
(2014) 04 MP CK 0025
In the Madhya Pradesh High Court
Case No : Writ Petition No. 22034/2013

Dheeraj Pandey

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision : 05-04-2014

Acts Referred:

Citation : (2014) 3 MPHT 136 : (2014) 3 MPLJ 147

Hon'ble Judges : Rajendra Menon, J; A.K. Sharma, J

Bench : Division Bench

Advocate : Ashish Pandey, Advocate for the Appellant; K.S. Wadhwa and Sisodiya, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

1. Petitioners were students of Gyan Ganga Institute of Technology, Jabalpur and appeared in the B.E. Second Semester examination conducted by the respondent-University. The petitioners appeared in the examination conducted for the academic session in June, 2013 and thereafter, in certain subject which are indicated in the writ petition, the petitioners received zero marks. It is the case of the petitioners that they have a bright past and in all the semester examinations and other examinations previously conducted they have received more than 80 marks and they contend that because the petitioners have received less marks than expected, it is apprehended that the answer sheets have not been properly valued. Making an allegation that their answer sheets have not been properly valued, they sought for revaluation of the answer sheets. However, as the rules do not permit revaluation, it seems that re-totalling of marks was done and a result of no change was communicated to the petitioners. Learned Counsel for the petitioners submitted that the petitioners are bright students and they have an apprehension that their answer sheets have not been valued properly and therefore, they have filed a writ petition seeking a mandamus to the respondents to evaluate the answer sheets properly. Inviting out attention to a judgment rendered by a Division Bench of this Court in the

case of Priyanka Pandey Vs. Secretary, Board of Secondary Education and Another, learned Counsel argued that even though the Statutory Rules do not permit revaluation, still in exceptional cases where a student is found to be extraordinarily brilliant with bright academic career and if gross negligence has resulted in awarding of less marks, it is said that revaluation can always be ordered by this Court. Inviting our attention to the principles laid down in the said case, learned Counsel sought for interference. On the contrary, learned Counsel for the respondents submitted that in the absence of there being any Statutory Rules for revaluation of the answer sheets, no mandamus can be issued for revaluation.

2. We have heard learned Counsel for the parties at length and we do not have any hesitation in holding that in the absence of any Statutory Rules and regulations being available, revaluation of the answer sheets and issuance of mandamus is not permissible. However, there are exceptions to the normal rule and one of the exception is that if the material available on record prima facie demonstrates that a case of gross negligence or irregularity in evaluation of answer sheets is made out, a mandamus can always be issued by this Court. However, the burden of discharging this liability is on the student concerned who makes a plea of irregular evaluation or negligence in the matter of evaluation. The student is required to discharge this burden by producing prima facie evidence in support of the contention. In the present case, the petitioner has not done anything, except for making vague allegation that the answer sheets were not valued properly, no specific averment as to what was the material based on which the petitioner answered the question, what was the answer given by the petitioner and how the petitioner says that the answer books are not evaluated properly is indicated. For applying the case of Priyanka Pandey (supra), relied upon by the learned Counsel for the petitioners, prima facie material has to be adduced by the petitioners. The petitioners having failed to do so in this petition. Merely, on the basis of vague allegation, unsupported by any cogent material, a roving enquiry cannot be conducted by directing for revaluation.

3. Now, after the judgment of the Supreme Court in the case of Central Board of Secondary Education and Another Vs. Aditya Bandopadhyay and Others, , petitioners have a right to get their answer sheets under the Right to Information Act and after obtaining the answer sheets; they can always say as to what was the answer given by them, the material based on which they say that their answer is correct and demonstrate as to how the valuation is not correct. Until and unless such an exercise is not undertaken by the petitioners and a prima facie case is made out to show that the answer sheets were not valued properly, merely on the basis of vague and unspecified allegation, no direction can be issued. If the contention of the petitioners as made is accepted by this Court then a Pandora Box will be opened and in every case based on unspecified and vague allegation, this Court will be required to direct the University or the examining bodies to re-evaluate all the answer sheets, this is not permissible. Only in such cases, where the student prima facie demonstrates that there is an

error or negligence in valuation that a direction for revaluation can be ordered and now after the rights available to a student under the Right to Information Act, they have to demonstrate by obtaining the answer books under the Right to Information Act as to how they say that the answer sheets have not been valued properly. As the petitioners have failed to discharge this burden in the present case, we see no reason to interfere into the petition. Granting liberty to the petitioners to take recourse to the remedy of obtaining the answer sheets under the Right to Information Act and thereafter making a fresh claim by demonstrating that their answer sheets have not been valued properly, the petition stands disposed of.