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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23-11-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP NO.14026 OF 2013

AND

MP 1 OF 2013

AND

WMP NO.28910 OF 2017

R.Ramya

.. Petitioner

.vs.

1. The Director of Collegiate Education,
Directorate of Collegiate Education,
DPI Complex,
College Road,
Chennai - 600 006.

2. The Principal,
Presidency College,
Chepauk,
Chennai - 600 005.

3. The Controller of Examinations,
Presidency College,
Chepauk,
Chennai - 600 005.

4. Dr.B.Subramanian

.. Respondents

Prayer:

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents 2 and 3 immediately publish the results for M.Phil Paper written by the petitioner, namely History of the Freedom Movement in India (1885 to 1947 AD) in subject Code 112AB1 and consequently direct the respondents 2 to 4 to pay an amount of Rs.2,00,000/- (Rupees Two Lakhs only) as compensation for the suffering undergone by the petitioner in the hands of the respondents 2 to 4 and more particularly, the fourth respondent herein.



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For Petitioner : Mr.M.Purushothaman
For Respondent-1 : Mr.C.Jaya Prakash,
Government Advocate.
For Respondent-2 : Mr.U.Venkatesan
For Respondent-3 : Mr.P.Guna Raj
For Respondent-4 : Mr.V.Neethidurai

O R D E R

The lis on hand has been instituted directing the respondents 2 and 3 immediately publish the results for M.Phil paper written by the petitioner, namely, History of the Freedom Movement in India (1885 to 1947 AD) in subject Code 112AB1 and consequently direct the respondents 2 to 4 to pay an amount of Rs.2,00,000/- (Rupees Two Lakhs only) as compensation for the suffering undergone by the petitioner in the hands of the respondents 2 to 4 and more particularly, the fourth respondent.

2. The petitioner states that she has completed Bachelors Degree in History from Quaidemillath Women's Arts College, Chennai during the academic year 2006-2009 and completed Master's Degree in History from Presidency College, Chennai during the year 2009-2011.

3. The petitioner participated in the qualified Entrance Examination for studying M.Phil in the respondent-Presidency College on 16.08.2011.

4. The History Department results were not published until 22.08.2011. Though the results were published in respect of all other Courses.

5. The contention of the petitioner is that the fourth respondent the then Head of the Department of History purposely in order to accommodate the caste Hindu candidate delayed the publication of the result.

6. The petitioner states that she was the only candidate from the Scheduled Tribe Community and as per the reservation norms one seat must be allotted to Scheduled Tribe Community. The petitioner has narrated the dates and events to contend that the respondents had acted deliberately for delaying the



publication of results with a view to deprive the petitioner from getting admission to M.Phil Course. Under those circumstances, the petitioner made a complaint to the first respondent-Directorate of Collegiate Education and to the Hon'ble Minister for Higher Education.

7. The first respondent-Directorate of Collegiate Education call for explanation from the respondents 2 to 4 and at the outset, it is contended by the petitioner that she has secured M.Phil admission with great difficulty. She appeared for the examination.

8. The petitioner made a representation after undergoing the M.Phil Course to respondents 1 to 3 to publish her results through a letter dated 18.04.2013. Instead of publishing the results, the respondents gave evasive reply and therefore, the petitioner is constrained to move the present writ petition.

9. The relief sought for in the present writ petition is to publish the results for M.Phil paper written by the petitioner, more specifically, the subject Code 112AB1.

10. The learned counsel appearing on behalf of the petitioner reiterated that the petitioner was deprived her right for admission under the Reserve Category. In view of the fact that she fought to secure admission, she was penalised one way or the other at the instance of the College Authorities, including the fourth respondent. Several other procedures were violated in the case of the petitioner even while undergoing the M.Phil Course. The learned counsel for the petitioner further reiterated that the petitioner suffered a lot to secure the admission and to undergo M.Phil Course. Ultimately, that the results were not published.

11. Though the writ petition is filed to publish the results, it is found that the results were published on 22.01.2013 itself. However, the writ petition was filed on 07.05.2013.

12. The learned counsel appearing on behalf of the Presidency College objected the said contention of the learned counsel for the petitioner by stating that the petitioner was a student undergoing M.Phil Course during the relevant point of time and was treated equally on par with all other candidates. Except certain general allegations, the petitioner cannot make any other allegation against the Management of the College as she was peacefully pursuing her Course and appeared in the examination and in fact, she scored First Class in the Post Graduate Course from the same Presidency College and continued her M.Phil Course in the Presidency College itself.



13. Therefore, all such allegations made are after thought and knowing the fact that the petitioner failed in one subject in M.Phil Course. The College Authorities at no circumstances had treated the petitioner in a different manner and, while undergoing the Course, the petitioner had not made any such complaint against any of the College Authorities or the Professors, including the fourth respondent.

