

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

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Date of Decision: 06.12.2013

+ WP(C) No.7665 of 2013 &CM No.16345 of 2013
SHRUTHI L.S

..... Petitioner

Through: Mr. Dinesh Sabharwal and Mr.
Sameer Bhardwaj, Advs.

versus

CENTRAL BOARD OF SECONDARY EDUCATION(NEW DELHI)

..... Respondent

Through: Mr. Amit Bansal, Adv. for CBSE

CORAM:
HON'BLE MR. JUSTICE V.K.JAIN

JUDGMENT

V.K.JAIN, J. (Oral)

The petitioner before this Court appeared in Class-XII examination held by the respondent – Central Board of Secondary Education (CBSE), in March, 2013. The result of the said examination was declared on 27.5.2013. Being dissatisfied with her result, the petitioner before this Court, applied for revaluation of marks and for rechecking of her result in English (Core). Vide communication dated 14.6.2013, CBSE informed the petitioner that they had carried out scrutiny of marks and rechecking of result as per Rules and Regulations of the Board and there was no change in the marks already awarded to her. Being aggrieved from the answer given by CBSE, the petitioner is before this Court by way of this writ petition seeking the following reliefs:

A. Issue Rules in the above matter.

- B. That the writ of mandamus or any other writ or direction or order in the nature of mandamus be issued against the respondent with a direction to carry out and expedite the investigation into the said complaint and the answer sheet should be rechecked by an independent examiner and direct the examiner appointed to submit an appropriate report before this Hon'ble Court. After considering all the relevant facts of the complaint as to against the discretionary rules of CBSE and ignoring all the relevant facts and records available with the petitioner, as per the order dated 9.9.2013.
- C. Direct the respondent file his affidavit for informing this Hon'ble Court, about the steps taken/ directed by him.
- D. Award the cost of writ petition in favour of the petitioner.

2. In essence, the petitioner wants revaluation of her answer-sheet in the subject English (Core) in which she got 75% out of 100 marks on the ground that she was expecting at least 90% marks in the said paper.

3. Rule 61 of the CBSE Rules, to the extent it is relevant, reads as under:

“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.

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- (iv) No candidate shall claim, or be entitle to, revaluation of his/her answers or disclosure or inspection of the answer book(s) or other documents.

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- (vi) In no case the verification of Marks shall be done in the presence of the candidate or anyone else on his /her behalf, nor will the answer books be shown to him/her or his/her representative.

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- (viii) The marks, on verification will be revised upward or downward, as per the actual marks obtained by the candidate in his/her answer book.

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- (xii) The decision of the Chairman on the result of the verification of marks shall be final.

It would thus be seen that as per Rules of CBSE, it is not permissible for the candidate to seek revaluation of his/ her answers, though he/she is entitled for verification as to whether all his/her answers have been evaluated, there has been no mistake in the totalling for each question in that subject and the marks have been transferred correctly on the title page of the answer book and to the award list. The petitioner is also entitled to the verification that the supplementary answer book(s) if attached with the answer book is intact. The aforesaid exercise has been carried out by CBSE as per the above referred Rules and no change in the marks awarded to the petitioner in English (Core) was made out.

4. The learned counsel for the petitioner submits that since the answers revaluated by different examiners, the number of marks awarded to a particular candidate may depend upon the mood in which the examiner is sitting at the time of valuation of the answer sheet and such a system, accordingly to the learned counsel for the petitioner, being totally unsatisfactory needs to be modified by a better system.

5. The question whether revaluation of the answers given by the candidate in an examination is permissible or not came for consideration in Ananya Pandey & others versus Central Board of Secondary Education & Ors, W.P(C) No.3986/2013, where the petitioner before this Court challenged the validity of clause (iv) of bye-law 6 which has been extracted above. Relying upon the following view taken by the Apex Court in CBSE versus Aditya Bandopadhyay (2011) 8 SCC 497, the Division Bench held that the re-evaluation of answer books cannot be sought, when such a remedy is barred under the above-referred clause (iv) of bye-law 61:

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 answerbooks, as information.

(underlining added)

6. In view of the above decision of the Division Bench of this Court, no relief to the petitioner is possible. Though, as per the practice of CBSE, the answer-sheets are evaluated by the examiners, at the designated places and not at their residence, the fact remains that when answer sheets of the subjective papers are evaluated by different examiners, there is always a possibility of different approaches, though CBSE does issue broad guidelines, to the examiners, so as to avoid such approach, to the extent it is possible. But, till the time, the Board comes out with a better method of evaluation of subjective papers, we have no option, but to live with such possibilities. The writ petition is dismissed. All pending CM also stand disposed of. There shall be no orders as to costs.

DECEMBER 06, 2013/*rd*

V.K. JAIN, J.