
(2012) 10 AHC CK 0153
In the Allahabad High Court
Case No : Writ Petition No.3798 (M/S) of 2012

Shubhankar Tiwari (Minor) and Another	APPELLANT
Vs	
State of U.P. and Others	RESPONDENT

Date of Decision : 09-10-2012

Acts Referred:

Citation : (2012) 10 AHC CK 0153

Hon'ble Judges : Devendra Kumar Arora, J

Final Decision : Dismissed

Judgement

Devendra Kumar Arora, J.

Heard learned counsel for the parties.

By means of present writ petition, the petitioners are seeking a writ in the nature of mandamus for commanding the opposite party no.2 to scrutiny/revaluation of Hindi I & II papers, Math IInd paper, English IInd paper, Physic IInd paper and Chemistry Ist paper of petitioner no.1 as well as Hindi Ist paper, English IInd paper and Chemistry Ist paper of petitioner no.2 bearing Roll No.1660013 and 1681478 of Intermediate Examination 2012.

The submission of learned counsel for the petitioners is that petitioners were regular student of Class XII of Janta Inter College, Itiyathok, Gonda. The petitioners appeared in the Intermediate Examination 2012 with Roll Nos. 1660013 and 1681478. The result of the Examination was declared in June 2012, but the petitioner no.1 has got 395/500 marks and passed first division, whereas petitioner no.2 has got 401/500 marks and passed first division, but the aforesaid marks are much less marks upto the presumption of the petitioners. After getting the result, the petitioners represented their grievance before opposite party no.2 and requested for reevaluation of copies of the petitioners, but no action has been taken on the same, therefore, the petitioners are compelled to approach this Court.

Repeated query was made from learned counsel for the petitioners to show the provision for reevaluation of answerbooks, but he failed to place any provision for reevaluation of answer books.

The Hon''ble Supreme Court in the case of Maharashtra State Board of Secondary and Higher Secondary Education Vs. Paritosh Bhupeshkumar Sheth reported in (1984) 4 SCC 27, pleased to observe that finality has to be the result of public examination and, in the absence of statutory provision, the court cannot direct reassessment/reexamination of answer scripts.

In the case of Pramod Kumar Srivastava Vs. Chairman, Bihar Public Service Commission, Patna and others reported in (2004) 6 SCC 714, the Apex Court pleased to observe that in the absence of any provision for reevaluation of answer books in the relevant rules, no candidate in an examination has got any right whatsoever to claim or ask for reevaluation of his marks. Relevant paras 8 and 9 of the aforesaid judgment are reproduced as under:

"8. Adopting such a course as was done by the learned Single Judge will give rise to practical problems. Many candidates may like to take a chance and pray for reevaluation of their answerbooks. Naturally, the Court will pass orders on different dates as and when writ petitions are filed. The Commission will have to then send the copies of individual candidates to examiners for reevaluation which is bound to take time. The examination conducted by the Commission being a competitive examination, the declaration of final result will thus be unduly delayed and the vacancies will remain unfilled for a long time. What will happen if a candidate secures lesser marks in reevaluation? He may come forward with a plea that the marks as originally awarded to him may be taken into consideration. The absence of clear rules on the subject may throw many problems and in the larger interest, they must be avoided.

9. Even otherwise, the manner in which the learned Single Judge had the answerbook of the appellant in General Science paper reevaluated cannot be justified. The answerbook was not sent directly by the Court either to the Registrar of the Patna University or to the Principal of the Science College. A photocopy of the answerbook was handedover to the standing counsel for the Patna University who returned the same to the Court after some time and a statement was made to the effect that the same had been examined by two teachers of Patna Science College. The names of the teachers were not even disclosed to the Court. The examination in question is a competitive examination where the comparative merit of a candidate has to be judged. It is, therefore, absolutely necessary that a uniform standard is applied in examining the answerbooks of all the candidates. It is the specific case of the Commission that in order to achieve such an objective, a centralized system of evaluation of answerbooks is adopted wherein different examiners examine the answerbooks on the basis of model answers prepared by the Head Examiner with the assistance of other examiners. It was pleaded in the Letters Patent Appeal preferred by the Commission and which fact has not been disputed that the

model answer was not supplied to the two teachers of the Patna Science College. There can be a variation of standard in awarding marks by different examiners. The manner in which the answerbooks were got evaluated, the marks awarded therein cannot be treated as sacrosanct and consequently the direction issued by the learned Single Judge to the Commission to treat the marks of the appellant in General Science paper as 63 cannot be justified."

The Hon"ble Apex Court in the case of Himachal Pradesh Public Service Commission Vs. Mukesh Thakur and another, (2010) 6 SCC, 759 in para26 pleased to observe as under:

"26. Thus, the law on the subject emerges to the effect that in the absence of any provision under the statute or statutory rules/regulations, the Court should not generally direct revaluation."

Recently, the Hon"ble Supreme Court in the case of Central Board of Secondary Education and another Vs. Aditya Bandopadhyay and others, (2011) 8 SCC 497, pleased to observe as under:

"34. It is, thus, now well settled that a provision barring inspection or disclosure of the answer books or reevaluation of the answer books and restricting the remedy of the candidates only to retotalling is valid and binding on the examinee. In the case of CBSE, the provisions barring reevaluation and inspection contained in Byelaw 61, are akin to Rule 104 considered in Maharashtra State Board. As a consequence if an examination is governed only by the rules and regulations of the examining body which bar inspection, disclosure or reevaluation, the examinee will be entitled only for retotalling by checking whether all the answers have been evaluated and further checking whether there is no mistake in the totalling of marks for each question and marks have been transferred correctly to the title (abstract) page. The position may however be different, if there is a superior statutory right entitling the examinee, as a citizen to seek access to the answer books, as information."

In view of the above, no direction can be issued in this case for reevaluation of answerbooks in the absence of any provision for the same.

The writ petition is misconceived and is hereby dismissed.