

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8080 of 2020

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1. Niraj Singh Son of Kalendra Prasad Singh, Resident of Village-Balbhadrapur Laheriasarai, P.S.-Laheriasarai, District-Darbhanga.
 2. Krishnanand Tirthankar, Son of Kalikant Jha, resident of Village Gandhinagar, P.S. Khazanchi Hat, Post Purnea, District Purnea
 3. Dr. Ketan Kumar, son of Surendra Prasad Choudhary, resident of mohalla Vivek Vihar, Road No. 3, Hanuman Nagar, P.S. Patrakar Nagar, Kankarbagh, Patna

... .. Petitioner/s

Versus

1. Aryabhatta Knowledge University Mithapura, 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

Appearance :

For the Petitioner/s : Ms.Bela Singh
For the Respondent/s : Mr. Priyank Deepak

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 08-10-2020 Heard learned counsel for the parties.

2. These three petitioners are pursuing their M.S. (Orthopedic) course in Darbhanga Medical College. They have approached this Court seeking consideration of their grievances for re-evaluation of their answer sheets of the Post Graduate Examination conducted by University in June 2020 in which they have been declared fail. It is their case that they have failed by a small margin in theory paper.

3. It is pleaded in the writ application that petitioner no. 1 scored altogether 182 marks out of total 400 in four theory



papers. He scored 36 in Paper-I, 42 in Paper-II, 40 in Paper-III and 64 in Paper-IV (total 182). Petitioner no. 2 is said to have scored 163 out of 400, whereas petitioner no. 3, 158 out of 400. Though it has not been specifically averred in the writ application as to what is the pass marks, it has been informed at the Bar that 50% in each paper is the pass marks.

4. It appears that the petitioners had approached the Vice-Chancellor of Aryabhatta Knowledge University, Patna which had conducted the examination, for re-evaluation. The Vice-Chancellor has jurisdiction to order for re-evaluation of answer sheet in appropriate cases. The representations of these petitioners have been rejected by the Vice-Chancellor and said decision has been communicated separately to these petitioners through letters dated 15.09.2020. The said communications have been sought to be challenged in the present proceeding by seeking amendment through I.A. No. 01 of 2020.

5. Considering the fact that the relief, which the petitioners are seeking by amendment, is integrally connected with the main relief, I.A. No. 01 of 2020 is allowed. The petitioners are, thus, permitted to challenge the communications dated 15.09.2020 whereby their representations for re-evaluation of answer sheets have been rejected.



6. The petitioners have asserted in the writ application that they were rendering services continuously in their hospitals during Covid-19 pandemic and they were assured by the College that the examination would be conducted after three months but all of a sudden, on account of an advisory issued by the Medical Council of India directing the institutions to complete their entire examination process by June 2020, the examination was conducted on short notice. They have further stated that after publication of their results, whereby they were declared failed, they obtained web copies of the marksheets under the Right to Information Act and after going through the same they could understand that the marks allotted to them were not in consonance with their actual performance.

7. The Court takes note of two aspects of the matter at this stage. Firstly, the petitioners' averment that they were expecting the examination to be held on a later date and the examination was held hurriedly under the direction of Medical Council of India, is in the nature of explanation for their poor performance in the examination. Further, their claim that less marks have been awarded to them than they actually deserve on the basis of their performance, is completely vague.

8. Petitioners have referred to Article 21(d) of the statute



of the University which confers jurisdiction on the Vice-Chancellor of the University to take a decision for re-evaluation of an answer sheet in appropriate cases. In the present case, the Vice-Chancellor has considered the representations and rejected them as has been noticed above.

9. While rejecting the representations of the petitioners, the Vice-Chancellor has recorded as follows :-

“On appreciation of your answer books no case of re-evaluation is made out since during the scrutiny of your answer books it has not been found that evaluation of your answer books has not been fairly done or evaluation has been done in violation of the provisions of the statute, regulation, ordinance or rules”.

10. Mr. Anil Kumar Singh, learned counsel appearing on behalf of the petitioners has argued that the decision of the Vice-Chancellor does not disclose proper application of mind and according to him the representations have been rejected mechanically.

11. I have perused the representations submitted by the petitioners, which have been brought on record by way of Annexures. Except that they wanted re-evaluation of their answer sheets in their representations, no foundational fact has been mentioned in their representations as to why their answer



sheets were required to be reevaluated. In such circumstance, if the Vice-Chancellor has mentioned, referring to their respective answer sheets that they did not require re-evaluation for the reasons mentioned in the communication, in my opinion, no case for interference by this Court exercising power of judicial review under Article 226 of the Constitution of India is made out.

12. There is statement made in the writ application to the effect that altogether seven candidates of the Orthopedics Department had appeared in the Post Graduate Examination, out of whom only four have been declared 'pass' and the highest marks which has been awarded to one of the candidates is only 222. According to the petitioners, in such circumstance, they should be treated to have failed by a very small margin.

13. Break up of petitioner no. 1 paper wise has been given in the writ application. He has failed in three out of four papers. Whereas 50 is the 'pass' marks, he has scored 36 in first paper, 42 in second paper and 40 in third paper. In the fourth paper he has scored 64. Similarly, whereas pass marks is 200, petitioners no. 2 and 3 have scored only 163 and 158. They have not disclosed their subjectwise performance. In such circumstance, the plea that they failed by a small margin is not



acceptable to this Court.

14. In any view of the matter, the High Court exercising writ jurisdiction under Article 226 of the Constitution of India should refrain from directing the University to re-evaluate answer sheets unless any specific case is made out of exceptional circumstance requiring such interference, moreso when the University after considering the cases of the petitioners has found that no case for re-evaluation of their answer sheets was made out.

15. I, therefore, do not find any merit in this application. This application is accordingly dismissed.

(Chakradhari Sharan Singh, J)

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