

(2022) 09 JH CK 0018
In the Jharkhand High Court
Case No : Writ Petition (S) No. 3575 Of 2011

Sujata Kumari

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

Date of Decision : 01-09-2022

Acts Referred:

Constitution Of India, 1950 — Article 21, 226

Citation : (2022) 09 JH CK 0018

Hon'ble Judges : Dr. S.N.Pathak, J

Bench : Single Bench

Advocate : Dilip Kr. Prasad, Amitesh Kr. Geasen, Sanjoy Piprawall, Navneet Sahay

Judgement

Dr. S.N.Pathak, J

1. Heard the parties.

2. Petitioner has approached this Court with a prayer for direction upon the respondents to consider the application of the petitioner for evaluating her answer sheets which is pending before the respondent Nos. 3 and 4 since 2006.

Further prayer has been made for considering the candidature of petitioner for appointment to civil services posts as the cut-off marks as per the JPSC was 884, whereas, the petitioner has secured 879 without re-evaluation of GS-II, depriving her legitimate rights to be appointed to the said post.

3. As per the factual matrix, the respondent-JPSC vide Advt. No. 11/2002-03 had published notification of 1st Civil Services Exam., 2003 for appointment to different Civil Posts and pursuant to which, the petitioner applied for the same and has been issued admit card bearing Roll No. 21802791. Thereafter, the petitioner appeared in the 1st Civil Services Mains Examination and declared successful in the same. After that, she faced the interview. It is the specific case of the petitioner that in the entire selection process, she has done exceptionally well and hence, she was under impression that her name will figure in the final

merit list. However, when her name not appeared in the final merit list, she applied for re-evaluation of her answer-sheets, after depositing the requisite fee. Thereafter, she received her mark-sheet by which she got totally disturbed that she has obtained 66% marks in optional papers i.e. History & Zoology and 70% in General Studies-I, whereas, in G.S.-II, she has obtained 45% marks only. Hence, on 08.07.2006, she applied for re-totaling of the marks as she was hearing manipulation in the result by the respondent Nos. 3 and 4 all around. After filing of the representation, she had also sought information under RTI as to what action has been taken on her representation dated 08.07.2006. When no reply was received, the petitioner approached the 1st Appellate Authority and thereafter, before the State Information Commission for providing copy of the Paper-II of General Studies but the respondent-JPSC did not provide her the copy of said paper.

The petitioner left with no option, has approached this Court for redressal of her grievances.

4. Mr. Dilip Kumar Prasad, learned counsel appearing for the petitioner assiduously argues that though the petitioner has successfully competed in the recruitment process of 1st Civil Services Examination conducted by the respondent-JPSC but her right of appointment has been freezed by the respondents and sold in the open market. Learned counsel further argues that though the respondents are duty bound to re-total the marks obtained by the petitioner in G.S.-II paper but since manipulation has taken place in the recruitment process, the respondents had denied to re-total her marks of GS-II. Learned counsel further argues that the illegal act done by the respondents amounts to violation of Article 21 of the Constitution.

5. Per contra, counter-affidavit has been filed. Learned counsel appearing for the respondent-JPSC submits that written examination of 1st Combined Civil Services Mains Exam., 2003, was held from 23.06.2005 to 03.07.2005 and petitioner has not been recommended by the JPSC for appointment in view of the fact that she has secured less mark than the last recommended candidate in her category. Learned counsel further argues that on 14.06.2019, this Court after hearing counsel for the parties as well as CBI has been pleased to pass following order:-

"The contention of the learned counsel for the petitioner is that Question Nos. 5 & 6 has not been evaluated by the JPSC, whereas, learned counsel for the JPSC contend that there is manipulation in the answer sheets of the petitioner and extra copy has been tagged after the examination which is a matter of investigation. This Court fails to understand that when JPSC itself was custodian of the Answer sheets of all the candidates, how this manipulation took place.

Upon going through the different orders of this Court and rival submissions of the parties, this Court is of the considered opinion that the Chairman, JPSC shall constitute a Board consisting of Experts of General Studies Paper i.e. one

Examiner and one Head Examiner under the supervision of Superintendent of Police (EOW), CBI. The Committee shall examine the entire matter in depth and ascertain the force behind such manipulation in answer-sheets, if any and also whether question no. 5 & 6 was at all answered by the petitioner and not evaluated by the JPSC. The CBI Officer shall submit the final report with each and every details in form of Affidavit before this Court within a period of six weeks' from today."

