

**NAFR****HIGH COURT OF CHHATTISGARH, BILASPUR****WA No. 269 of 2021****(Arising out of order dated 01-09-2021 passed by the learned  
Single Judge in WPC No. 3282 of 2021)**

1. Sudip Kumar Ture S/o Dr. Devendra Kumar Ture Aged About 24 Years R/o- Near Sitla Mata Mandir School Chowk, District Dhamtari Chhattisgarh.

**---- Appellant****Versus**

1. State of Chhattisgarh Through Its Secretary, Health And Family Welfare Department Mantralaya, Mahanadi Bhawan, Atal Nagar (Naya Raipur) District Raipur Chhattisgarh.
2. Pt. Deendayal Upadhyay Memorial Health Science And Ayush University, Through Its Registrar, Chhattisgarh, Raipur, District Raipur, Chhattisgarh.
3. Controller of Examination, Pt. Deendayal Upadhyay Memorial Health Science And Ayush University of Chhattisgarh, Raipur District Raipur Chhattisgarh.
4. Dean Government Medical College, Jagdalpur, District - Jagdalpur Chhattisgarh.

**---- Respondents**

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| For Appellant        | : | Ms. Akshara Amit, Advocate.           |
| For Respondent/State | : | Shri Arjit Tiwari, Panel Lawyer.      |
| For Respondent No.2  | : | Shri Ajay Kumar Dwivedi,<br>Advocate. |

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**Hon'ble Shri Prashant Kumar Mishra, Ag. Chief Justice****Hon'ble Shri Naresh Kumar Chandravanshi J.****Order on Board****By****Hon'ble Shri Prashant Kumar Mishra, Ag.Chief Justice.**

**10/09/2021**

1. Heard.
2. This intra Court appeal is directed against the order passed by the learned Single Judge dismissing the appellant's writ petition in which the appellant (henceforth 'the petitioner') had prayed for grant of appropriate marks for the question nos.1 to 4 in the subject Forensic Medicine and Toxicology.
3. The petitioner is a second year MBBS student, who appeared in the supplementary examination of Forensic Medicine and Toxicology. He was allotted 17 marks out of 40 marks. According to the petitioner, he had attempted 37 marks of questions out of 40 marks, therefore, the petitioner is entitled for proper marks if the answer sheet is revaluated.
4. Learned Single Judge has referred to clause 18 of Ordinance No.2, which deals with the subject of revaluation to conclude that revaluation is not permissible in supplementary examination, therefore, no relief can be allowed in favour of the petitioner.
5. The only issue which needs consideration of the Court is- whether under the clause 18 of Ordinance No.2, the petitioner is entitled to revaluation of the answer sheet of supplementary examination ?
6. Sub clause (1) clause 18 of Ordinance No.2 provides that a candidate who has appeared for the first time in all papers of all the subjects can apply for revaluation before the Registrar within 15 days from the date of declaration of the result.

7. Sub clause (2) provides that when application for revaluation is moved, the Kulpati (Vice Chancellor) will send for revaluation to two valuers from a place outside the State of Chhattisgarh, however, a proviso thereof provides that a candidate who has appeared either in part of an examination of either annual or supplementary examination in any of the subjects or paper as a backlog shall not be eligible to apply for revaluation. Thus, the clause 18 of Ordinance No.2 does not provide for revaluation of any subject or paper in a supplementary examination.
8. Learned counsel for the petitioner has argued that if the revaluation is not allowed, candidates would suffer adversely and they would face injustice, therefore, despite the Ordinance, this Court should allow revaluation.
9. Having heard learned counsel for the petitioner, it needs to be noticed that revaluation is permissible only when the relevant Rules/regulations/Ordinance provides for the same. In a case where revaluation has not been made permissible, the Court in exercise of power under Article 226 is not entitled to direct revaluation. (See: **Maharashtra State Board of Secondary and Higher Secondary Education and Another Vs. Paritosh Bhupeshkumar Sheth and Others** {(1984) 4 SCC 27})
10. Learned Single Judge has rightly interpreted the Ordinance to dismiss the writ petition by holding that revaluation is not permissible.
11. At this juncture, learned counsel would submit that revaluation should be allowed by extending mercy/sympathy to the petitioner because his whole career is at stake.

- 12.** We cannot pass order under writ jurisdiction only on the basis of mercy/sympathy. Writ should only be issued when there is violation of any fundamental or statutory right of a person or the concerned authority has not followed the law or applied the law contrary to what the statute provides. {See: **Omprakash and Others Versus Radhacharan and Others** (2009 15 SCC 66)}.
- 13.** In the result, the appeal, being bereft of merit is liable to be and hereby dismissed.

**SD/-**  
**(Prashant Kumar Mishra)**  
**Acting Chief Justice**

**SD/-**  
**(N.K. Chandravanshi)**  
**Judge**