

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

Date of decision: 13th July, 2010.

W.P.(C) No.4548/2010

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SUJEET KUMAR YADAV

..... Petitioner

Through: Mr. Uday Prakash Yadav & Mr. Ram
Awadh Yadav, Advocates.

versus

C.B.S.E.

..... Respondent

Through: Mr. Atul Kumar, Advocate.

CORAM :-

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

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

RAJIV SAHAI ENDLAW, J.

1. The petitioner has preferred this petition for direction to the respondent CBSE to scrutinize, re-evaluate, re-check the answer sheets of the petitioner in the All India Pre-Medical/Pre-Dental Entrance Examination, 2010 conducted by the respondent CBSE. In the result declared by the respondent CBSE, the petitioner has secured 334 out of 480 marks. The petitioner contends that if re-evaluation, re-scrutiny is ordered, he is sure that he will secure better marks and consequently a better rank.

Upon representation of the petitioner to the respondent CBSE having met with no success, the present petition was filed.

2. The Information Bulletin published by the respondent CBSE for the said examination *inter alia* provides as under:-

“13.1 RULES FOR RE-CHECKING/RE-EVALUATION OF ANSWER SHEETS.

The machine – gradable Answer Sheets are evaluated with extreme care and are repeatedly scrutinized. There is no provision for re-checking/re-evaluation or supply of photocopies of answer sheets for inspection to the candidates.

No correspondence in this regard will be entertained.”

3. The petitioner in the petition has contended that the non-provision of a mechanism by the respondent CBSE to look into the complaints of the candidates is arbitrary, contrary to the provisions of Article 14 of the Constitution and against the principles of natural justice. It is further contended that the process of evaluation of the answer sheets is not transparent and fair and is hit by the provisions of the Right to Information Act. It is yet further contended that the respondent CBSE nowhere displayed the correct answers and if the correct answers are displayed, the examinees would have a way of knowing the selection criteria. It is contended that the petitioner has scored 72% marks in High School Examination and 79% marks in Intermediate Examination (U.P. Board) and expected to score higher than 334 marks declared to have been secured by him.

4. From the pleadings of the petitioner, the case made out is merely of expectation of higher marks/better results. The averments of the petitioner are in the nature of a roving and fishing inquiry. The petitioner has not given any basis whatsoever for his expectation of higher marks/better results.

5. The counsel for the respondent CBSE appearing on advance notice has urged that the matter is no longer *res integra*. Reliance in this regard is placed on:-

- i. ***Maharashtra State Board of Secondary and Higher Secondary Education Vs. Paritosh Bhupeshkumar Sheth***
AIR 1984 SC 1543 upholding the validity of the clause prohibiting disclosure and inspection of the answer books and as to their confidentiality and holding that it is not within the legitimate domain of the Court to determine whether the purpose of a statute can be served better by adopting any Policy different from what has been laid down by the legislature or its delegatee and refusing to strike down as unreasonable a Bye-Law merely on the ground that the Policy enunciated therein does not meet with the approval of the Court. The argument of fair play requiring such disclosure was also rejected and it was held that if it is found that every possible precaution has been taken and all necessary safeguards provided to ensure that the answer

books inclusive of supplements are kept in safe custody so as to eliminate the danger of their being tampered with and that the evaluation is done by the examiners applying uniform standards with checks and crosschecks at different stages and that measures for detection of malpractice, etc. have also been effectively adopted, it will not be correct on the part of the Courts to strike down the provision prohibiting revaluation on the ground that it violates the rules of fair play. Similarly, the argument of public interest was also not accepted;

- ii. ***Parents Forum for Meaningful Education Vs. CBSE*** AIR 1994 Delhi 44 where the Division Bench of this Court laid down that the setting of the question papers in the examination and the evaluation of the answers is the prerogative of the examining body and it is not advisable for Court to interfere therein. It is informed that the Supreme Court in SLP preferred by the CBSE against the said judgment, vide order dated 5th November, 1993 set aside the direction of the Division Bench of this Court to the CBSE to introduce the system of revaluation;
- iii. Order dated 5th November, 1993 of the Supreme Court in SLP (C) No.17165/1993 titled ***CBSE Vs. Parents forum for***

