

(2000) 07 AP CK 0067

In the Andhra Pradesh High Court

Case No : Writ Petition No. 12812 of 2000

K. Ram Mohan

APPELLANT

Vs

NTR University of Health Sciences, Vijayawada and another

RESPONDENT

Date of Decision : 18-07-2000

Acts Referred:

Constitution of India, 1950 — Article 226
Maharashtra Secondary and Higher Secondary Education Boards Regulations, 1977 — Regulation 104

Citation : (2000) 5 ALD 89 : (2000) 4 ALT 538

Hon'ble Judges : V.V.S. Rao, J

Bench : Single Bench

Advocate : Mr. B. Krishna Mohan, for the Appellant; Mr. K.G.K. Prasad, for the Respondent

Judgement

1. The petitioner is the 2nd year student of MBBS. The first respondent conducted examination in pharmacology, Microbiology, Pathology and Forensic Medicine at the end of the second year. On 10-6-2000 the results were announced and the petitioner passed in Pharmacology and failed in Microbiology, Pathology and Forensic Medicine. The petitioner suspected that the papers in which he failed have not been valued in a fair and objective manner. Therefore, he sought for split up marks memo in these subjects and he was given the same. He got 23 marks in Microbiology, 35 marks in Pathology and 30 marks in Forensic Medicine whereas minimum of 40% is the pass mark. Therefore, he approached this Court for a declaration that the action of the respondent in issuing marks memo dated 3-7-2000 in Microbiology, Pathology and Forensic Medicine as illegal and for a direction to the respondents to revalue the answer papers in these three subjects. It is however not denied in the affidavit that there is no provision for revaluation.

2. It is the contention of the petitioner that he has referred to and studied .Dr. Ananthanarayanan's Microbiology, Dr. Narayanareddy's Forensic Medicine and standard book in Pathology by Robins and Kumar and therefore there is no

possibility of getting lesser marks than 50 in Microbiology, 55 in pathology and 50 in Forensic Medicine. According to the petitioner, the answer scripts have been valued wrongly.

3. The learned Counsel for the petitioner Sri B. Krishna Mohan while reiterating the contentions from the affidavit, placed reliance on the judgment of the Supreme Court in Maharashtra State Board of Secondary and Higher Secondary Education and Another Vs. Paritosh Bhupeshkumar Sheth and Others, and two Division Bench judgments of this Court in M. Lavanya Dull v. Jawaharlal Nehru Technological University, Hyderabad 1996 (3) ALD 701 and Convenor and J.N.T. University, Hyderabad v. C. Swarnalatha 1996 (4) ALD 426 and vehemently submits that the University cannot in a routine manner rely on the absence of provision for revaluation and escape the legal obligation of verifying answer scripts as and when a student complain wrong, unfair and arbitrary valuation of the answer scripts,

4. The learned Standing Counsel who took notice at the time of preliminary hearing brought to the notice of this Court a Division Bench judgment in Writ Appeal No.796 of 1999 dated 26-7-1999, to which I was a Member, and submits that the said judgment covers the issue raised in this writ petition and prayed for dismissal of the writ petition in limine.

5. The judgment of the Division Bench in C. Swarnalatha's case (supra) does not assist the learned Counsel for the petitioner which is in the context of wrong answers in the key with reference to Engineering, Agricultural and Medical Common Entrance Test and observations were made that in appropriate cases judicial review in academic matters is not ruled out. In the judgment of the other Division Bench in Lavanya Dutts's case (supra) the Court noticed the well-settled principle that in the absence of rule for revaluation, the Court shall refrain from issuing writ of madamus to revalue the papers, but having regard to the facts and circumstances of that case the Court gave direction to revalue the answer scripts. In my considered opinion, the observations relied on by the learned Counsel for the petitioner in Lavanya Dutt's case (supra) do not support the contention.

6. In Maharashtra State Board of Secondary Education's case (supra) the Supreme Court inter alia rejected the challenge to Regulation 104 of Maharashtra State Board of Secondary Education Regulations which specifically prohibits revaluation inter alia on the ground that if the revaluation is allowed as of right the examination Boards, the Universities and other authorities will be flooded with applications for revaluation and such bodies will only be attending to work of revaluation which would effect regular and normal functions of such Universities of conducting the courses. It is apposite to extract the observations of the Supreme Court in this regard.

"If the candidates are all to be given inspection of their answer books or the revaluation of the answer papers is to be done in the presence of the candidates,

the process is bound to be extremely time consuming and if such a request is made by even about ten per cent of the candidates who will be 30,000 in number, it would involve several thousands of man hours and is bound to throw the entire system out of gear. 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 time involved in the process."

7. If what is submitted by the learned Counsel that whenever a student complains wrong valuation, unfair valuation or valuation lacks objectivity and directions shall have to issue to the Universities to revalue answer scripts, in my considered opinion, the Universities will only be doing the work of revaluation giving a go-by to the normal functions. The jurisdiction under Article 226 of the Constitution cannot be pressed into service for issuing such directions and also issue directions, which would go contrary to law.

8. In Writ Appeal No.796 of 1999 dated 26-7-1999 the contention of the respondent-University was accepted by the Division Bench and it is useful to extract the observations of the Division Bench.

"Later the University had put up the rule to the authorities i.e., the Syndicate, etc., for introducing a rule for revaluation which has been specifically denied. There is no statutory provision for revaluation. The Court in exercise of its writ jurisdiction cannot frame regulations for the academic institution to conduct their procedural methodology for examinations and the valuation of the papers. We find no ground for revaluation."

10. The Division Bench also observed that having regard to the principle of transparency in every field of governance the University may consider representations of the students for rechecking the answer papers to obviate any error. Nevertheless the Division Bench laid down the principle that with regard to MBBS Examinations conducted by the respondent-University, the law does not permit revaluation of the answer scripts in any circumstances.

11. For the above reasons, the writ petition is devoid of merit and the same is dismissed at the admission stage. No costs.