

(2018) 05 RAJ CK 0092

In the Rajasthan High Court

Case No : Civil Writ Petition No. 4172, 3727, 3889, 4174, 4176, 4234, 4240, (8) S. B. Civil Writ Petition No. 4424 / 2018, 4679, 4722? of 2018

Sunil Sharma @APPELLANT@Hash State of Rajasthan & Ors.

Date of Decision : 08-05-2018

Acts Referred:

Citation : (2018) 05 RAJ CK 0092

Hon'ble Judges : NIRMALJIT KAUR, J

Bench : Single Bench

Advocate : B.S.Sandhu, Rajat Arora, Kaushal Gautam, N.K. Sharma, K.L. Thakur, Mayank Rankawat, B.P. Bohra, D.D. Chitlangi

Final Decision : Disposed Off

Judgement

Â All the above mentioned writ petitions shall stand decided by this common order as the issue involved is identical.

Some of the writ petitions have been filed by the petitioners who are undergoing studies of second year of Three Years Law Course while the other

petitions have been filed by the petitioners who are undergoing studies of third year of Three Years Law Course in different colleges affiliated with

the respondent â?" Maharaja Ganga Singh University, Bikaner.

By way of a common prayer, a direction is sought to reevaluate the answer books of the petitioners properly and award the marks accordingly with a

further prayer that they should be allowed to appear in the examination of third year of the Three Years Law Course.Â The petitioners, who are

students of the different Law Colleges affiliated with the respondent â?" University undergoing Three Years Law Course, are aggrieved by the

utmost casual and lackluster manner in checking their answer books of the Supplementary Examination, 2017 of various subjects.Â The petitioners

are students of second and third year of the Three Years Law Course. They are pursuing their legal studies from the colleges such as S.B.S. Law

College, Sri Ganganagar, M.D. College, Sri Ganganagar and N.M. Law P.G. College, Hanumangarh Town, Rajasthan etc., which are affiliated with

the respondent University.

For convenience, the facts are being taken from S.B. Civil Writ Petition No. 3727/2018.

The petitioners-students have successfully completed first year of the Three Years Law Course in the year 2016 and were given admission in the

second year of the Three Year Law Course. After pursuing the studies of the second year, their examinations were held in the month of March

April, 2017. The petitioners appeared in the said examination and their result was declared in the month of June July, 2017. Unfortunately, all

the petitioners were declared to be failed and they were expected to appear in the supplementary examination of second year in the respective

subjects, in which they could not obtain the minimum passing marks. The petitioners did not seek revaluation held by the respondent University

and accordingly, filled their form for taking the Supplementary Examination, 2017 of second year in the respective subjects, in which they had failed

and meanwhile, they were also allowed to take admission in the third year of the Three Year Law Course as per the rules applicable. While they

were undertaking their studies of third year, the date for supplementary examination of second year was declared and all the petitioners appeared in

the said supplementary examination held in the month of September October, 2017. The result of the said supplementary examination was

declared by the respondent University. Once again, they were declared fail. Being aggrieved of the said result, the petitioners opted for

revaluation of their answer books and submitted the requisite fees for revaluation. The respondent University after carrying out the revaluation

process again declared the result of the revaluation in the month of December, 2017. However, to their dismay, all the petitioners were declared as

fail in their respective subjects in the supplementary examination. Since 85% of the petitioners had failed, they approached their respective college

authorities for redressal of their grievance. There was a strike in the respondent University on account of a large scale unprecedented failure of

even some of the brightest students.Â It was claimed by the students that their answer-books have not been checked properly. An apprehension was expressed that the respondent â?" University had failed to exercise proper diligence while checking the answerbooks of their supplementary examination.Â When every effort of theirs failed to move the authorities of the respondent â?" University and after almost a weeksâ?? long strike, the petitioners and the likes were advised to ask for the copies of the supplementary examination under the Right to Information Act.Â In pursuance to the application filed under the R.T.I. Act between 5th - 10th of January, 2018, the answer-sheets were supplied to only 4 or 5 students and that too after a lapse of almost two months in spite of the requisite procedure of supplying the same within 7â?"10 days forcing the petitioners to approach this Court by way of the present writ petition.Â

