

(2012) 11 CHH CK 0025
In the Chhattisgarh High Court
Case No : Writ Petition C No. 742 of 2012

Shilpa Singh Rajput

APPELLANT

Vs

Chhattisgarh Swami Vivekanand Technical University and
Others

RESPONDENT

Date of Decision : 29-11-2012

Acts Referred:

Citation : AIR 2013 Chh 25

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Advocate : Ali Asgar, for the Appellant; Anumeh Shrivastava, Advocate for the respondent No. 1 and 2 Shri V.V.S. Moorthy, D.A.G., for the Respondent

Final Decision : Dismissed

Judgement

Hon"ble Shri Satish K Agnihotri, J.—By this petition, the petitioner seeks a direction to the respondent authorities to recheck the answer sheet booklet of the petitioner and to prepare a new mark-sheet for the said subject. Further, to direct the respondent authorities to allow the petitioner to appear in the IVth semester examination of Masters in Business Administration (for short "the MBA"). The facts, in brief, as projected by the petitioner are that the petitioner took admission for the MBA course in the respondent No. 3-College, which is affiliated to respondent No. 1. The petitioner appeared in the 1st semester of the said course in the month of November and December, 2010 and the result of the same was declared in the month of February, 2011. The petitioner could not obtain passing marks in the subject Quantitative Techniques in Management (for short "the QTM") and she was supposed to appear in the same subject in the 3rd semester. The petitioner appeared in the 2nd semester which she cleared and thereafter, appeared in the third semester in the month of November, 2011 and also appeared in the backlog subject of QTM. The result of the same was declared in March, 2011 and she secured 67.5 marks, however, in the QTM subject, she was awarded only 21 marks. Being dissatisfied, the petitioner

moved an application under the provisions of the Right to Information Act, 2005 for procuring a copy of the answer sheet of QTM subject, which was duly supplied to her alongwith statement of evaluation. The petitioner was awarded 0 marks in question No. 2(c), which she had attempted in page No. 5 and 6, which were missing from the answer book. Further, question No. 2(d), 3(d) and 4(c) were shown to be not attempted, though, the same were attempted in page No. 1, 23 and 9, respectively of the answer book. The petitioner also intimated the respondents that the question No. 4(3) and 5(d) were declared to be out of syllabus, for which the petitioner was not granted any notional marks.

2. The petitioner, on 09.04.2012, made a representation to the respondent No. 1 and 2 for the aforesaid faults, on account of which, as per the petitioner, she could not secure the passing marks. On account of non-passing of all the subjects of the 1st semester, the petitioner was debarred from appearing in the fourth semester. The petitioner was assured that the aforesaid errors will be rectified at the earliest as the exam for 4th semester exam was to commence in the month of May, 2012. However, nothing was done by the respondent, thus, she made another representation on 17.04.2012 for rechecking of her answer sheet, however, all in vain. Thus, this petition.

3. Shri Ali Asgar, learned counsel appearing for the petitioner would submit that the petitioner has been doing well in all subjects but due to the fault of the respondent authorities, she has been declared failed in QTM subject. The petitioner was been given 21 marks out of 80, but four questions for which she has given answers were of 26 marks, which have not at all been checked. Two questions carrying 13 marks have been declared to be out of syllabus for which no bonus marks were given. The petitioners have not even cared to consider and decide the representation of the petitioner, as aforesaid. Thus, a direction may be issued to re-check the answer paper of QTM subject.

4. On the other hand, Shri Anumeh Shrivastava, learned counsel appearing for the respondent No. 1 and 2 would submit that on checking of the answer sheet of the petitioner, it was found that so far as Q. No. 2(c) is concerned, the same was attempted and the marks awarded against the same, are correct and there is no mistake in it. So far as question NO. 2(d), 3(d) and 4(c) are concerned, the petitioner has attempted the same, but due to oversight, the valuer has given marks in 2(b), 3(b) and 4(b) against 2(d), 3(d) and 4(c), respectively. There was an inadvertent interchange between 4(c) and 4(d). The marks for question No. 4(d) have now been reduced to 0 in subsequent evaluation of the answer sheet. Thus, there has been no change in the ultimate valuation of the petitioners answer sheet. As regards question No. 4(e) and 5(d), which, according to the petitioner are out of syllabus, it is submitted that question No. 5(d) was admittedly out of syllabus and the same has been properly scaled and the petitioner was given the necessary benefit and question No. 4(e), though was out of syllabus, contained two choices between (d) and (e). The petitioner attempted 4(d) which was within the syllabus. Thus, there is no error in scaling or

evaluation of the answer book of the petitioner. Even if the petitioner's argument is accepted and the necessary scaling is awarded to the petitioner sans question No. 4(d), then the result would be $80/64 \times 19 = 23.75$, while the passing marks still remains 32. Hence, no benefit can be derived from the above scaling. Further, he would submit that a Court of law cannot act as an expert in such matters. In support of his contention, he would rely upon the decision of the Supreme Court in *Maharashtra State Board of Secondary & Higher Secondary Education & Another v. Paritosh Bhupeshkumar Sheth & Others* 1, *Pramod Kumar Srivastava v. Chairman, Bihar Public Service Commission, Patna & Others* 2, *Secy., W.B. Council of Higher Secondary Education v. Ayan Das and Others* 3 and *Bihar Public Service Commission and Others v. Kamini and Others* 4.

5. Heard learned counsel appearing for the parties, perused the pleadings and documents appended thereto.

6. It is found that the marks against questions 2(d), 3(d) and 4(c) were not awarded at the time of valuation, however, as submitted by learned counsel for the respondents No. 1 & 2, it was found that marks of 2(d) were allotted to 2(b), marks of 4(c) were allotted to 4(b) and in 3(d) mark was given against 3(b). There is no provision for revaluation of the answer sheet. The initial error found in awarding the marks has been made good on subsequent enquiry, as it was found by the University itself that marks were wrongly awarded to other question, which was not answered and accordingly necessary corrections were made. At this stage, if there were certain defects in allotment of marks against the particular question whether revaluation of the QTM subject be directed by this Court.

7. The Supreme Court in a catena of decisions examined the identical issue and came to the conclusion that in absence of any provisions in the relevant rules provided for re-examination and revaluation of the answer sheet, the Court cannot direct such revaluation and reexamination. [See: *Maharashtra State Board of Secondary and Higher Secondary Education* (supra), *Pramod Kumar Shrivastava* (supra), *Ayan Das* (supra) and *Kamini* (supra)].

8. It was observed in *Maharashtra State Board of Secondary and Higher Secondary Education* (supra) that "it will be wholly wrong for the Court to make a pedantic and purely idealistic approach to the problems of this nature, isolated from the actual realities and grass root problems involved in the working of the system and unmindful of the consequences which would emanate if a purely idealistic view as opposed to a pragmatic one were to be propounded."

9. Applying the well settled principles of law to the facts of the case on hand, which appears to be not a serious defect on the part of the respondents No. 1 & 2 in valuation of answer sheet, which may affect the future prospects of the candidate, no direction, as sought for by the petitioner, can be issued. In view of the fact that the error has been rectified subsequently and the proper marks have been awarded, as assessed by the first value against the question, this

Court is of the view that no interference is warranted in the case. As an upshot, the writ petition is liable to be and is hereby dismissed. No order as to costs.