

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No.1514 of 2015

- Dr. R.K. Purohit, S/o Neeladri, aged about 60 years, At present Working as Principal, Govt. College, Basna, Police Station Basna, Civil and Revenue District Mahasamund (C.G.)

---- Petitioner

**Versus**

1. Pt. Ravishankar Shukla University, Through : the Registrar, Pt. Ravishankar Shukla University, Raipur (C.G.)
2. Vice Chancellor, Pt. Ravishankar Shukla University, Raipur (C.G.)

---- Respondent

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For Petitioner  
For Respondents

Mr. P.P. Sahu, Advocate  
Mr. Neeraj Choubey, Advocate

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Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

10/12/2015

Heard finally with the consent of learned counsel for the parties.

(2) The petitioner has called in question the impugned action of the respondents, whereby, the respondent-University has debarred the petitioner from undertaking any valuation of the answer sheets for a period of 02 years.

(3) Mr. Sahu, learned counsel for the petitioner, would submit that subsequent to the impugned order, the petitioner moved a representation before the University, on which, a team of Experts was appointed to examine the answer sheets valued by the petitioner to find out whether the award of marks by the petitioner was proper or it

suffered from any casualness or negligence. The said Committee submitted its report finding in no uncertain terms that the marks awarded by the petitioner to the subject students were properly awarded and there is no change in the marks. The last column of the report – Annxure P/3 would indicate the marks awarded to the respective students in the first revaluation, which was 30% or more of the originally secured marks and thus, it is the first reevaluated marks which prompted the University to debar the petitioner from undertaking the revaluation.

(4) Mr. Choubey, learned counsel for the respondent-University, would not dispute that in the report submitted by the team of Experts vide Annexure P/3, no substantial change was found in the marks awarded by the petitioner in both the revaluations, which is referred herein as second and third revaluation, by the panel of Experts. However, he would submit that since more than two years have already lapsed after the impugned order, the petition has been rendered infructuous.

(5) Ordinarily, on expiry of the term of adverse order within which it was directed to remain operative, the writ petition would have been rendered infructuous. However, in a case of present nature, wherein, a teacher has been debarred on allegation that he has not valued the answer sheets correctly, it has repercussion on his credibility throughout his life. Therefore, the writ petition would not be infructuous merely because the period during which the order was directed to remain operative has lapsed. A Teacher earns respect of the students as well as of the community of Teachers and his superior authorities, on the strength of his knowledge and expertise of the subject, therefore, any

such order which tarnishes his credibility as an Expert has civil consequences. Moreover, the impugned order Annexure P/1 has been passed without giving any opportunity of hearing to the petitioner. A team of Experts was appointed only after submission of representation by the petitioner and even after submission of report by the team of Experts, the impugned order was not withdrawn.

(6) While exercising jurisdiction under Article 226 of the Constitution of India, this Court must step in wherever injustice is found, therefore, when the impugned order or action is found to violate Article 14 of the Constitution of India, the same has to be struck down.

(7) The nature of power and jurisdiction under Article 226 of the Constitution of India conferred on the High Court has been explained by the Supreme Court in **Dwarka Nath v. Income-tax Officer, Special Circle, D. Ward, Kanpur and another**<sup>1</sup> as under :

"4.....This article is couched in comprehensive phraseology and it ex facie confers a wide power on the High Courts to reach injustice wherever it is found. The Constitution designedly used a wide language in describing the nature of the power, the purpose for which and the person or authority against whom it can be exercised. It can issue writs in the nature of prerogative writs as understood in England; but the scope of those writs also is widened by the use of the expression 'nature', for the said expression does not equate the writs that can be issued in India with those in England, but only draws an analogy from them. That apart, High Courts can also issue directions, orders or writs other than the prerogative writs. It enables the High Courts to mould the reliefs to meet the peculiar and complicated requirements of this country. Any attempt to equate the scope of the power of the High Court

under Article 226 of Constitution with that of the English Courts to issue prerogative writs is to introduce the unnecessary procedural restrictions grown over the years in a comparatively small country like England with a unitary form of Government to a vast country like India functioning under a federal structure. Such a construction defeats the purpose of the Article itself.....”

