

33. 30.11.2022
BD Ct.15

W.P.A. 4824 of 2017

Mrinal De

-vs-

The State of West Bengal & Ors.

Mr. Kamal Mishra

... for the petitioner.

Dr. S.K.Patra

Ms. Supriya Dubey

... for the SSC.

Petitioner participated in 12th Regional Level Selection Test (AT) 2011 for being appointed in the post of Assistant Teacher in a secondary school but on publication of result it was found that the petitioner was unsuccessful which prompted the petitioner to approach the concerned authority of the West Bengal Central School Service Commission for supply of OMR answer sheet. On receipt of request made by the petitioner for supply of OMR answer sheet the same was supplied by the Commission to the petitioner which is at page 105, annexure P-10, to the writ petition. By presenting this writ petition petitioner has prayed for reassessment of OMR answer sheet.

Considering the grievance voiced by the petitioner before this Court, this Court has made a query to the learned advocate for the petitioner whether there is statutory provisions, which empowers the Commission to reassess OMR answer sheet.

This Court does not get any satisfactory

answer from the learned advocate of the petitioner. Furthermore, it has been submitted by the learned advocate representing the Commission that there is no such statutory rule empowered the Commission to reassess OMR answer sheet.

Question arises for consideration whether in absence of statutory provision whether the examining body can reassess the answer sheet. The issue has been succinctly decided by the Apex Court in the Judgement reported in **(2018) 2 SCC 357 (Ran Vijay Singh & Ors.-vs- State of Uttar Pradesh and Ors.)**. In paragraph 30.2 of the said judgment law has been enunciated which runs infra:

“30.2. If a statute, Rule or Regulation governing an examination does not permit re-evaluation or scrutiny of an answer sheet (as distinct from prohibiting it) then the Court may permit re-evaluation or scrutiny only if it is demonstrated very clearly, without any “inferential process of reasoning or by a process of rationalization” and only in rare or exceptional cases that a material error has been committed.

In the present case petitioner has failed to demonstrate before this Court that without any inferential process of reasoning or by a process of rationalization re-evaluation or scrutiny of OMR answer sheet needs to be carried out as a rare and exceptional case.

Accordingly this Court does not find any merit in the writ petition and the same stands dismissed. However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)