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

+ W.P.(C) 3986/2013 & CM No. 7429/2013

ANANYA PANDEY & ORS.

..... Petitioners

Through: Mr S. Udaya Kumar Sagar, Ms Bina
Madhavan and Mr Shivendra Singh,
Advocates

versus

CENTRAL BOARD OF SECONDARY EDUCATION
& ORS.

..... Respondents

Through: Mr Maninder Singh, Senior Advocate with
Mr Amit Bansal and Ms Ritika Nagpal,
Advocate for CBSE.

+ W.P.(C) 4144/2013 & CM No. 9726/2013

AMAN TRIPATHI

..... Petitioner

Through: Ms Sugriva Dubey, Advocate

versus

THE CENTRAL BOARD OF SECONDARY EDUCATION
& ORS.

..... Respondents

Through: Mr Amit Bansal and Mr Ritika Nagpal,
Advocates for CBSE

+ W.P.(C) 4145/2013 & CM No. 9727/2013

SARTHA PRABHAKAR

..... Petitioner

Through: Ms Sugriva Dubey, Advocate

versus

THE CENTRAL BOARD OF SECONDARY EDUCATION
& ORS.

..... Respondents

Through: Mr Amit Bansal and Mr Ritika Nagpal,
Advocates for CBSE

Signature Not Verified

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been compared and the digital data is as per
the physical file and no page is missing.

CORAM:

**HON'BLE MR JUSTICE BADAR DURREZ AHMED, ACTING
CHIEF JUSTICE**

HON'BLE MR JUSTICE VIBHU BAKHRU

ORDER

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05.07.2013

In all these petitions there is a challenge to the CBSE examination Bye- Laws, 1995 (updated to December 2004) issued by the Central Board of Secondary Education, Delhi. In particular, the challenge is to clause (iv) of bye-law 61. The said bye-law to the extent relevant reads as under:-

“61. Verification of marks obtained by a Candidate in a subject

- (i) 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 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.
- (ii) xxxx xxxx xxxx xxxx
- (iii) xxxx xxxx xxxx xxxx
- (iv) 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.”

(underlining added)

It is apparent that as per clauses (i) and (iv) of bye-law 61, candidates are not entitled to seek re-evaluation of their answer books. Their remedy is only to have the marks re-totalled in terms of clause (i) of bye-law 61.

Mr Maninder Singh, the learned senior counsel appearing on behalf of the CBSE, straightaway drew our attention to the decision of the Supreme Court in CBSE v. Aditya Bandopadhyay; (2011) 8 SCC 497 and in particular to the observations of the Supreme Court in paragraph 34 thereof which reads as under:-

“34. It is thus now well settled that a provision barring inspection or disclosure of the answer books or re-evaluation of the answer books and restricting the remedy of the candidates only to re-totalling is valid and binding on the examinee. In the case of CBSE, the provisions barring re-evaluation and inspection contained in Bye-law 61, are akin to Rule 104 considered in Maharashtra State Board. As a consequence if an examination is governed only by the rules and regulations of the examining body which bar inspection, disclosure or re-evaluation, the examinee will be entitled only for re-totalling by checking whether all the answers have been evaluated and further checking whether there is no mistake in the totaling of marks for each question and marks have been transferred correctly to the title (abstract) page. The position may however be different, if there is a superior statutory right entitling the examinee, as a citizen to seek access to the answer books, as information.”

(underlining added)

From the above extract, it is apparent that re-evaluation of answer books cannot be sought when there is a provision barring such a remedy. Clause (iv) of bye-law 61 is such a provision and, therefore, the prayer of the petitioners seeking re-evaluation of the answer books cannot be granted in view of the clear view expressed by the Supreme Court.

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It was contended on behalf of the learned counsel for the petitioners that in *Aditya Bandopadhyay (supra)*, the question of re-evaluation of the answer books had not directly arisen and the issue there was with regard to the supply of the answer books. Be that as it may, the Supreme Court in *Aditya Bandopadhyay (supra)* while examining the issues before it, had made a categorical observation with regard to the legal position concerning re-evaluation of answer books. This court is bound to follow those observations. Consequently, the writ petitions are liable to be dismissed, it is ordered accordingly. There shall be no order as to costs.


BADAR DURREZ AHMED, ACJ


VIBHU BAKHRU, J

JULY 05, 2013
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