

Court No. - 38

Case :- WRIT - C No. - 37711 of 2023

Petitioner :- Nishtha Kushwaha (Minor)

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Ram Bahadur

Counsel for Respondent :- CSC

Hon'ble Kshitij Shailendra,J.

1. Heard Sri Utkarsh Srivastava, holding brief of Sri Ram Bahadur, learned counsel for the petitioner, and Sri Jitendra Singh, learned Additional Chief Standing Counsel, for the State-respondents.

2. The petitioner has obtained answer copies of two subjects under the Right to Information Act, 2005 and has filed the present writ petition with a prayer that the said answer books be directed to be re-evaluated/ scrutinized.

3. Learned counsel for the petitioner has referred to paragraph no.15 of the writ petition which contains 12 sub-clauses and though he submits that he is not challenging the wisdom of the Examiner concerned to award lesser marks in particular question(s), he is aggrieved by non awarding of marks in question No.17(ii), 18(iv) and 20(ii). Learned counsel has placed relevant pages containing the answers to the aforesaid questions and by demonstrating the exact place of awarding marks on the concerned pages, it is contended that two marks were awarded in other sub-part of the questions but no marks have been awarded in the aforesaid sub-parts and, therefore, according to him, questions have remained unchecked.

4. Learned Additional Chief Standing Counsel by placing reliance upon a recent decision of the Apex Court in the case of **Dr. B.R. Ambedkar University, Agra Vs. Devarshi Nath Gupta and others, 2023 (2) SCR 471** submits that such petitions cannot be entertained as this Court can neither examine answer books nor can directly or indirectly allow a challenge to the competence of the Examiner concerned.

5. I have perused the concerned answer books and I find that if the Examiner has awarded two marks on the concerned page which contain both sub-clauses/ sub-questions of a particular question, it cannot be said that one or other part has remained unchecked. The Examiner, in his wisdom, may have awarded consolidated marks

in various sub-questions and mentioned the same at a single place, that is to say that he might have awarded one mark in both parts of questions and mentioned that at a single place as two marks.

6. Following the law laid down by the Apex Court, as referred to above, and even otherwise examining the merits of the contentions raised, I do not find any good ground to issue any direction as prayed for.

7. The writ petition is, accordingly, **dismissed**.

Order Date :- 1.11.2023
AKShukla/-