

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.12056 of 2015

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:

“to issue Writ of Mandamus declaring the proceedings in Lr.No.SBTET/EE-I/RV/RC/2015, dated 12-03-2015 issued by the 2nd respondent as illegal, capricious and arbitrary and violation of Article 14 of the Constitution of India besides being against the guidelines, dated 20-11-2008 and consequently direct the 1st respondent to produce the acquaintance register, job sheet and statement of work done report with respect of three re-valuators for the subject of Structural Engineering Drawing (C-607) and to award best marks.”

Heard Sri T. Balaswamy, learned counsel for the petitioner and Sri P.V.S.S. Rama Rao, learned Standing Counsel for State Board of Technical Education and Training (for short, 'the SBTET'), apart from perusing the material available before this Court.

According to the petitioner, he is prosecuting three years Diploma course in Civil Engineering in the 3rd respondent college and he attended VI semester i.e., final semester examinations in the month of November, 2014 and passed in all subjects in one attempt with distinction. The petitioner attended in the said final semester for Structural Engineering in Drawing subject examination also on 27-11-2014. The total number of marks in the said examination being '60' and one who should get '30' marks to pass the examination. According to the petitioner, due to improper valuation

of the answer sheet he secured only '19' marks and as a result of which he could not complete the course within stipulated time which will have impact on his academic year.

The 1st respondent introduced a system for un-successful candidates in the examination, by giving opportunity on three issues namely 1) Recounting, 2) Photo copies of valued answer scripts and 3) Re-verification. Then the petitioner herein applied for re-verification in terms of the instructions issued. Questioning the inaction on the part of the SBTET, the petitioner herein filed W.P.No.7987 of 2015 earlier and during the course of hearing learned Standing Counsel for SBTET placed on record the proceedings of the Board, dated 12-03-2015, intimating no change of marks. This Court by way of an order, dated 02-04-2015 dismissed the said writ petition with a liberty to challenge the proceedings, dated 12-03-2015.

In the above background, the present writ petition came to be filed, assailing the proceedings of the SBTET, dated 12-03-2015.

A counter-affidavit is filed on behalf of the 2nd respondent – SBTET, denying the averments in the affidavit filed in support of the writ petition and is the direction of justifying the impugned action.

It is contended by the learned counsel for the petitioner that the impugned action is illegal, arbitrary and violative of Article 14 of the Constitution of India. It is the further contention of the

learned counsel for the petitioner that the questioned action is in contravention of the guidelines issued by the SBTET vide Lr.No.SBTET/EE-I-14/848/2005, dated 20-11-2008. It is the further submission of the learned counsel that as per the said instructions, after re-verification the best marks awarded are to be taken into consideration but in case of the petitioner, the respondents did not adhere to the same and as a result of the same he is subjected to irreparable loss.

Per contra, it is vehemently contended by the learned Standing Counsel for SBTET that the guidelines referred and sought to be relied upon by the petitioner herein cannot be made applicable now in view of the subsequent guidelines issued by the SBTET vide Lr.No.SBTET/EE-I-14/2004/2014, dated ... - 02-2014. It is also submitted by the learned Standing Counsel that there is no illegality nor there is any procedural infirmity in the impugned action, as such, the present writ petition is not maintainable and the petitioner is not entitled for any relief under Article 226 of the Constitution of India.

The information made available before this Court manifestly discloses that the SBTET vide letter No.SBTET/ EE-I-14/2004/2014, dated ... - 02-2014 communicated the guidelines to all the Principals of Polytechnics/Institutions including Private Polytechnics in the State which need to be adhered to and required to be followed for re-verification of valued answer scripts.

In the instant writ petition this Court is concerned with the aspect of re-verification. The aspect of re-verification according to the said instructions is required to be gone into and undertaken by

the committee comprising of one senior member and two members. On making an application by the candidate, as following the procedure set out at paragraph No.II. Clauses xi to xv of the said guidelines are required to be adopted:

- “(xi) The committee has to verify the intact and genuineness of the answer script posted for re-verification.*
- (xii) Initially single member is to be appointed for RV work.*
- (xiii) If variation on evaluation is upto 12% of maximum marks, there will be no status change.*
- (xiv) If variation is more than 12% of the maximum marks it is referred to 2 tier evaluations.*
- (xv) If 2 tier evaluation confirms the variation is more than 12% of the maximum marks then marks will be considered subject to status change according to the following cases as deemed fit.*
 - a) If candidate already passed and he obtains more than 12% of the maximum marks in RV, then the variation is considered.*
 - b) If the candidate is failed and by considering the more than 12% of the maximum marks in RV, then he/she passed in the subject then there is a status change.*
 - c) If a candidate is failed and even by considering the more than 12% of the maximum marks in RV, the candidate still failed there is no change in the status of result earlier declare.”*

In the instant case, the SBTET by way of impugned letter, dated 12-03-2015 informed the petitioner that there is no change of marks. The petitioner herein secured ‘19’ marks in the Structural Engineering Drawing examination initially before re-verification. The pass marks to the said examination is ‘30’ out of ‘60’ marks.

As per the counter-affidavit the request of the petitioner was initially referred to Sri Rajendra Prasad who was one of the member of the committee. On verification, he had awarded 29½ marks, which can be rounded of as 30. Since the variation is more than 12% of the maximum marks, the said paper was evaluated by

2 tier evaluators viz., Sri G. Appa Rao and Sri G.V. Rao independently. Sri G. Appa Rao has awarded 30½ marks, which can be rounded off as 31. Sri G.V. Rao has awarded 13 marks. As the variation is more than 12% for both the evaluations, the paper was further referred to one Sri K.V. Vasantha Kumar, Principal, GPW, Suryapet, Nalgonda District and he awarded 22½ marks and in view of no change of status the petitioner was informed accordingly by virtue of impugned order, dated 12-03-2015.

According to the petitioner, highest marks awarded during re-verification should be given.

The above information clearly shows that out of 4 experts to whom the papers were referred, two experts expressed in favour of the petitioner and two against the petitioner and while pointing out the same, learned counsel for the petitioner has made a request before this Court to direct the respondents to refer the paper to another expert. In the facts and circumstances of the case, this Court deems it appropriate and reasonable to consider the said request of the petitioner to refer the paper to another expert.

Taking into consideration the totality of the circumstances and in view of the nature of controversy, the writ petition is disposed of, directing the respondents herein to refer the paper for re-verification to another expert to re-verify the petitioner's paper and after re-verification the respondents herein shall take appropriate action, in accordance with law, on the report to be submitted by the said expert and communicate the same to the

petitioner herein. This exercise shall be completed within a period of one week from the date of receipt of a copy of this order. However, this order shall not be treated as precedent as it is passed in peculiar facts and circumstances. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending in this Writ
Petition shall stand closed.

A.V. SSHA SAI, J

July 22, 2015

Note: Furnish CC in
two days. B/o.Pn

THE HON'BLE SRI JUSTICE A.V. SETHA SAI

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