
(2013) 09 RAJ CK 0076

In the Rajasthan High Court

Case No : Civil Special Appeal (Writ) No. 746 of 2013

Hanuman Sahay Junawa

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 27-09-2013

Acts Referred:

Citation : (2013) 09 RAJ CK 0076

Hon'ble Judges : Vishnu Kumar Mathur, J;Dinesh Maheshwari, J

Bench : Division Bench

Advocate : Deepak Nehra, for the Appellant; Mahendra Choudhary, Assistant to the AAG., Mr. Yashpal Khileree, Government Counsel, Mr. Rakesh Arora and Mr. Manish Tak for the Respondent No. 2, for the Respondent

Final Decision : Allowed

Judgement

1. This intra-court appeal is directed against the order dated 04.09.2013 passed in CWP No. 10913/13 whereby, the learned Single Judge of this Court has dismissed the writ petition filed by the petitioner-appellant, seeking the relief of correct evaluation of the answer sheet in relation to the Rajasthan Teachers Eligibility Test ? 2012 taken by him. The case of the petitioner-appellant, in nutshell, is that in the said examination, the question book-let supplied to him had been of series code "Z"; and in the OMR Sheet, though he stated such letter "Z" in the relevant column but while darkening the circles on the sheet, per mistake, the circle in front of the letter "Y" got darkened wherefore correct evaluation of his answer sheet could not be made. The learned Single Judge proceeded to dismiss the writ petition by a short order, which reads as under:-

Heard learned counsel for the petitioner.

In this case, the petitioner has prayed for correction in the entry of question booklet series "Z" filled in by him.

In the opinion of this Court, the rectification was permitted in the case of Datar Singh decided by this Court but here in this case, the petitioner is seeking

correction in the code of question booklet Series "Z". In the opinion of this Court, no such type of relief can be granted to the petitioner for correcting the entries of question booklet series. Therefore, this writ petition is hereby dismissed.

2. In this appeal, after notice, the learned counsel Mr. Rakesh Arora has put in appearance for the respondent No. 2, the Coordinator, RTET and the Secretary, Board of Secondary Education for Rajasthan at Ajmer.

3. On the queries of the Court, the learned counsel for the respondent No. 2 candidly admits that as per his instructions, the petitioner-appellant was indeed supplied with the question book-let of series code "Z" but then, submits that there had not been any mistake on the part of the respondent because in the mechanical evaluation process of scanning of OMR Sheet, obviously, the sheet has been evaluated with reference to the circled code "Y".

4. In the totality of the circumstances, we find that it had been a matter of clear inadvertent error on the part of the petitioner-appellant. Of course, the respondents cannot be faulted for the evaluation process undertaken by them but then, the matter being of bona fide and inadvertent mistake, in our view, it would in the interest of justice that the error be permitted to be rectified with necessary directions to the respondents. In this regard, we are unable to endorse the views of the learned Single Judge that such type of relief cannot be granted to the appellant. In our view, granting of relief in the extraordinary writ jurisdiction depends on the facts and circumstances of the case and even if, it had been a matter of mistake, when such a mistake is otherwise not going to the root of the matter and is available to be corrected without causing prejudice to anyone else, correction may be allowed lest there be a case of a person like the appellant suffering a penalty highly disproportionate to his fault or mistake.

5. Accordingly, this appeal is allowed to the extent and in the manner that while setting aside the order dated 04.09.2013, the respondents are directed to get the answer book-let of the petitioner-appellant checked manually, while taking it to be of series code "Z"; and the marks may be assigned to the petitioner-appellant accordingly.

6. When it is pointed out that the appellant is desirous of appearing in the process of selection for recruitment to the post of Teacher Grade III (Level II), the respondent No. 2 is directed to take up the process of re-evaluation and to declare the appellant's result afresh expeditiously and in any case, before 04.10.2013. Upon declaration of the result, it shall be permissible for the petitioner-appellant to make a submission to the other respondents for consideration of newly awarded marks for the purpose of his entitlement to appear in the recruitment process for the post of Teacher Gr. III. The respondents shall be expected to take a objective decision thereupon looking to the facts and circumstances of the case.