
(1993) 07 RAJ CK 0005
In the Rajasthan High Court
Case No : C.W.P. No. 4740 of 1992

Miss. Pranita

APPELLANT

Vs

Board of Secondary Education

RESPONDENT

Date of Decision : 15-07-1993

Acts Referred:

Rajasthan Secondary Education Act, 1957 — Section 38

Citation : AIR 1993 Raj 222 : (1993) 2 RLW 15 : (1994) 1 WLC 65

Hon'ble Judges : R.P. Saxena, J

Bench : Single Bench

Advocate : L.M. Lodha, for the Appellant; D.S. Shishodia and C.P. Trivedi, for the Respondent

Final Decision : Dismissed

Judgement

Rajendra Saxena, J.—The petitioner appeared as a regular student in the Secondary Examination of 1992 held by the Board of Secondary Education, Rajasthan with Roll No. 593324 at Examination Centre 0905 as a student of St. Mary's Convent Higher Secondary School, Udaipur and was awarded 380 marks out of 550 marks i.e. in aggregate 69% marks as per mark-sheet dated 24-7-1992 (Annexure 2). She applied for re-totalling of marks, but the result of the re-totalling also remained unchanged vide letter dated 8-8-1992 (Annexure 3) issued by the respondent; The case of the petitioner is that she has been an out-standing and highly meritorious student and always secured more than 85% marks right from Class VIth to Xth Standard. She was also selected in the National Talent Search Examination conducted by N.C.E.R.T., Delhi. She expected to secure at least 85% marks in the Secondary Examination, but due to some foul play or mala fide in the examination of her answer-books, she has been awarded lesser marks. It is also the case of the petitioner that since she is a student of English medium, while her answer-books might have been examined by examiners, who were Hindi medium teachers, therefore, they might have not understood the answers written by her in the right perspective with the result

that she has been awarded only 69% marks. According to her though there is no specific provision for the re-valuation of the answer-books in the relevant Rules and the Syllabus issued by the respondent for Senior Secondary Examination, 1992, except the provision for re-totalling of marks, still then process of re-totalling must include re-examination of the answer-books, which is an integral part of the examination. According to her, she has a fundamental right to apply for re-valuation of her answer-books. She has, therefore, prayed that the respondent be directed to re-examine and re-evaluate her all the answer-books pertaining to the said Examination either by different examiners or by a panel of examiners of English medium.

2. The respondent in its counter has vehemently opposed this writ petition and asserted that the home examinations and the examinations conducted by the Secondary Board cannot be equated at par, and as such the marks obtained by the petitioner from VIth Class to Xth Standard have no relevancy. It has been asserted that the respondent Board has been constituted under the provisions of Secondary Education Act, 1957 and by virtue of which respondent Board is fully competent to formulate its regulations, policies and guide-lines for the conduct of the examinations and that as per Clause 13(5) of the Syllabus/Guide-Lines for the Senior Secondary (Academic) Examination-1992, it has been specifically provided that re-totalling does not include revaluation or re-examination. It has been stoutly refuted that there has been any discrimination with the petitioner or that there was any foul play or glaring mistake in examining her answer-books. On the other hand her answer-books were examined by competent examiner. It has also been asserted that since no fundamental right of the petitioner has been violated, this writ petition is not maintainable.

3. I have heard the learned counsel for the parties at length and perused the relevant record.

4. This is an admitted case of the parties that there is no rule/regulation issued by the respondent for the conduct of Senior Secondary (Academic] Examination for re-examination or re-evaluation of the answer-books of the examinee. Clause 13(5) incorporated in the Syllabus/Guide-lines of the said examination provides for re-totalling of the marks of the answer-books only and specifically says that re-totalling does not include re-examination/evaluation. This clause further explains that re-totalling shall be done with a view to ensure that no error/mistake has crept in totalling the marks given for various questions and that no question is left without giving marks.

5. The petitioner has miserably failed to show or establish that there has been any foul play or glaring mistake in awarding marks to her or that any discrimination was practised against her. As a matter of fact her pleadings on this count are apparently vague, sketchy and based on surmises and conjectures. She has also not been able to establish that her answer-books were examined by an examiner, who was a teacher of Hindi medium. More so it does not make any difference, whether the answer-books were examined by a teacher of English

medium or Hindi medium, because the answer-books are only sent to the examiners who are qualified and competent to examine answer-books as per criterion laid down by the respondent.

6. In *M.C. Khandelwal v. Chairman, Board of Secondary Education* R.L.W. 410(sic) a student appeared in the Higher Secondary Examination-1992 in Science group and was awarded an aggregate of 80% marks in general subjects and 86% marks in optional subjects though he expected to secure 95% marks. His application for revaluation of his answer-books was refused on the ground that there was no provision in existence providing for re-evaluation of the answer-books. It was held by this Court that in absence of any statutory provision or rule for re-evaluation of the answer-books, there was no inherent right of a student to claim for such re-evaluation and his writ petition was dismissed. Similar are the facts of the case in hand. Clause 13(5) of the prospectus/guidelines for the Examination in question provides for re-totalling of marks only, which does not include rechecking, re-examination or re-evaluation of the answer-books. Hence by any stretch of imagination it cannot be held that re-evaluation is an integral part of the examination conducted by the respondent. In such circumstances, I am of the considered opinion that the petitioner has palpably failed to establish any breach or violation of her fundamental right and mala fide, foul play, arbitrariness or discrimination on the part of the respondent.

7. In the premises of above discussion, this writ petition is misconceived and the same is hereby dismissed. No order as to costs.