(Emphasis supplied)

(8) Yet again in **Gujarat Steel Tubes Ltd. and others v. Gujarat Steel Tubes Mazdoor Sabha and others**<sup>2</sup>, the Supreme Court held thus :

“73. While the remedy under Article 226 is extraordinary and is of Anglo-Saxon vintage, it is not a carbon copy of English processes. Article 226 is a sparing surgery but the lancet operates where injustice suppurates. While traditional restraints like availability of alternative remedy hold back the court, and judicial power should not ordinarily rush in where the other two branches fear to tread, judicial daring is not daunted where glaring injustice demands even affirmative action. The wide words of Article 226 are designed for service of the lowly numbers in their grievances if the subject belongs to the court’s province and the remedy is appropriate to the judicial process. There is a native hue about Article 226, without being anglophilic or anglophobic in attitude. Viewed from this jurisprudential perspective, we have to be cautious both in not overstepping as if Article 226 were as large as an appeal and not failing to intervene where a grave error has crept in. Moreover, we sit here in appeal over the High Court’s judgment. And an appellate power interferes *.not* when the order appealed is not right but only when it is clearly wrong. The difference is real, though fine.”

(Emphasis supplied)

(9) In a recent judgment rendered in **Eastern Coalfields Limited and others v. Bajrangi Rabidas**<sup>3</sup>, the Supreme Court held thus :

“19.....It is well settled in law that jurisdiction of the High Court under Article 226 of the Constitution is equitable and discretionary. The power of the High Court is required to be exercised “to reach injustice wherever it is found”. In *Sangram Singh v. Election Tribunal*, it has been observed that jurisdiction under Article 226 of the Constitution is not to be exercised whenever there is an error of law. The powers are purely discretionary and though no limits can be placed upon that discretion, it must be exercised along recognised lines and not arbitrarily and one of the limitations imposed by the courts on themselves is that they will not exercise jurisdiction in such class of cases unless substantial injustice has ensued or is likely to ensue. That apart, the High Court while exercising the jurisdiction under Article 226 of the Constitution can always take cognizance of the entire facts and circumstances and pass appropriate directions to balance the justice. The jurisdiction being extraordinary it is required to be exercised keeping in mind the principles of equity.....”

Emphasis added

(10) While exercising the jurisdiction under Article 226 of the Constitution of India endeavour should be made to do complete justice to the parties. (**M.P. Special Police Establishment v. State of M.P. and Others**<sup>4</sup>).

(11) After placing reliance on various decisions of the Supreme Court, this Court in **Dashrath Gupta (HUF) & others v. State of Chhattisgarh and Others**<sup>5</sup>, at para 9, held thus :

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3(2014) 13 SCC 681

4 (2004) 8 SCC 788

5 Writ Petition (C) No.1761 of 2013 (decided on 30-1-2015)

9. The common thread flowing from the above referred judgments of the Supreme Court with regard to the nature of power and jurisdiction under Article 226 is to the effect that the High Court's power is equitable and discretionary. The High Court is required to exercise the jurisdiction to reach injustice wherever it is found. There are no limits to the power, the same should not be exercised unless substantial injustice has ensued or is likely to ensue and further that the Court can always take cognizance of the entire facts and circumstances and pass appropriate directions to balance the justice. It also follows that the wide words of Article 226 are designed for service of the lowly numbers in their grievances if the subject belongs to the court's province and the remedy is appropriate to the judicial process and that the High Court should not fail to intervene when a grave error has crept in and injustice or arbitrariness has ushered.

(12) Applying the well settled principles of law to the facts of the present case and for the reasons mentioned herein-above, the writ petition is allowed and the impugned order – Annexure P/1 in so far as it concerns the petitioner, is quashed.

Sd/-

Judge

(Prashant Kumar Mishra)

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