
(2015) 02 AP CK 0016

In the Andhra Pradesh High Court

Case No : Writ Petition No. 2928 of 2015

Kandelli Bhishma Gangeyudu

APPELLANT

Vs

State of A.P. and Others

RESPONDENT

Date of Decision : 18-02-2015

Acts Referred:

Citation : (2015) 4 ALD 638 : (2015) 5 ALT 343 : (2015) 3 ALT 518 : (2015) 3 ESC 1257

Hon'ble Judges : Kalyan Jyoti Sengupta, C.J.; Sanjay Kumar, J.

Bench : Division Bench

Advocate : Vedula Srinivas, for the Appellant

Final Decision : Dismissed

Judgement

Kalyan Jyoti Sengupta, C.J.—This writ petition has been heard for final hearing today. By this writ petition the petitioner asked for issuance of writ of Mandamus in the form of declaration that the action of respondent Nos. 3 and 4 in not absorbing him as a District Judge in pursuance of the notification dated 13.08.2012 is illegal and unconstitutional.

2. The petitioner is a Fast Track Court Judge, and pursuant to the notification dated 13.08.2012 he has taken examination for absorption in the regular cadre of the District Judge. This participation was made on the strength of the direction given by the Hon"ble Supreme Court in the case of Brij Mohan Lal v. Union of India and others. There is no dispute that the petitioner secured 42 marks out of 150 marks in the written test. Going by the norms he should not have been allowed to participate in the oral interview as he could secure less than qualified marks. However, on the strength of the interim order dated 13.12.2012 passed by this Court in W.P. No. 37852 of 2012 filed by the petitioner such an opportunity was given, and he secured 17 marks out of 100 marks. The petitioner says to maintain his challenge that evaluation of the answer scripts in the written test was not fair and rational and if reevaluation is done he could secure better marks to qualify himself so that he could be absorbed going by the

published norms.

3. Sri Vedula Srinivas, learned counsel appearing for the petitioner, would contend that the Court has ample power to direct reevaluation and reassessment of the answers given by the petitioner. He drew our attention to a few questions and suggested answers and submits that as the key answer itself is wrong, evaluation is automatically wrong.

4. In this given situation the Hon''ble Supreme Court has allowed reevaluation of the answer scripts. To support his submission he has cited the decisions of the Hon''ble Supreme Court in the cases of Sahiti and others v. Chancellor, Dr. N.T.R. University of Health Sciences and others and Rajesh Kumar and others v. State of Bihar and others.

5. After hearing the learned counsel for the petitioner and noticing the material annexed to the petition, we do not find any legal provision for reevaluation of answer scripts. The Court cannot be a substitute of examiner or of the expert body. Interview was taken by the petitioner before the Committee comprising of the Hon''ble Chief Justice and number of Senior Judges of this Court. The assessment of highest authority of the State judiciary is of great value and nothing has been placed to upset the same.

6. Mr. Srinivas says that in this case, as it was done in the case of Rajesh Kumar and others (supra), this Court should direct the respondents to reassess or reevaluate the papers by appointing an expert. We are unable to accept this submission, as there is no legal provision for the same.

7. We have seen the said judgment of the Hon''ble Supreme Court. It appears from paragraphs 19 and 20 thereof that in that case factually it was found that 41 key answers out of 100 were found to be erroneous and on the basis thereof evaluation was made and in that context the Hon''ble Supreme Court found that if those 41 questions key answers are taken into consideration then there was fair chance of the petitioner succeeding in the matter. In this case factually except one question and answer no other questions and answers could be shown to be erroneous. Therefore, on the facts and circumstances of the case even if reevaluation is allowed hardly there would be difference.

8. As far as the decision of the Hon''ble Supreme Court in the case of Sahiti and others (supra) is concerned, this judgment really goes against the petitioners contention and it could be found from para 36 thereof, which reads as follows:

"The Supreme Court (in Board of Secondary Education case 1) was of the opinion that the question whether in the absence of any provision to that effect an examinee is entitled to ask for re-evaluation of his answer books was examined by the Supreme Court in Pramod Kumar Srivastava Vs. Chairman, Bihar Public Service Commission and Others, . It was noticed by the Supreme Court that in the said decision it was held that in the absence of rules providing for re-evaluation of answer books no direction should be issued because a direction for

re-evaluation of the answer books would throw many problems and in the larger public interest such a direction must be avoided. Therefore, the Supreme Court expressed the opinion that the order of the High Court directing re-evaluation of the answer books of all the examinees securing 90% or above marks was clearly unsustainable in law and set aside the same. The above decision deals with the right of the student or candidate to claim re-examination/re-evaluation of his answer sheet and the power of the High Court to order revaluation of answer sheets. It does not deal with the power of the Board to order re-evaluation of answer books if the factual scenario so demands." 9. Therefore, it is clear that if the authorities concerned are of the opinion for reevaluation, it could be done, and it cannot be done by the Court nor the Court can mandate the authorities to do so. It is the exclusive domain of the appointing authority or selection committee. There is no legal provision for reevaluation nor the authorities concerned are empowered under the rules and law to do so. On the question of reevaluation in that case factually it was found that the Vice-Chancellor was conferred with the power to take such a decision. Therefore, the aforesaid judgment is clearly distinguishable with the facts and circumstances of this case.

10. In that view of the matter, we do not find any reason to interfere with this matter.

11. The writ petition is accordingly dismissed.

12. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.