



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.11.2020

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

WEB COPY

W.P. (MD) No.12929 of 2020

G.D.Rajasri Tigalya (Minor),
D/o.Dhakshinamoorthy,
Represented by her mother & natural guardian,
Geetha Govindan,
No.115A, Vadakku Manamelkudi,
Manamelkudi Taluk,
Pudukkottai District, Pin Code-614 620.

...Petitioner

-Vs-

1.State of Tamil Nadu,
Represented by its Principal Secretary,
Department of School Education,
Fort St. George, Chennai-600 009.

2.The Director of School Education,
O/o.the Director of School Education,
DPI Campus, Chennai-600 006.

3.The Director of Government Examinations,
DPI Campus, College Road, Nungambakkam,
Chennai-600 006.

...Respondents

(R3 is impleaded vide Court Order dated 02.11.2020 in W.M.P.(MD) No.12305 of 2020 in W.P.(MD)No.12929 of 2020)

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Declaration, declaring the revised Statement of Marks bearing T.M.R. Code No.A1808176, dated 08th September, 2020 issued by the second respondent without giving due importance or weightage or awarding marks to the answers given / written by the petitioner with respect to theory papers of English, Biology and Mathematics are arbitrary, unreasonable, illegal, void and unsustainable in law and consequently, directing the second respondent to re-evaluate the answer sheets of the petitioner's theory papers of English, Biology and Mathematics based on the answer key published by the second respondent and award proper marks for such answers given / written by the petitioner as in the answer keys and to issue revised mark sheet.

For Petitioner : Mr.T.Balakumaran
For Respondents : Ms.Lakshmi Prasanna,
Government Advocate



ORDER

This Writ Petition has been filed, seeking a declaration, declaring that the revised Statement of Marks bearing T.M.R. Code No.A1808176, dated 08th September, 2020 issued by the second respondent without giving due importance or weightage or awarding marks to the answers given / written by the petitioner with respect to theory papers of English, Biology and Mathematics are arbitrary, unreasonable, illegal, void and unsustainable in law and consequently, directing the second respondent to re-valuate the answer sheets of the petitioner's theory papers of English, Biology and Mathematics based on the answer key published by the second respondent and award proper marks for such answers given / written by the petitioner as in the answer keys and to issue revised mark sheet.

2.The sum and substance of the issue on hand is that the petitioner has written correct answers in English, Biology and Mathematics and that lesser marks have been awarded / no marks have been given for the right answer. According to the petitioner, for question Nos.9, 41 to 45 in English, full marks have got to be given, apart from awarding marks in Biology and Mathematics.

3.After notice, the third respondent has filed counter, contending that the petitioner has no right to seek for revaluation and that marks have been correctly awarded. After revaluation, marks have been granted and one more revaluation is not permissible. According to the respondents, in terms of G.O.Ms.No.77, School Education Department, dated 07.05.2001, mark awarded after revaluation is final and further request of the candidate to consider the case cannot be entertained. Hence, this Writ Petition has to be dismissed.

4.On going through the counter, the learned counsel appearing for the petitioner would submit that answer written to question Nos.41 to 45 in English and entire answers given in the Biology appear to be erroneous. In view of the mistakes committed therein, no marks have been awarded and she satisfied with those corrections made by the respondents. However, for question No.9 in English, marks have got to be awarded.

5.A glance of the answer sheet would make it clear that the petitioner has written option code as well as corresponding answer in English. Insofar as Mathematics is concerned, the petitioner has not written both option code and corresponding answer and according to the respondents, in view of the categorical instructions given in the question paper that both option code and corresponding answer have got to be written and that the petitioner has written only option code to question Nos.8, 10, 13, 15 and 19 and that the petitioner has made an attempt and secured one mark in question No.16. With regard to the question No.3, marks have been



awarded, since the petitioner has written both option code and corresponding answer.

6. According to the petitioner, as there are no Mathematics Teachers and that the students have not been instructed as to how to write examination by writing the question paper, mistakes have been committed and that for question No.16, the petitioner has written only answer in corresponding code for which mark has been awarded.

7. The contention of the respondents is that as per the instructions marks should have been awarded but for mere attempt mark has been awarded.

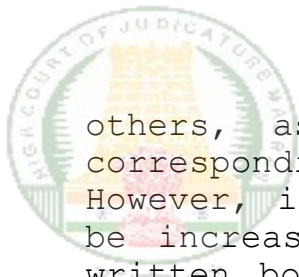
8. It is not in dispute that the petitioner has applied for revaluation and in the revaluation, marks have been granted. The petitioner has approached this Court for verifying answer sheet and awarding marks. Though G.O.Ms.No.77 is very specific that second revaluation is not permissible, the petitioner has not approached the authorities for second revaluation but has approached this Court to consider the case as according to the petitioner, the petitioner has written correct answers.

9. For the sake of convenience, Condition No.10 of G.O.Ms.No.77, School Education Department, dated 07.05.2001, is extracted below:-

“10.மறு மதிப்பீடு செய்து அறிவிக்கும் மதிப்பெண் / முடிவு இறுதியானது. அதனை எதிர்த்து / மறு பரிசீலனை கோரி மனு செய்தால் ஏற்றுக் கொள்ளப்படமாட்டாது.”

10. Though the petitioner has come forward with regard to the marks not awarded in English, Biology and Mathematics, since the petitioner has satisfied with the marks awarded with regard to question Nos.41 to 45 in English and also marks awarded in Biology, this Court is not going to dwell into those aspects. With regard to only one question in English, namely, question No.9 and with regard to Mathematics namely, question Nos.8, 10, 13, 15 and 19, though there is a specific instruction that both option code as well as corresponding answer have got to be given, the students have written the correct answer and marks need not be deprived. Hence, this Court is of the considered view that marks have got to be given to those questions, when a student has written option code and corresponding answer or any one of these two. Hence, the petitioner is entitled to mark for those questions.

11. However, merely because this Court has directed that marks have got to be granted to those answers, at the time of selection to any of the course for colleges, preference will be given to those candidates, who have written both option code and corresponding answer and the petitioner's case can be considered as a last option and the petitioner as a matter of right cannot seek preference over



others, as other students, who have written option code and corresponding answers together will not be put to any prejudice. However, it is made clear that though the petitioner's marks would be increased, she will not have any right over others, who have written both option code and corresponding answer. Revised marks can be given to the petitioner and in the mark sheet, number of this Writ Petition, order date and the reason for grant for marks may be mentioned, so that anybody can scrutinize the records, go through the order and will have a clear cut view of the same.

12. With the above observation, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Myr

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Principal Secretary,
State of Tamil Nadu, Department of School Education,
Fort St. George, Chennai-600 009.
2. The Director of School Education,
O/o. the Director of School Education,
DPI Campus, Chennai-600 006.
3. The Director of Government Examinations,
DPI Campus, College Road, Nungambakkam, Chennai-600 006.

+1 CC to M/s.GP (SR-21760[F] dated 10/11/2020)

Order made in
W.P. (MD) No.12929 of 2020
09.11.2020

NA (CO)

AP (08/12/2020) 4P 5C