In order to draw the attention of this Court to the arbitrary and casual manner, in which the answer books of their supplementary examination were checked, the petitioners have placed on record certain copies of answer books obtained under the R.T.I. Act.Â From a perusal of these answer-sheets, it is evident that (a) some questions have been checked but marks have not been awarded (b) certain questions carry different marks on the title page from that mentioned in the answer books against the question concerned.Â The copy of the answer-sheet of subject Transfer of Property of the petitioner No. 4 shows that the same has not been checked at all.Â However, the petitioner is declared to have passed.Â There is not even a single mark of correction on the pages of the answer-sheet of this subject and no marks have been awarded.Â (c) same is the case with respect to the subject of Public International Law.Â In the subject of Jurisprudence, one part of the question has been given marks, whereas, the second part of the question has not been checked at all.Â Similar deficiencies are evident in the other answer books as well (d) two students falling under the same category have been awarded different result, one has been declared successful in the examination and the other has been declared unsuccessful.Â

As per the requirement, a student has to secure minimum 36 marks in each paper and 48 as aggregate in all papers to successfully clear the examination.Â In case of one Shri Navdeep Kumar, who has secured 27 marks in the paper of Jurisprudence i.e. less than 36 marks, the result

shows the candidate to have passed the examination with Second Division.Â In case of one Bikkar Singh, who has scored 14 marks in the paper of

Jurisprudence i.e. less than 36 has been declared to be unsuccessful, (e) the answer books have been corrected in an absolutely careless manner so

much so that only one examiner i.e. Mrs. Kusum has been appointed to check the answer books of the different subjects such as Jurisprudence, Law

of Crimes, Labour Law, Administrative Law, Public Interest Litigation and Company Law and (f) no uniform policy was followed.Â Certain

examiners gave marks against each questions while others did not award any marks against each question but made mention of the marks on the title

page.

After seeing the answer books, this Court found that the arbitrariness and the discrimination was writ large.Â Accordingly, while issuing the notices,

interim direction to allow the petitioners to take their Third Year examination scheduled to be commenced from April, 2018 was granted.Â

Simultaneously, the following directions were also issued :-

â??Meanwhile, the respondent-University is directed to look into the serious irregularity, discrepancies as pointed out and take appropriate measures

for rectification in a manner as deemed fit as the discrepancies as pointed out in the petition and apparent in the answer-sheets may even invite

serious repercussion including initiating of enquiry by independent agency/ criminal proceedings, if so required. Copy of this order be given to learned

counsel for the respondent No.2 along with paper book, which may be brought to the notice of Vice Chancellor of the Respondent-University.â??

In pursuance to the Order dated 25.04.2018, the Registrar of the respondent â?" Maharaja Ganga Singh University, Bikaner was present before this

Court and filed his additional affidavit stating that by way of proper measures to rectify the errors, if any, the Vice Chancellor of the respondent â?"

University vide Office Order dated 17.04.2018 constituted a committee comprising of (1) Prof. (Dr.) S.S. Lal (Retired from Dept. of Law, University

of Rajasthan, Jaipur) (2) Prof. (Dr.) K.L. Sharma (Retired from Dept. of Law, University of Rajasthan, Jaipur) and (3) Prof. (Dr.) J.K. Malik to

check the fairness of earlier assessment of the answer books of all the petitioners.Â The said Committee opined that the answer books should be got

rechecked by the subject experts.Â Accordingly, 168 answer books of 24 subjects

of LL.B. first, second and third year of Three Years Law Course

of the petitioners were got assessed and the comparative table of the marks obtained from the examinee in the previous assessment and the

assessment made subsequently was got prepared.Â While doing so, the copy of the minutes of the committee along with comparative statement of

the marks obtained in the previous assessment and the new assessment was collectively placed on record as Annexure-R/4.Â A perusal of the

comparative table shows a change in the marks of each of the answer books but in spite of this rechecking, the petitioners are still shown to have

received less than the minimum marks.Â

This Court in order to satisfy itself also called for the list of panel of the subject experts as prepared by the Committee to check the answer books.Â

A perusal of the said panel shows that almost all the subject experts/teachers have more than 11 years of experience.Â Some of them are also

having 15, 20, 25 and 30 years of experience.Â The said list provided is made part of the record.Â Although, the objections have been filed by the

petitioners through their rejoinder but this Court has no reason to disbelieve or doubt the outcome of the result in pursuance to the rechecking done by

the new panel of subject experts as appointed by the duly constituted committee at the behest of the Vice Chancellor of the respondent â?