6. In compliance of the said order, respondent-JPSC constituted a Committee consisting of Dr. Raj Kumar Sharma, Associate Professor, Department of English, Ranchi University Ranchi as Head Examiner and Dr. Smriti Singh, Assistant Professor, Department of Chemistry, Ranchi University Ranchi as Examiner under the supervision of Superintendent of Police, CBI (EOW). The said Committee, after examining the whole matter in depth, have given following findings:

a) The handwriting of the examinee (Sujata Kumari) in filling up the details viz. Roll No., Name of Paper etc. in the main answer sheet and additional answer sheets appears to be different.

b) The Invigilator Mrs. Maya Singh confirmed her signature on the main answer sheet but denied the signature to be hers on the additional sheet on which Q. No. 5 and 6 of General Studies paper have been answered.

c) The attendance sheet of Room No. 09 of Saraswati Sishu Vidya Mandir, Dhurwa, Ranchi where the petitioner Mrs. Sujata Kumari took the JPSC 1st Combined Civil Services Main Examination shows overwriting in the additional answer sheets taken by the petitioner. This overwriting was also denied by the Invigilator, Mrs. Maya Singh.

d) In the light of the above evidences, findings and testimony of the invigilator, it appears that the additional answer sheet of the petitioner on which Q. Nos. 5 and 6 of General Studies Paper were written that remained unevaluated, has been attached later on.

7. Learned counsel further argues that from the said enquiry report, it appears that petitioner has done malpractices in the Mains' examination and by duping the aforesaid facts, has approached this Court for consideration of her case for appointment. As such, this writ application is not maintainable and fit to be dismissed by this Court with exemplary cost.

8. Be that as it may, having heard the rival submissions of learned counsel for the parties and upon perusal of the documents brought on record, this Court is of the considered view that no interference is warranted in the instant writ petition. Admittedly, in view of the allegations levelled by the petitioner on the basis of the examination as well as evaluation of the answer-sheets, this Court directed the respondent-authorities including the CBI for constitution of a Committee for coming to a conclusion as to whether the answer-sheets on which Question Nos. 5 and 6 were answered was attached later on and if answer is affirmative then

with whose connivance.

The Committee so constituted came-out with a finding that the additional answer-sheet of the petitioner on which Question Nos. 5 and 6 of the General Studies paper were written that remained unevaluated has been attached later on. The detailed finding finds place at para-6 of this order.

9. For satisfaction of the parties, answer-sheets in sealed cover were called for and opened at the time of the proceedings with the consent of the parties. The Court verified the same and was satisfied that the handwriting of the examinee (Sujata Kumari) in filling-up particulars on main answer-sheet and additional answer-sheet differed and obviously it appears that same was attached later on. The Court is conscious of the fact that sitting under Article 226 of the Constitution of India, it cannot act as an handwriting experts and give its finding but in view of the findings of the Committee and also on perusal of records it appears that both the handwritings were different and copies were attached later on.

10. The report of the Committee cannot be doubted since this Court itself has examined the correctness of the answer-sheets and the handwriting also. The Court is in full agreement with the findings of the Committee.

11. Admittedly, petitioner has obtained less marks than the cut-off marks fixed by the respondent-JPSC and as such, rightly her candidature for appointment was not considered by the respondent-authorities. The petitioner is claiming appointment from 1st Civil Services Examination, 2003, we are in 2022 and almost 19 years have passed. The writ petition was filed in the year 2011 only and heard on several occasions. Since a female candidate had approached this Court and she was hopeful of getting selected, on her plea and request, the entire exercise was done. Everything has to come to a logical end. After not leaving any stone unturned, this Court is of the clear view that no interference is warranted in the instant writ petition.

12. The writ petition merits dismissal and the same is hereby dismissed.

13. However, before parting with the order, it goes without saying that since the JPSC is the custodian of the answer-sheets of the examinee including petitioner and malpractices at the hands of the JPSC also cannot be ruled-out.

14. Under such circumstance, the Chairman/ Secretary of the JPSC is directed to constitute a Committee and to trace out the culprit who has made this to happen and nab the culprit, whoever he may be. Nobody can be spared how high ranking he may be and whatever position he is holding. If the person is found guilty of the malpractices, he should not be spared. A departmental proceeding as well as criminal proceeding should be initiated against the erring Officer, who, findings in view of the Committee, is found guilty.

15. Let a report of the same regarding action taken against the erring Officer be also submitted within a period of three months from the date of receipt/

production of a copy of this Order in sealed cover before the Registrar General of this Court to be placed before this Court.