

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 105 of 2016

- Gagan Agrawal S/o Santosh Agrawal, Aged About 17 Years Through Natural Guardian Father Santosh Agrawal S/o Late Gajanand Agrawal, Aged About 45 Years, R/o Post Salhewara, P.S. Salhewara, District Rajnandgaon Chhattisgarh

---- Petitioner

Versus

1. Chhattisgarh Board Of Secondary Education Through The Secretary, Pensionbada, Raipur Chhattisgarh
2. The Incharge Officer, C.G. Board Of Secondary Education Pensionbada Raipur Chhattisgarh

---- Respondent

For Petitioner
For Respondents

Mr. Abhishek Pandey, Advocate
Mr. Alok Bakshi, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

18/1/2016

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

(2) The petitioner has appeared in the Class XII examination conducted by the Chhattisgarh Board of Secondary Education in the year 2015. He obtained 443 marks out of 500 marks in 5 subjects namely Hindi (Special), English (General), Physics, Chemistry and Mathematics. After declaration of the result, the petitioner applied for revaluation in the subject of Hindi (Special), English (General) and Mathematics. In all the three subjects, there was some change in the marks obtained, however, the increase was less than 10% in each of the subjects, therefore, under the Rules, the correct mark sheet was not

issued to the petitioner.

(2) Mr. Pandey, learned counsel for the petitioner, would argue that any change in the marks obtained should have been reflected by issuing a fresh mark-sheet.

(3) Mr. Bakshi, learned counsel for the respondents, would refer to the order passed by the Division Bench of this Court in the matter of **Rahul Chandrakar (Minor) Vs. State of Chhattisgarh and another** , where, similar petition (WPC No. No.2352 of 2015) has been dismissed by the Division Bench.

(4) In the matter before the Division Bench, the action of the respondent -Board in not issuing the fresh mark sheet, because, the change in marks was less than 10%, was under challenge. Negating the contention that the action of Board is illegal or *ultra vires*, this Court has observed thus in para 5 & 6 :

“5. Once the Petitioner applied for re-evaluation under the notification dated 1.4.2013 as it stood, re-evaluation has been done, no allegations have been made against the two re-evaluators, we concur with the contention of the Advocate General that the Petitioner can be permitted to approbate and reprobate.

6. In academic matters, the academicians are the best judge with regard to what are the appropriate marks to be given for answers. The fairness on part of the Respondents is evident from their conduct in having enhanced the marks after re-evaluation, the benefit of which could not unfortunately flow to the Petitioner because of the conditions stipulated in the notification dated 1.4.2013. The caution to be exercised by the Court in unnecessarily interfering with academic matters relating to award of marks was considered in (2014) 14 SCC 523 (Central Board of Secondary Education through Secretary, All India Pre-Medical/Pre-Dental Entrance Examination V.

Kushboo Shrivastava) observing as follows :-

“11. In our considered opinion, neither the learned Single Judge nor the Division Bench of the High Court could have substituted his/its own views for that of the examiners and awarded two additional marks to Respondent No.1 for the two answers in exercise of powers of judicial review under Article 226 of the Constitution as these are purely academic matters. This Court in *Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupeshkumar Sheth* [(1984) 4 SCC 27] has observed :

29.As has been repeatedly pointed out by this Court, the Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day-to-day working of educational institutions and the departments controlling them. It will be wholly wrong for the court to make a pedantic and purely idealistic approach to the problems of this nature, isolated from the actual realities and grassroots problems involved in the working of the system and undmindful of the consequences which would emanate if a purely idealistic view as opposed to a pragmatic one were to be propounded.”

The reasons for which similar writ petition has been rejected by the Division Bench applies to this writ petition also.

(5) For the foregoing, there is no substance in the writ petition, it fails and is hereby dismissed.

Sd/-

Judge

(Prashant Kumar Mishra)

