

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE V.PARTHIBAN

Writ Appeal No.1233 of 2016
and
C.M.P.Nos.15874 and 15875 of 2016

1. The State of Tamil Nadu,
Rep. by Secretary to Government,
Higher Education Department,
Fort St.George, Secretariat,
Chennai-600 009.
 2. The Member Secretary,
State Board of School Examinations,
(Higher Secondary),
Chennai, Tamil Nadu.
 3. The Director of Government Examinations,
Directorate of Government Examinations,
Higher Secondary Examinations,
Chennai-600 006. .. Appellants
- Vs.
- T.Refakath Muhaideen .. Respondent

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 31.08.2016 passed by the learned single Judge of this Court, in W.P.No.27789 of 2016.

W.P.No.27789 of 2016:- Petition presented to this court to issue a writ of mandamus Directing the respondents herein to forthwith re-value the petitioners Answer sheet in respect of Physics Paper in the Higher Secondary Examinations held in March 2016 under Examination Roll No.373343 and award 3 additional marks.

For appellants: Mr.K.Venkataramani, Addl. Advocate General,
assisted by Mr.R.Prathap Kumar, Addl.G.P.

For respondent : Mr.AL.Ganthimathi

JUDGMENT

(The Judgment of the Court was delivered by Huluvadi G.Ramesh,J)

This Writ Appeal is filed against the order dated 31.08.2016 passed by the learned single Judge of this Court, in W.P.No.27789 of 2016, in and by which, the learned single Judge has partly allowed the Writ Petition filed by the respondent herein.

2. The first respondent herein filed the Writ Petition to direct the appellants herein to forthwith re-value his answer sheet in respect of the Physics Paper in the Higher Secondary Examinations held in March 2016 under Examination Roll No.373343 and to award 3 additional marks. After hearing the learned counsel for both parties, the learned single Judge partly allowed the Writ Petition, directing as follows:

"8. In the result, this Writ Petition is partly allowed and the third respondent is directed to award one mark to the petitioner in respect of Question No.37 and re-issue the mark sheet after making necessary corrections forthwith and the Secretary, Selection Committee, Directorate of Medical Education, No.162, Periyar E.V.R.High Road, Kilpauk, Chennai-600 010, is directed to permit the petitioner to participate in the ongoing counselling being held, without prejudice to the rights of other eligible candidates falling under the said category and if he is found eligible, shall pass appropriate orders and communicate the same to the petitioner. No costs. Consequently, connected miscellaneous petition is closed."

Challenging the above said order, the appellants/State has preferred this Writ Appeal.

3. Heard the learned Additional Advocate General appearing for the appellants/State and the learned counsel for the respondent/caveator.

4. It appears that the respondent/writ petitioner, who applied for re-valuation of the Physics Paper, was awarded two marks instead of five marks. But according to the learned Additional Advocate General, the answer which was given by the writ petitioner to Question No.37, is not similar to the key answer and as such, two marks should not have been awarded, when it is found otherwise not correct. However, learned counsel for the respondent/writ petitioner submitted that the learned single Judge, having noted the fact that the writ petitioner has understood the question and answered by not using one word which was otherwise found to be correct, and as such, in the re-

valuation process, while withdrawing the three marks, two marks were awarded, for which, explanation was also given.

5. The writ petitioner has also been now admitted in the Medical College based on the marks awarded in the re-valuation and at this stage, the State is of the apprehension that for the wrong answer, even if one mark is awarded, that would become a precedent for all the other candidates, so that there will be number of students falling in the queue to seek similar remedy and it works out hardship for the State.

6. The learned single Judge has given the following reasonings in paragraph 7 of the order:

"7. A perusal of the answer given by the petitioner to Question No.37 would indicate that except writing the word "by changing", the petitioner has given the correct answer. The purpose of the examination is to test the skill of a student to find out whether he understood and grasps the subject and write the answers correctly and properly and testing the case of the petitioner from that angle coupled with the observations of the Hon'ble Supreme Court of India in AIR 1986 SC 391 (cited supra) (Forward Construction Co. Vs. Prabhat Mandal), so far as the answer given by the petitioner to Question No.37 is concerned, there is no much difference by using the words "by increasing" and "by changing". Therefore, in the considered opinion of the Court, the petitioner is entitled to at least one mark so far as the answer given to Question No.37 is concerned. Admittedly, the rest of the answers are found to be correct."

7. The above reasonings given by the learned single Judge clearly depicts that the candidate has understood the question and answered it. But, awarding one more mark is of no use, as the entire marks cannot be taken away, rather he could have been awarded one more mark in the re-valuation. Such being the case, neither it becomes a precedent, nor it would secure any interest for any other person to seek similar relief on the basis of the marks awarded to the writ petitioner by the evaluator in the re-valuation process.

8. In that view of the matter, we find no scope for interference in the special facts and circumstances of the case, when the learned single Judge has noted that, almost, the answer nearer to the key answer is given, and such being the case, the question of somebody else seeking similar remedy, does not arise.

9. With the above observations, the Writ Appeal is disposed of. However, it is made clear that the impugned order passed by the learned single Judge would not be a precedent for any other case. No costs. C.M.Ps. are closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

cs

Copy to

1. The Secretary to Government
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Chennai-600 006.

1 cc to M/s.A.L. Gandhimathi, Advocate, sr. 59407

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