

(2003) 01 OHC CK 0048

In the Orissa High Court

Case No : Writ Petition (C) No's. 4202 and 4203 of 2002

Rasmi Ranjan Sahoo and Bibhu Prada Das

APPELLANT

Vs

Board of Secondary Education and Another

RESPONDENT

Date of Decision : 27-01-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 1 OLR 419

Hon'ble Judges : P.K. Balasubramanyan, C.J.; Pradip Kumar Mohanty, J

Bench : Division Bench

Advocate : S. Sahoo and S.K. Rout, for the Appellant; None, for the Respondent

Final Decision : Dismissed

Judgement

P.K. Balasubramanyan, C.J.—The petitioners had approached this Court earlier with writ petitions complaining inter alia that their request for rechecking of addition of marks " had not been complied with by the concerned authorities. This Court directed the authorities to take up the exercise of rechecking of addition of marks and inform the petitioners of the result. This Court also observed that if the petitioners feel aggrieved by the communication in that behalf, they may approach this Court again. The authorities sent communication to the petitioners informing them that the Committee constituted for the purpose had checked the addition of marks and there was no change. It is on receiving these communications that the petitioners have come up again to this Court with these writ petitions.

2. There is no dispute that the petitioners are not entitled to a revaluation of their answer papers as of right. But, as has been noticed by this Court, in compelling circumstances and for good reasons this Court can exercise its jurisdiction under Article 226 of the Constitution of India and still issue a direction for revaluation. For that, specific facts indicating irregularities or improprieties in valuation which would compel us to exercise our jurisdiction should be pleaded and a prima facie case is to be made out. The learned counsel

for the petitioners submits that we must first direct production of the answer papers and thereafter see whether there are compelling reasons for ordering a revaluation. Counsel seeks support for this submission from a decision of this Court in Arundhati Sahoo Vs. Board of Secondary Education and Another, In that decision, after referring to the decision of the Supreme Court in Council of Higher Secondary Education, Orissa v. Jasodhara Padhi (Civil Appeal No. 1362 of 1990 disposed of on 28.2.1990) and some of the other decisions of this Court, the Court asked itself the question whether there were any compelling circumstances justifying the production of the answer papers. Their Lordships found materials based on which they held that it was proper to direct the production of the answer papers. On their production, the manner of valuation was examined. Thereafter the necessary directions were issued. In Our view, in every case where the allegation is made that there is no proper valuation, the Court is not expected to call upon the examining authorities to produce the answer papers and make a roving enquiry whether" there has been a proper valuation of the answer papers. That is clearly not the intent of the decision of the Supreme Court referred to in the above decision. In the case on hand, apart from the fact that the petitioners did not get such a relief in the earlier writ petitions they filed, there is the further fact that no compelling reasons are disclosed justifying our departure from the normal rule that the Court should be slow to interfere in academic matters and that the Court is not expected in the normal course to order a revaluation. Only if the compelling circumstances are made out by a candidate, in a given case with reference to facts, that the Court can in exercise of its extraordinary power, direct the production of the answer papers and then order a revaluation On the existence of clear irregularities in valuation. No doubt, the power of the Court under Article 226 of the Constitution of India is very wide. But, it is also a power which is expected to be used with care and caution. In academic matters, the Court cannot assume the role of an Expert, especially when the experts in the field are in charge of the examinations, the valuation and the like. If there is failure in that machinery, the Court can also direct the concerned to rectify those defects or remove those failures and ensure that proper bodies are constituted and proper and honest valuers are appointed. That cannot be achieved by ordering in every case a revaluation of the answer papers based on vague or general allegations. On the facts of these cases, we do not find any sufficient reason to order any revaluation or production of the answer papers. There is no circumstance made out which would shock the conscience of this Court to act notwithstanding the absence of a specific provision in that behalf. In that situation, we decline to entertain these writ petitions. They are dismissed.