

(1996) 04 MP CK 0037

In the Madhya Pradesh High Court

Case No : Writ Petition No. 2062 of 1995

Ku. Sonal and Another

APPELLANT

Vs

Board of Secondary Education, Bhopal and Another

RESPONDENT

Date of Decision : 16-04-1996

Acts Referred:

Constitution of India, 1950 — Article 14

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

Citation : AIR 1996 MP 240 : (1996) ILR (MP) 117 : (1997) 1 JLJ 114 : (1996) 2 MPJR 60 : (1997) 1 MPLJ 483

Hon'ble Judges : Rajeev Gupta, J

Bench : Single Bench

Advocate : A.G. Dhande, for the Appellant; Smt. Jaya Choudhary and V.K. Shukla, for the Respondent

Final Decision : Dismissed

Judgement

Rajeev Gupta, J.

This order shall govern the disposal of Writ Petitions Nos. 2316/95, 2359/95 and 2389/95 also.

The petitioners in these four petitions are students, who had appeared in the Final Examinations for Class XII, conducted by Board of Secondary Education (respondent No. 1) in the year 1995.

The petitioners, on their own assessment, were expecting good/very good marks for their performance in the examinations. On receiving their mark-sheets, the petitioners were rather shocked on knowing the marks, shown to have been secured by them. On recovering from the above shock, the petitioners applied for "Retotalling of Marks" in some/all subjects by depositing the requisite fee as per the relevant Regulation. The Board of Secondary Education intimated the petitioners that in spite of "Retotalling of Marks", the marks, shown to have been secured by them in the original mark-sheet, remain unchanged.

Being disappointed and frustrated on account of the non-fructification of their hopes and expectations, based on their self-assessment of their performance in the examinations and labouring under a feeling that there has not been a proper evaluation of their performance in the examination, the petitioners have knocked the door of this Court, by filing these petitions under Articles 226/ 227, of the Constitution of India, seeking directions to the respondents for making an express provision for "Revaluation of Answer Papers", in the Regulations and for producing the "Answer Papers" of the petitioners in the Court for revaluation by Expert/Experts of the Subject/Subjects.

At the very outset, Smt. J. Choudhary, the learned Counsel for the Board, submitted that "revaluation of answer papers" is not permissible as there is no such provision for "revaluation of answer papers" in the Regulations. Shri A. G. Dhande, the learned Counsel for the petitioners, while arguing vehemently for making out a case of acute need of a provision for "Revaluation of Answer Papers", contended that refusal of "revaluation of answer papers" amounts to denial of fair play to the examinees.

Before advertng to the above controversy, it would be useful to reproduce Regulation 119, of the Regulations, which reads as follows :

"119. A candidate who has appeared at an examination of the Board may apply to the Secretary for the scrutiny of his marks and the re-checking of his result in accordance with the rules framed by the Board."

The learned Counsel for the petitioners does not dispute that Regulation 119 does not expressly provide for "Revaluation of Answer Papers".

The desirability of such a provision for "Revaluation of Answer Papers", in the examinations conducted by Board, came up for consideration before Apex Court in the case of Maharashtra State Board of Secondary and Higher Secondary Education and Another Vs. Paritosh Bhupeshkumar Sheth and Others, . It is true that Regulation 104 of Maharashtra Regulations expressly bars "revaluation of answer papers" and there is no such corresponding express provision, barring "revaluation of answer papers" in the Madhya Pradesh Regulations, but the challenge to the above express bar to "revaluation of answer papers" in the case before Apex Court and the demand for making an express provision for "revaluation of answer papers" in these petitions have given rise to a common question of the desirability of such a provision for "revaluation of answer papers" in the examination, conducted by Board.

The Apex Court, in the above case, in para 26 of the judgment observed :

"26. We are unable to agree with the further reason stated by the High Court that since "every student has a right to receive fair play in examination and get appropriate marks matching his performance" it will be a denial of the right to such fair play if there is to be a prohibition on the right to demand revaluation and unless a right to revaluation is recognised and permitted there is an

infringement of rules of fair play. What constitutes fair play depends upon the facts and circumstances relating to each particular given situation. If it is found that every possible precaution has been taken and all necessary safeguards provided to ensure that the answer books inclusive of supplements are kept in safe custody so as to eliminate the danger of their being tampered with and that the evaluation is done by the examiners applying uniform standards with checks and crosschecks at different stages and that measures for detection of malpractice etc. have also been effectively adopted, in such cases it will not be correct on the part of the Courts to strike down the provision prohibiting revaluation on the ground that it violates the rules of fair play. It is unfortunate that the High court has not set out in detail in either of its two judgments the elaborate procedure laid down and followed by the Board and the Divisional Boards relating to the conduct of the examinations, the evaluation of the answer books and the compilation and announcement of the results..... In the circumstances, when we find that all safeguards against errors and malpractices have been provided for, there cannot be said to be any denial of fair play to the examinees by reason of the prohibition against asking for revaluation."

The matter need to be examined from yet another angle. It is a matter of common knowledge that 2-3 lacs of students are appearing every year in the Final Examinations, being conducted by the Board of Secondary Education for Classes X and XII. Then again thousands of students appear every year in the supplementary examinations for these classes. In the above background, any direction for "revaluation of answer papers" of the students, applying for such revaluation, which would certainly be in thousands and thousands if not in lacs, will not only create practical difficulties for the Board, but also is bound to throw the entire system out of gear.

The Apex Court, while examining the issue, further observed in para 27 of the judgment :

"27.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."

About the scope of interference in the academic matters such as the present one, the Apex Court in para 29 of the judgment observed :

"29. Far from advancing public interest and fair play to the other candidates in general, any such interpretation of the legal position would be wholly defeating the same. As has been repeatedly pointed out by this Court, the Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual

day-to-day working of educational institutions and the departments controlling them. It will be wholly wrong for the Court to make a pedantic and purely idealistic approach to the problems of this nature, isolated from the actual realities and grassroot problems involved in the working of the system and unmindful of the consequences which would emanate if a purely idealistic view as opposed to a pragmatic one were to be propounded. It is equally important that the Court should also, as far as possible, avoid any decision or interpretation of a statutory provision, rule or bye-law, which would bring about the result of rendering the system unworkable in practice. It is unfortunate that this principle has not been adequately kept in mind by the High Court, while deciding the instant case."

The next conclusion of the above discussion is that no such direction, as is sought by the petitioners in these petitions, for making provision of "Revaluation of Answer Papers" in the Regulations, and for production of "Answer Papers" in the Court, for revaluation, can be issued.

The learned Counsel for the petitioners then tried to argue that the provision of "scrutiny of marks" in Regulation 119 be interpreted in such a manner so as to mean as a provision of "revaluation of answer papers". As admittedly, the petitioners, in these petitions, had applied for "retotalling of marks" only and not for "scrutiny of marks", this Court does not deem it necessary to consider the above contention at all.

For the foregoing reasons, these petitions fail and are dismissed accordingly. No order as to costs.