

Kerala High Court

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Amritha Reji,D/O.Rejikumar R vs Union Of India,Rep.By Secretary ... on 29 October, 2010

IN THE HIGH COURT OF KERALA AT ERNAKULAM WP(C).No. 19290 of 2009(E)

1. AMRITHA REJI,D/O.REJIKUMAR R.,

... Petitioner

Vs

1. UNION OF INDIA,REP.BY SECRETARY TO GOVT. ... Respondent

2. CENTRAL BOARD OF SECONDARY EDUCATION

3. CONTROLLER OF EXAMINATIONS,

4. REGIONAL OFFICER,REGIONAL OFFICE,

For Petitioner :SRI.V.CHITAMBARESH (SR.) For Respondent :SRI.T.P.M.IBRAHIM KHAN,ASST.SOLICITOR The Hon'ble MR. Justice T.R.RAMACHANDRAN NAIR Dated :29/10/2010

O R D E R

T.R. RAMACHANDRAN NAIR, J.

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W.P.(C). No.19290/2009-E

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Dated this the 29th day of October, 2010 J U D G M E N T

The whole question that is raised herein is whether the petitioner's request for revaluation of answer papers could be allowed.

2. She is a student in Std.XI at Kendriya Vidyalaya. She appeared for Std.X examination conducted by the third respondent with Roll No.641116. She secured 470 out of 500 marks. For the subjects, namely, English Comm., Hindi Course-A, Mathematics and Science, she got aggregate of 96% and secured A1 grade. For the subject Social Science, the petitioner got only 86 marks and she was placed in Grade A2. This is clear from Ext.P1 marklist. According to her, she was expecting 98 marks in Social Science. A rechecking was sought which was also answered by Ext.P2 stating that there is no change in the mark already allotted to the petitioner. Exts.P3 to P12 are produced to show that she had an excellent track record in her class examinations etc. It shows that she had been securing an average of 98.3% marks throughout.

W.P.(C). No.19290/2009

:-2:-

3. Initially, she sought for supply of a photocopy of the answer book and answer key which was replied by Exts.P15 and P16 stating that the information sought for is exempted under Section 8(1)(e) of Right to

Information Act. Again she sought verification of answer book which was also turned down by Ext.P17 for the same reasons. The petitioner is relying upon Ext.P21, an order passed by the Central Information Commission wherein a direction was given to provide answer sheets to the Appellant therein. Mainly, it is contended that the provisions in the bye-laws are arbitrary and discriminatory.

4. After hearing parties, this Court passed an interim order dated 02/11/2009 whereby the answer book which was brought before this Court by the learned counsel for the second respondent in a sealed cover was allowed to be verified by the petitioner along with the parents. It is submitted that the same has already been verified by her.

5. The learned Senior Counsel for the petitioner Shri V.Chidambaresh submitted that to maintain transparency, and to assuage the feelings of the student, a revaluation of the paper, could be directed by this Court. Reliance is placed on the decision of the Apex Court in Sahiti and Others v. Chancellor, Dr.N.T.R. University of Health W.P.(C). No.19290/2009

-:3:-

Sciences and Others [(2009) 1 SCC 599]. It is further pointed out that as the student was having excellent performance throughout, really it is felt that proper valuation was not done. Therefore, to do complete justice to the student, a direction can be issued for revaluation of the answer book of Social Science.

6. The learned counsel for the Central Board of Secondary Education, Shri Devan Ramachandran relying upon the averments in the statement filed on behalf of respondent Nos.2 to 4 submitted that there is no provision for revaluation under the bye-laws. The method for valuation of papers have been detailed in paragraph Nos.4, 5 and 6. It is pointed out that the valuation of papers have been done in an extremely scientific manner and as per a Marking Scheme.

7. Paragraph Nos.4, 5 and 6 of the statement are extracted below:-

"4. Without prejudice to the above, it is submitted that the valuation of papers in the examination are done in an extremely scientific manner and as per a Marking Scheme. The Marking Scheme provides general guidelines to reduce subjectivity in the marking by the evaluations. The Scheme specifically provides that the answers W.P.(C). No.19290/2009

-:4:-

given in the Marking Scheme are the suggested answers and that the content therein are thus indicators, and marks have to be strictly as per the scheme after assessing the answer of a student to verify if he or she has answered conveying the meaning of the answer indicated in the Marking Scheme. The Scheme specifically mandates that the evaluation has to be done as per the answers given in the scheme and that it should not be done according to one's own interpretation or other consideration.

5. This ensures that no evaluator values the answer scripts as per his/her subjective opinion but strictly in an objective manner in lines of the answers to each question provided in the Marking Scheme. The evaluation is thus done applying Uniform standards with checks and cross checks at different stage and there are also measures for detection of malpractices etc. It is submitted that by employing such a strict Marking Scheme every endeavour has been taken to eliminate the possibility of human error on the part of the evaluators.

