

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A.No.752 of 2015
and
M.P.No.1 of 2015

C.Porchilai
(rep by her father and natural
guardian S.Chitrarasu) .. Appellant

Vs.

The Director of Government Examinations,
DPI Campus, College Road,
Chennai-600 006. .. Respondent

This writ appeal is preferred under Clause 15 of the Letters Patent against the order of this court dated 10.03.2015 made in W.P.No.4789 of 2015.

Filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the Respondent to revalue the answer book of the petitioner minor daughter C.Porchilai (Registration No. 392488 Application No. 1001659) in the subject Biology having subject Code 009 Biology and to award marks on revaluation of Question No.22 in Section B (Bio - Zoology) on considering the representation submitted by the Petitioner dated 05.02.2015 within a time frame to be filed by this Court.

For Appellant : Mr.G.Sankaran

For Respondent : Mr.K.Karthikeyan, GA

JUDGMENT

(Judgment of the Court was made by SATISH K. AGNIHOTRI, J.)

The writ petitioner, seeking a direction to the respondent to revalue her answer book of Biology subject in the higher secondary public examination held in March, 2014 in respect of question No.22 in Section 'B' and grant consequential marks, has come up with the writ petition. The petitioner, being minor, is represented through her father S.Chitrarasu.

2 The case of the petitioner is that the petitioner obtained xerox copy of the answer book of Biology paper, wherein it was found that she had written four correct points, out of five points and as such, she was entitled to full three marks for the question, whereas she was awarded only one mark without any rhyme or reason.

3 The learned Single Judge, recording the fact that revaluation was already done, which did not result into increase in the mark and the same mark awarded earlier was maintained by the Revaluation Committee, comprising of three experienced Biology teachers, has rejected the request of the petitioner for a direction to the respondent for revaluation of Biology answer once again, on the ground that there was no provision for further revaluation. The writ petition was accordingly dismissed.

4 Feeling aggrieved, the petitioner has come up with the instant appeal, reiterating the same submission, pointing out that there is a mistake in awarding of mark in question No.22 on the face of it. As per the key answer, if three points written out of five points, are correct, the candidate is entitled to full three marks. The petitioner had given four correct answers, but the mark awarded was only one, and as such, there was error apparent on the evaluation. It was next contended that under such circumstance, the court ought to direct further revaluation to subserve the interest of justice.

5 We have examined the submission of the learned counsels carefully and also perused the pleadings and documents.

6 Without going into the merits of the case, we are of the considered view that it is not for the court to evaluate the answer sheets as an expert. The Committee comprise of three subject experts have revaluated the answers and maintained the award of one mark, as granted earlier. Thus, it is not for the court to entertain a different view on the basis of its examination.

7 The issue of revaluation came up for consideration in several matters before the Hon'ble Supreme Court. On one of the latest decisions in Himachal Pradesh Public Service Commission Vs. Mukesh Thakur and another¹, the Supreme Court observed as under :

"24. The issue of revaluation of answer book is no more res integra. This issue was considered at length by this Court in Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupeshkumar Sheth¹⁷, wherein this Court rejected the contention that in the absence of the provision for revaluation, a direction to this effect can be issued by the Court. The Court further held that even the policy decision incorporated in the Rules/Regulations not providing for rechecking/verification/revaluation cannot be challenged unless there are grounds to show that the policy itself is in violation of some statutory provision. The Court held as under: (SCC pp. 39-40 & 42, paras 14 & 16)

1 (2010) 6 SCC 759

"14. ... It is exclusively within the province of the legislature and its delegate to determine, as a matter of policy, how the provisions of the statute can best be implemented and what measures, substantive as well as procedural would have to be incorporated in the rules or regulations for the efficacious achievement of the objects and purposes of the Act. ...

* * *

16. ... The Court cannot sit in judgment over the wisdom of the policy evolved by the legislature and the subordinate regulation-making body. It may be a wise policy which will fully effectuate the purpose of the enactment or it may be lacking in effectiveness and hence calling for revision and improvement. But any drawbacks in the policy incorporated in a rule or regulation will not render it ultra vires and the Court cannot strike it down on the ground that, in its opinion, it is not a wise or prudent policy, but is even a foolish one, and that it will not really serve to effectuate the purposes of the Act."

25. This view has been approved and relied upon and reiterated by this Court in *Pramod Kumar Srivastava v. Bihar Public Service Commission*¹⁸ observing as under: (SCC pp. 717-18, para 7)

"7. ... Under the relevant rules of the Commission, there is no provision wherein a candidate may be entitled to ask for revaluation of his answer book. There is a provision for scrutiny only wherein the answer books are seen for the purpose of checking whether all the answers given by a candidate have been examined and whether there has been any mistake in the totalling of marks of each question and noting them correctly on the first cover page of the answer book. There is no dispute that after scrutiny no mistake was found in the marks awarded to the appellant in the General Science paper. In the absence of any provision for revaluation of answer books in the relevant rules, no candidate in an examination has got any right whatsoever to claim or ask for revaluation of his marks." (emphasis added)

A similar view has been reiterated in *Muneeb-Ul-Rehman Haroon (Dr.) v. Govt. of J&K State*¹⁹, *Board of Secondary Education v. Pravas Ranjan Panda*²⁰, *Board of Secondary*

Education v. D. Suvankar²¹, W.B. Council of Higher Secondary Education v. Ayan Das²² and Sahiti v. Dr. N.T.R. University of Health Sciences²³.

26. Thus, the law on the subject emerges to the effect that in the absence of any provision under the statute or statutory rules/regulations, the Court should not generally direct revaluation."

8 In the light of the aforesaid well settled principle of law on revaluation, applying to the facts of the instant case, we scarcely have hesitation in dismissing the appeal. Accordingly, the writ appeal is dismissed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

The Director of Government Examinations,
DPI Campus, College Road,
Chennai-600 006.

+1 cc to Mr.G.Sankaran, Advocate, SR.30700

+1 cc to Government Pleader, SR.30252.

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W.A.No.752 of 2015

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