
(2011) 02 AHC CK 0373
In the Allahabad High Court
Case No : C.M.W.P. No. 52828 of 2010

Ragini Yadav

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 04-02-2011

Acts Referred:

Uttar Pradesh State Universities Act, 1973 — Section 13(1)

Citation : (2011) 3 AWC 2982

Hon'ble Judges : Amreshwar Pratap Sahi, J

Bench : Single Bench

Advocate : L.B. Yadav, for the Appellant; Anil Tiwari, C.S.C., for the Respondent

Judgement

Amreshwar Pratap Sahi, J.—Heard learned Counsel for the Petitioner and learned Counsel for the University.

2. Looking to the peculiar nature of the case where the very authority of the Vice Chancellor was under challenge. This Court passed an order on 5th January, 2011, which is to the following effect:

This is a peculiar case where the Petitioner contends that she had appeared in B.Ed, examinations and had been awarded 87 marks out of 100 in the question papers relating to Element of Educational Technology and Management. Similarly other answer books have been evaluated and the Petitioner had obtained first division marks.

Learned Counsel for the Petitioner submits that the Vice Chancellor has proceeded to get a random checking made and ordered for revaluation of certain answer books where marks have been awarded above 85%.

Accordingly, the Petitioner's answer book in relation to Element of Educational Technology and Management has been reevaluated and her marks have been reduced to 41.

A counter-affidavit has been filed and the stand taken is that the Vice Chancellor

has such powers u/s 13(1) (e) of the Uttar Pradesh State Universities Act, 1973 and, therefore, upon having received definite information, the Vice Chancellor was satisfied that reevaluation should be conducted. The answer book of the Petitioner was reevaluated and she had been awarded lesser marks, which according to the Respondent-University are deserving in the light of the answers given by the Petitioner.

The answer book has been produced before the Court.

On a perusal thereof, question No. 2 which has been fully answered by the Petitioner, had been awarded 16 marks on the earlier assessment but on reevaluation the Petitioner has been awarded zero marks. There is No. report of the examiner which may otherwise indicate the rationality of award of zero marks to the Petitioner in question No. 2. The University at least could have taken care to get a report of the reevaluation as to why such substantial reduction was necessary particularly with regard to question No. 2. The award of zero marks connotes that either the answer is absolutely wrong or is irrelevant to the concerned question.

In my view, this issue was required to be probed into by the University itself keeping in view the marks awarded to the Petitioner in other subjects.

Accordingly, the University shall now get this answer book reevaluated by a teacher of the concerned subject duly qualified other than those who had evaluated it earlier and submit a report particularly as to why the question No. 2 as answered by the Petitioner deserves to be awarded zero marks and not 16.

Let the report be submitted upon any evaluation of the answer book again and the University shall get entire the answer book reevaluated.

List on 28th January, 2011.

3. Learned Counsel for the University today has produced the expert's reports as directed by this Court and there unanimous opinion, so far as the question No. 2 is concerned, the Petitioner has rightly been awarded zero mark.

4. Learned Counsel for the Petitioner submits that the Vice Chancellor had No. power to get any such random checking made, once the Petitioner had been awarded 87 marks and, thereafter got it reduced to 41 marks.

5. After orders were passed by this Court to dispel this doubt, the Vice Chancellor got the answer book reevaluated through experts and on reevaluation, it has been found that the Petitioner at best could get 57 marks and accordingly, she has been awarded 57 marks instead of 41 marks.

6. Learned Counsel for the Petitioner is, therefore, right in submitting that the scaling down of marks was done arbitrarily, which has now been rectified.

7. The issue relating to the powers of the Vice Chancellor, it is No. doubt true that the Vice Chancellor cannot exercise his powers beyond the provisions of the

Act, Statutes and Ordinances. The power to finalize the results and examinations vest in the Committee, which is the authority competent under the Act, Statutes and Ordinances. The opinion of the examiners is final and there is No. provision for a super evaluation in the statutes.

8. Learned Counsel for the Petitioner, therefore, is right in contending that such powers could not have been exercised suo motu by the Vice Chancellor, yet in view of the circumstances that have emerged, it is apparent that the marks were awarded indiscriminately and in such a situation, the subsequent exercise conducted by the Vice Chancellor cannot be said to be an action, which the Vice Chancellor of an University cannot take on having coming to know of such irregularities having been committed.

9. Apart from this, the reevaluation has been carried out through experts and not by the Vice Chancellor himself, noticing the aforesaid discrepancies. It appears that the University realized the error itself and has now rectified it by awarding appropriate marks to the Petitioner.

10. The issue, therefore, relating to the exercise of powers by the Vice Chancellor need not be further gone into by this Court as in the opinion of the Court, substantial justice has been done to the Petitioner with the rectification process.

11. The writ petition is, therefore, disposed of with a direction to the University to correct the marks-sheet of the Petitioner and issue the same forthwith without any further delay.