
(2007) 03 MP CK 0082
In the Madhya Pradesh High Court

Priyanka Pandey	Vs	APPELLANT
Secretary, Board of Secondary Education and Another		RESPONDENT

Date of Decision : 29-03-2007

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 2007 MP 235

Hon'ble Judges : S.R. Waghmare, J; Dipak Misra, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Dipak Misra, J.—The appellant undertook Class-X examination conducted by the Board of Secondary Education, Bhopal in the year 2005. In the subject of Sanskrit, she was awarded 28 marks out of 50. Being aggrieved by the said valuation, she applied for scrutiny of the answer paper. The Board on scrutiny found that there had been no error in tabulation or computation and accordingly rejected the prayer.

2. Being dissatisfied and aggrieved by the aforesaid action of the Board, the petitioner preferred W.P. No. 13674/2005. The learned single Judge placing reliance on the decisions rendered in the cases of Maharashtra State Board of Secondary and Higher Secondary Education and Another Vs. Paritosh Bhupeshkumar Sheth and Others, , and Neha Indurkha v. M.P. Board of Secondary Education, Bhopal 2003 (3) MPLJ 368 expressed the opinion that no case has been made out for directing revaluation especially in the absence of any provision for the same.

3. Questioning the correctness of the aforesaid order, it is submitted by Mr. Anil Tiwari, learned Counsel for the appellant that though there is no provision for revaluation of the answer scripts but in certain cases revaluation can be directed. He has commended us to the decision rendered by a Division Bench of this Court rendered in the case of Pranshu Indurkha Vs. State of M.P. and Others, . In the

aforesaid case, R.V. Raveendran, CJ (as his Lordship then was) after scanning the anatomy of the rule and the decisions in the field culled out the principles as under:

7. The principles in regard to revaluation may therefore be summarised thus:

(a) A student has no right to seek revaluation of an answer script unless the rules governing the examination specifically provide the revaluation. A provision for "scrutiny" or "retotalling" of marks or "rechecking the results" in the Rules does not entitle a student to seek revaluation.

(b) Where the rules do not provide for revaluation, the High Court will not normally direct the production of the answer scripts for its scrutiny or order revaluation. But in rare and exceptional cases where mala fides or tampering is made out, or where injustice has been caused on account of gross negligence, the Court may direct revaluation in exercise of its jurisdiction under Article 226 of the Constitution.

(c) Ascertainment of mala fides and tampering depends on facts of the case and for that purpose, if necessary, the answer script may be summoned.

(d) Ascertainment of "gross negligence resulting in injustice" is a more difficult exercise. A student who has consistently secured very high marks in a subject in the last few years examinations, is shown to have failed in such subject, the Court may consider it to be prima facie evidence of such negligence and call for the answer scripts. (The mere fact that a student feels that he deserved more marks or alleges negligence, cannot be ground to call for answer scripts). On securing the answer script, the Court may examine it or take the assistance of a qualified teacher to examine it. If the Court finds any gross negligence resulting in injustice which shocks its judicial conscience it may direct revaluation.

(e) But change in marks on account of perceptual differences in assessment cannot be a ground for revaluation. Different examiners may evaluate the same answers differently resulting in lesser or higher marks being awarded. Revaluation is not to be ordered merely because another valuer is of the view that the marks should have been different. In traditional examinations where the purpose is to test the knowledge, grammar, logic or reasoning, the perceptions about the answers may vary from examiner to examiner. (Of course where the examination is of objective type, where the student is merely to mark "yes" or "no", or choose one of the multiple answers, there cannot be any difference in valuation).

(f) While fairness in examinations is impliedly assured by the Board, exactness in valuation in individual cases can neither be assured nor be claimed. Certain margin of human error, oversight, and perceptual difference is part of the valuation system, where thousands or lacs of answer scripts are evaluated by hundreds or thousands of evaluators. Therefore, even where the Court secures the answer script and examines it or gets it examined by an independent

teachers, revaluation should not be ordered merely because there is some difference in valuation or because one or two answers have not been valued or have been wrongly valued. To repeat, mala fides tampering or gross negligence (and not small or negligible errors or perceptual changes) is a condition precedent for ordering revaluation.

