

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 960 of 2015

Subhash Sharma S/o Shri Dhruv Kumar Sharma Aged About 28 Years R/o Behind Om Mangalam, Ward No. 22, Janjgir, District Janjgir Champa, (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Higher Education, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur,
2. Pandit Sunderlal Sharma (Open) University, Koni, Bilaspur (Chhattisgarh), Through The Registrar, Pandit Sunderlal Sharma, (Open) University, Koni, Bilaspur, (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Prateek Sharma, Advocate
For Respondent No.1/State	:	Shri S.P. Kale, Dy.A.G.
For Respondent No.2/University	:	Shri Pankaj Agrawal, Advocate

Order On Board

16/09/2015

Heard.

1. The petitioner has filed petition aggrieved by the action of respondent-University and its examiner whereby the petitioner has been awarded zero marks on his answer to five questions in the Subject- Discrete Mathematics in the MSC Previous Examination 2014.
2. The relevant facts of the case are in narrow encompass. The petitioner was admitted to MSC (Mathematics) course run by respondent No.2-University, an Open University. The petitioner appeared in the annual examination of MSC Previous 2014. Under the scheme of examination, there were 4 papers to assess the candidates in the subjects of Topology, Real Analysis, Partial Differential Equations and Discrete Mathematics. The petitioner appeared in all the papers. However, when the result was declared, the petitioner was shown supplementary in the Subject - Discrete Mathematics. The petitioner, thereafter, inquired and obtained information under Right to Information Act and then came to know that in the paper of Discrete Mathematics, answers to question No.6 (a), 8 (b) 10 (a) and 10 (b) were evaluated and the petitioner was awarded zero marks. As there is no system of revaluation, the petitioner has filed this petition aggrieved by the

aforesaid valuation and award of zero marks against answers to questions No.6 (a), 8 (b) 10 (a) and 10 (b).

3. Learned counsel for the petitioner made a short and pointed submission to the effect that in the absence of there being any allegation of use of unfair means, merely because the petitioner had written in his answer the model answer in verbatim, as contained in the model text book, he could not be denied fair assessment of his answers to the stated questions. Referring to the answers given by the petitioner and what has been contained in the authenticated text book, he submits that the answer of the petitioner were correct. Therefore, some marks had to be awarded to the petitioner by fair assessment. Awarding zero marks even though answers of the petitioner according to respondents are same as contained in the model text book shows that there was extraneous consideration while undertaking valuation of the answers given by the petitioner. It is argued that this is violation of Article 14 of the Constitution and the petitioner has assailed the action on the ground of arbitrariness.
4. On the other hand, learned counsel for the respondents submits that the award of zero marks on the stated answers against questions No.6 (a), 8 (b) 10 (a) and 10 (b) were duly evaluated by the examiner and the examiner found that it was verbatim reproduction of model answers contained in text book. This was, therefore, operative reason for awarding zero marks to the petitioner as the answer of the petitioner cannot be said to be a standard answers at all. The petitioner was required to answer the question in his own words rather than ascribing the answer in exactly the same fashion contained in the authenticated text books. It is next contended that as there is no provision of revaluation of answers, the relief sought in this petition cannot be granted as that would amount to re-assessment and revaluation of answers, which is not permissible under the scheme of examination.
5. Admittedly, there is no allegation of use of unfair means against the petitioner. Though no opinion of the examiner has been placed on record by the respondent along with their reply, the text and tenor of reply is that the answer given by the petitioner appears to be verbatim reproduction of the standard answer contained in the text book. Therefore, for this reason, zero marks have been awarded to the petitioner.
6. This Court is unable to comprehend the submission of learned counsel for the respondents in that regard. All that can be inferred from the answer given by the petitioner is that the petitioner, using his discreet memory has answered the question exactly in the same manner as has been contained in the model text book, authenticity of which is not in dispute. Therefore, merely because the answer

of the petitioner appears to be exactly the same as stated in the model answer text book, could not, by any stretch of imagination, be made a basis to award him zero marks. Whether answer given by the petitioner entitles him to award of full marks allotted to the question or for some reasons, lesser marks should be awarded to him, is essentially a matter for consideration of the examiner. However, the reason which has been assigned by the respondent in their return for awarding zero marks is clearly extraneous and if I may say so, arbitrary and completely irrational. It appears as if the student has been penalized for giving an answer exactly as stated in the model text book.

7. True it is that there is no provision for revaluation of marks, that does not take away or abridge the power of the writ Court to examine, in a given case, whether the examinee has been subjected to fair assessment. Fairness in assessment and revaluation are different concepts. It may or not be part of examination scheme to provide for revaluation of answer submitted by the examinee, however, in the realm of judicial review, if it could be demonstrated before the Court that in the matter of assessment, the assessing authority has acted completely arbitrarily or irrationally so much so that it is unable to stand on the touchstone of Article 14 of the Constitution, such an assessment will have to be treated as arbitrary exercise of power of assessment and valuation. In those limited cases, the hands of the writ Courts are long enough to interfere and provide appropriate relief by issuing appropriate direction for proper and fair assessment, distinct from revaluation.
8. In view of the above consideration, in the considered opinion of this Court, the petitioner has been denied fair assessment and evaluation which is essential concomitant of Article 14 of the Constitution. Therefore, this Court has to step in to grant appropriate remedy and redress the grievance of the petitioner- examinee. It has been stated before the Court that the petitioner has already passed the MSC Final Examination and because of this arbitrary valuation of awarding zero marks on four questions that the petitioner was declared supplementary in subject Discrete Mathematics in MSC Previous Examination conducted in the year 2014.
9. In the result, the decision of the respondents through their examiner in awarding zero marks to the petitioner on questions No.6 (a), 8 (b) 10 (a) and 10 (b) in the Subject- Discrete Mathematics in MSC Previous Examination 2014 written by the petitioner is declared arbitrary and unsustainable in law. However, this Court itself cannot evaluate as to how many marks should be awarded to the petitioner. For that purpose the examiner alone is required to examine the quality of answers given by the petitioner and to award him such marks to which he may be entitled.
10. Accordingly, respondent –University is directed to undertake proper assessment and valuation on petitioner's answer on questions No.6 (a), 8 (b) 10 (a) and 10 (b)

of the Subject- Discrete Mathematics in the MSC Previous Examination of 2014 and get proper assessment of answers given by the petitioner through its own examiner within a period of 3 months from the date of receipt of copy of this order. The change in the result will obviously require the respondent to issue fresh mark sheet to the petitioner in the MSC Previous Examination 2014.

11. The petition is accordingly allowed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Praveen