14. This being the factum, after undergoing the Course, after failing in one subject, she started raising allegations against the College Management as well as the Head of the Department of the College based on certain flimsy reasons.

15. The learned counsel for the second respondent reiterated that the subsequent evaluation done by the Directorate of Collegiate Education unilaterally is in violation of the Rules in force and contrary to the autonomous status conferred on the Presidency College.

16. The first respondent-Director of Collegiate Education has no authority to suo motu call for the answer sheets of the students and conduct an evaluation on their own choice and declare the results without even consulting the College Authorities or obtaining opinion in academic matters. Such an exercise done by the first respondent-Director of Collegiate Education is unknown to law and without any authority and thus it was objected by the Principal of the Presidency College and further a letter was communicated stating that such procedure would create a bad precedent and will unsettle the procedures to be followed for the purpose of conducting examinations and evaluation of answer sheets.

17. As per the Rules in force during the relevant point of time, there was no procedure for re-valuation and no student is permitted to submit any application/representation for re-valuation of answer sheets. Contrarily, the answer sheets were evaluated twice by the College Authorities and such valuations became final. The application, if any, submitted for re-totalling marks alone will be entertained and in the present case, in the absence of any application from the petitioner, the re-totalling was done and the marks scored by the petitioner i.e., 45 was confirmed by the Controller of Examinations of the Presidency College.

18. When there is no discrepancy in re-totalling with the said information was provided. As there is no procedure for re-valuation, the failed candidates will be permitted to appear in the next examination as per the Rules in force. However, the petitioner did not appear for any further examination and



started litigating the issue by issuing legal notices through Advocate and filing application under the Right to Information Act, 2002 through Advocates.

19. Learned counsel for the second respondent submitted that the procedures, which were existing during the relevant point of time, were followed scrupulously by the College Authorities and the first respondent-Director of Collegiate Education exceeded their powers by forcefully taking away the answer sheets of the petitioner and conducted a valuation through a Professor without the knowledge of the Presidency College and declared the marks unilaterally in violation of the procedures and thus, the actions of the Directorate of Collegiate Education was objected by the College Authorities.

20. Even during the relevant point of time, it is contended that the Director of Collegiate Education, who abused the power was allowed to retire from service in the year 2015 itself and no action was taken by the Government in this regard. The counter-affidavit filed by the first respondent-Director of Collegiate Education itself reveals the powers of Director of Collegiate Education and further conceded that the then Director of Collegiate Education, while dealing with answer sheets of the petitioner exceed her jurisdiction and acted without any authority. When the counter-affidavit filed by the first respondent reveals that the Directorate of Collegiate Education has acted without any authority and contrary to the Rules and procedures, there is no reason whatsoever to consider the case of the petitioner at this length of time.

21. The learned counsel appearing on behalf of the third respondent-Controller of Examinations states that the Controller of Examinations is the authority in the Autonomous College to conduct examination and evaluate the answer sheets and declare the results by following the procedures. But in the case of the petitioner, after examination, answer sheets were evaluated by adopting two tier method and answers were published even before filing of the writ petition.

22. No doubt, the petitioner failed in one subject and scored 45 marks instead of 50. In view of the representation submitted by the petitioner as she raised certain objections and allegations, the re-totalling was done under the supervision of the Controller of Examinations and the marks scored by the petitioner was confirmed. Thus, the petitioner instead of applying for writing further examination on the subject, filed complaint and writ petitions and it is found that the petitioner has not appeared in the subsequent examinations.



23. The learned counsel for the fourth respondent made a submission that the petitioner has unnecessarily raised personal allegations against the fourth respondent. All along the petitioner was undergoing the M.Phil Course under the supervision of the fourth respondent and throughout the Course, she had not raised any allegation against the fourth respondent. Only after failing in one subject, the petitioner started raising frivolous allegations against the fourth respondent and therefore, such allegations cannot be taken into consideration for the purpose of penalising the fourth respondent.

24. The fourth respondent, being the Head of the Department, is not the only authority for the evaluation of answer sheets. As far as the evaluation of answer sheets are concerned, one External Valuer as well as the Head of the Department will be evaluating the answer sheets.

25. The learned counsel for the petitioner intervened and made a submission that there was a difference of 15 marks between the Internal Valuation and External Valuation. Thus as per Rules, the answer sheet is to be evaluated again by the Controller of Examinations. The third evaluation in such circumstances conducted by the Board will become final. In respect of the said submission, the third respondent-Controller of Examinations in the counter-affidavit categorically stated that for the M.Phil Course as per the Rules and Regulations of Autonomous Institution, two evaluations (internal and external) used to be done for each paper. If there is any difference of more than 15 marks between the two valuations, the same will be referred to the Board for its decision, which is final and thereafter, the results will be declared, as per the Autonomous Institutional Norms. In the History of Freedom Movement in India paper, the petitioner has got 45 marks out of 100 marks and one P.Thayalan has got 47 marks out of 100 marks, after the decision of the Board, the results were published on 22.01.2013. Generally, the valuations are conducted on the basis of impartiality and neutrality as per the Rules and Regulations. There is no revaluation at all, but the students have got the right to apply for re-totalling.

