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**(1999) 05 GAU CK 0056**  
**In the Gauhati High Court**  
**Case No : Writ Petition (C) No. 501 of 1999**

Tamsenleima Waikhom

APPELLANT

Vs

State of Manipur and Others

RESPONDENT

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**Date of Decision :** 26-05-1999

**Acts Referred:**

Manipur MBBS/BDS Entrance Examination (Selection of Candidates) Rules, 1993 —  
Rule 13, 15

**Citation :** (2000) 3 GLT 94

**Hon'ble Judges :** W.A. Shishak, J

**Bench :** Single Bench

**Advocate :** Ng. Kumar, for the Appellant; T. Nandakumar, A. Nilamani Singh and  
N. Kotishwor, for the Respondent

**Final Decision :** Allowed

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## Judgement

W.A. Shishak, J.—This writ petition was moved on 6.5.1999. Upon hearing Mr. Ng. Kumar, learned Counsel for the Petitioner and on perusal of the averments made in the petition and after hearing Mr. T. Nandakumar, learned Advocate General, this Court ordered for production of answer scripts and tabulation sheets in respect of 8 (eight) candidates who had sat for the Common Entrance Test in July, 1998. The purpose of this direction was to ascertain the actual marks secured by the Petitioner and Respondent No. 7 in Zoology, inasmuch as in total both of them had secured 162 marks in terms of the tabulation sheet prepared by the Government.

2. As directed by this Court, tabulation sheet and answer scripts were produced on 7.5.1999 by the learned Advocate General. On the said date this Court had passed the following order:

I have perused the relevant portions of the said documents. In order to pass an effective order, the Respondent, particularly Respondent No. 7 should be heard. The matter is a short one. Therefore I propose to hear this petition finally on Tuesday, the 11th of May, 1999.

The matter was accordingly heard on 11th May, 1999. However, it remained inconclusive.

3. Mr. A. Nilamani, learned Sr. Counsel represents Respondent No. 5 who has filed counter affidavit in the present case. Mr. N. Kotishwor, learned Counsel appears on behalf of Respondent No. 7 though no counter affidavit has been filed. Mr. Kotishwor submits that in this case the documents will speak for themselves. As certain manipulation has been alleged as respects the marks of the Petitioner in the answer script, Respondent No. 5 has filed counter affidavit to clarify her own position I have heard Mr. A. Nilamani, learned Sr. Counsel at length on behalf of the Respondent No. 5.

4. To make the story short, this much only may be stated that in 2 writ petitions viz., W.P.(C) 62/99 and W.P.(C) 67/99 nominations issued in respect of 7(seven) students came to be challenged on the ground that such nominations were issued in violation of the Rules of 1993, inasmuch as the said nominations in respect of 7(seven) students had not been made on merit on the basis of results of Common Entrance Test held in July, 1998 and that they had been handpicked by the State. The said 2 petitions were disposed of by common judgment of this Court on 9th February, 1999. Petitions were allowed and the nominations were quashed. Appeal filed against the said direction before a Division Bench of this Court was rejected and subsequently special leave petitions were also dismissed by the Supreme Court. Thereafter in terms of the direction issued by this Court, 7(seven) fresh nominations had to be issued in respect of 7(seven) candidates on merit on the basis of result of Common Entrance Test of July, 1998.

5. Out of the 7(seven) candidates, 5(five) were of general category and 2 were of S.T. category. The specific grievance of the writ Petitioner is that in place of Respondent No. 7, she ought to have been nominated inasmuch as though both the Petitioner and Respondent No. 7 secured 162 marks in total, she secured higher marks than Respondent No. 7 in Zoology. The claim of the Petitioner is that she secured 38 marks in Zoology; whereas Respondent No. 7 Secured 36 marks. Rule 15 of the Manipur MBBS/BDS Entrance Examination (Selection of Candidates) Rules, 1993 prescribes that in the event of two or more candidates obtaining equal marks in the competitive test, their inter se merit shall be determined with reference to the marks obtained in Zoology in the said competitive test. Since the contest is as regards the marks obtained in Zoology, this Court need not examine the marks secured in Botany, Chemistry and Physics which would have been relevant only if the Petitioner and the Respondent No. 7 had secured equal marks even in Zoology. That is not the case in the present petition. The writ Petitioner protested to the authority as to why she was not given nomination though her merit would come above Respondent No. 7.

