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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Appeal No. 263 of 2015

Jai Prakash Chandel s/o late Shri Karthik Ram Chandel, aged about 31 years, R/o Jai Stambh Jodhapur Ward, Dhamtari, P.S. Tahsil and District Dhamtari, Chhattisgarh.

---- Appellant

Versus

1. State of Chhattisgarh through Secretary Revenue Department Mahanadi Bhawan, Mantralaya, Naya Raipur, Tahsil & Dist. Raipur, Chhattisgarh.
2. The Collector Dhamtari district Dhamtari, Chhattisgarh.
3. Ajay Kumar Chelak s/o Shri Sarju Prasad Chelak, village Kogdehi, post Samoda, tahsil Arang, district Raipur, Chhattisgarh.

---- Respondents

For Appellant : Shri R.S. Patel, Advocate.
For Respondent/ State Advocate. : Shri U.N.S. Deo, Government

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HON'BLE SHRI NAVIN SINHA, CHIEF JUSTICE &
HON'BLE SHRI P. SAM KOSHY, J.

Judgment On Board

Per NAVIN SINHA, C.J.

6/5/2015

1. The present appeal arises from order dated 3.3.2015 dismissing Writ Petition (S) No. 4169 of 2013. The Learned Single Judge declined to interfere with the challenge to the appointment of Respondent No.3 holding that the Respondent had higher marks than the Appellant.

2. Learned Counsel for the Appellant submits that his answer-sheet obtained by the Appellant under the Right to Information Act (hereinafter referred to as 'the RTI Act') showing award of 90 marks was erroneous as he has not been given proper marks for certain questions. Learned Counsel for the Appellant sought to persuade us to examine the answer-sheet.

3. According to the Appellant, he obtained a copy of his answer-sheet under the RTI Act on 27.4.2013. The writ petition giving rise to the present appeal was filed on 9.12.2013. No grounds have been urged in the writ application with regard to the incorrect marks granted to the Appellant emanating from his answer-sheet and there are no pleadings in that regard. No copy of the answer-sheet was annexed. Learned Counsel for the Appellant fairly acknowledged that this ground was not taken in the writ petition.

4. If a relevant document was available with the Appellant and was not placed before the Court and relied upon in the writ petition, we decline to entertain the appeal on a ground to which the Learned Single Judge had no occasion to apply his mind. The Appellant has only himself to blame for not being vigilant for protection of his rights and interests. To entertain the challenge at this stage, would only be prolonging litigation vexing the Respondents twice over including applicability of the principles of constructive *res judicata*.

5. We find no reason to interfere with the order under appeal. The appeal is dismissed.

(Navin Sinha)
CHIEF JUSTICE

(P. Sam Koshy)
JUDGE

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