

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15268 of 2021

Dr. Krishnanand Tirthankar S/o Kali Kant Jha R/o- Gandhi Nagar Madhubani,
Near Rang Bhumi Maidan, P.O. Purnea, P.S. K. Hat, District- Purnea.

... .. Petitioner/s

Versus

1. Arayabhatta Knowledge University Mithapur, Patna through its Vice Chancellor
2. Vice Chancellor, Arayabhatta Knowledge University, Mithapur, Patna
3. Examination Controller, Arayabhatta Knowledge University, Mithapur, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Adv.
For the Respondent/s : Mr. Priyank Deepak, Adv.

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 16-09-2022 Heard the parties through video conferencing.

1. The petitioner by way of this writ petition prays for re-evaluation of his answer copy alleging that the marks have not been properly given by the examiner, after he perused the answer copy received under the RTI Act. Learned counsel for the petitioner submits that the petitioner ought to have been awarded more marks than what had been awarded to him by the examiner.

2. Reply has been filed pointing out that there is no provision of re-evaluation of the answer-sheet under the Regulations of the University. The representation of the



petitioner as well as representation of other students were placed before the committee which was constituted for the purpose of scrutinizing the answer-sheets and to assess if there has been any error in totaling or any question has remained unmarked in the answer-sheet of the student and after being satisfied that there has been no irregularity or any error in gross-totaling or any answer having remained unexamined if any error has to be exercised by him in terms of Section 21 (d) of the Statutes of the University, the committee also examined whether evaluation has been done in violation of the provisions or statutes, regulations, ordinances or rules and if it is satisfied that such error has been committed it submits its report accordingly. It is also stated that scrutiny committee was formed vide letter dated 27.08.2021 and after examining the answer-sheets as above submitted its report to the Vice Chancellor and found that no case or changes is required in the case of the petitioner and the Vice Chancellor also found that no case of unfair evaluation or evaluation being done in violation of provisions of statutes, ordinances, regulations or rules has been made out. Decision was conveyed to the petitioner vide letter dated 03.09.2021.



3. Keeping in view thereof, it has been prayed that no interference is warranted.

4. In the opinion of this Court grant of marks by an examiner is in his exclusive domain. There can be situation where two different examiners may grant different marks for the same answer being their substantive evaluation. Thus, this Court would not enter into the arena and the discretion exercised by the examiner while allowing marks for an answer submitted by a student cannot be replaced by this Court nor any opinion can be drawn to the contrary as this Court cannot be said to be an expert body with respect to such answers. This Court is satisfied that the committee was formed by the Vice Chancellor who has also conducted its scrutiny and did not find any fault with the marks allotted by the examiner. In **Himachal Pradesh Public Service Commission Vs Mukesh Thakur & another** reported in **2010 (6) SCC 759**, the Supreme Court has held as under:

“20: In view of the above, it was not permissible for the High Court to examine the question paper and answer sheets itself, particularly, when the Commission had assessed the inter-se merit of the candidates. If there was a discrepancy in framing the



question or evaluation of the answer, it could be for all the candidates appearing for the examination and not for respondent no.1 only. It is a matter of chance that the High Court was examining the answer sheets relating to law. Had it been other subjects like physics, chemistry and mathematics, we are unable to understand as to whether such a course could have been adopted by the High Court.

24: The issue of revaluation of answer book is no more res integra. This issue was considered at length by this Court in Maharashtra State board of Secondary and Higher Secondary Education v. Paritosh Bhupeshkumar Sheth [(1984) 4 SCC 27 : AIR 1984 SC 1543], wherein this Court rejected the contention that in the absence of the provision for revaluation, a direction to this effect can be issued by the Court. The Court further held that even the policy decision incorporated in the Rules/Regulations not providing for rechecking/verification/evaluation cannot be challenged unless there are grounds to show that the policy itself is in violation of some statutory provision. The Court held as under :(SCC pp. 39-40 & 42, paras



14 & 16)

14...It is exclusively within the province of the legislature and its delegate to determine, as a matter of policy, how the provisions of the statute can best be implemented and what measures, substantive as well as procedural would have to be incorporated in the rules or regulations for the efficacious achievement of the objects and purposes of the Act.

16. ...The Court cannot sit in judgment over the wisdom of the policy evolved by the legislature and the subordinate regulation-making body. It may be a wise policy which will fully effectuate the purpose of the enactment or it may be lacking in effectiveness and hence calling for revision and improvement. But any drawbacks in the policy incorporated in a rule or regulation will not render it ultra vires and the Court cannot strike it down on the ground that, in



its opinion, it is not a wise or prudent policy, but is even a foolish one, and that it will not really serve to effectuate the purposes of the Act.

25: This view has been approved and relied upon and reiterated by this Court in Pramod Kumar Srivastava v. Bihar Public Service Commission [(2004) 6 SCC 714 : 2004 SCC (L&S) 883 : AIR 2004 SC 4116] observing as under: (SCC pp. 717-18, para 7)

7.Under the relevant rules of the Commission, there is no provision wherein a candidate may be entitled to ask for revaluation of his answer book. There is a provision for scrutiny only wherein the answer books are seen for the purpose of checking whether all the answer given by a candidate have been examined and whether there has been any mistake in the totalling of marks of each question and noting them correctly on the first cover page of the answer book. There is no dispute that after scrutiny no mistake was



found in the marks awarded to the appellant in the General Science paper. In the absence of any provision for revaluation of answer books in the relevant rules, no candidate in an examination has got any right whatsoever to claim or ask for revaluation of his marks.

26: Thus, the law on the subject emerges to the effect that in absence of any provision under the Statute or Statutory Rules/Regulations, the Court should not generally direct revaluation.”

5. In view of above, no interference is warranted.

The writ petition is dismissed.

(Sanjeev Prakash Sharma, J)

shaswat/
shamshad
Item No. 15

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