W.P.(C). No.19290/2009

-:5:-

6. It is submitted that in the above background the only minute chance of error could be in the tabulation part, redress for which is adequately addressed in the bye-laws by providing for a method of rechecking of the marks awarded.&quot;

8. It is also stated in paragraph (9) that her answers to question Nos.1 to 10 are as per the Scheme and she has, therefore, been granted full marks as per the Scheme for these answers. As regards questions 11 to 17, 19 to 24 and 26 to 29 her answers do not tally totally to the answers in the Marking Scheme and as a consequence she has been awarded proportionate marks to the extent to which the answers tally with the Marking Scheme.

9. Evidently, the relevant clauses under the Examination Bye-Laws of the Central Board of Secondary Education, 1995 are Clauses 61(i) and 61(iv) which provides as follows:-

&quot;A candidate who has appeared at an examination conducted by the Board may apply to the concerned Regional Officer of the Board for verification of marks in any particular subject. The verification will be restricted to checking whether all the answer's have been evaluated and that there has been no mistake in the totalling W.P.(C). No.19290/2009

-:6:-

of marks for each question in that subject and that the marks have been transferred correctly on the title page of the answer book and to the award list and whether the supplementary answer book(s) attached with the answer book mentioned by the candidate are intact. No revaluation of the answer book or supplementary answer book(s) shall be done.&quot;

Clause (iv) reads the following:-

&quot;No candidate shall claim, or be entitled to, revaluation of his/her answers or disclosure or inspection of the answer book(s) or other documents.&quot;

Therefore, revaluation of answer book or supplementary answer book(s) has not been provided.

10. The learned counsel for the CBSE in this context placed reliance on the principles laid down in the decision of the Apex Court in Pramod Kumar Srivastava v. Chairman, Bihar Public Service Commission, Patna and Others [(2004) 6 SCC 714] and that of a learned Single Judge of this Court in O.P.No.22325/1999. In Pramod Kumar Srivastava's case [Supra] after relying on the Judgment in Maharashtra W.P.(C). No.19290/2009

-:7:-

S.B.O.S & H.S.Education v. Paritosh [AIR 1984 SC 1543], it was held as follows in paragraph Nos.7 and 8. &quot;In the absence of any provision for re- evaluation of answer-books in the relevant rules, no candidate in an examination has got any right whatsoever to claim or ask for re-evaluation of his marks. In such a situation, the prayer made by the appellant in the writ petition was wholly untenable and the Single Judge had clearly erred in having the answer-book of the appellant re- evaluated. Adopting such a course will give rise to practical problems and in the larger interest, they must be avoided.&quot;

11. This Court in the Judgment in O.P.No.22325/1999 considered the very same Bye-Laws of the Central Board of Secondary Examination and, following the dictum laid in Maharashtra S.B.O.S & H.S.Education's case [AIR 1984 SC 1543], it was held that the petitioner's prayer for quashing Rule 61(iv) of the Bye-Laws of the Central Board of Secondary Examination, 1990 cannot be allowed. Finally, it was observed that there is no special reason for revaluation of the answer sheet.

W.P.(C). No.19290/2009

-:8:-

12. Therefore, the legal position is well settled that in the absence of the provision for revaluation, no candidate can claim revaluation of answer papers as of right and this Court will not be justified in issuing a direction as such in a writ petition. Herein, the relevant clauses of the Bye-Laws, as already noticed, do not provide any facility for revaluation. In that view of the matter, the prayer sought for by the petitioner to direct the CBSE to revalue the answer book is not liable to be granted.

13. The learned Senior Counsel for the petitioner placed strong reliance on the decision of the Apex Court in Sahiti and Others's case [(2009) 1 SCC 599]. The question considered therein was whether the order passed by the Vice Chancellor of NTR University of Health Sciences Act, 1986 directing revaluation was within his power conferred under Ss.12(2) and 12(3) of the Act. Therein, the relevant provisions of the University Act which conferred certain powers to the Chancellor under which the Vice Chancellor ordered revaluation was considered elaborately. It was held that such powers are traceable to Section 12 (2) and 12(3) of the Act. It is in that context, the Apex Court upheld the direction issued by the Vice Chancellor to conduct a revaluation. Here, the position is different. W.P.(C). No.19290/2009

-:9:-

Therefore, the said dictum is clearly distinguishable. As far as the Bye-Laws are concerned, there is no provision for revaluation. Therefore, in the light of the decision of the Apex Court in Maharashtra S.B.O.S & H.S.Education's case [AIR 1984 SC 1543], this Court will not be justified in directing a revaluation.

14. What is provided under the relevant Bye-Laws is a facility for verification of marks. If the petitioner makes an application for verification of the answer book in respect of the subject Social Science, along with a copy of this Judgment, within one month under Clause 61(i) of the Examination Bye-Laws of the Central Board of Secondary Education, 1995 the same will be considered and after completing the same, the result will be communicated to the petitioner expeditiously.

The writ petition is disposed of as above. No costs. (T.R. Ramachandran Nair, Judge.)

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