

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4654 OF 2017

Pratyush Priyadarshi .. Petitioner
Versus
The State of Maharashtra through
Principal Secretary & Ors. .. Respondents

Mr. Nikhil Wadikar i/b. RMG Law Associates for petitioner
Mr. S.L.Babar, AGP for respondent No.1
Mr. B.B.Sharma for respondent No.2 NCERT

CORAM : V.M.KANADE &
C.V.BHADANG, JJ.

DATE : 2nd May 2017.

P.C.

1] Heard learned Counsel for the petitioner and learned Counsel for respondent No.2. By this petition filed under section 226 of the Constitution of India, the petitioner is seeking following reliefs:-

“(a) that rule be issued;

(b) that this Hon'ble Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction calling for the record and proceedings of the answers sheet of the

petitioner from respondent Nos. 3 and 4 and after examining the legality, validity, propriety and correctness thereof, be pleased to direct and order respondent Nos. 3 and 4 to recheck the answer manually and then declare the result of the petitioner;

(c) That this Hon'ble Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction directing respondent Nos. 3 and 4 to give all the benefits and other incentives to the petitioner, if he is found entitle.”

2] The petitioner is a student of 10th standard in Delhi Public School, Nerul, Navi Mumbai and is pursuing his studies under CBSE curriculum. The petitioner appeared for National Talent Search Examination held on 6th November 2016. The result was declared on 3rd March 2017. The cut off marks for successful students was set at 115 marks and the petitioner has secured 114 marks and was declared unsuccessful. The petitioner, thereafter, on 4th March 2017 applied for a copy of answer sheets. The same were received by the petitioner on 25th March 2017.

3] It is the case of the petitioner that he has given 119 correct answers and for which he should secure 119 marks, which is well above the cut off limit of 115 marks. It is his further case that in the answer sheet of SAT, he had given 80 correct answers but he was

not granted five marks for five questions. Representation was made to the Commissioner of Maharashtra State Council for Examination to manually verify the answers and add the said marks to the petitioner's marks.

4] Since the request of petitioner was not accepted, the petitioner has approached this Court under Article 226 of the Constitution of India. Learned Counsel for petitioner invited our attention to photocopies of the answer sheet. It is submitted that five questions namely, at serial Nos. 36, 80, 81, 82 and 83, though, were answered correctly no marks are given. He submitted that, therefore, it was necessary to manually verify the said answer sheets.

5] On the other hand, learned Counsel for the respondent No.2 submitted that the petitioner had applied whitener on the earlier answers given by him and had rectified his answers thereafter. It is submitted that this is an admitted fact by the petitioner in para 8 of his petition.

6] It is further submitted that the instructions which are given

above the question paper clearly reveal that answers which are once recorded cannot be cancelled and if the response is recorded as correct answer no more than one bubble response scratch and overwriting will not be given any marks. Learned Counsel, therefore, submitted that these marks were rightly not given to the petitioner while assessing the petitioner's answer sheet.

7] There is much substance in the submission made by the learned Counsel for the respondent No.2. The instructions which are appearing on the question paper/ answer sheet and particularly instruction Nos. 6, 7 and 8 are very clear and they state that the answer once recorded cannot be cancelled; the response recorded on the answer sheet as mentioned therein will not be given any marks and the response recorded as correct answer in more than one bubble, response scratched and over written will not be given any marks.

8] The candidates were specifically given clear instructions not to scratch any answer. The fact that he has rectified five of his answers has been fairly admitted by the petitioner in para 8. The

said para reads as under:-

“8. The petitioner rectified 5 of his answers by applying whitener to the wrong answers which he had marked by way of inadvertent mistake. He then coloured the correct options. On account of applying whitener and redoing the correct answers for all such answers, the computer could not identify correct answers and have given NIL marks for such answers.”

9] In our view, the petitioner having scratched the response which was given by him and rectified his answer, is not entitled to get any marks for answering the said questions. The contentions of the petitioner, therefore, cannot be accepted. There is no substance in the submissions made by learned Counsel for petitioner. There is no provision of manually checking the answer sheets. If such a request is granted, then, thousands of people will again apply on that ground. We are, therefore, not inclined to entertain this petition. The petition is disposed of accordingly.

(C.V.BHADANG, J)

(V.M.KANADE, J.)