judge, on a construction of the Rules governing revaluation, did not countenance the prayer for revaluation of Answer papers in Town Planning. The other prayer for comparison, as set out in the writ petition, was negatived by the learned single Judge in respect of all the papers. Aggrieved by the above order of the learned single Judge, the petitioner has preferred this writ appeal.

3. Mr. V.R. Biksheswaran, learned Counsel for the petitioner, would submit that revaluation done in respect of answer papers in Town Planning and respect of answer paper on other subjects, for which the learned single Judge gave directions should have adhered to and should adhere to acceptable and reasonable standards and the request of the petitioner for comparison is a reasonable one and that alone will ensure that revaluation is being done in a fair and proper manner. An against this, Mr. D. Murugesan, learned Counsel appearing for the respondent, would submit that at the relevant point of time, there were rules governing revaluation and as per the terms of the said rules, there is no scope for bringing in the aspect of comparison, as asked for by the petitioner and no candidate, sitting for examinations, conducted by the respondents, could, as of fundamental right, insist for revaluation and

reevaluation being a matter settled by the rules and it can be done only in accordance with the rules and the rules do not contemplate and set out a process of comparison, in the course of reevaluation, and it is not possible to bring in any other general concept and theory of reevaluation, on any individual candidate, according to his wisdom and scope of his grievances may envisage.

4. There is no dispute over the proposition that a candidate, sitting for examinations, conducted by any University, has not got a fundamental right to insist for reevaluation of his papers. That is a matter that has got to be settled by the rules governing the examinations in question. Once the rules get formulated it is not possible to travel beyond the rules and bring in a mode of reevaluation as each individual candidates, according to the scope of his grievances, would envisage, suggest and insist. The learned single Judge has also taken note of the fact that the rules for reevaluation did not contemplate comparison with the answer papers of any other successful candidate. On the question of reevaluation, we cannot omit to take note of the ratio and observation of the Supreme Court in Maharashtra S.B. O.B. & H.S. Education v. Faritosh AIR 1984 S.C. 1545. The Supreme Court upheld the validity of a Regulation providing that no reevaluation of the answer papers shall be done, and disagreeing with the view of the High Court, the other may about, observed as follows:

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 got appropriate marks matching the performance" it will be a denial of the right to such fair play if there is to be a prohibition on the right to demand reevaluation and unless a right to reevaluation is recognised and permitted there is an infringement of rules of fair play.

5. The Supreme Court countenanced the proposition that some finality should be annexed to the results of Public Examinations, in the following terms:

Further, it is in the public interest that the results of public examination when published should have come finality attached to them. If inspection, verification in the presence of the candidates and reevaluation are to be allowed as of right, it may lead to disgrace and indefinite uncertainty, particularly in regard to the relative ranking etc. of the candidate, besides leading to other confusion on account of the community of the labour and time involved in the process.

... If the principles laid down by the High Court is to be regarded as correct, its applicability cannot be restricted to examinations conducted by School Educational Boards alone but would extend even to all competitive examinations conducted by the Union and State Public Service Commissions. The resultant legal position emerging from the High Court Judgment is that every candidate who has appeared for any such examination and who is dissatisfied with his results would, as an inherent part of his right to "fair play" be entitled to demand a disclosure and personal inspection of his answer scripts and would have a further right to ask for reevaluation of his answer papers. The inevitable

consequence would be that there will be no certainty at all regarding the results of the competitive examination for an indefinite period of time until all such requests have been complied with and the results of the verification and revaluation have been brought into account.

6. Fortunately for the petitioner, the Rules provided for revaluation. He cannot be allowed to travel beyond them and suggests mode, which according to him is a reasonable and a fair one. Once this approach is countenanced, it is not possible to draw any line anywhere, and suggestions after suggestions on the concept of proper, fair and reasonable method of revaluation are likely to be placed before Courts, and Courts would be obliged to substitute and suggest their views on the methodology of revaluation. That is a field, better left to the professional accumen of personnel, possessing technical expertise and wide experience on the aspects, and Courts would do well not to super impose their views and to restrain themselves from doing it. Depreciating the practice of Courts substituting their own views in the place of those of professional men, the Supreme Court observed as follows:

As has been repeatedly pointed out by this Court, the Court should be extremely reluctant to substitute its own views as to what it wins, 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, isolate from the mutual realities and grass root problems involved in the working of the system and unmindful of the consequences which would emanate if a purely idealistic view as opposed to a pragmatic one were to be propounded.

7. The ratio and observations of the highest Court in the Land have been followed by this Court and we do not propose to refer to the pronouncements of this Court in this behalf. Even with reference to the answer papers in Town Planning, the grievances is that revaluation ought to have been done by adopting the mode of comparison with the papers of other successful candidates. As already noted, such is not the procedure, contemplated and laid down by the Rules governing revaluation. We are convinced that it is not permissible for this Court to bring in a new theory and have that incorporated in the Rules by our pronouncement. In our view, the learned single Judge was right in declining to countenance the proposition of revaluation by comparison. We are not persuaded to interfere in Writ Appeal and accordingly, this Writ Appeal fails and the same is dismissed. We make no order as to costs.