

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **Writ Petition (Civil) No.10694/2009**

% **Date of Decision: 17.08.2009**

Mohd.Amir & Ors. Petitioner
Through Mr.Baban K. Sharma, Advocate.

Versus

Jamia Millia Islamia & Ors. Respondents
Through Mr.M.A. Siddiqui, Advocate.

CORAM:

HON'BLE MR. JUSTICE ANIL KUMAR

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| 1. | Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. | To be referred to the reporter or not? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

ANIL KUMAR, J.

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1. The petitioners, three students of Class 9th who have failed in the 9th Class examination seek direction to the respondents to examine the case of the petitioners and get their copies evaluated properly and to declare them promoted to the upper class.

2. The petitioners have produced the statement of marks for three cycles and second term/Half yearly exam, III term/Annual exam. All the marks are in the same statement of marks. The learned counsel for the petitioner contends that the statement of marks giving the marks of all three cycles I, II and III and second term /half yearly and III

term/annual exam were given only after the end of the annual exam. A copy of the answer book of petitioner No.1 for SST has also been produced. Similarly, the answer book of second unit test of petitioner No.2 is produced to show that the marks awarded are not appropriate.

3. The learned counsel for the petitioner is unable to show as to how the original answer books were given to the petitioners. On the representation made by the father of the petitioner No.1, it was held that the answer books which have been produced by the petitioners are not the answer books as they do not bear any initials or signatures of the concerned teachers. The petitioners have not produced the answer books which were used by them in the examination.

4. The learned counsel for the respondents who appears on advance notice has also pointed out the manipulations in the marks sheet of petitioner No.3 in case of mathematics. It is pointed out that the petitioner No.3 has obtained 29 marks out of 90 for three cycles-I, II and III and total of the best of two tests out of 15 will show that the petitioner No.3 was entitled for 5 marks, however, 15 marks are shown under said column which could be possible only if the said petitioner had obtained 60 marks out of 60 marks,

5. The learned counsel has contended that there is extrapolation in front of 5 as numeral 1 has been added which is also in different ink.

The learned counsel for the petitioners is unable to explain as to how the petitioner no.3 has been awarded 15 marks out of 15 marks, since he obtained 21 marks, best to two, out of 60 marks. It is apparent in the circumstances that it is on account of extrapolation done in the statement of marks.

6. The learned counsel for the respondents has also pointed out the cuttings carried out on the statement of marks of petitioner no.1 in pencil which the learned counsel for the petitioner is unable to explain. The answer books produced by the petitioner are in handwriting in two different inks which has not been explained by the counsel for the petitioners.

7. The learned counsel for the respondents have also produced the copy of the letter dated 29th April, 2009 by Social Science Teachers to the Principal regarding the petitioner No.1 contending that the answer sheet has been fabricated as 4 marks have been manipulated as 14. It has been stated by the social science teachers that the handwriting and the marking on the answer sheet does not match the handwriting of any social science teacher. It is also stated that the answer sheet does not bear any signature/initial of any social science teacher. It is also contended that the alleged discrepancy was pointed out after the annual examination whereas the test, in which the discrepancy has been alleged, was taken, evaluated and communicated during the

month of July, 2008 and the discrepancy was not pointed out during the two Parent Teacher meetings organized by the school. It has also been disclosed that the petitioner No.1 did not attend any question from Geography area but he attempted few questions in the area of History, Civics and Economics.

8. Copies of the letters written to Deputy Registrar (HRD) Schools and to the Hony. Director also reveal that the father of the petitioner No.1 had approached the principal twice with the request to increase the marks in one of the three subjects in which his son had failed so that he could be given compartment and when the principal denied the same the answer sheet was produced which is apparently fabricated one. The father of the petitioner no.1 had approached the principal with the said request before producing the first cycle test Social Science answer sheet and alleging discrepancy.

9. The principal has placed reliance on the explanations given by the Social Science Teachers. Similarly the explanations have been given regarding petitioner No.2 who was absent in second cycle test of English and the marks given to Shoeb Ahmad, petitioner No.3 in different exams of Mathematics.

10. The learned counsel for the petitioners is unable to give any plausible answers. Considering the facts and circumstances there is no

ground to direct the respondent to re-evaluate the answer books. In any case the petitioner has failed to show any rule which would entitle petitioners for re-evaluation of his answer books. The answer books were returned to the petitioners as has been alleged by them and in the circumstances, the possibility of extrapolation cannot be ruled out and the petitioners in the circumstances cannot claim revaluation of their answer books. There are no grounds for directing re-evaluation when apparently there are extrapolations in the statement of marks produced by the petitioners and even in the answer books.

11. The answer books which have been produced on behalf of the petitioners in respect of which revaluation is sought are not signed or initialed by any of the teachers. The learned counsel for the petitioners alleged that the other answer books had also not been initialed by the class/subject teachers. The learned counsel for the petitioners was directed to produce other copies of other subjects which would have shown whether the answer books were signed by the class teachers or subject teachers. The learned counsel for the petitioner, however, has not produced any other answer books of any other subject to buttress his point that the answer books were not initialed or signed by the class teacher or subject teacher. The answer books of petitioner No.1 and petitioner No.2, therefore, cannot be relied on and the petitioners are not entitled for any relief in the facts and circumstances.

12. The petitioners are not entitled for the relief claimed and the writ petition is an abuse of process of law. The writ petition is, therefore, dismissed. Parties are however, left to bear their own costs.

August 17, 2009
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ANIL KUMAR, J.