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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 11467/2015

PRAERNA SEHGAL

..... Petitioner

Through: Mr. Sunil Mittal, Advocate with
Ms. Parul Malik, Advocates

versus

UNIVERSITY OF DELHI & ANR Respondents

Through: Mr. Mohinder J.S. Rupal, Advocate
with Mr. Simran Jeet, Advocates

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Date of Decision: 26th 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 seeking a direction to respondent No.1 to constitute a new panel of three experts in the field of Sociology and reevaluate the answer sheet on the principle of moderation.
2. Mr. Sunil Mittal, learned counsel for petitioner contends that the petitioner's answer sheet has not been properly evaluated. He states that it is a case of mass failure inasmuch as 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 of 25 students at

Keshav Mahavidyalaya failed to clear the paper called 'Sociology in Contemporary India'. In support of his contention, learned counsel for petitioner 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. Mittal states that there has been total non-application of mind by the examiner while examining the answer script of the petitioner. He states that while answer to question No.4 was not assessed by the examiner, petitioner has been awarded marks with regard to question No.2 which she did not even attempt. He also states that while assessing the answer to question No.6, the examiner has assessed it in two parts awarding 6.5 and 6 marks at two places instead of one.

4. Mr. Mittal, learned counsel for petitioner contends that as the petitioner's answer script was properly checked only once by the revaluator, petitioner has been denied the opportunity of revaluation by a second examiner in accordance with the University rules. He also states that in view of the aforesaid contention, respondent-University was not justified in arriving at an average of the marks of the original examiner and the first Revaluator under Rule 4(b) of Rules for Revaluation of Delhi University.

5. Mr. Mittal further contends that the petitioner has been unduly subjected to strict evaluation even though she has a satisfactory academic performance throughout the three years course. He submits that the examiner's variability, i.e., hawk or dove effect has been deprecated by the Supreme Court in *Sanjay Singh & Anr. vs. U.P. Public Service Commission, Allahabad & Anr., (2007) 3 SCC 720*.

6. On the other hand, Mr. Mohinder J.S. Rupal, 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. Rupal states that as even after rechecking by the initial examiner, petitioner's marks remained the same, the University sent the petitioner's answer script for revaluation to an examiner other than the original examiner who had earlier examined the answer script after blocking the marks assigned by the original examiner 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.”*

8. This Court has examined the petitioner's answer script as well as her revaluated award sheet which clearly shows that petitioner's answer script has been duly evaluated and revaluated by the original examiner as well as a revaluator. In fact, after petitioner pointed out discrepancies in the marks of her answer script by the initial examiner, respondent-University sent the paper to the initial examiner for rechecking and for her comments. As the petitioner's marks did not change despite marks being awarded for question No. 4 and double marking with regard to question No. 6 being reduced, the matter was referred to a second examiner, who awarded only 30 marks to the petitioner.

9. Consequently, this Court is satisfied that petitioner's answer script has been both evaluated and revaluated by two different examiners.

10. In view of the aforesaid conclusion, this Court is also of the opinion that Rule 4(b) of Rules for Revaluation of Delhi University is attracted to the

facts of the present case and the petitioner's revised marks of 27 have been correctly calculated.

11. This Court is also of the opinion that the judgment of the Supreme Court in ***Sanjay Singh & Anr.*** (supra) offers no assistance to the petitioner as the same pertains to an examination where papers of different students were checked by different examiners. In the present case, the papers have been checked by one examiner and revaluated by a different examiner. Consequently, the 'hawk-dove' effect is not attracted to the present case.

12. It is 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.

13. 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.”

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

MANMOHAN, J

FEBRUARY 26, 2016

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