

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1269 of 2017

IN

Civil Writ Jurisdiction Case No. 17961 of 2016

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Kritichandrayan, D/o Vibhuti Pandey, resident of Village- Chand, P.O.- Chand,
District- Kaimur(Bhabua).

.... Petitioner/Appellant

Versus

1. The State of Bihar through Secretary, Secondary Education, Patna, Bihar.
2. The Chairman, Bihar School Examination Board, Patna.
3. The Secretary, Bihar School Examination Board, Patna.
4. The Principal, Gandhi Smarak High School Chand, P.S.- Chand, District- Kaimur.

.... Respondents/ Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Ravi S Sahay Mr. Ajay Nandan Sahay
For the State	:	Mr. A R Pandey, AAG 15
For BSEB	:	Mr. Amarendra Kumar

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 18-01-2018

Seeking exception to an order passed by the learned
Writ Court on 10.08.2017 in CWJC No. 17961 of 2016 this appeal
under Clause 10 of the Letters Patent has been filed.

Petitioner was a candidate who had appeared in the
Matriculation examination conducted by the Bihar School
Examination Board in the year 2015. It seems that the result of the
examination was declared and mark-sheet was supplied to the
petitioner on 20th June, 2015. According to the petitioner, in the



subjects of Hindi, Sanskrit and Science she was awarded less marks. It was her contention that she had a very extra-ordinary academic career. in the past, she had received very higher marks and in examination in question as she has received less marks she sought for revaluation.

Records indicate that the prayer for revaluation was made much after delay and, therefore, the learned Writ Court dismissed the writ petition on two counts – (i) that the examination was held in the year 2015, the result was declared in June, 2015 and the petitioner approached this Court in the year 2016 for revaluation when the answer sheets could not be available, and (ii) that rule does not permit revaluation. Therefore, this Court cannot direct for revaluation.

In our considered view, the learned Writ Court has not committed any error in dismissing the writ petition. It is well settled principle of law that revaluation of answer-book is not a matter of right. It is based on statutory rules framed by the Statutory Examination Board and until and unless statutory provisions are available for revaluation, the Court cannot direct revaluation merely on the asking. There may be extra-ordinary circumstances brought about on record by sufficient material to show that there has been error, negligence or callousness in the evaluation done and, therefore, revaluation is sought for. In the absence of there being specific material available on record to shows that there is error in the



evaluation done revaluation cannot be permitted merely because a candidate is dissatisfied with the marks received. Absence of fair play in evaluation cannot be inferred ; this can be inferred only if pleadings and material available on record to show that there has been error or illegality in the evaluation committed. In this regard, the observations made by the Hon'ble Supreme Court in the case of **Maharashtra State Board of Secondary and Higher Secondary Education vs. Paritosh Bhupeshkumar Sheth [(1984) 4 SCC 27]** may be taken note of , wherein in Paragraphs – 28 and 29 the Supreme Court has dealt with the issue in the following manner:-

“28. As pointed out by a Constitution Bench of this Court in [Fatehchand Himmatlal and Ors. v. State of Maharashtra](#), etc. "the test of reasonableness is not applied in vacuum but in the contest of life's realities", 1977 (2) SCR 828. If the principle laid down by the High Court is to be regarded as correct, its applicability cannot be restricted to examinations conducted by School Educational Boards alone but would extend even to all competitive examinations conducted by the Union and State Public Service Commissions. The resultant legal position emerging from the High Court Judgment is that every candidate who has appeared for any such examination and who is dissatisfied with his results would, as an inherent part of his right to 'fair play' be entitled to demand a disclosure and personal inspection of his answer scripts and would have a further right to ask for revaluation of his answer papers. The inevitable



consequence would be that there will be no certainty at all regarding the results of the competitive examination for an indefinite period of time until all such requests have been compiled with and the results of the verification and revaluation have been brought into account,

29. Far from advancing public interest and fair play to the other candidates in general, any such interpretation of the legal position would be wholly defeasive of the same. 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 grass root problems involved in the working of the system and unmindful of the consequences which would emanate if a purely idealistic view as opposed to a pragmatic one were to be propounded. It is equally important that the Court should also, as far as possible, avoid any decision or interpretation of a statutory provision, rule or bye-law which would bring about the result of rendering the system unworkable in practice. It is unfortunate that this principle has not been adequately kept in mind by the High Court while deciding the instant case.”

If we analyze the law in the aforesaid judgment laid down



by the Supreme Court, it is very clear that by making a general and vague allegation that there is absence of fair play in evaluation the answer-book indulgence cannot be made by this Court. The normal rule is that the Board is deemed to have conducted its affairs, i.e. holding examination and evaluation of papers in a fair and reasonable manner until and unless in a particular case specific material show prima facie that an error has been committed in evaluation or the evaluation has been done in a careless and negligent manner is established, merely on vague and unspecified allegation of error in evaluation of answer-book a Writ Court cannot issue a mandamus and direct for revaluation when the rule do not permit. Exceptional circumstances based on prima facie material available should be brought to the notice of the Court for making such indulgence.

In our considered view, in the present case, apart from the fact that consideration made by the learned Writ Court is absolutely correct and in conformity with the requirement of law, we find that in the pleadings and the material adduced before the Writ Court and even now in this appeal before this Court the petitioner has not demonstrated by producing sufficient material, prima facie in nature to draw a conclusion that there is some illegality, error or negligence in evaluation the answer-books of the petitioner. Except for contending that the petitioner had a very excellent and unblemished



academic career in past and she has done very well in the present examination and received marks less than expected by her there is no iota of proper material to indicate that on what basis such assumption is made. Mere vague and unspecified allegation of error in evaluating the answer-books cannot be a ground for invoking writ jurisdiction of this court and if the law laid down by the Supreme Court as indicated hereinabove is applied and in the backdrop of the public policy and various other factors of law and the fair play detailed therein, we see no error or no cause is made out for making indulgence in the matter.

The appeal is, therefore, dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

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