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

+ **W.P.(C) 329/2016**

MITALI BHATTACHARYA Petitioner
Through **Mr. V.K. Shukla, Advocate**

versus

UNIVERSITY OF DELHI AND ANR Respondents
Through **Mr. Amit Bansal with Ms. Seema
Dolo and Mr. Akhil Kulshrestha,
Advocates**

% Date of Decision: 12th February, 2016

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. Present writ petition has been filed praying that this Court may examine the petitioner's original answer sheet and if it is of the opinion that it has not been checked properly, direct the respondent no.1 to send it to a panel of experts in the field. In the alternative, petitioner seeks a direction to award her one grace mark keeping in view her past academic record.

2. Mr. V.K. Shukla, learned counsel for the petitioner states that petitioner has throughout been a good student and she secured very high percentage in Class 10 and 12 examinations. He contends that the petitioner's answer sheet has not been properly evaluated. He states that about 250 out of 260 students of Shivaji College; 102 out of 120 students of Political (Hons) at Laxmibai College; 38 out of 50 students at Janki Devi Memorial College; 20 out 25 students at Keshav Mahavidyalaya failed to clear the paper called 'Sociology in Contemporary India'. In support of his contention, Mr. Shukla relies upon Delhi University's own Press Release dated 6th July, 2015. The relevant portion of the said Press Release is reproduced hereinbelow:-

".....After careful consideration and extensive investigation, the University of Delhi has come to a preliminary conclusion that the problem concerns the following three colleges: the Shivaji College, the Laxmibai Collge and the Keshav Mahavidyalaya. Thus the University realizes that the extraordinarily high and unusual incidence of failures has occured with students of the three colleges; viz. Shivaji College, Laxmibai College and Keshav Mahavidyalaya in the discipline centred course 'Sociology of Contemporary India'. A preliminary investigation has revealed that students of other colleges have performed as per usual patterns not only in this paper but also in other papers where the results are in accordance with normal patterns. The examination results of the students of these three above named colleges have displayed a deviation of very high proportions in the above named paper. This is an extreme and rare situation prevailing only in these three colleges. The University

assures the concerned students of these three colleges that their answer scripts are being re-evaluated on a priority basis.....”

3. Mr. Shukla states that petitioner's answer sheet has also not been revaluated and/or rechecked as would be apparent from the fact that no marks have been given by the revaluator on petitioner's answer sheet. He states that in the revaluation result, generally most of the candidates have been given three marks without actually rechecking the answer sheets.

4. Mr. Shukla further states that another candidate Ms. Suma Sankar with Roll No.12071211009 whose marks also remained unchanged after revaluation, has been shown as passed in a subsequent Notification dated 23rd July, 2015. Consequently, according to Mr. Shukla, it is only in the case of some students like Ms. Soma Sankar, that the respondent-University has revaluated the answer sheet and passed them.

5. Mr. Shukla lastly states that as the petitioner needs only one mark to pass, this Court must take a sympathetic view.

6. On the other hand, Mr. Amit Bansal, learned counsel for respondent no. 1 states that since many students complained of low scoring in "Sociology Contemporary India", Delhi University on its own decided to allow revaluation of the answer scripts in the said subject. He states that the revaluation of answer script was carried out as per the rules/regulations of the Delhi University.

7. Mr. Bansal further states that revaluation was done by an examiner, other than the original examiner who had earlier examined the answer script, after blocking the marks assigned by the original examiner. He also states that the examiner who revaluated the answer script, did not write marks on the original answer script in accordance with the University guidelines, but awarded marks separately on an "award sheet".

8. Mr. Bansal states that the petitioner got 31/75 in revaluation and was accordingly awarded 29/75, as per Rule 4(b) of Rules for Revaluation of Delhi University. Rule 4 is reproduced hereinbelow:-

- “4. (a) If the award of the Revaluator varies from the Original award upto and including $\pm 5\%$ of the maximum marks, the original award will stand.*
- (b) If the award of the first revaluator is beyond $\pm 5\%$ and up to $\pm 10\%$, the average of the marks of the original examiner and the first Revaluator will be taken.*
- (c) If the award of the Revaluator varies from the original award by more than $\pm 10\%$ of the minimum marks, the answer script will be examined by a Second Revaluator (other than the original and first) and the average of the two nearest awards out of the three awards thus available (including the original award) shall be taken as final.”*

9. Mr. Bansal emphatically denies the suggestion that only Ms. Soma Sankar's papers were revaluated. He has today in Court handed

over the marks awarded to Ms. Soma Sankar at the first instance by the revaluator, which is taken on record. Mr. Bansal states that as there was a variation of more than 10% from the original marks awarded by the examiner to Ms. Soma Shankar, her paper was referred to a second revaluator in accordance with Rule 4(c). The marks awarded by the second revaluator have also been handed over. He states that as the marks of the first and second revaluators were identical, Ms. Soma Sankar was awarded 38 marks.

10. Mr. Bansal, however, admits that due to typographical error the Principal of the College was intimated that Ms. Soma Sankar's marks had not changed on revaluation. He states that the mistake occurred due to heavy workload and voluminous work in the examination branch. He states that after the mistake was detected, the result was modified.

11. Mr. Bansal lastly states that the petitioner shall be entitled to reappear in the said paper as per the schedule of examination laid down by the respondent-University.

12. This Court on 22nd January, 2016 directed the respondent-University to produce the original script of the petitioner and the revaluated award sheet. The counsel for the petitioner was allowed to inspect the same.

13. This Court has also examined the photocopies of the petitioner's answer script as well as her revaluated award sheet which clearly shows that petitioner's answer sheet has been duly evaluated and

revaluated.

14. After perusal of the papers, in particular, the two revaluated mark sheets of Ms. Soma Sankar, this Court is of the view that there was a typographical error by the Examination Branch, Revaluation Section of respondent-University while conveying the revaluation results of Ms. Soma Sankar to the Principal of the College. Since that mistake has been corrected, this Court is of the view that petitioner cannot derive any mileage from the same.

15. It is a well settled law that Courts cannot take upon itself the task of assessing the answer script. It has been repeatedly held that in academic issues and matters pertaining to examination, decision should be left to the wisdom of academic bodies and the courts should not interfere with them. In the opinion of this Court, there is no scope of judicial review in evaluation of answer sheets which has been done by the expert in the field.

16. This Court is of the opinion that petitioner has no vested right to seek grace marks as there is no such provision.

17. This Court is further of the opinion that it cannot order a second revaluation of the petitioner's paper as firstly there is no provision of seeking further revaluation of answer scripts and secondly, if this process is adopted, then there shall be no finality to the result. Moreover, as there is no provision of seeking second revaluation of the answer sheets, the same cannot be allowed. The Supreme Court in ***H.P. Public Service Commission vs. Mukesh Thakur & Another, (2010) 6***

SCC 759, after referring to earlier decisions has held as under:-

“27. Thus, the law on the subject emerges to the effect that in absence of any provisions under the Statute or Statutory Rules/Regulations, the Court should not generally direct revaluation.”

18. Consequently, present writ petition being devoid of merit is dismissed.

MANMOHAN, J

FEBRUARY 12, 2016

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