26. The powers of the Board of the Presidency College (Autonomous) under the Presidency College Autonomous Valuation System, regarding the results, "the Board is empowered to award grace marks after carefully considering the factors like the difficulty of paper, pass/fail ratio etc. The marks awarded by the Board is final and when passed by it and the Standing Committee is ready for publication". However, the Board consist of Head of the Department.



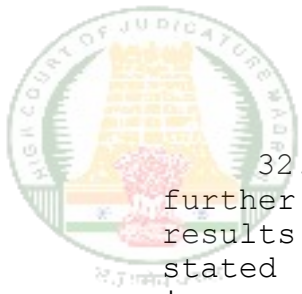
27. In any event, there is no power conferred for re-valuation of answer sheets. When there is no power to undertake revaluation of answer sheets, it is the power conferred on the Board is to verify the re-totalling and in exceptional cases, some grace marks could be awarded by exercising the discretion by the Board based on the over all assessment of the students while undergoing the Course.

28. Normally, in academic side, an amount of discretion is granted to the Head of the Department and the Principal to grant certain concessions by way of awarding grace marks in exceptional cases, where the students are otherwise deserve for such concessions. However, it is needless to state that even while granting such grace marks, consistency is to be maintained and such grace marks to be awarded judiciously. In the present case, the marks scored by the petitioner i.e., 45 was confirmed by the Board and therefore, the said marks became final and there is no further procedure to evaluate the answer sheets of the petitioner.

29. Contrary to the above procedures and regulations, the first respondent-Director of Collegiate Education in an unusual manner called for the answer sheets of the petitioner to the Office of the Director of Collegiate Education and conducted an evaluation unilaterally by appointing a third person evaluator and awarded 60 marks. The manner through which the evaluation was conducted by the first respondent is not explained and the powers conferred on the Authority has not been established.

30. Contrarily, the first respondent filed a counter-affidavit categorically admitting the fact that the academic work like conduct of examinations and valuation of papers of the students are done by the College itself. In the case of Autonomous Colleges, the Controller of Examinations of the College look after the examination process like valuation and revaluation etc.

31. In the case of the petitioner, the then Director of Collegiate Education has appointed an External Examiner to revalue the paper 'History of the Freedom Movement in India [1885-1947 AD]'. Normally, the administrative work are carried out in the Directorate of Collegiate Education and the academic work are not carried out in the Directorate of Collegiate Education. The circumstance under which the order for revaluation of the answer scripts by the then Director of Collegiate Education was made is unknown.



32. The first respondent-Director of Collegiate Education further states that the contention of the petitioner is that the results published is not correct and the second respondent has stated that the results were published on 22.01.2013 and there is no revaluation in the third respondent-College. The second respondent in the letter dated 22.04.2013 has stated as follows:-

"As per the decision of Academic Council if the difference between the first and second valuation, is 15 or more, the passing Board does the third valuation and finalise the result. In your case, it was already done and the result was published.

Any appeal regarding Autonomous Examinations should be made within 30 days from the date of publication of the results (Para V - passing Minimum for M.A./M.Sc./M.Com) vide website. Such appeal has not been made so far."

33. Citing the above letter, the first respondent has stated that the College where the petitioner did her M.Phil., is an Autonomous College. Hence as far as the works pertaining to the valuation of answer scripts and award of marks are carried out by the third respondent-College i.e., Controller of Examinations. Hence the existing rules in force and the decision of the third respondent and the Board is final.

34. This Court is of the considered opinion that the petitioner admittedly studied Post Graduate Course in M.A. History for a period of two years in the Presidency College. Even during that point of time, the fourth respondent was working as Professor. When the petitioner got admission to M.Phil Course, the fourth respondent became the Head of the Department of History Department. Till such time, when the petitioner appeared for the examination and publication of results absolutely, there was no complaint against the fourth respondent by the petitioner.

35. Even during the relevant point of time i.e., while undergoing the M.Phil Course, there was no issue between the petitioner and the fourth respondent. While-so, a complaint was made only after publication of results by the Controller of Examinations. Even otherwise, the valuation of papers, publication of results was not done by the fourth respondent in his individual capacity. The Controller of Examinations was supervising the entire affairs of conduct of examinations, valuation of papers and publication of results.



