

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5217 of 2018

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Sahil Raj, son of Shri Ayodhya Prasad Singh, resident of village Bhokhari,
P.O. Bisodihari, P.S. Karaghar, District Rohtas

... .. Petitioner/s

Versus

1. Aryabhatta Knowledge University, Mithapur, Patna, through its Vice-Chancellor
2. The Vice-Chancellor, Aryabhatta Knowledge University, Mithapur, Patna
3. The Examination Controller, Aryabhatta Knowledge University, Mithapur, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sandeep Kumar
		Mr. Vivekanand Singh
For the Respondent/s	:	Mr. Awadhesh Kumar

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

5 05-04-2018 Heard learned Counsel for the parties concerned.

2. The petitioner is a student of MBBS course, pursuing his studies in Vardhman Institute of Medical Sciences, under the Aryabhatta Knowledge University, Patna. In the 2nd Professional MBBS examination, he has been awarded 09 out of 40 marks, in Pharmacology Paper I. It is his grievance that he had performed well in the examination and he could not have secured less than 17 marks in the said paper. He has obtained a copy of his answer-sheet of the said paper under the Right to Information Act (RTI), which has been brought on record by way of Annexure-3 to the supplementary affidavit. With reference to the answer-sheet, it is being asserted that there is no



sign of evaluation, evident from the same. The petitioner accordingly seeks a direction to the Respondent-University to re-check and re-evaluate the answer-sheet of the Pharmacology Paper I (Supplementary of 2nd Professional MBBS examination, 2016 (second) held by the Aryabhatta Knowledge University by any other examiner. Since upon perusal of a copy of the answer-sheet, the Court had found, *prima facie*, that the same did not show any sign of evaluation by an expert, this Court had directed the Examination Controller, Aryabhatta Knowledge University, Patna, to be personally present in Court to demonstrate the manner of evaluation of the answer-sheets. The Examination Controller is present.

3. A counter affidavit has also been filed on behalf of the University, explaining that the answer-sheets are these days being digitally evaluated by the University through Examination Management System (EMS). The method has been explained in paragraph 18 of the counter affidavit, which reads thus:-

Digital Valuation Process (DVS)
through Examination Management
System (EMS)

i. After the examination, the Answer-Books are received at the centralized in-house Digital Evaluation Center.



ii. Thereafter, the Answer-Books are scanned, through scanner and converted into Encrypted Digital Format.

iii. The Encrypted Digital Format Answer-books are then assigned to the concerned Evaluator.

iv. The concerned Evalutaor have their own user id and password.

v. While examining the Encrypted Digital Format Answer books, the concerned Evaluator can see on the system/computer screen, the Encrypted Digital Format Answer-Books at left side, number of questions with text box for assigning marks question wise at the top right and question papers, answer key at bottom of the right side.

vi. The first page of the Answer Sheet is masked, because its contain the information of the student.

vii. Evaluator can put right symbol, wrong symbol, question marks and right comment at this screen question wise. The hard copy of the answer sheets are not provided to the Examiners.

viii. Without examining every page, the Evaluator cannot complete



the evaluation process.

ix. Evaluator cannot give more than maximum marks in the questions.

x. After evaluation, Evaluator can submit the answer book to finalize the evaluation process.”

4. This is to be noted that there is no allegation of any *mala fide* against anyone, leading to marks awarded to the petitioner in the concerned paper which, accordingly to him, is less than his expectation. There is no provision under the Statutes of the University for re-evaluation. The method adopted by the University noticed in the preceding paragraph cannot be said to be defective or lacking in transparency.

5. It is the case of the University that a Committee of six members had examined certain applications making complaints against improper evaluation of their answer-sheets, including the one made by the petitioner. In respect of two, the Committee found a need for review of answer-sheets by the same examiner, but in respect of two other candidates, including the petitioner, the Committee found that no action was required, after having perused the answer-sheets.

6. At this stage, learned counsel for the petitioner has drawn my attention to Annexure-B, which is the resolution of



the said Committee, whereunder the case of the petitioner has been disposed of with the observation 'No action is required'.

7. Mr. Sandeep Kumar, learned Counsel for the petitioner, contends that it cannot be deciphered from the said resolution as to how the Committee decided to get the answer sheets reviewed in two of the cases and no action was required in the case of other two, including this petitioner. It is his plea that he has got informally assessed his answer sheet, which he had obtained under Right to Information Act, by an Expert in Pharmacology, on the basis of which he is sure that he deserves much more than what has been awarded to him.

8. The scope of judicial review, in such matters, is very limited. The Court cannot sit as an appellate authority over the decision of the Experts. There is no statutory provision, which mandates the University to undertake re-evaluation of an answer sheet. However, under Article 21 (d) of the Statutes of the University, the Vice-Chancellor is empowered to order for re-evaluation of the answer books, if he is satisfied that the evaluation of the answer book has not been done fairly or evaluation has been done in violation of the provisions of the Statutes/Regulations/Ordinance/Rules.

9. The Examination Controller has informed this



Court that the Vice-Chancellor himself is a Professor of Neurosurgery. Under the Statutes, he could exercise the discretion of referring the petitioner's answer book to an Expert for the purpose of re-evaluation in terms of Article 21 (d) of the Statutes.

10. In the facts and circumstances of the case, I dispose of this writ application with a direction to the Vice-Chancellor of the Aryabhatta Knowledge University, Patna, to consider the case of the petitioner for sending the answer sheet, in question, for re-evaluation to an Expert of Pharmacology, who should be preferably other than the person who had earlier evaluated the same.

11. The Court directs the Vice-Chancellor of the University to complete the entire exercise as expeditiously as possible, but in no case, beyond period of two weeks from the date of receipt/production of a copy of this order.

Prabhakar Anand/-

(Chakradhari Sharan Singh, J)

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