

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.693 of 2016

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Vedika Parashar, D/o Mrityunjay Kumar, resident of B/201, Hari Om Apartment (Near Narmada Apartment) Exhibition Road, Patna 800001, through her father Mrityunjay Kumar son of Late Suresh Prasad Singh, Resident of B/201, Hari Om Apartment (Near Narmada Apartment) Exhibition Road, Patna 800001.

.... Petitioner- Appellant/s

Versus

1. The Council For the Indian School of Certificate Examination through its Chief Executive and Secretary having its Office at Pragati House, 3rd Floor, 47-48, Nehru Place, New Delhi 110505.
2. The Chairman, Council for the Indian School Certificate Examination, having its office at Pragati House, 3rd Floor, 47-48 Nehru Place, New Delhi 110505.
3. The Executive Officer cum Secretary, Council for the Indian School Certificate examinations, having its Office at Pragati House, 3rd Floor, 47-48 Nehru Place, New Delhi 110505.
4. The Education Officer, CISCE, Paragati House, Nehru Place New Delhi.
5. Carmel High School, through its Principal, Bailey Raod, Patna- 800001.
6. The Principal, Carmel High School, Bailey Raod, Patna- 800001.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajan, Advocate
For the Respondent/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 16-05-2017

Re.: Interlocutory Application No.3738 of 2016

The delay in filing of this Appeal is condoned.

Interlocutory Application stands allowed.



Re.: Interlocutory Application No.3737 of 2016

This Interlocutory Application has been filed with a prayer for prosecution of the matter by the appellant herself as the appellant has attained majority. The appellant is allowed to prosecute the matter.

Interlocutory Application stands allowed.

Re. : Letters Patent Appeal No.693 of 2016

In dismissing the writ petition filed by the petitioner on account of the fact that there is no statutory provision for re-evaluation, the learned Writ Court has not committed any error. Apart from the aforesaid, we find that the petitioner was a student who had appeared in Class-XII Examination conducted by the Council for the Indian School Certificate Examination and *inter alia* contending that in Science subjects, she has received less marks than expected, the writ petition was filed and prayer made that the answer books should be summoned by the Court and they should be re-evaluated or re-checked by the independent examiner. For seeking such a benefit, neither any statutory rule providing for the same or any legal right available to the petitioner to seek such a remedy is available on record.

It is a well settled principles of law that re-evaluation or re-checking of an answer book cannot be done until a statutory rule governing the same provides for. Nothing is brought to the notice of the Court that the statutory rule so provides. Be that as it may, in view of



the judgment rendered by the Supreme Court in the case of **Central Board of Secondary Education and Another Versus Aditya Bandopadhyay and others** [(2011) 8 SCC 497], the petitioner has a right to call for the answer book under the Right to Information Act, obtain it and thereafter demonstrate before the competent authority the callousness, negligence or error, if any, in the evaluation of the answer book and if that be done and thereafter the authorities do not consider the grievance of the petitioner, a cause may accrue to the petitioner to ventilate the grievance by filing a writ petition. Until and unless there is *prima facie* material available on record to show that there is error in evaluation of the answer book, a Writ Court cannot exercise its extraordinary jurisdiction and grant relief to the petitioner.

Accordingly, in the facts and circumstances of the case, we are not inclined to interfere into the matter. The petitioner may take recourse to the remedy available under the Right to Information Act, seek answer book from the competent authority and thereafter proceed to take action in accordance with law, in case, she has any grievance still subsisting after receipt of the answer book. If the petitioner files an application for re-checking of the answer book and if the statutory rule contemplates a provision for re-checking, the petitioner may take recourse to the said remedy also.



With the aforesaid liberty to the petitioner, the matter stands disposed of.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	

