

(1988) 09 MP CK 0052
In the Madhya Pradesh High Court
Case No : M.P. No. 990 of 1988

Rachana Mehra

APPELLANT

Vs

Professional Examination Board and others

RESPONDENT

Date of Decision : 19-09-1988

Acts Referred:

Citation : (1989) MPLJ 702

Hon'ble Judges : T.N. Singh, J; Ram Murti Rustogi, J

Bench : Division Bench

Advocate : A.M. Naik, for the Appellant; R.A. Roman for Respondents 1 to 3, for the Respondent

Final Decision : Allowed

Judgement

Shri A.M. Naik counsel for the petitioner.

Shri R.A. Roman, counsel for the respondents 1 to 3.

Heard counsel. The petitioner is aggrieved because her right to get admission in a medical college in the State has been nipped in the bud. There is a Board constituted by the State which goes by the name of Professional Examination Board for short, the "Board" entrusted with the responsibility of conducting entrance tests for candidates seeking admission into the Engineering and Medical Colleges of the State. The petitioner took the test, but as per Annexure P/6, the mark-sheet, it is found that her answer script in subject Chemistry was not valued. When a representation was made, the Board, vide its letter dated 20-7-1988 (Annexure P/8), informed petitioner's father that his daughter's answer script in Chemistry had not been valued because she had violated the requisite instructions made in that regard.

On 23-8-1988, the petition was admitted, but on that date, we directed State of Madhya Pradesh also to be impleaded as party/respondent. On the next date namely, 25-8-1988, we took the view that the matter has to be heard and disposed of expeditiously so that petitioner's right agitated is expeditiously

adjudicated so as not to impair her prospects of admission. On that date, we made a direction to the Board to cause to be produced before us today the answer script of the petitioner to consider her grievance. Today, Shri Roman has appeared for the respondent Board. On behalf of the State, none has appeared and we are of the view that without hearing the State this matter can be disposed of as the lis really is between the petitioner and the Board. We have looked at the zeroxed copy of the answer script which has been produced from the records brought to the Court. We have looked at the original also and have satisfied ourselves that the zeroxed copy is the true copy of the original. The zeroxed copy is kept on record, but in the sealed cover. If anything has to be made clear about result of our comparison of the two, we can say this much only that as against question No. 76, outside the last square, the letter is "D" and that it is not "o".

On behalf of the respondents, a two-fold submission is made by Shri Roman. He has placed before us an unused answer script on which are printed "Instructions to candidates" and has drawn our attention to Instruction No. 5 on the front page of the answer script but we have also looked at the "Instructions regarding method Of answering questions" which appear on the back page of the answer book. The answer book is placed on record. Instruction No. 5 at the front page reads thus : --

Before attempting the answer, candidate must fill in the details on the answer-sheet in the space provided and put his signature. No other mark be made on the answer-sheet in the space provided and put his signature. No other mark be made on the answer-sheet as it may disqualify the candidate.

Instruction No. 3 on the back page is as follows :

3. No other sign should be used : --

No other method or sign such as tick (or) line (or) circle (o), square (?) or dot (*) etc. should be used either inside or outside the square to indicate the answer. In case such a sign is used, the question shall not be valued.

However, we also referred to Rule 1.12 of the relevant Rules on which reliance is placed by Shri Roman, which reads thus : --

1.12. IDENTITY DISCLOSURE IN THE ANSWER SHEET

The candidate is required to write his/her roll number only at the specified places in the answer book/answer sheet. No identification mark should be left in the answer book/answer sheet. Candidate is not permitted to write irrelevant matter in the answer book/answer sheet. The candidate who does not follow these instructions may be disqualified.

After looking into impugned Annexures P/6 and P/8 in juxtaposition with the stand taken in the return filed in this matter on behalf of respondents Nos. 1, 2 and 3 namely the functionaries of the Board, we feel disposed to agree with Shri

Naik who has appeared for the petitioner, that the Board has acted arbitrarily dealing with petitioner's case. Indeed, it was not await (sic) could never have been the case of the Board earlier, as per Annexures P/6 and P/8 that the petitioner stood "disqualified" because in very clear and categorical terms, the Board had made it known to the petitioner that her answer script in the subject Chemistry had not been valued. At no stage earlier, the petitioner had ever been told that she had been disqualified" for having violated any instructions printed on the Answer Book. However, we have still examined that stand of the Board, taken for the first time before us in this Court, but we are still not satisfied if that is a reasonable and valid stand. On the basis of Instruction No. 5 aforequoted, it is submitted before us that the letter "D" which was written outside the square against question No. 76, had disqualified the candidate the instant petitioner. We have no doubt that Instruction No 5 merely serves the purpose of Rule 1.12 and both have to be read together. If the candidate is not required to put any "other mark" on the answer script, as per instruction No. 5, that has to be so done merely to carry out the purpose of rule 1.12 so that identity of the candidate is not disclosed. That indeed is a very salutary provision, of Rule 1.12, whose sanctity must be maintained, but the question is whether writing the letter "D" outside the square against question No. 76 was intentionally done to violate either Instruction No. 5 or Rule 1.12, aforequoted. Having looked at the format and scheme of the entire question/Answer sheet of which every question gives four alternative answers, marked as "S" "C" and "D" letters we are of the view that the intention of the candidate in writing the letter "D" was merely to make it known that she had answered question No. 76 by crossing the letter "D". It could not, and did not, and it cannot mean anything else. The letter "D" is not foreign to the question so as to be an irrelevant matter and it cannot be construed as a prohibited mark by which petitioner's identity could be disclosed. We have no doubt that any statutory Rule has to be reasonably construed to subserve its purpose and no Rule has to be read literally or pedantically bereft consideration of the object of the Rule. We are satisfied, therefore, that the stand taken in this Court is not maintainable because the petitioner has violated neither Rule 1.12 aforequoted, nor instruction No. 5 aforequoted.

In so far as the other grievance is concerned, that is rendered answerless by the aforequoted instruction No. 3. It is clearly envisaged that when a question is wrongly answered and the method indicated for answering the question is not followed, then it is only that particular question which is not to be valued. For wrong answer or incorrect answer of a single question the penalty is not that the entire question paper has to go and has not to be valued. In this connection, it may be mentioned that the question paper discloses that there were 100 questions, to be answered and in the instant case, but the defect is found only in respect to question No. 76. We are fully satisfied, therefore, that the decisions taken by the Board as per Annexures P/6 and P/8 are not legally tenable. The Board acted illegally and arbitrarily in not valuing petitioner's answer-script in the subject Chemistry as a result whereof, she has seen deprived of her chance

to get admission in a Medical College of the State. Those Annexures P/6 and P/8 are accordingly quashed. We direct the Board to revalue petitioner's answer-script in the light of directions herein made and then to declare her result afresh.

At the conclusion of the dictation, Shri Roman has made another argument submitting that the petitioner has violated, in terms, the direction made on the answer-sheet itself. The least said about that is the best because we do not see any violation inasmuch as the space limit is indicated at four corners round and the letter "D" is within that space limit.

In the result, the petition succeeds to the extent indicated. The direction aforesaid has to be carried out within two weeks so that the petitioner's admission prospects are not impaired seriously. We further direct that the answer-script which has been placed for our perusal in Court shall be kept in a sealed cover by the Additional Registrar.