

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.17317 of 2018
Date of Decision:08.08.2018

Shreaya Kataria

. Petitioner

Vs.

Controller of Examination, Central Board of School Education and another

. Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Rajesh K. Sehoran, Advocate,
for the petitioner.

Mr.N.K. Setia, Advocate,
for the respondents.

RAKESH KUMAR JAIN, J.

The petitioner appeared in the examination of Class 10+2 conducted by the Central Board of Secondary Education [for short 'the CBSE'] in April 2018. She was awarded 88 marks in the subject of Legal Studies. The petitioner was not satisfied with the marks awarded to her for that subject, therefore, she applied for verification of the marks on 1.6.2018 after depositing the requisite fee but according to the CBSE no mistake was found.

Thereafter she obtained photocopy of the re-evaluated answer-sheet by making an application on 15.6.2018 along with requisite fee. Thereafter she applied for re-evaluation of answer-sheet but no mistake was found in the result declared online on 11.7.2018 after re-evaluation. The grievance of the petitioner was in regard to 10 questions for which she had applied for re-evaluation, namely, questions No.5, 8, 17, 21, 23, 24, 25, 27,

28 and 29. She was awarded 'zero' marks for questions No.5 & 8 though the said questions carried maximum 1 mark each.

In the reply filed by the respondents, it is admitted that the petitioner should have been awarded marks in question No.5 & 8 which has per chance escaped the notice of the examiner but now she has been awarded 2 marks towards the correct answers of questions No.5 & 8 which carried 1 mark each. It is further stated that re-evaluation of questions No.23 & 24 does not arise because both the questions carries 5 mark each and the petitioner has already been awarded 5 out of 5 marks. Regarding the rest of the questions, it is submitted that the answer to these questions are subjective in nature and marks have been awarded by the examiner as per the marking scheme, as per his wisdom, and full marks, as has been prayed by the petitioner, could not have been awarded. It is also submitted that the examiner has to evaluate 100 of such answer-sheets and in the process of maintaining proportionality of his discretion in award of marks, this Court may not sit in the arm-chair of the examiner and take a different view because in all such examinations, the examiner is the expert, who alone is best equipped to award marks.

Learned counsel for the petitioner has vehemently argued that the answer to the rest of the questions, which were subjective as per the answer key, have rightly been given by the petitioner and as such she is entitled to full marks.

I have heard learned counsel for the parties and after examining the record, am of the considered opinion that there is no error on the part of the respondents because in case of subjective questions for which the answer key is provided, some room is kept for the discretion of the examiner, who

which could not be replaced by this Court, on the asking of the petitioner unless there is an allegation of *mala fide* on the part of the examiner by the petitioner.

In view thereof, there is hardly any merit in this petition for the purpose of interference and thus the same is hereby dismissed.

08.08.2018

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking /reasoned : *Yes/No*

Whether Reportable : *Yes/No*