

WPA 9633 of 2015

Debanjan Palit
Vs.
The State of West Bengal & Ors.

Mr. Arun Khutia
Ms. Debjani Sahu
...for the petitioner

Mr. G. Alam
Md. Yusuf Ali
...for the State

Ms. Supriya Dubey
...for the WBCSSC

The writ petition was heard at length in presence of the learned advocates representing the petitioner, State-respondents and the West Bengal Central School Service Commission on 9th November, 2022 when it was submitted by the learned advocate representing the petitioner that primarily the grievance of the petitioner is awarding less marks in assessing answers by the examiner appointed by the Commission as appears from answer script which is annexed as P7, page 31 onwards to this writ petition. It was also contended on behalf of the petitioner that had the answers written by the petitioner would have been appropriately assessed higher marks could have been awarded to the petitioner which would take the petitioner within the zone of consideration.

It appears from the order dated 9th November, 2022 that question arose for consideration is whether in absence of statutory provision empowering the Commission to re-assess the answer script such reassessment as prayed for by the petitioner can be embarked upon.

Today, Ms. Debjani Sahu, learned advocate is representing the petitioner but this Court does not receive any satisfactory answer to the issue framed in the previous order dated 9th November, 2022.

The issue of reassessment of answer script in absence of statutory provision has been succinctly decided by the Apex Court in the case of **Ran Vijay Singh & Anr. Vs. State of Uttar Pradesh & Ors., (2018) 2 SCC 357**, this Court finds it apt to quote paragraph 30.2 of the said judgement below:-

“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 rationalisation” and only in rare or exceptional cases that a material error has been committed;”

In consideration of the issue decided in **Ran Vijay Singh** (supra) the Court can exercise its discretion in the event it is demonstrated very clearly without any inferential process of reasoning or by process of rationalisation and only rare or exceptional cases when material error has been committed. But in this case

petitioner has failed to satisfy the aforesaid tests. Accordingly, the prayer of the petitioner for reassessment of answer script in connection with his participation in 12th Regional Level Selection Test, 2011 cannot be acceded to.

There is another aspect which requires to be considered by this Court based on submission made by the learned advocate representing the Commission on last occasion. Since petitioner was not possessing B.Ed qualification at the material point of time therefore when candidates possessing B.Ed qualification were available non-B.Ed candidate like the petitioner herein cannot be appointed in the post of Assistant Teacher.

In above conspectus the writ petitioner 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.)