

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 219 of 2020**

*{Arising out of order dated 28.11.2019 passed by the learned Single Judge in
Writ Petition (S) No. 523 of 2009}*

- Shrinivas Tiwari S/o Shyam Sundar Sharma Aged About 45 Years Occupation Service, Presently Posted As Additional District Judge (Ftc) Korba Chhattisgarh Having Permanent R/o Village Kolha, Post Office, Dhausar, Tahsil Hanumana, District Rewa M. P.

---- Appellant**Versus**

1. Ku. Preeti Rani Chouhan D/o Shri Roop Singh Chouhan Aged About 34 Years R/o Papiha Gift Corner, Sadar Bazar, Bilaspur, District Bilaspur Chhattisgarh.
2. State of Chhattisgarh Through The Secretary, Department of Law, D. K. S. Bhawan, Raipur Chhattisgarh.
3. High Court of Chhattisgarh Through Its Registrar General, High Court of Chhattisgarh, Bodri, Tahsil Bilha, District Bilaspur Chhattisgarh.

---- Respondents

For Appellant : Shri Rajeev Shrivastava, Advocate.
For Respondent/State : Shri Ghanshyam Patel, Government Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu, Judge
Judgment on Board

Per P. R. Ramachandra Menon, Chief Justice**03.03.2020**

1. The Appellant has moved this Court being aggrieved of the order dated 28.11.2019 passed by the learned Single Judge in Writ Petition (S) No. 523 of 2009, whereby the answer paper of the writ petitioner in respect of 'question No. 2' to extent as aggrieved was observed as not valued and hence was ordered to be sent for evaluation and to get the outcome for

deciding the course of action to be pursued in respect of the prayers raised in the writ petition. The matter was ordered be listed after getting the result thereafter.

2. Shri Rajeev Shrivastava, the learned counsel appearing for the Appellant submits that the Appellant is much prejudiced because of the course and events, particularly, with regard to the norms to be maintained with regard to evaluation of answer papers; the secrecy to be maintained and various other aspects, besides the judicial precedents on the point. The learned counsel further submits that, pursuant to the above direction the answer paper has been valued and '6' more marks have been awarded to the writ Petitioner; despite the fact that the contention raised by the Respondent-High Court was that because of nature of answer given, there was no chance to get a minimum of '6' more marks to the writ petitioner. The learned counsel submits that interference of this Court is necessary, in view of the specific direction given and the consequences resulted.
3. We heard the learned counsel for the Appellant as well as Shri Ghanshyam Patel, the learned Government Advocate representing the State.
4. On going through the order which is under challenge, it is clear that it is not the main relief as prayed for, but an 'interim order' observing that the particular question answered by the writ Petitioner was not evaluated. The said evaluation could not have been done by the Court itself, in view of the various rulings and the matter had to be referred to the expert i.e. the evaluator, which alone has been done. Whether the said marks are to be added; whether any legal impediment is there in this regard; whether the evaluation done is right; whether secrecy has been maintained;

whether it is in conformity with the binding precedents etc. are all matters to be decided after hearing both the sides, which is still to happen.

5. Insofar as the present order is concerned, it remains an 'interim order' and by virtue of proviso to Section 2(1) of the Chhattisgarh High Court (Appeal to Division Bench) Act, 2006, no appeal is maintainable against any interim order.
6. The scope and ambit of writ appeal against interlocutory order has been considered by a Full Bench of this Court in ***Ajay Gupta v. State of Chhattisgarh and Others***, reported in ***AIR 2017 Chh 45***, where it has been observed that, unless the order concerned is having finality with regard to the prayers sought for, it is not maintainable.
7. Insofar as the actual issue with regard to the claim raised by the writ petitioner is still to be decided by the learned Single Judge, we are of the view that no interference is warranted with regard to the said order passed by the learned Single Judge; as the appeal is not maintainable against the interlocutory order.
8. Accordingly, the application for condonation of delay as well as writ appeal stand dismissed, without prejudice to rights and liberties of the parties to address the Court where the issue is pending on all grounds including the factual as well as the legal points. We also make it clear that we have not expressed any opinion with regard to the merit of the order dated 28.11.2019 passed by the learned Single Judge.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge