

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.3366 of 2016
Decided on :15.09.2016

Tarkjot Kaur ... Petitioner

Versus

State of Punjab & others ... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr.Anil Kumar Garg, Advocate, for the petitioner.

Ms.Lavanya Paul, AAG, Punjab.

Mr.Divanshu Chhabra, Advocate, for
Mr.Puneet Sharma, Advocate, for respondent No.4.

G.S. Sandhawalia, J. (Oral)

The petitioner seeks grant of appropriate marks, as per the original attempts made by her and by ignoring the forgery/interpolations in the answer-sheets (Annexures P2 & P3). Further direction has been sought for getting the matter enquired into by constituting a committee of responsible officers and for getting criminal case registered against the wrong doers and to grant an appropriate amount of compensation for mental harassment.

The case of the petitioner is that she sat in the matriculation examination in March, 2014 (Annexure P1) and secured 599 marks out of 650. She is aggrieved against the interpolations made in the English and Social Studies answer-sheets, in which she secured 86 and 75 marks, respectively.

From a perusal of the record, it would be clear that she had applied for rechecking but the result remained the same and on not being satisfied, she applied for supply of the answer-sheets, which she received on 16.10.2014. Resultantly, vide application dated 22.12.2014 (Annexure P4), she requested that her original answer-sheets be got checked by some Forensic Laboratory, on account of the fact that extra spellings had been put in the word in her answer-sheets to get the meaning wrong. A reminder was also issued on 22.01.2015 (Annexure P5) to the respondent-Board. The present writ petition was, thereafter, filed, which was listed for the first time on 19.02.2016. In the meantime, as per the decision of the respondent-Board, the original answer-sheets were destroyed, vide order dated 23.09.2015 (Annexure R2/2), which would be clear from the reply filed by the Board. As per the said decision, the record upto the year 2015 was to be declared as useless and destroyed, accordingly.

The respondent-Board, in its reply, submitted that the present writ petition was filed after 1 ½ years, i.e., on 16.02.2016 and reference to CWP-19317-2014 (Annexure P6) was distinguished on the ground that in the said case, the Board had preserved the entire examination record. It is, accordingly, justified that the answer-sheets are to be preserved only for 2 months, as per the notification dated 20.04.2012 (Annexure R2/1 Colly.)

Counsel for the petitioner has vehemently argued, while placing reliance upon Annexure P6, that the petitioner is similarly placed and therefore, rechecking should be done and marks be granted, accordingly and compensation be granted.

A perusal of the order dated 01.02.2016, passed in CWP-19317-2014 titled *Manjot Kaur Vs. State of Punjab & others*, would go on to show that the original answer-sheet was produced and a finding was recorded that there was tampering by awarding either '0' or lesser marks and in the opening sheet, there was tampering. The Board also, in its affidavit filed, fixed the responsibility upon one Sub-Examiner and the Chief-Examiner and they were barred from any remunerative work of the Board permanently. It was, in such circumstances, compensation of Rs.50,000/- had been imposed. In the said case also, the marks had been re-evaluated and the petitioner had got 65 marks against 29 marks, awarded earlier.

In the present case, as noticed, the petitioner has approached this Court after inordinate delay. In the meantime also, the original answer-sheets had been destroyed, as per the instructions. The argument of counsel for the petitioner that tampering could be seen even from the naked eye and it was done by some other person, cannot be gone into by a writ Court. It is settled position that disputed questions of fact are not to be decided under Article 226 of the Constitution of India. This exercise would be even more dangerous in the absence of the original answer-sheets. In such circumstances, there is no scope for issuance of any directions, as prayed for. Accordingly, the present writ petition is, hereby, dismissed.

SEPTEMBER 15th, 2016

sailesh

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No

**(G.S. SANDHAWALIA)
JUDGE**