University. Thus, the first prayer of the petitioners that the respondent â?" University should be directed to evaluate their answer-sheets properly and

award the marks accordingly is rendered infructuous. However, that does not mean that the Court is satisfied with the conduct, action, inaction of the

authorities of the respondent â?" University in discharging their duties.Â The authorities of the respondent â?" University has miserably failed to

discharge their duties with sincerity.Â The answer books have been corrected in an absolutely careless manner so much so that only one examiner

i.e. Mrs. Kusum has been appointed to check the answer books of the different subjects such as Jurisprudence, Law of Crimes, Labour Law,

Administrative Law, Public Interest Litigation and Company Law. The copies of different subjects corrected by one and only Mrs. Kusum have been

placed on record as Annexure-13 collectively.

This Court fails to understand as to how one examiner was expert of all the subjects.Â The wrong and illegality amounting to almost an offence is

unforgivable.Â The irresponsible manner of correcting the answer books and thus, playing with the career of the students has shaken the faith in the educational system resulting in apprehension, uncertainty and multiple problems.Â The efforts of the Committee in its report to try and give a clean chit is uncalled for in view of the various irregularities apparent on the face of it.Â No uniform policy was followed.Â Certain examiners gave marks against each questions while others did not award any marks against each question but made mention of the marks on the title page.Â It is stated that as per the guidelines, the examiner must award marks only on the title page of the answerbook and must not award marks inside the answer-book.Â If it is so, it is not understood as to how the others have awarded the marks inside the answer-books.Â Not awarding marks inside the answer books and only awarding marks on the title page is defective in itself and is capable of being used and misused in an arbitrary manner.Â The fact also remains that no uniform policy was followed by the examiners giving rise to suspicion in the minds of students.Â

The respondent â?" University cannot deny the irregularities as it is evident from the reply filed by the respondent â?" University that the University itself had ordered revaluation of the papers in January, 2018.Â Everything was allegedly found in order as per the revaluation. Thereafter, in pursuance to the directions issued by this Court to take remedial measures, the respondent â?" University on its own ordered re-examination of the answer books by their decision dated 24.03.2018.Â This time, there was a definite change in the marks in pursuance to the rechecking.Â Although, the petitioners have still not got more than the minimum marks, the said increase and decrease of the marks received in the revaluation shows definite inconsistency in the earlier assessment and the present assessment. Prima facie, finding that there was large scale irregularities, the respondent â?" University has also restrained a number of examiners from correcting the answerbooks in future.Â

Such careless, irresponsible and criminal approach towards checking of answer books needs to be enquired into.

Accordingly, this Court deems it proper to direct the Secretary, Department of Higher Education, Government of Rajasthan, Jaipur to form a committee comprising of at least three members, out of which one member will be the Secretary himself and others two shall be the Dean of the

different Universities.Â The said Committee shall enquire into the irregularities committed at the level of the respondent â?" Maharaja Ganga Singh

University, Bikaner, Controller of Examination and the Coordinator, as the case may be, while appointing Expert Panelists, as to whether any

guidelines have been laid down by the respondent â?" University for checking and awarding of the marks, whether examiners have followed those

guidelines and whether the respondent â?" University has taken appropriate measures for supervising/cross-checking that no irregularity is committed

when the answer books are checked and also to enquire as to in what circumstances, only one examiner i.e. Mrs. Kusum was appointed to check the

answer books of various subjects.Â The said committee shall submit its report to this Court within six months from the receipt of copy of this

order.Â

This brings us to the second prayer of the petitioner students seeking a direction to allow them to appear in the examination of third year of Three

Years Law Course.Â As per the rules of the University, once a candidate is unable to clear the supplementary examination, he is declared as

failed.Â Meaning thereby, he has liberty to appear as an ex-student in the examination of the previous year along with the examination of the year, in

which he has already been granted provisional admission.Â The Ordinance 253-C reads as under :-

â??O. 253-C :

(i) A candidate who is declared eligible for appearing at the Supplementary Examination at the LL.B. First Year (P)/(A) class will be allowed

provisional admission to the LL.B. (P)/(A) Second Year Class.Â In the event of his failing at the said Supplementary Examination, his provisional

admission to LL.B. II Year (P)/A(A) class will automatically stand cancelled and such candidate shall have to appear in the LL.B. First Year

Examination as an ex-student in all the papers prescribed for the course.

