GAHC010095942023

2026:GAU-AS:9433

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/2630/2023

BIDISHA DEKA
REPRESENTED BY HER FATHER MR. GAUTAM DEKA, AGED ABOUT 49 YEARS, S/O- MADHAB CH. DEKA, BOTHER ARE PERMANENT RESIDENT OF VILL.- BARHATA, P.O.DAGAON, DIST. KAMRUP, ASSAM, PIN- 781133.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM, EDUCATION (SECONDARY) DEPARTMENT, DISPUR, GUWAHATI-6.

2:THE BOARD OF SECONDARY EDUCATION
ASSAM
REPRESENTED BY ITS CHAIRMAN
BAMUNIMAIDAN
GUWAHATI
KAMRUP
ASSAM
PIN- 781021.

3:THE CHAIRMAN
BOARD OF SECONDARY EDUCATION
ASSAM
BAMUNIMAIDAN
GUWAHATI
KAMRUP
ASSAM
PIN- 781021.

4:THE SECRETARY

BOARD OF SECONDARY EDUCATION

ASSAM BAMUNIMAIDAN
GUWAHATI
KAMRUP
PIN- 781021.

5:THE CONTROLLER OF EXAMINATIONS

BOARD OF SECONDARY EDUCATION
ASSAM
BAMUNIMAIDAN
GUWAHATI-781021

Advocate for the Petitioner : MR N SARMA, MR H BEZBARUA,MR. S J SARMAH,K. KALITA

Advocate for the Respondent : SC, SEBA, SC, SEC. EDU.

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 26-06-2026

Heard Mr. N. Sarma, learned counsel for the petitioner. Also heard Ms. S. Konwar, learned standing counsel, School Education, appearing for the respondent No. 1 as well as Mr. D.K. Roy, learned standing counsel, Assam State School Education Board, appearing for the respondent Nos. 2 to 5.

2. The petitioner by way of instituting the present writ petition has raised a grievance with regard to the manner in which her Assamese paper in the HSLC examination, was evaluated by the examiner of the then Board of Secondary Education, Assam.

3. The petitioner, herein, had appeared for her HSLC examination, 2022 under Roll-B-22-0402 No. 0081. The results of the said examination was declared on 07-06-2022. The said examination consisted of 06 (six) papers. The petitioner had scored marks in the

range of 87 to 98 in 05 (five) out of the 06 (six) papers she had appeared in her said examination. However, in the Assamese paper the petitioner had scored 63 marks. The respondent/ Board, after declaration of the results had issued notification dated 07-06-2022, inviting applications from the candidates who had appeared in the HSLC examination, 2022, for rechecking of the answer scripts and also obtaining photocopy along with rechecking of the answer scripts. It is projected that the petitioner had submitted her application for re-evaluation of her Assamese paper and had deposited the due fee, as prescribed. Thereafter, it is projected that the father of the petitioner had repeatedly approached the authorities of the Board to learn about the outcome of the re-evaluation sought for by the petitioner of her Assamese paper, however, no such information having been given, the petitioner had instituted the present writ petition.

4. Mr. N. Sarma, learned counsel for the petitioner has submitted that the answer scripts of the Assamese paper of the petitioner having been furnished to her, the same on being perused, the petitioner had found that the same was not evaluated in manner required. He submits that the markings has been found to have been so given in a casual manner. Mr. Sarma by referring to an additional affidavit, filed by the father of the petitioner, has submitted that, therein, a list of answers given by the petitioner, which has not been evaluated has been set out. He submits that had the Assamese paper of the petitioner being duly evaluated, the petitioner would have been obtained a higher merit position in the said examination. Mr. Sarma by referring to the affidavit filed in the matter by the respondent/ Board has submitted that the Board has projected that the answer scripts of the candidates appearing in the HSLC examination, 2022, having been

destroyed by following the procedure mandated in this connection, after 04 (four) months of the declaration of the results of the examination, it would not be permissible for the Board to now carry out a re-checking in the matter. Mr. Sarma submits that the photocopy of the Assamese paper of the petitioner, received from the Board authorities, having been annexed to the writ petition, at least a re-checking with regard to the answers given by the petitioner, which were not evaluated, would be permissible to be made.

5. Mr. Sarma in support of his submission by relying upon a decision of the Division Bench of this Court in the case of ***Drishti Baruah Vs. State of Assam & Ors.*** (Order dated ***08-02-2018*** in ***W.P.(C) No. 6226/2017***), submits that in the said decision the Division Bench of this Court had passed directions for re-checking/ re-evaluation after noticing the submissions made by the Board authorities, before it that the answer scripts of the petitioner, therein, was already destroyed. Accordingly, he submits that the said plea of the respondent/ Board would not mandate an acceptance and a direction is called upon to be issued to the Board Authorities to evaluate the Assamese paper of the petitioner in the manner required.

