

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8315 of 2019

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Deepak Kumar Son of Bhola Rai Resident of village- Narauli, P.S-
Mushahari, District- Muzaffarpur.-843119

... .. Petitioner

Versus

1. The Baba Saheb Bhimrao Ambedkar Bihar University Muzaffarpur through its Vice Chancellor.
2. The Vice Chancellor Baba Saheb Bhimrao Ambedkar Bihar University, Muzaffarpur.
3. The Chairman Examination Board, Baba Saheb Bhimrao Ambedkar Bihar University, Muzaffarpur.
4. The Controller of Examinations, Baba Saheb Bhimrao Ambedkar Bihar University, Muzaffarpur.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr.Lakshmi Kant Tiwary,Advocate Mr.Nitesh Kumar, Advocate
For the Respondent/s	:	Mr.Sandeep Kumar,Advocate Mr.Indrajesh Kumar,Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
C.A.V JUDGMENT

Date : 10-03-2021

The writ application has been filed for the following reliefs:

- “(i) For direction to the respondents to publish the result of the petitioner of Bachelor of Science (Chemistry Honours) (hereinafter referred as B.Sc. (Hons.)).
- (ii) For direction to the respondents to re-evaluate the answer sheet after rechecking of the answer sheet of B.Sc. (Chemistry Honours) part II.
- (iii) For direction to the respondents to recheck the answer sheet of paper IV of B.Sc. (Chemistry Honours) part II on the basis of the question paper of the examination which has held after cancellation of exam instead of previous question paper of cancelled examination of such paper.
- (iv) For direction to the respondents to grant any other relief/reliefs for which the petitioner is found entitled to in the fact and circumstances of the case.”

2. Learned counsel for the petitioner submits that the petitioner being a student of L.S. College, Muzaffarpur had appeared in the examination



of B.Sc. (Chemistry Honours), Part- I and passed with total marks of 371 out of 500. He, then appeared in the examination of B.Sc. (Chemistry Honours), Part- II and passed the said examination with 267 marks out of 500. According to him the petitioner was promoted to Part- III of B.Sc. (Chemistry Honours), he also appeared in the examination of Part- III but his result has not been published.

3. It is his further submission that from the information disclosed to the petitioner on his application under Right to Information Act (hereinafter referred to as 'RTI Act'), it has been found that answer sheets of both the papers have not been checked properly. In paper-III of B.Sc. (Chemistry Honours), Part- II, the petitioner has answered five questions and the examiner has checked the answer sheet, also gave marks but in tabulation of the answer sheet the marks has been deducted. In the tabular chart which the petitioner has shown the discrepancies in the tabulation as under:

Ques. No.	Marks provided by the Examiner	Marks Given in tabulation sheet of answer paper
1	12	10
4	12	10
5	8	8
6	12	10
7	12	10

4. It is further submitted that in the answer sheet of paper-IV of B.Sc. (Chemistry Honours), Part- II it has been found that the same has been examined on the basis of the cancelled examination question paper instead of the question paper by which the examination was held. According to the petitioner, wrong markings have been done in the answer sheets. He has enclosed a photocopy of the question paper of 2016 (Re-exam) as well as the



answer sheets of the paper-IV of B.Sc. (Chemistry Honours), Part- II as Annexure '3' series.

5. This Court has been informed that the examination of paper- IV in Part- II was held at M.P.S. Science College, Muzaffarpur which was cancelled due to some reasons. The examination was again held but in the subsequent examination the question has been changed. It is the case of the petitioner that in both the question papers, the questions were the same but there numberings were different in the subsequent question paper. It is stated that the examiner has checked the answer sheets on the basis of the cancelled examination question paper and, therefore, he has given wrong markings.

6. The petitioner claims that he had raised grievance before respondent no. 2 who forwarded his letter to respondent no. 4 but respondent no. 4 has not considered the same. He referred the matter to the Chairman, Examination Board (respondent no. 3). The said respondent no. 3 issued a notice on 26.10.2018 in which it is stated that the meeting of the Examination Board of the University will be held on 27.10.2018 and some agenda including the petitioner's grievance shall be considered. In this regard, Annexure '4' and '5' to the writ application have been placed before this Court. Annexure '5' is the copy of the notice of the meeting of the Examination Board of the University scheduled for 27.10.2018. One of the agendas of the said meeting is with regard to the rectification of the result of this petitioner.

7. The grievance of the petitioner is that the respondents are arbitrarily sitting over the matter and they have jeopardised the career of the petitioner.



8. A counter affidavit has been filed on behalf of Baba Saheb Bhimrao Ambedkar University, Muzaffarpur (hereinafter referred to as the 'University'). The University has taken a stand that the result of Part- III can be declared only when the student clears Part- I and Part- II examination. It is stated that the petitioner has failed in Part- II examination 2016 due to which his result of Part- III has not been declared.

9. Further elaborating the case of the petitioner, the respondents have stated that the petitioner secured 48 marks in paper III and 16 marks in paper IV as per the answer sheets enclosed with the writ application. The petitioner secured total 64 marks (48+16) in paper III and IV together whereas minimum 67 marks were required to make it a pass.

