
(1999) 02 MAD CK 0082

In the Madras High Court

Case No : Writ Petition No. 8368 and W.M. No. 12723 of 1998

Udaya Elangovan

APPELLANT

Vs

State of Tamil Nadu and Others

RESPONDENT

Date of Decision : 16-02-1999

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1999 Mad 286

Hon'ble Judges : V.S. Sirpurkar, J

Bench : Single Bench

Advocate : R. Karuppan, for the Appellant; P. Selvi, Government Advocate (Education), P. Subbiah, for Row and Reddy, for the Respondent

Final Decision : Dismissed

Judgement

V.S. Sirpurkar, J.—The petitioner herein is minor Udaya Elangovan represented by her mother and seeks a writ of certiorarified mandamus,

calling for the records relating to the petitioner's mark-sheet in the Entrance Examination of Tamil Nadu Professional Courses conducted in May,

1998.

2. The petitioner's case is that she belongs to the Backward Community and has throughout been a very bright student of Sacred Heart Higher

Secondary School and that she had secured 88.5% marks in the aggregate in the Tenth Standard Examination. She also appeared in the Plus Two

Examination, but she did not secure marks up to her expectation. The petitioner thereafter appeared in the Entrance Examination which is

conducted for the Professional Courses, but she did not get " the marks up to her expectations. The petitioner points out that the results in the

Entrance Examination were shocking and she has quoted a number of examples

suggesting that there were number of irregularities inasmuch as the students who expected very high marks did not get the expected marks. A report in a Daily called ""Dina Malar"" dated 6-6-1998 is also relied upon suggesting that there were gross violations during the valuation of the answer papers of the Plus Two Examination. It is, therefore, suggested that therefore there were irregularities in the Plus Two Examination also. The Entrance Examination conducted by the University cannot remain foolproof. In support of this contention, it is pointed out that while entering the marks into the computer, it is not unusual to award marks to the wrong persons. It is suggested further that the papers of the candidate belonging to the number preceding her, being 4532981, should also be subjected to scrutiny and comparison. It is suggested that the conduct of Entrance Examination itself is fraught with imperfections and the students should be given the question papers so as to enable them to make a personal evaluation and place the question and answer before the Court. It is in this light that the petitioner has come before the Court. A notice was sent to both the respondents.

3. The contention raised by the Counsel for the second respondent is that there was absolutely no scope whatsoever for any irregularity either in valuation or in supplying the marks to the computer. The learned Counsel has placed on record the Prospectus and the Rules for Tamil Nadu Professional Courses Entrance Examinations which task has been assigned to the Anna University. According to the learned Counsel, the Examination has been conducted in a very proper manner without there being any irregularity about it. Affidavits have been sworn on behalf of the second respondent by the Registrar of the University refuting all the allegations of irregularities and mal-practices. During the pendency of this Petition, an additional affidavit came to be filed by the mother of the petitioner that in another matter, wherein the petitioner had prayed for revaluation of the answer papers relating to Plus Two Examination, a Division Bench of this Court was pleased to call for the papers and allow the scrutiny of the same by the Counsel and the petitioner and also granted the addition of the marks found to have been omitted.

4. The learned Counsel appearing on behalf of the petitioner very strenuously contended that here was a brilliant student suffering on account of

possible mal-practices which could have taken place during the valuation as also during the distribution of marks. Mr. Karuppan, learned Counsel

for the petitioner, sought to rely upon the fact that in her Tenth Standard Examination, the student had performed exceedingly well. However, as

against this, the counsel appearing on behalf of the University pointed out that though the student had done well in the Tenth Standard Examination,

she had not done so well in her Plus Two Examination and it was not the case, as if the student was almost a topper. He pointed out from the

affidavit of the petitioner in the writ petition that the performance of the petitioner in the Plus Two Examination was not very outstanding, though the

student had expected very high results. Mr. Karuppan, learned Counsel for the Petitioner, pointed out that in a different writ petition wherein the

result of the Plus Two Examination was challenged and revaluation was sought, the question papers were examined by the Court and there was a

mistake pointed out.