6. Per contra, Mr. D.K. Roy, learned standing counsel, ASSEB appearing for the respondents submits that a rechecking is permissible in terms of the provisions of Regulation 47 of the Regulation on Examination of the Board, 2016. He submits that the rechecking is limited to the assessment of the answers which has/ have been left out un-evaluated and/ or correction of wrong entry of marks of any manner or nature. Mr. Roy submits that the rechecking shall not mean re-evaluation of the answer scripts. Mr. Roy has further submitted that the provisions of Regulation 47, was assailed before this Court

in the proceeding of ***Drishti Baruah (Supra)*** and the said provisions were upheld by this Court.

6.1. Mr. Roy further submits that the application for re-checking having been received from the petitioner in pursuance to the notification dated 07-06-2022, the re-examiner appointed for the purpose had rechecked the relevant answer script of the petitioner, strictly in terms of the provision of Regulation 47 of the said Regulation and had found that the original marks as allotted, was so allotted correctly and no additional mark was required to be allotted to the petitioner. He submits that the re-examiner after examination of the answer scripts of the petitioner had duly signed, therein. He submits that the rechecking process having been concluded, the results, thereof, was declared and it was projected that no change had occasioned in the marks scored by the petitioner in her Assamese paper.

6.2. Mr. Roy, learned counsel for the respondent/ Board has submitted that the results of the HSLC examination, 202,2 was declared on 07-06-2022 and as per the norms of the Board, the answer scripts are to be preserved only for a period of 04 (four) months and thereafter, the answer scripts are destroyed. Mr. Roy submits that the present writ petition was so filed by the petitioner after about 01 (one) year from the date of declaration of the results of the HSLC examination, 2022. Mr. Roy submits that as on date it would not be permissible for the Board authorities to carryout re-evaluation, basing on the photocopy of the answer script in absence of the original, thereof, and such re-evaluation, if carried out would set a bad precedent and the same may be subject to be misuse in future. Mr. Roy has further submitted that although in the case of ***Drishti Baruah (Supra)*** this

Court had directed for re-evaluation of the answer scripts of the petitioner, even after being apprised that the same was already destroyed, the Board had arrived at a decision that the answer scripts of the petitioner, therein, having been destroyed on 01-10-2017, there was no scope take action at that point of time and a review of the result was not possible. He submits that the decision of the Board was communicated to the petitioner, therein. He submits that thereafter, no proceeding has been instituted by the said petitioner i.e. Drishti Baruah, assailing the speaking order dated 12-06-2018. Mr. Roy has further clarified that although in the answer scripts of the petitioner she was shown to have secured 60 (sixty) marks, however, in the mark-sheet her marks against the Assamese paper was shown as 63, to be on account of an exercise of moderation carried out in the matter by the Board authorities which had resulted in 03 (three) marks being added to the marks already recorded in the answer scripts of the petitioner in her Assamese paper.

7. I have heard the learned counsel for the parties and have also perused the materials available on record.

8. The petitioner, herein, had appeared for her HSLC examination, 2022. The results of which were declared on 07-06-2022. From the marks secured by the petitioner, this Court finds that the petitioner is exceptionally brilliant student, however, she is aggrieved by the marks secured by her in her Assamese paper, which is natural given a fact that the petitioner is found by this Court from the marks scored by her in her other papers, to be a studious student. The answer scripts of the petitioner was also furnished to her. Basing on the said answer scripts, the petitioner had projected in the present writ petition that in

addition to certain answers not being properly evaluated, certain answers were not at all evaluated by the examiner.

9. This Court notices that the provisions for making a revisit of the answer scripts of a student appearing in the HSLC examination is provided for under Regulation 47 of the Regulations of 2016. Regulation 47 being relevant, is extracted here-in-below:-

> ***47. RE-CHECKING****:*
>
> *A candidate may apply for re-checking of answer books to a maximum of 3 papers by paying necessary fees as determined by the Board and within such time as fixed by the Board from time to time, provided that-*
>
> *(a) Re-checking shall not mean re-valuation of the answer books. Re- checking shall consist of re-totaling of marks awarded by the examiner, and/or;*
>
> *(b) Assessment of answer(s) which has/have been left unevaluated, and/or*
>
> *(c) Correction of wrong entry of marks of any manner/nature.*
>
> *(d) The re-cheking of answer books shall be done by persons of the status of Head Examiner/Senior Examiner who will be selected by the Secretary with the approval of the Chairman. After re-checking, the answer books together with the findings of the person(s) appointed for the purpose will be returned to the Controller of Examinations for necessary action.*
>
> *(e) Marks obtained by a candidate as a result of the re-checking shall be final.*
>
> *(f) The result of re-checking shall be communicated through the Head of the Institution within the shortest possible time from the last date fixed for submission of application for re-checking.*
>
> *(g) For providing photocopies of answer books after declaration of re-checking results, separate guidelines shall be issued by the Board.*

9. A perusal of the provisions of Regulation 47 would go to reveal that, therein, it has been categorically laid down that only a rechecking would be permissible to the extent as set out in Sub-Regulation (b) and Sub-Regulation (c) of Regulation 47. Sub-Regulation (a) of Regulation 47, clearly stipulates that a re-examination would not mean re-evaluation of the answer scripts. The challenge to the provisions of Regulation 47 was rejected by the

Division Bench of this Court in the case of ***Drishti Baruah (Supra)***.