Meaningful Education laying down that no direction can be given to the Board to introduce the system of re-evaluation;

- iv. *Parents Forum for Meaningful Education Vs. CBSE* being C.W.P. No.1824/1997 decided on 19th December, 2001 where again the Division Bench of this Court held that this Court would not interfere with the policy decision taken by the State, far less in relation to the Education Policy which has been evolved by experts. It was however held that the question of re-evaluation and the right of the student to have a look at the answer sheets has been settled in previous litigations listed in the said judgment.
- v. Order dated 8th July, 2002 of the Supreme Court in SLP (C) No.10128/2002 titled *Parents Forum for Meaningful Education Vs. CBSE* dismissing the appeal against the order of the Division Bench aforesaid declining the grant of relief of re-evaluation.
- vi. *Pramod Kumar Srivastava Vs. Chairman, Bihar Public Service Commission* AIR 2004 SC 4116 laying down that in the absence of any provisions in the rules for re-evaluation of the answer books, no candidate would have a right to seek re-evaluation of answer books;

- vii. Judgment dated 6th August, 2004 of the Single Judge of this Court in W.P.(C) No.10374/2004 titled ***Nirbhesh Saxena Vs. CBSE*** & other writ petitions where inspite of numerous errors/irregularities having been cited, reliefs as in the present petition were still declined;
- viii. Order dated 18th July, 2006 in W.P.(C) No.10984/2006 titled ***Akashsha Jain Vs. The Secretary, CBSE*** holding that in exercise of extraordinary power under Article 226 in certain given circumstances where ex facie fraud or large scale irregularity is made out, the Court may entertain petitions with a view to satisfy itself whether the results or the process in given cases has been done correctly but in the absence of any visible manageable standards it would be hazardous for the Court to indicate to the Board to put into place a mechanism of re-evaluation. The Court nevertheless did notice that denial of re-evaluation was harsh;
- ix. ***The Secretary, West Bengal Council of Higher Secondary Education Vs. Ayan Das*** AIR 2007 SC 3098 laying down that direction to produce answer paper for inspection by examinee should not normally be passed;
- x. Order dated 10th July, 2008 of this Court in W.P.(C) No.4645/2008 titled ***Rinith Anand Vs. CBSE***;

- xi. Order dated 8th August, 2008 of this Court in LPA No.451/2008 titled ***Rinith Anand Vs. CBSE*** dismissing the appeal against the order of the Single Judge (supra) declining the grant of relief of re-evaluation;
- xii. Order dated 1st October, 2008 of this Court in W.P.(C) No.5575/2008 titled ***Nishant Deengawal Vs. CBSE***;
- xiii. Order dated 25th May, 2010 of the Supreme Court in ***H.P. Public Service Commission Vs. Mukesh Thakur*** laying down that it is not permissible for High Court to examine the question paper and answer sheets itself and reiterating the view in the judgments aforesaid of the Apex Court.
- xiv. Order dated 9th June, 2010 of this Court in W.P.(C) No.4034/2010 titled ***Rao Siddhant Yadav Vs. CBSE***;

All to the same effect.

5. The only ground urged by the petitioner for seeking re-evaluation is his past record and his expectation of high marks. The same in my opinion cannot form the basis for seeking the directions sought. A mere expectation of a higher better marks/result would not entitle the Court to go contrary to the grain of the aforesaid judgments. The Supreme Court in ***UOI Vs. Mohan Lal Capoor*** AIR 1974 SC 87 held “it is not expedient to extend the horizon of natural justice in the *audi alteram partem* rule to the twilight zone of

mere expectations, however great they might be”. The petitioner has neither alleged nor shown any irregularity in the conduct of examination or any of the Rules providing various checks and crosschecks having not been followed. If reason as given is to be accepted, there would be a spate of petitions and the Courts would be inundated with each student wanting to take a chance qua his/her result. The Supreme Court has already held that there ought to be a finality to the result and specially of such an examination in which not thousands but lakhs of students appear and which is an all India examination.

There is no merit in the petition, the same is dismissed in *limine*. No order as to costs.

**RAJIV SAHAI ENDLAW
(JUDGE)**

13th July, 2010

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(Checked & released
on 4th August, 2010)