(ii) A candidate who is declared eligible for appearing in the Supplementary Examination at the LL.B. Second Year (P)/(A) class will be allowed

provisional admission to the LL.B. (P) Third Year class.Â In the event of his failing at the said Supplementary Examination, his provisional admission

to LL.B. (P) Third Year class will automatically stands cancelled and such candidate shall have to appear in the LL.B. (P)/(A) Second Year

Examination as an ex-student in all the papers prescribed for the course.

(iii) A candidate who is declared eligible for appearing at the Supplementary Examination at the LL.B. (P) Third Year Class will appear at the

Supplementary Examination of the LL.B. III Year Class. In the event of his failing at this Supplementary Examination, he will appear as an ex-student

in all the papers of LL.B. III year Examination as per rules.

Explanation : A candidate who has/had been permitted to take LL.B. First, Second or Third Year Examinations as a regular candidate under the

existing course of study shall be entitled to the credit of full marks obtained by him in the Supplementary Examination to calculate his result.â??

In the facts of the present case, the petitioners appeared in the supplementary examination of the second year in September â?? October, 2017. Their

result of supplementary examination was declared in December, 2017, in which they were shown as having failed.Â In case, there was no

controversy, they would have appeared as ex-student for the second year examination along with regular examination of the third year in March â??

April, 2018. However, failure on the part of the respondent â?? University to discharge its duty with honesty and sincerity in the supplementary

examination so conducted in September â?? October, 2017 led to chaos, litigation and uncertainty resulting in appointment of a Committee for fresh

rechecking of the answer books.Â The Committee formed by the University finally gave its report on 01.05.2018.Â Due to this inconsistency, the

petitioners could not take their examinations of the second year as ex-student when the regular examination of second year was held in March â??

April, 2018.Â Meanwhile, they were allowed to appear in the examination of third year held in March â?? April, 2018 by an interim order of this

Court in pursuance to the admission already granted to them by the respondents at their own level in accordance with rules. Thus, they will now stand

to loose two years instead of one year, which would be rather harsh and will stand to be punished for no fault of theirs.Â

Accordingly, on account of unprecedented special circumstances as above and to see that the students do not suffer for no fault of theirs, this Court

while keeping both the above objections and rules in mind deems it just and proper to direct the respondent â?? University to allow these petitioners to

take their first and second year examinations, as the case may be, as exstudent

in all the subjects during the supplementary examination to be held for these classes during this year itself. However, the result of their examination of second and third year, which has already been undertaken by them

in pursuance to the interim order will be declared only in case, they clear all the subjects of their respective years undertaken by them as ex-

student. The writ petitions are, accordingly, disposed of as under :-

A. The first prayer of the petitioners seeking to reevaluate their answer-sheets is rendered infructuous.

B. The Secretary, Department of Higher Education, Government of Rajasthan, Jaipur shall form a committee comprising of at least three members,

out of which one member will be the Secretary himself and others two shall be the Dean of the different Universities. The said Committee shall

enquire into the irregularities committed at the level of the respondent "Maharaja Ganga Singh University, Bikaner, Controller of Examination and

the Coordinator, as the case may be, and submit its report to this Court within six months from the receipt of copy of this order as discussed

above.

C. The petitioners shall appear as ex-student in all the subjects of their respective first, second and third year of Three Years Law Course along with

the supplementary examinations being held in the year 2018.

D. Their result of the examination already undertaken by them in pursuance to their provisional admission of second or third year, as the case may be,

will be declared only in case of such students, who clear/pass their first and second year in pursuance to their undertaking the examination as ordered

above.

E. In case of the students who fail, their provisional admission in the second or third year, as the case may be, of the Three Year Law Course shall

also stand cancelled.