
(2016) 06 P&H CK 0046
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 12420 of 2016

Shaurya Gulati

APPELLANT

Vs

Central Board of Secondary Education

RESPONDENT

Date of Decision : 13-06-2016

Acts Referred:

Citation : (2016) 3 LawHerald 2384 : (2016) 4 SCT 292

Hon'ble Judges : Mr. Amit Rawal, J.

Bench : Single Bench

Advocate : Mr. Sardavinder Goyal, Advocate, for the Appellant; Mr. Nitin Kant Setia, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

Mr. Amit Rawal, J.(Oral) - Mr. Setia, Advocate has filed short affidavit on behalf of respondent today in the Court. Copy thereof has been supplied to the opposite counsel.

2. The petitioner is aggrieved of the restriction imposed in the notice dated 24.05.2016 (Annexure P-1), notifying revaluation of the subjects.

3. The case of the petitioner is that there is no provision with regard to the revaluation of the theory paper of Physical Education. In this context, he has relied upon notification dated 11.03.2015 (Annexure P-3), whereby byelaws have been promulgated which does not envisage any restriction with regard to the revaluation of the subject aforementioned. In this regard, he has also relied upon judgment rendered by Delhi High Court in Samarth Mittal v. Union of India and others, 2015(6) AD (Delhi) 498, to contend that such notice has already been held to be void in law and CBSE has been directed to conduct the revaluation of the theory examination of Physical Education.

4. Mr. Nitin Kant Setia, learned counsel appearing on behalf of respondent submits that LPA filed against the same judgment is under challenge though there is no interim stay. This fact has also been reflected in the status of the case

of LPA No.477 of 2015. He submits that revaluation of the subject only started w.e.f. 26.11.2014. Earlier there was no provision of revaluation of any subject of 10+2.

5. I have heard learned counsel for the parties and appraised the paper book and of the view that once bye-laws do not envisage any restriction of revaluation, CBSE cannot on its own put fetter restricted qua one paper, permitting in others. This view of mine is fortified with the judgment rendered by Delhi High Court in Samarth Mittal's case (Supra), wherein identical situation has arisen and the CBSE has been directed to conduct the revaluation of theory paper of Physical Education as per bye-laws (Annexure P-3). Even otherwise, once the respondent has permitted to revaluation of the subjects mentioned in the following subjects:-

"English Core, English Elective (CBSE), English Elective (NCERT), Hindi Core, Hindi Elective, Mathematics, Physics, Chemistry, Biology, Business Studies, Economics & Accountancy"

there is no rationale behind prohibiting the revaluation of the theory paper of Physical Education.

6. In view of the aforementioned fact, notice (Annexure P-1) qua petitioner only is hereby quashed.

7. The present writ petition is allowed.

8. The respondent shall consider the written request of the petitioner for conducting revaluation of the theory subject of Physical Education, subject to deposit of the usual charges.

9. On receipt of the request, the respondent shall conduct revaluation and intimate to the petitioner declaration of result within a period of two weeks thereafter.