

(2006) 03 MP CK 0080
In the Madhya Pradesh High Court
Case No : Writ Petition No. 2024/04

Dinesh Awasthi

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 29-03-2006

Acts Referred:

Madhya Pradesh Board of Secondary Education Regulations, 1965 — Regulation 119

Citation : (2006) 3 MPJR 140 : (2006) 3 MPLJ 605

Hon'ble Judges : Rajendra Menon, J

Bench : Single Bench

Advocate : P.N. Gupta, for the Appellant; J.P. Mishra and C.S. Dixit, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Rajendra Menon, J.

Petitioner's daughter Ku. Mansi Awasthi had appeared in the 10th Class examination conducted by the respondent Board In the year 2004 and she had received only 28 marks out of 50 in the subject of Sanskrit.

Inter alia contending that she has a very brilliant academic career and in the subject of Sanskrit in the 8th class examination conducted in the year 2001-02 she had received 78% marks, in class 9th examination in the same subject she has received 80% marks and District Education Officer, Morena vide annexure P/4 dated 26.4.04 has granted Kendriya Sansrit Chhatrivritti to the petitioner on account of having got 78% marks in Sanskrit in class 8th examination, petitioner contends that answer-books in the subject of Sanskrit has not been properly valued and seeks the relief of revaluation of answer-book. It is stated by the petitioner that in the subject of Sanskrit all the 30 students who have appeared have received below average marks, and inter alia contending that the examiner has not discharged his duties honestly and sincerely petitioner seeks a direction to the respondents for revaluation of the answer-book in the subject of Sanskrit.

Respondents have filed the return and by bringing to the notice of this Court ,the provisions of Regulation 119 of the M.P. Board of Secondary Education Regulation, 1965, contends that there-being no provisions of revaluation of marks no relief of revaluation as prayed for can be granted to the petitioner.

Inviting my attention to a judgment rendered by Division Bench of this Court in the case of Ku. Neha Indurkhyia Vs. M.P. Board of Secondary Education, ; M.P. Board of Secondary Education and Another Vs. Ku. Vinita Rupra, Ashutosh Kumar Mishra v. M.P. Board of Secondary Education. Bhopal 2002 M.P.H.T. 237 Shri J.P. Mishra argued that In the facts and circumstances of the case no relief can be granted to the petitioner.

In support Of his contention Shri P.N. Gupta, learned Counsel for the petitioner has relief upon a judgment rendered by a Single bench of this Court in the case of Rajesh Kumar Ram Khilawan Tripathi and Ors. v. Board of Secondary Education, Bhopal 2002(2) M.P.L.J. 108.

Having heard learned Counsel for the parties and on perusal of the records it is clear that under Regulation 119 the provision is made only for scrutiny and refofully of the marks and there is no provision for revaluation of the answer-books. Aforesaid principle has been affirmed and two division benches of this Court in the case of Neha Indurakhiya and Vinita Rupra (supra) have held that no revaluation of marks can be permitted as the Regulation framed by the respondent Board does contemplate any provision of revaluation of answer-books. Even though a learned Single Judge in the case of Rajesh Kumar (Supra) had made certain observations and had directed for revaluation of answer-books in some subjects revaluation in the absence of any statutory provision can be permitted only if a prima facie case is made out demonstrating improper valuation of answer-books or malafides in the matter of valuation.

In the present , petition no malafides are pleaded and the Martial adduced is not sufficient to indicate that the answer-books of the petitioner have not been valued properly,

Petitioner has only contended that his daughter has received 78% marks in the 8th Board Examination and 80% marks in the 9th class examination in the subject of Sanskrit and, therefore, she should have obtained marks in the aforesaid range in the 10th class examination also. Apart from making the aforesaid vague allegations, no specific averments is made out with regard to and to demonstrate that the answer-books have not been properly valued. It was incumbent upon the petitioner to demonstrate by producing prima facie material that the questions in the subject of Sanskrit were answered by her properly and inspite of that she has not been awarded proper marks. There is no material adduced by the petitioner to demonstrate that valuation has not been done properly. It was for the petitioner to make out a prima facie case demonstrating improper valuation and in the absence of prima facie material being adduced by the petitioner merely on the basis of past performance of the petitioner and the

vague allegations, no direction can be issued for revaluation of the answer-book when the statutory regulation prohibits revaluation of the answer-books.

Accordingly, keeping in view the law laid down by the division bench of this Court in the case of Neha Indurakhiya (supra) I find no ground for directing revaluation of the answer-books. Accordingly, finding no case made out for interference, petition stands dismissed without any order as to cost.

C.C. as per rules.