10. Having noticed the provisions of the regulation holding the field pertaining to the issue of re-checking/ re-evaluation of the answer scripts of a student appearing for his/ her HSLC examination, this Court would now proceed to consider the prayer of the petitioner for re-evaluation of her answer script in her Assamese paper.

11. The issue with regard to evaluation of answer script is no more *res integra*. It is settled by the decisions of the Hon'ble Supreme Court that in the absence of a provision for re-evaluation, a direction to this effect cannot be issued by the court. As noticed, hereinabove, under Regulation 47 of the Regulations of 2016, no provision has been made for re-evaluation of the answer script of a student appearing in his/ her HSLC examination. Moreover, the answer in question is found by this Court to be of descriptive nature which would essentially mean a matter of subjective assessment of the examiner and this Court would not be entering to that arena of assessment which remains reserved for examiner/ evaluator. Accordingly, the prayer of the petitioner for re-evaluation of the answer script in the subject of Assamese in her HSLC examination, would not mandate an acceptance from this Court.

12. Having drawn the said conclusions, this Court would now proceed to examine the further prayer of the petitioner that the answers given in 07 (seven) questions attempted in the Assamese paper of her HSLC examination were not evaluated by the examiner. The provisions of Regulation 47 mandates that assessment of answers which has/ have been left un-evaluated would be permissible to be so re-checked. Accordingly, said relief sought for by the petitioner was permissible to be so granted by the Board authorities. However,

what has been brought on record is that after declaration of the HSLC Examination, 2022 results, after the maximum period of retention of the answer scripts was over, the Board authorities had proceeded to destroy the answer scripts and such destruction of the answer scripts is as per the provisions of the Regulation of 2016. The petitioner, during the process of re-checking was, however, given a photocopy of the answer script of her Assamese paper. The petitioner had instituted the present writ petition after a lapse of around 01 (one) year from the date of announcement of her HSLC results. Once, the original script has been destroyed, this Court is of the considered view that the examining authority cannot be compelled to re-assess the answer script of the petitioner on the basis of the photocopy on records of the present writ petition, in absence of the original copy, thereof. In the facts and circumstances emanating in the present proceeding, the original documents no longer being in existence being legally disposed, the remedy sought for by the petitioner for a re-examination of an answer script has been rendered practically impossible and legally untenable.

13. In view of the above conclusions reached by this Court, the further prayer of the petitioner for a re-checking of answer script in her Assamese paper basing on the photocopy of the same brought on record, cannot be directed by this Court in view of the limitation noticed, here-in-above. Accordingly, the said prayer of the petitioner is also required to be rejected.

14. In view of the above twin reasons assigned by this Court, i.e. the regulatory framework permitting only re-checking and not re-evaluation and the original answer scripts of the petitioner having been legitimately destroyed after compliance with the

procedure, the prayers made by the petitioner in the present writ petition cannot be acceded to.

15. Although, this Court has rejected the prayers of the petitioner in view of the same being not permissible to be directed, this Court cannot but take a judicial notice of the stellar academic record of the petitioner. A perusal of the mark-sheet of the petitioner reveals an exceptionally bright mind. She has demonstrated diligence, deep understanding and an enviable intellectual capacity. This Court also notices that her grievance regarding evaluation of her Assamese subject paper does not stem from a casual dis-satisfaction, but from an earnest expectation of a high achieving student who has otherwise set a remarkable benchmark of excellence for herself. It is only because of the fact that the examining authority, in accordance with its routine administrative rules, had destroyed the answer scripts prior to the institution of this writ petition, this Court is legally hands-tied. However, it is made abundantly clear to the petitioner that the dismissal of the writ petition, on account of the technicalities involved be not construed as a reflection or validation of the marks reflected in the Assamese paper of the petitioner, nor it be deemed to be judgment on her actual capacity. The petitioner's intellect, however, is not constrained by temporal or procedural boundaries. This Court earnestly hopes and expects that this procedural set back will not cast any shadow of despondency or depression upon the young mind of the petitioner. This Court encourages her to look beyond this decision and continue to pursue her higher studies with the exact same vigour, force and academic passion that she had displayed thus far. Her intellect is an asset that no administrative destruction of records can diminish and this Court is

confident that she will continue to excel and bring laurels to herself and her family in the chapters of life that lie ahead of her.

16. With the above observations and directions, the present writ petition stands disposed of.

JUDGE

Comparing Assistant