10. The respondents have further stated that in the year 2018 various cases of tampering with the tabulation register were brought to the notice of the Controller of the Examination of the University. A preliminary inquiry has been made in the matter in which it has been found that few failed students were promoted after tampering by the tabulators. The case of the petitioner is also one of them.

11. A specific statement has been made that the result of the petitioner was tampered by the tabulators Sri Dharmendra Kumar Chaudhary and Dr. Sant Gyaneshwar Prasad Singh by increasing 3 marks in paper IV (16+3=19) thereby passing him by making the total marks as 67 in place of 64. It is alleged that the petitioner acted in connivance with the tabulators, got his result tampered and for this purpose the Controller of Examination had issued show cause notices to the concerned tabulators. Annexure 'B' to the counter affidavit is the copy of the show cause issued to the concerned tabulators.



12. Respondents have further submitted that the Vice-Chancellor of the University constituted a Committee vide office order contained in Memo No. B/671 dated 13.06.2018 to inquire into the allegations of irregularities and tampering of marks which took place at the tabulation centre at L.N. College, Bhagwanpur. The said Committee in its final report recommended to cancel the result of the petitioner. Annexure 'C' to the counter affidavit is the copy of the final report submitted by the Committee.

13. As regards the request of the petitioner for re-evaluation of answer sheet of paper IV, it is the stand of the respondent University that there is no provision regarding re-evaluation of the answer sheets. It is further disclosed in paragraph '12' of the counter affidavit that the Examination Board in its meeting held on 27.10.2018 considered the case of the petitioner vide agenda item no. 5 and resolved that the recommendation of the Inquiry Committee be followed in the case of the petitioner and other similar cases.

14. A First Information Report has also been lodged by the Registrar of the University giving rise to University P.S. Case No. 44 of 2018 dated 16.12.2018 under Sections 406, 409, 467, 468, 120B and 34 of the Indian Penal Code. The matter is still under investigation.

15. Learned counsel for the petitioner has contested the stand of the University by filing a rejoinder. It is his submission that wrong allegations have been made against the petitioner. The University has ruined the career of the petitioner and improper allegations have been made against him in complete violation of principles of natural justice.

16. After hearing learned counsel for the petitioner and learned counsel for the University, this Court finds that serious allegations have been made by the University as regards the marks shown in Part- II examination



held in the month of December 2016. Annexure '1(i)' to the writ application is the marksheet showing 19 marks awarded to the petitioner in paper IV. The total of paper III and paper IV comes to 67. Annexure '2(i)' is the copy of the answer sheet. The very first page of it shows that the petitioner obtained total 48 marks in paper III. Annexure '3' is the copy of the question paper of the 2016 (re-examination of paper Chemistry (IV)). Annexure '3(i)' is the copy of the answer sheets and a bare perusal of the same would show that the total marks awarded to the petitioner in paper IV is 16 only.

17. A further perusal of the answer sheets of paper IV would show that against answer to question no. 1.a and 1.b the petitioner has obtained zero marks. He has at the top recorded the question which do not tally with the question paper of paper IV (Annexure '3').

18. Similar is the position with regard to question no. 2(a) and (b). He has attempted two questions from group 'A' but those questions do not tally with the question paper. In group 'B' of paper IV the petitioner was required to answer three questions. Again the questions answered by him as question no. 5(a), 5(d) and 5(c) do not tally with the question papers. Question no. 6 answered by him tallies with the question paper and against this he has been awarded 5 marks. One of the question which he had answered was in fact question no. 5 but he had taken it as question no. 7 and against this question he has been awarded 3 marks only but on the first page where the marks obtained have been recorded against 7th question he has been shown to have obtained 13 marks which is not tallying with the answer sheets. There is nothing to suggest that answer sheet of paper IV has been checked on the basis of question paper of previous examination.



19. On the face of the fact that the Vice-Chancellor constituted a Committee to Inquire into the allegations of irregularities and tampering of marks and that committee has submitted its report raising serious issues against the integrity of the tabulators, the submission of learned counsel for the petitioner does not inspire confidence of this Court. The committee recommended for cancellation of result and the same has been accepted by the Examination Committee. They are the expert bodies and this kind of issues may be resolved only by those bodies who have the expertise in dealing with such matters.

20. Learned counsel for the petitioner has relied upon the judgment of the Hon'ble Division Bench of this Court in the case of **Ashutosh Kumar Karn Vs. Tilka Manjhi Bhagalpur University through Vice Chancellor & Ors.** reported in **2017 (2) PLJR 468**. In the said case the Hon'ble Division Bench was *prima-facie* of the view after going through the materials that evaluation of answer sheets was not done in accordance with law. The facts situation of the present case are completely different which would be evident from the discussions made by this Court hereinabove. The another judgment of the learned co-ordinate Bench of this Court in the case of **Sweta Kumari & Ors. Vs. The Magadh University through its Registrar & Ors.** (C.W.J.C. No. 6281 of 2018 disposed of on 15.05.2018) is equally not applicable in the facts of the present case. In the opinion of this Court the petitioner has failed to make out a case for direction to the University to consider the case for re-evaluation.

21. This Court is not sitting in appeal over the decision of the Examination Committee. In fact those decisions are not under challenge in the



present writ application. The petitioner has failed to make out a case for mandamus.

22. The writ application has, thus, no merit. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

SUSHMA2/-

AFR/NAFR	
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