6. The demand of the writ Petitioner was rejected. It was communicated to the counsel of the writ Petitioner on 26th April, 1999 by the Deputy Secretary (H) to the Govt. of Manipur. Relevant for the purpose of this case is para 4 of the said letter which states:

Director of Health Services, Manipur has informed that the inter-se merit of the four candidates scored 162 marks each as mentioned above was determined following the provisions under Rule 15(iii) of the MBBS/ BDS Entrance Examination (Selection of Candidates) Rules 1993. Further, on reverification of the answer script of Km. Tamsenleima Waikhom and the tabulation sheet it is observed that the total marks found recorded in the answer script and the tabulation sheet was 162 whereas the actual marks secured by her was only 156. Also the marks obtained by Km. Tamsenliema Waikhom in Zoology was 32 only.

Para 5 of the Govt. letter further states:

It is apparent from the above that Km. Tamsenleima Waikhom's merit position is lower than the five general candidates nominated by the Government of Manipur in pursuance of the Hon''ble Gauhati High Court judgment and order dated 9.2.99.

The said communication was given to the writ Petitioner on the basis of parawise comment furnished to the Commissioner (Health) by the Director of Health Services on 22nd April, 1999.

7. Mr. Ng. Kumar, learned Counsel appearing for the writ Petitioner submits that under no circumstances can reverification of answer scripts or for that matter the tabulation sheets of any of the candidates could have been made by the Respondents after the results were prepared finally and merit list was prepared on the basis of the marks secured and entered in the tabulation sheet by the competent authority.

8. Rule 13 of Information for Candidates for Selection of MBBS/BDS Courses states:

13. Rule for re-checking/re-evaluation of answer sheets: There will be no re-checking/ re-evaluation of answer sheets once the result is out. No intimation about no selection of marks obtained in the competitive test will be sent and no enquiry in this regard will be entertained. The decision of the Selection Board shall be final.

It has been submitted on behalf of the writ Petitioner that after the answer scripts were submitted, the State Government prepared tabulation sheet and on the basis of marks entered in the tabulation sheet, merit list of 55 (fifty five) students was prepared though at that time no second merit list was separately prepared. It is submitted that for all practical purposes the results were already declared once the merit list was prepared on the basis of result of the Common Entrance Test held in July, 1998 and there was nothing more to be done as regards performances of each candidate after tabulation sheet was finally prepared on the basis of marks secured/ scored by individual candidates. It is, therefore, submitted that documents which have been prepared in July, 1998 in the form of tabulation sheet which was then acted upon for the selection of merit

list by making necessary entry against each candidate cannot be reverified by any authority under any circumstances, inasmuch as the result of the test had already attained finality. I accept this submission.

9. I have heard Mr. T. Nandakumar, learned Advocate General on behalf of the State Government. It is submitted by Mr. Nandakumar that after the answer scripts are properly examined by authorised persons and after every permissible correction has been made in the answer script by the evaluators, such marks are entered in the tabulation sheets by tabulators authorised in this behalf and according to the learned Advocate General totalling and entry made in the tabulation sheet is the last act in the entire process of conduct and declaration of results of the test. It is submitted that once results are declared nothing more can be done and no further verification or reverification or re-evaluation is permissible. Mr. Nandakumar, therefore, submits that in terms of the Government letter referred to above, the State Government should be permitted to make necessary enquiry to find out the truth as to how though entries in the tabulation sheet remained in tact, how the marks secured by the Petitioner could be shown to be less than the final entries made in the tabulation sheet as well as in the answer script.

10. Mr. N. Kotishwor, learned Counsel appearing on behalf of the Respondent No. 7 submits that though the writ Petitioner and the Respondent No. 7 secured in total 162 marks each, in Zoology Respondent No. 7 secured higher marks than the writ Petitioner. According to Mr. Kotishwor certain correction was done in the answer scripts at the time of evaluation and not at a later stage and this according to him is permissible. If certain corrections were done at the time of evaluation, in my view such corrections would have been correctly reflected in the answer scripts including the total entries made in the answer scripts. Since entries made in the tabulation sheet are the final act of the result of the test, it is hard to understand how correct answers would stand recorded in the answer scripts and such correct entries would not have been made in the tabulation sheet.

11. Mr. A. Nilamani, learned Sr. Counsel appearing for Respondent No. 5 firstly submits that absolutely no results of the Common Entrance Test were declared apart from the results of 55 (fifty five) candidates on merit. Mr. Nilamani's submission is that whatever was published in the news paper cannot be taken to be the correct version on the basis of results declared by the Government, inasmuch as news paper report cannot be given the status of Government document. Para 5 of the counter affidavit of Respondent No. 5 states that arrangement for evaluation of answer sheets of each of the 4 subjects namely (1) Physics, (2) Chemistry, (3) Botany and (4) Zoology, was made by entrusting to 3 evaluators/examiners in respect of each of the 4 subjects, and the first evaluator/examiner evaluated the answer sheets and awarded the marks secured by the candidates and second evaluator then scrutinised the evaluation and the marks awarded by the first evaluator and thereafter the 3rd evaluator/supervisor

carried out the supervision of the evaluation and scrutiny made by the first 2 evaluators. The affidavit further states:

The totalling of the marks awarded in the 4(four) subjects by the first evaluator in the subjects was done by a senior evaluator also called supervisor as soon as the awarding of marks by the first group of evaluators had completed the evaluation of the answer sheets.

