
(2016) 05 DEL CK 0124
In the Delhi High Court
Case No : W.P.(C) 3803 of 2016

Kanika Grover and Ors.

APPELLANT

Vs

University of Delhi

RESPONDENT

Date of Decision : 04-05-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 5 ADDelhi 718

Hon'ble Judges : Manmohan, J.

Bench : Single Bench

Advocate : Mr. Birender Sangwan, Advocate, for the Appellant; Mr. Mohinder J.S. Rupal with Ms. Simran Jeet, Advocates, for the Respondent

Final Decision : Dismissed

Judgement

Manmohan, J.(Oral) - Present writ petition has been filed with the following prayers:-

- a) To set up a panel of three neutral lecturers including one from outside the and two from university for ensuring the fairness in probing and investigating the matter.
- b) To order for a deep enquiry by an official of a neutral agency or any other departmental official not below the rank of professors to probe into the aspect of using material like whitener for evaluating the answer sheets and deliberately, knowingly declared them as failed.
- c) To take strict action against the Concerned Official/Staff of the respondents who is responsible for the said irresponsible and highly negligent official act of not providing the revaluated/rechecked result of petitioners within the prescribed time, thereby suffered them huge irreparable loss and injury for which appropriate compensation should also be granted to them payable by the respondent.

Any other alternate efficacious further order(s)/relief(s), which this Hon'ble Court may deem fit and proper in view of the present facts and circumstances of the present case, so as to be the same in the interest of justice.

2. It has been averred in the petition that petitioners filed an earlier writ petition being W.P.(C) 550/2016 which was disposed of vide order dated 25th January 2016, wherein this Court held that the remedies for revaluation and copies of answer scripts are independent remedies and the petitioners need not have waited for revaluation result before applying for copies of the answer scripts. However, keeping in view the peculiar facts of the case, this Court directed that in the event the respondent still has copies of the answer scripts of the petitioners, the same be released to them.

3. Learned counsel for the petitioners states that upon comparing the copies of answer sheets with the relevant study material, petitioners found that all the answers were correct and the examiner deliberately has not given proper marks to the petitioners.

4. He further states that there are many discrepancies in the checking pattern of the examiner inasmuch as some answers are not properly checked, some answers are undervalued and there is use of whitener etc. in the marks column which shows that there has been no fair and impartial evaluation.

5. Having heard learned counsel for parties, this Court is of the view that petitioners in essence seek a second revaluation. It is settled law that revaluation of answer sheet is neither a fundamental right nor a legal right. It is to be granted only if the rules of the University so permit. In *Central Board of Secondary Education & Anr. v. Aditya Bandopadhyay & Ors.*, (2011) 8 SCC 497, it has been held that a provision barring inspection/disclosure of the answer books or revaluation of the answer books and restricting the remedy of the candidates only to re-totalling is valid and binding on the examinee. It is further settled law that the universities have full autonomy to determine the rules of revaluation. In *Himachal Pradesh Public Service Commission v. Mukesh Thakur & Anr.*, (2010) 6 SCC 759, it has been held that in the absence of any provision under the statute or statutory rules/regulations, the Courts do not generally direct re-valuation.

6. Since in the present case, the Delhi University Rules do not permit second revaluation, the petitioners cannot seek second revaluation of their answer sheets by asking the Committee of three Lecturers to re-examine the petitioners' answer sheets. Just by cleverly drafting a prayer clause, relief which is prohibited in law cannot be indirectly sought. In *Taylor v. Taylor*, (1875) 1 Ch.D. 426, it has been held that when a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all and other methods of performance are forbidden.

7. In fact, Prayer (c) is not maintainable in view of the finding of this Court in W.P. (C) 550/2016 that there was delay in applying for copy of answer scripts by the petitioners. Consequently, the present writ petition being bereft of merit is

dismissed. No order as to costs.