5. Now, the Rules regarding the Plus Two Examination could not be made applicable to the present examination. While the Plus Two Examination

is conducted and held by the State of Tamil Nadu by the Education Board, the Entrance Examination is conducted by the Anna University, since

Anna University has been authorised to hold that examination by the State Government. Be that as it may, the learned Counsel has not been able to

point out that the result also on the fresh scrutiny differs substantially. During the course of arguments, the learned Counsel pointed out that in case

of only one paper, it is found that one question was not evaluated and, therefore, the student was given credit with the additional marks. That by

itself would be insufficient to hold that such action of irregularity was committed in the present examination also. The learned Counsel for the

second respondent invited the attention of the Court towards the two affidavits which have been sworn on behalf of the University. It is pointed out

that there was firstly no right to get the question papers evaluated. It has also been shown as to how the papers were corrected. It seems from the

answer that nothing depended upon the individual opinion of the Valuer. The following paragraph would show that the system of correction would

be almost foolproof:--

All the questions carry equal marks. The answer scripts are fed into computers

and the markings captured. They are compared by the computer with relevant key already prepared by the Examiners in advance, and the number of correct answers is arrived at and the marks obtained by the candidate are computed by dividing the maximum marks by the number of questions and multiplied by the number of correct answers, as follows :-

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$$X/Y \times Z = M$$

Where X = Maximum Marks, Y = No. of questions, Z = No. of correct answers, M = Marks obtained.

Now, this will ensure that since the pattern of the examination was "Objective Type" and since the students were given multiple choice questions,

the answers would have to be in keeping with the ones prepared by the Examination Board. If the candidate has to choose the correct answer and

shade the box by the side of the serial number which according to the student is correct in pencil and if further the candidate is required to write the

number of choice/answer selected by him in ink, there can at least be no difficulty about the choice made by the candidate. Again where the whole

key is already determined and the corrections are computed, then there would be absolutely no scope for any incorrect evaluation or incorrect

marking also, in addition to that, the affidavit goes on to say that in order to see that the computer is functioning normally, even the answer scripts

were checked manually at random and that no defect was actually found during such random manual checking. It has been reiterated that the

answers of the petitioner were also manually checked and the marks awarded to her were found correct. It has been pointed out that in the

Biology, there were 120 questions and the petitioner had answered 89 questions correctly and, therefore, she had secured 35 marks. So also in

the subject of Physical Sciences, there were 120 questions out of which the petitioner had answered 58 questions correctly and, therefore, the

petitioner had secured 24 out of 50 marks as also in Maths, there were 90 questions out of which the petitioner had answered only 30 questions

correctly and as such she was given 16.67 marks. It is then submitted that there was no error whatsoever. As regards the objection of the

petitioner that her paper might have been mixed up with that of Shivaranjani, the candidate having the Roll Number preceding the petitioner, it has

been specified in the Counter that there was no question of mixing up, because the candidates were required to write their respective-register

numbers both on the question paper and the answer script. They were also required to sign both on the question paper and the answer paper

which were collected at the end of the examination. In the wake of this affidavit, it cannot be said that there can be any mixing up deliberate or

otherwise in the evaluation. There is no reason to dispute the correctness of the claim made in this Counter.

6. The learned Counsel for the University also pointed out that there was absolutely no scope for a revaluation much less at the instance of the

petitioner. The learned Counsel for the petitioner was insisting that the question paper should be brought to the Court and should be seen by the

Court and the petitioner also should be allowed to see the papers. As regards this contention, the learned Counsel for the 2nd respondent pointed

out that there was no scope for evaluation much less there was no right in the student to demand the revaluation. The learned Counsel produced

the Government Order which confers the powers to hold the Entrance Examination by Anna University. There is no such right of revaluation. On

the other hand, having gone through the whole system, the same seems to be absolutely foolproof.

7. Lastly, the learned Counsel relied upon a reported judgment in Maharashtra State Board of Secondary and Higher Secondary Education and

Another Vs. Paritosh Bhupeshkumar Sheth and Others, and pointed out that the Supreme Court had denied the relief of revaluation, in that case

only because there was a specific rule in respect of the examination held by Maharashtra State Board of Secondary and Higher Secondary

Education. There being no such rule in respect of the present examination, by the necessary logic, it would be within the powers of this Court to

allow the revaluation. It is true that there is a regulation vide: regulation 104(1) and (3) where there is a specific bar created for revaluation. These

clauses were challenged before the Bombay High Court and the Bombay High Court was pleased to allow the writ petitions and strike down these

rules as illegal and unreasonable. The Supreme Court in the instant decision upheld the validity of these rules. It cannot be said that the Supreme