Para 6 of the counter affidavit further states:

That the tabulation of the marks secured by the candidates after the evaluation and awarding of marks had been over was carried out by the tabulators hired from and detailed by the Council of Higher Secondary Education, Manipur, in a tabulations sheet.

Mr. Nilamani submits that the conduct of the examination cannot be questioned inasmuch as everything was done meticulously and according to the Rules. Therefore, it is submitted that Respondent No. 5 cannot be said to have committed any lapse in the present case inasmuch as the letter sent to the Commissioner (Health) by Respondent No. 5 on 17.2.99 was done in order of merit depending upon the marks obtained by the candidates in the said competitive test.

12. All said and done one thing has emerged very clearly and that is the total marks entered in respect of the writ Petitioner and Respondent No. 7 remain intact till this date. They both secured 162 marks.

13. The answer scripts of the writ Petitioner and the Respondent No. 7 have been made available before me. I am not called upon to evaluate or to examine the correctness of the evaluation. The whole issue is as regards the entries made at the relevant time before the tabulation sheet was prepared by two specially selected expert tabulators from the Council of Higher Secondary Education as is stated in para 6 of the counter affidavit filed on behalf of the Respondent No. 5. I have very carefully looked at the entries of marks in the answer script against each subject, both in figures and in words. Marks obtained by Respondent No. 7 in Zoology is entered in red ink as "+36" in figure and also in words as "plus thirty six". Total is 162, both in figures and in words. In case of the writ Petitioner, the marks obtained in Zoology entered in figures are "+38" in red ink and just above it "+32" in green ink. The figure "+38" is crossed by one line of green ink and in the box where it is written "in Words", the words "plus thirty two" are written in green ink. In the box meant for entry of words against figures "38" or "32", the words "plus thirty eight" stands recorded. This portion was not crossed out at any time. The total is recorded in black ink as 162 and thereafter below it is recorded in green ink as 162. Further it may be stated that the total marks are also recorded in words as "plus one hundred sixty two" in black ink. This was never crossed out. In the light of the above, it is abundantly clear that the total marks scored by the writ Petitioner are 162, both in figures and in words as recorded in the answer script. So also in respect of Respondent No. 7.

In view of the statement made in paragraphs 5 and 6 of the counter affidavit filed on behalf of Respondent No. 5, it is curious to note that the figures and the words of the marks scored by the respective students, would have remained in tact without necessary correction in the total, both in words and in figures. I am inclined to hold that simply crossing out the figure "+38" in red ink by making Anr. entry just above the said figure "+32" in green ink will not change the position of the actual marks scored by the writ Petitioner inasmuch as in words it still clearly stands recorded as "plus thirty eight". It is now clear that the total marks recorded in the answer script as well as in the tabulation sheet remain in tact. No change has been made till date.

14. It may be stated that the tabulation sheet prepared in July, 1998 was indeed acted upon by the State Government in preparing the merit list inasmuch as respective positions of merit were already marked in the said tabulation sheet while making selection of 55 (fifty five) candidates in the first instance. It cannot be said that results were not at all declared in respect of all the rest of the candidates. It is astonishing that reduced marks, both in Zoology and also in total have been shown only in letter written by the Director to the Commissioner, whereas such figures as contained in the Director's letter are not at all reflected in the tabulation sheet or in the answer script. The fact that in total the Petitioner had scored only 156 is nowhere reflected in the answer script or in the tabulation sheet. Such contention, therefore, cannot be entertained under any circumstances. On careful scrutiny of the answer script, it is clear that if the Petitioner had secured only 32 marks in Zoology, she would not have secured in total 162 marks. However, as stated above the total marks of the writ Petitioner as recorded in figures and in words in answer script are 162. This means that the Petitioner indeed scored 38 marks in Zoology.

15. In the result, this petition is allowed. The nomination issued by the State Government in favour of Respondent No. 7 is quashed. Consequently admission granted by the RIMS in favour of Respondent No. 7 is quashed/Instead, the Petitioner is entitled to get nomination from the State Government in place of Respondent No. 7. This should be done immediately and at any rate not later than 48 (forty eight) hours from the date of receipt of this order.

In the interest of society at large the State Government is directed to make necessary enquiry to find out the truth as regards the allegation directed against the Respondent No. 5 so as to in still public confidence in the matter of conduct of any Entrance Test and the maintenance of important Government documents in the future.