
(2016) 01 CAL CK 0094
In the Calcutta High Court
Case No : W.P. No. 284 of 2015

Ms. Vijayalaxmi Tiwari

APPELLANT

Vs

Lieutenant Governor & Others

RESPONDENT

Date of Decision : 15-01-2016

Acts Referred:

Citation : (2016) 4 WBLR 126

Hon'ble Judges : Mr. Debi Prosad Dey, J.

Bench : Single Bench

Advocate : Mr. R.P. Gobind, Advocate, for the Appellant; Mrs. Anjili Nag, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Debi Prosad Dey, J.—The respondent authorities issued a circular inviting application for admission in MBBS Course for 2015 from the candidates. The petitioner being qualified to get admission for the MBBS Course accordingly had applied for the preliminary examination of such MBBS Course. The petitioner duly appeared in Pre-Medical Test Examination of Andaman & Nicobar Islands on 2nd August, 2015 at Jawaharlal Nehru Rajakiya Mahavidyalaya, Port Blair. The respondent authority declared the result of such examination on 3rd August, 2015 and the result was duly affixed on the Notice Board and was also published in the newspaper. The petitioner came to know from such publication that the petitioner has not been shown as the successful candidate in the said examination though the petitioner had solved the entire questions correctly in that examination. Accordingly, the petitioner sent a letter to the respondent no.3 on 5th August, 2015 requesting the authority to issue the OMR sheet, question paper and answer key to the petitioner so that the petitioner may be satisfied about the proper appreciation of the answers given by her during examination. The respondent no.3 in reply requested the petitioner to file appropriate application in order to re-verify her answer script but did not provide the OMR sheet, question paper and answer key to the petitioner. Despite such re-

verification the name of the petitioner does not appear in the list of successful candidates for getting examination in MBBS Course.

2. Being aggrieved by and dissatisfied with such arbitrary action of the respondents, the petitioner has filed this writ application with the prayer to cancel the impugned letter dated 6th August, 2015 issued by respondent no.3 and to direct the respondent authority to supply OMR sheet, question paper and answer key to the petitioner so that the petitioner can verify her answer and marks. The respondents have specifically stated in their Affidavit-in-Opposition that there was/is no such rules to supply the OMR sheet, question paper and answer key to any of the candidates who had appeared in such Pre-Medical Examination. Thus specific defence of the respondents is that the petitioner duly submitted application for re-verification of her answer paper and even after such re-verification there was no change in the marks obtained by the petitioner.

3. Learned Advocate Mr. R.P. Gobind appearing on behalf of the petitioner contended that the respondent authority had published the result on 3rd August, 2015 though there was specific stipulation in the notice that the result would be published on 15th August, 2015. Mr. Gobind further contended that in all the Institutions the OMR sheet, question paper and answer key generally are handed over to the candidates for their appreciation and for giving a check to the arbitrariness of the authorities in the evaluation of such answer sheet. According to Mr. Gobind no harm will be caused to the respondent authorities in handing over the OMR sheet, question paper and answer key to the petitioner.

4. Mrs. Anjili Nag, learned Advocate appearing on behalf of the respondents contended that the writ petition becomes infructuous since on the basis of that examination the candidates have already got themselves admitted in MBBS Course.

5. Learned Advocate Mrs. Nag appearing on behalf of the respondents further contended that the present writ petition is the outcome of the frustration of the petitioner who could not succeed in the Pre-Medical Examination.

6. Mrs. Nag further contended that in terms of the guidelines issued in the prospectus the petitioner duly submitted application for re-verification of her answer paper and even after re-verification there was no change in the marks obtained by the petitioner.

7. Mrs. Nag candidly contended that there is absolutely no rules or regulation to provide the question paper, answer sheet and any sort of answer key to any of the examinees by the authorities.

8. In support of her contention Mrs. Nag referred a decision reported in (2007) 8 SCC 242 (Secy., W.B. Council of Higher Secondary Education v. Ayan Das and Others). Hon'ble Apex Court observed in the decision referred to herein above that finality has to be the result of public examination and, in the absence of statutory provision, the court cannot direct reassessment/re-examination of

answer scripts. The courts normally should not direct the production of answer scripts to be inspected by the writ petitioners unless a case is made out to show that either some question has not been evaluated or that the evaluation has been done contrary to the norms fixed by the examining body.

9. The petitioner has failed to show any rules or regulation, on the strength of which this Court can direct that the petitioner is entitled to get back her answer script and the question paper in order to re-verify the answers given by her in the examination. On careful consideration of the prospectus I do not find any provision for supply of answer script to any of the candidates. Learned Advocate for the petitioner has also failed to produce any rules or regulation whereby the petitioner is entitled to get back her OMR sheet and question paper along with answer script in order to re-appreciate her own result. In absence of any sort of rule or provision in the prospectus I am constrained to hold that such prayer of the petitioner cannot be adhered to. It is apparent from the materials on record that the petitioner duly submitted to the jurisdiction of the respondent authority by filing an application for reverification of her marks. The authority concerned duly re-verified the marks obtained by the petitioner in ANIPMT-2015 and found that there was no change in the marks obtained by the petitioner. Keeping in view of the principle of law enumerated by the Apex Court in the decision referred to herein above, I have no hesitation to hold that the petitioner has failed to show that her paper/answer script was not properly verified by the respondent authorities. Moreover, the present writ petition appears to be infructuous in view of the finality of the result published by the respondent authorities.

10. In the premises set forth above, I find no merit in the writ petition.

11. The writ petition is thus dismissed.

12. No order as to costs.