Court in its decision has evolved a principle that where there is no rule barring the revaluation, the revaluation comes as of right. It will not be

correct to read the judgment to that extent and that is indeed not the ratio decidendi of this judgment. On the other hand, the learned Counsel of

the 2nd respondent-University was at pains to point out that in this decision, the only question arising for consideration was the constitutional

validity of Rule 104(1) and (3) and the Apex Court had upset the judgment of the Bombay High Court holding that the said rules were

constitutionally valid and were not ultra vires, the power of the Board to make regulations. The learned Counsel for the University was at pains of

point out and rely on the following observation in para 27 which runs as under at page 1559 :--

The High Court has relied upon the fact that the University of Bombay and some other Universities have recently made provisions permitting

candidates to demand revaluation. In our opinion, this has little relevance for the purpose of deciding about the legal validity of the impugned

regulations framed by the Board. We do not know under what circumstances, the University of Bombay has decided to recognise a right in the

examinees to demand a revaluation. As far as the Board is concerned, it has set out in the counter-affidavit the enormity of the task with which it is

already faced, namely, of completing twice during each year the process of evaluation and release of results of some 3 lacs of candidates appearing

for the S.S.C. and H.S.C. examinations to be held in an interval of only a few months from one another. If the candidates are all to be given

inspection of their answer books or the revaluation of the answer papers is to be done in the presence of the candidates, the process is bound to

be extremely time consuming and if such a request is made by even about ten per cent of the candidates who will be 30,000 in number, it would

involve several thousands of man hours and is bound to throw the entire system out of gear. Further, it is in the public interest that the results of

public examinations when published should have some finality attached to them. If inspection, verification in the presence of the candidates and

revaluation are to be allowed as of right, it may lead to gross and indefinite uncertainty, particularly in regard to the relative ranking, etc. of the

candidates, besides leading to utter confusion on account of the enormity of the labour and time involved in the process.

The observations by the Apex Court particularly those which are emphasised would go a long way to suggest that the evaluation should not and

cannot come as of right. Under the circumstances, it must be held that this decision helps the respondents rather than the petitioner. In the very

same decision, the Apex Court has also cautioned in paragraph 22 that the stray instance of irregularity cannot be undoubtedly and exaggeratedly

stressed upon and cannot be made for reaching the conclusion that the reasonable fair play to the candidates can be assured only if the right of

disclosure and personal inspection is allowed to the candidates as part of the process of verification, As regards this, the Apex Court says :--

This approach does not appeal to us as legally correct or sound. We do not find it possible to uphold the view expressed by the High Court that

Clause (3) of Regulation 104 which disentitles the examinees to claim disclosure and inspection of the answer books and declares those documents

to be confidential is ""defeasive of the corrective powers of the Board under Regulations 102 and 104 and the right of verification under Regulation

104(1) as also destructive of the confidence of public in the efficacy of the system.

Still in another place, the Apex Court expresses :

Viewed against this background, we do not find it possible to agree with the views expressed by the High Court that the denial of the right to

demand a revaluation constitutes a denial of fair play and is unreasonable. The Board is a very responsible body. The candidates have taken the

examination with full awareness of the provisions contained in the Regulations and in the declaration made in the form of application for admission

to the examination they have solemnly stated that they fully agree to abide by the regulations issued by the Board. In the circumstances, when we

find that all safeguards against errors and mal-practices have been provided for, there cannot be said to be any denial of fair play to the examinees

by reason of the prohibition against asking for revaluation.

The observations by the Apex Court apply on all fours to the present situation also where the University has shown that there was very little or no

scope for any mal-practice in the process of evaluation or distribution of marks. The petitioner, therefore, cannot draw any support from the

present ruling.

8. To the same effect is the Division Bench Ruling of this Court in B. Rajappa Vs. The Addl. Controller of Examination, University of Madras and

Another, (Nainar Sundaram and Bellie, JJ.) following the ruling cited above. There were two other rulings relied upon by the Counsel for the

University which have also followed the aforementioned ruling, they being (1) AIR 1992 Cal 6 (Bhabeswar Das v. University of Calcutta); (2)

(1988) II LLJ 1013 (Dhanraj Kothiram Vanjari v. State of Maharashtra) and they need not be separately dealt with. In that view, it has to be held

that the petition has no merit and must be dismissed and it is dismissed accordingly. No costs. W.M.P. No. 12723 of 1998 is dismissed.