36. In the present case, the second valuation was done and re-totalling was also carried. During the second valuation as per the procedure, the mark scored by the petitioner was confirmed. Thus, this Court is of an opinion that the Director of Collegiate Education usurped the powers of the Controller of Examinations which is impermissible and beyond the scope of the Authority.

37. The Director of Collegiate Education, being the Controller of Colleges, is not empowered to interfere with the powers conferred on the Controller of Examinations in an Autonomous College. Any such action must be guided by the Rules and Regulations. The first respondent-Director of Collegiate Education in their counter-affidavit categorically admitted that the then Director of Collegiate Education exceeded the power in calling for the answer sheets of the petitioner in an unilateral manner and evaluation of answer sheets through a third party Professor, which is not contemplated under the Rules and Regulations.

38. On account of efflux of time and considering the fact that the petitioner could not able to complete her M.Phil Course and the petitioner has wasted her time due to litigative process by not appearing in the next examination, this Court thought fit to have a discussion with the Authorities. Today i.e., on 23.11.2021, the College Authorities are present before this Court, so also Mr.M.Vijayakumar, Assistant Director (Government Colleges) from the Office of the Directorate of Collegiate Education, Chennai is also present, who in turn along with the College Authorities graciously provided an alternate solution before this Court by stating that they can get permission from the Madras University for the purpose of permitting the petitioner to write the examination based on the old syllabus as a special case, enabling her to appear for the examination afresh in respect of the paper in which she failed. The learned counsel for the petitioner also put forth the suggestions made by the Authorities Competent to the petitioner, who is present before this Court. However, the petitioner was reluctant in accepting the said suggestion and made a submission that the petitioner has already instituted a criminal case and there will be a demand by the fourth respondent that the criminal case is to be withdrawn. Thus, the petitioner has not accepted the proposal.

39. In respect of the evaluation of answer sheets, this Court is of an opinion that the College Authorities had followed the procedures and confirmed the marks awarded to the petitioner and she became failed. The Director of Collegiate Education even as per their own counter-affidavit exceeded their jurisdiction by calling for the answer sheets of the petitioner unilaterally



and evaluated through some third party-Professor, which is not contemplated under the Rules and Regulations and therefore, such a procedure adopted by the first respondent-Director of Collegiate Education is obviously to favour the petitioner in an illegal manner, which can never be appreciated but to be deprecated.

40. The first respondent-Director of Collegiate Education, being the State Authority, is expected to be consistent and follow the Rules and Regulations scrupulously. The Director of Collegiate Education is not expected to act in violations of the Rules and Regulations in force and in the present case, the actions of the then Director of Collegiate Education apparently seems to be violative and not in consonance with the procedures. Thus, the special evaluation done by the first respondent-Director of Collegiate Education in an unilateral manner can never be approved by this Court as such evaluation lacks its legal sanctity and authority. Thus, the said evaluation cannot form a basis for the claim set out by the petitioner in the present writ petition.

41. In view of the facts and circumstances, that the petitioner has sought for the prayer to publish the results and the same was published even before filing of the present writ petition and further the two tier evaluation system was adopted in the case of the petitioner by the Controller of Examinations of the Presidency College (Autonomous) and again the results were published, confirming the original marks granted to the petitioner, there is no reason whatsoever to consider the relief as such sought for in the present writ petition and further more, the relief sought for in the present writ petition lost its relevance in view of the admitted fact that the results were published in respect of the paper, namely, History of the Freedom Movement in India (1885 to 1947 AD) in subject Code 112AB1.

42. The learned counsel for the fourth respondent made a submission that on account of the pendency of the present writ petition, the pensionary benefits of the fourth respondent has not been settled. It is brought to the notice of this Court that a criminal case was also pending during the relevant point of time and subsequently, it was closed and a protest petition was filed by the petitioner and the same is pending.

43. This being the factum established, it is for the Competent Authorities to consider all the facts and circumstances and take a decision in this regard on merits and in accordance with law. Accordingly, the petitioner is not entitled for any relief as such sought for in the present writ petition and consequently, the writ petition stands dismissed.



However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

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Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

Svn

To

1. The Director of Collegiate Education,
Directorate of Collegiate Education,
DPI Complex,
College Road,
Chennai - 600 006.
2. The Principal,
Presidency College,
Chepauk,
Chennai - 600 005.
3. The Controller of Examinations,
Presidency College,
Chepauk, Chennai - 600 005.

+1cc to Mr.M.Purushothaman, Advocate, S.R.No.61224
+1cc to Mr.L.G.Shadevan, Advocate, S.R.No.60758
+1cc to Mr.V.Neethidurai, Advocate, S.R.No.61047
+1cc to Mr.U.Venkatesan, Advocate, S.R.No.60589
+1cc to Government Pleader, SR.NO.61112

WP 14026 of 2013

KSM(CO)
PM/08/12/2021