

(2010) 09 MAD CK 0160

In the Madras High Court

Case No : Writ Petition No. 14406 of 2010

Tharinipriya C.R., represented by her natural guardian E.
Rajendran

APPELLANT

Vs

State of Tamilnadu and The Secretary Selection Committee
The Directorate of Medical Education

RESPONDENT

Date of Decision : 24-09-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2010) 09 MAD CK 0160

Hon'ble Judges : R. Sudhakar, J

Bench : Single Bench

Advocate : Palaniselvaraj, for the Appellant; Dhakshayini Raddy, Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

R. Sudhakar, J.—Writ Petition is filed praying to issue a Writ of Declaration declaring that the revised marks certificate in Sl. No. HSG.5404053, TMR Code No. G991039 dated 25.6.2010 issued by the second respondent without giving due importance or weightage or awarding marks to the answers given/written by the petitioner as in the text with respect to Biology and Physics papers is arbitrary, unreasonable, illegal, void and unsustainable in law and consequently direct the respondents to reevaluate the answer sheets of the petitioner's Biology and Physics papers based on the answers given in the text and award marks for such answers given/written by the petitioner as in the text book and issue revised mark sheet.

2. At the outset the relief sought for by the writ petitioner cannot be granted in view of the decision of the Apex Court in The Secretary, West Bengal Council of Higher Secondary Education Vs. Ayan Das and Others, . The question of going into the merits of the answer given by the petitioner by comparing the same with the text book, cannot be considered. The review of the reevaluated answer sheet

will be beyond the domain of Court and the Court will not sit in judgment over the valued answer sheets. Further, this will lead to a situation whereby valuation in respect of answer papers of each and every candidate who entertains a doubt will be subjected to challenge before the Court for reevaluation based on text book. This is not the role of the Court and it lacks competence, and will, therefore, desist from doing so. The exercise of further reevaluation based on the text book is not the role of the Court. Therefore, the plea as above is negatived.

3. It is brought to the notice of this Court that there is error or omission in awarding mark for correct answers. The opinion of the expert, as suggested by the respondents, was considered by this Court to test the plea of omission to award marks.

4. Petitioner appeared for plus 2 examination in March, 2010 at Sri Vidya Mandir Matriculation Higher Secondary School, Uthangarai. She belongs to Most Backward Community. She passed the examination and she applied for revaluation stating that she is entitled to more marks in Bio-Botany, Bio-Zoology and Physics. The question paper was reevaluated as per the scheme applicable. In the reevaluation it was found that some of the answers written by the student were not corrected and therefore, certain marks were reduced and a revised mark sheet was issued. Challenging the reevaluation, the present writ petition has been filed stating that there is an error in awarding marks. The issue was considered in the light of the Apex Court's decision as above and the issue was narrowed down to two question and the answer to it.

5. The plea taken by the learned Counsel for the petitioner is that the answers written by the student in respect of Question No. 22 of Bio-Botany and Question No. 36 of Bio-Zoology and few other questions in Physics are as per the text book and the key answer. The valuer and revaluer did not give marks though the answer is complete. The omission to give marks to a part of the answer is the defect pointed out.

6. Notice was ordered to the respondents. Even though no order was passed by this Court, the matter was considered by a committee of teachers in the subject relevant to the query raised. The committee of teachers were asked to clarify as to whether the awarding of the marks has been properly done. A report was furnished. After going through the reevaluated mark sheet as per the scheme and after hearing the teachers who verified the reevaluated mark sheet for the purpose of checking, if marks were given to the answers, it has come to light that there may be some omission in the award of marks. It appears that the mistakes pointed out could be clerical and the omission if any to give marks may be due to oversight.

7. The expert was requested to be present in Court to explain the discrepancy. After going through the reevaluated mark sheet and the key answers, it was found that by oversight, marks were not awarded in respect of a part of the answers to two questions viz., Bio-Botany question No. 22 and Bio-Zoology

question No. 36. It was found that the student had, in fact, answered in full the question No. 22 of Bio-Botany and question No. 36 of Bio-Zoology for which marks were granted in part. The omission to grant marks could only be due to oversight. The authority present undertook to correct the error and issue the revised marks sheet as per procedure.

8. Accordingly, the authorities are directed to reconsider the issue on the basis of the plea as above.

9. In the result, the Director of School Examination or the competent authority is directed to reconsider the marks given to the answers to question No. 22 of Bio-Botany and question No. 36 of Bio-Zoology and award appropriate marks as applicable. It is made clear that this Court is not going into the merits of the answer sheet of the student. The order is passed purely to correct the error in grant of marks to the fully answered question. It is also made clear that the error that is to be rectified will not be used as a precedent in any other case.

10. As a matter of principle, Court will not interfere with regard to marks awarded in valuation or reevaluation or reconsider the valuation of answer sheets unless, it is found that there are clerical or arithmetical errors, like addition or omission, which is the case here.

11. The result of the process as above shall be communicated to the student at the earliest. The Writ Petition is ordered to the extent indicated above. No costs.