4. In this context, we may refer to the decision rendered in the case of Board of Secondary Education Madhya Pradesh, Bhopal v. Rajeev Gupta L.P.A. No. 295/2001 decided on 26-2-2004, whereby the Division Bench has held as under:

As a general rule, the Court has no power to order revaluating of the paper since the rules do not provide for revaluation. However, in extraordinary cases where the student is bright and where injustice has been done in the case of evaluation of the marks specially in subjects like Mathematics and Science, it is some times open to the Court to have a look at the answer sheet and compare with the model answers papers and if there are gross discrepancies in awarding marks, it is always open to the Court to direct the Board to revalue the marks.

5. It is worth reporting that in subject like mathematics which is not a descriptive subject revaluation had been directed. In a subject like Sanskrit, when most of the questions relates to grammar, they can be evaluated as there can be only one answer.

6. Quite, apart from the above as Mr. Tiwari, learned Counsel would contend that the appellant has had a brilliant career and, therefore, it would fall in the second compartment as enumerated in paragraph 7 of the decision rendered in the case of Pranshu Indurkhya (supra).

7. Keeping in view of aforesaid principles, this Court on 19-3-2007 had directed the learned Government Advocate to keep two valuers of Sanskrit from two different high schools present. In pursuance of the aforesaid order, Mr. Deepak Awasthy, learned Government Advocate kept present two valuers, namely, Mrs. Mamta Das and Dr. D.R. Patel. On the first occasion, as the question paper was not available, the valuers expressed their inability to revalue the answer paper, for it is trite knowledge that an answer would depend upon the questions posed.

8. Thereafter, today question paper had been made available to the valuers, who valued them in Court. Mrs. Mamta Das upon valuing the answer script of the appellant has awarded 47 marks. Dr. D.R. Patel, the other valuer has awarded 45 marks. A con-sensus was arrived at by Mr. Tiwari, learned Counsel and Mr. T.S. Ruprah, learned Additional Advocate General appearing for the Board that 45 marks should be accepted as the proper marks.

9. In view of the aforesaid, the marks awarded to the appellant in the subject of Sanskrit is enhanced to 45. The mark sheet be rectified by the Board and be provided to the appellant within a period of fifteen days from today. If there would be change in decision, the same shall be indicated.

10. While so directing we would have parted with the case, we feel it is

obligatory to state that when a student appears in an examination, he expects a fair deal from the examiner. True it is, in descriptive paper, there can be different perceptions but in a case when the marks are to be awarded solely on the basis of objective answers, there may be marginal difference, if any, but there cannot be so much of difference. A teacher of Sanskrit is expected to know the basic essentiality of grammar, for grammar is the heart and soul of this ancient language from the days of "Pannini" the greatest grammarian of the days of yore. When two valuers have almost given equivalent marks, we fail to fathom how the valuer had awarded 28 marks.

11. We have been apprised at the Bar that the teacher who had initially valued the answer sheet is a government teacher. A valuer has to be careful, circumspect and should not show slightest attitude of callousness because the fate of a student is dependent on valuation. It is of relevance to state that when a young student appears in an examination, he expects that he shall be awarded appropriate marks and not be dealt with in a manner, to borrow a line from William Shakespeare, like a fly to the wanton boys, They cannot be left with the mercy of such irresponsible valuers.

12. In view of the aforesaid, we would request Mr. P.N. Dubey, learned Deputy Advocate General to intimate the Secretary, Secondary Education, Bhopal to issue a direction to all concerned that the teacher who had valued the Sanskrit paper of the appellant be not given the responsibility of a valuer for a period of live years.

13. The writ appeal is allowed. There shall be no order as to costs.