

09.03.2022
sayandeep
Sl. No. 04
Ct. No. 05

WPA 22207 of 2017
Rituparna Dutta
-Versus-
The State of West Bengal & Ors.

Mr. Biswaroop Bhattacharya
Mr. Subhankar Chakraborty
Mr. Saptarshi Bhattacharjee
Ms. Ruchira Manna

..... for the petitioner

Mr. Santanu Kr. Mitra
Mr. Amartya Pal

.....for the respondents.

The petitioner prays for a direction on the West Bengal State University (Barasat University) and the Controller of Examination, West Bengal State University to issue a fresh marksheet to the petitioner in B.A. Part-II (Hons.) in English and to handover the certificates of M.A. Part-I and Part-II examination to the petitioner. The petitioner is presently undergoing her M.A. in English in the concerned University and has written her M.A. Part-I and Part-II examinations. The petitioner is aggrieved since the University is refusing to complete the registration process for the petitioner's M.A. final examination and to handover the certificates of M.A. Part-I and Part-II Examinations.

The dispute in the present writ petition centers around four marks which the petitioner states were awarded to her in the Political Science Paper II in the petitioner's B.A. Part-II Examination. According to the petitioner, she was awarded four marks pursuant to an

application made under the Right to Information Act, 2005. By reason of the four marks, the petitioner passed the Political Science II paper in her B.A. English (Hons.) Examination.

On the other hand, learned counsel appearing for the University submits that the marksheet showing that the petitioner was awarded four additional marks is a forged and fabricated document and that the petitioner's review of her Political Science marksheet did not result in any change in the marks awarded to her. According to counsel, the petitioner is part of a racket involving the Controller of Examination of the University who was subjected to disciplinary proceedings and has been suspended. It is submitted that a large number of students in the University were given additional marks by the Controller and fake marksheets were generated and given to the students.

Since the dispute has a bearing on the future of a student, this Court deemed it fit to direct the parties to file affidavits bringing on record relevant facts and documents in respect to the following:

- (i) An endorsement from the University or the concerned examiner on the result of the review of the petitioner's Political Science Paper in B.A. Part-II Examination.
- (ii) A statement by way of an affidavit from the concerned University that the review did not

result in increase in the petitioner's marks in the particular paper.

(iii) A statement from the University on whether the marksheets were in the possession of the University at all material points of time, and

(iv) A statement from the University with regard to the process which is followed in the matter of review of an answer script.

(v) The petitioner was also directed to furnish a statement from the concerned RTI Official with regard to the marksheet containing the four additional marks.

Affidavits were filed pursuant to the above directions enclosing relevant documents. On perusal of the affidavits/endorsements and documents enclosed with such affidavits, the following facts emerge:-

(a) The review of the Political Science General Paper-II in B.A. Part-II Hons. Examination, 2014 did not result in any change of marks. This would appear from a statement of the Registrar (Officiating) and the University Registrar-in-charge of the office of the Controller of Examinations dated 24th February, 2022. The review list of the Part-II regular 2014 annexed to the Report and the Affidavit of Compliance of the University shows "No Change" against the petitioner's name.

(b) The original marksheet of the petitioner for B.A. (H) Part-III Examination , 2015 published on 16th July, 2015 with status as “PLSG, Part-II: Nil”, was handed over to the College on 16th July, 2015 and the College delivered the same to the petitioner on 22nd July, 2015. The fabricated marksheet of Part-III Examination, 2015 was received by the University in 2022 along with the present writ petition and was sent to the University’s Confidential Printer for verification on 31st January, 2022. The Report received on 1st February, 2022 read as “The marksheet of Part-II Examination sent as attachment by the University of the said candidate was neither generated nor printed at our end”. These facts would appear from a statement of the Registrar (Officiating) and the University Registrar-in-charge of the office of the Controller of Examination dated 24th February, 2022 and is supported by the relevant marksheets.

(c) The University states that review applications were submitted by students to their respective colleges and the specific answer scripts were thereafter retrieved from the Confidential Section of the University, re-evaluated by the

reviewer as appointed by the competent authority of the University. In the event of change in the marks after review, the same is updated in the database of the University and printed with a separate date of publication. If there is no change in the review/re-evaluation, marksheets are not printed by the University. The statement of the University also contains remarks that final marks would reflect the change with the signature of the reviewer at the end of the written portion of the answer scripts. This would appear from a signed endorsement of the University date 24th February, 2022.

The petitioner, on the other hand, has stated by way of an affidavit in terms of an order passed by this court, that the petitioner made an application under the Right to Information Act, 2005 on 15th June, 2015 for review of her Political Science Paper- II (Pass). Since this application did not result in change of the marks, the petitioner requested the authorities to furnish the paper under the RTI. The petitioner thereafter, received a call from her College, namely, Sarojini Naidu College and was asked to collect the photocopy of the answer script from the office of the College. The petitioner was then handed over a photocopy of the Political Science Paper II (Pass) showing an increase of four marks. The

petitioner took the marksheet upon putting her signature on a register maintained by the College.

There are certain factual incongruities and inconsistencies evident from the stated position of the petitioner. First, both the mark sheets, i.e. the one relied upon by the petitioner with the four added marks and the one relied upon by the University without the four marks bear the same date - 16th July, 2015. The identical dates are contrary to the petitioner's stand that the petitioner applied for review of her Political Science paper only after getting to know that she had got 86 and "PNC" in Political Science which denotes that the examination of the previous part is not cleared. The factual discrepancies would be all the more evident from the petitioner's letter to the Controller of Examination on 1st August, 2015 asking the latter to issue the changed marksheet. Second, the review list of the candidates indicates "no change" against the petitioner's name and the University also did not issue a fresh marksheet after the alleged increase of four marks in the Political Science Paper. Third, the answer scripts of the concerned paper which were shown to the Court do not indicate any change in the total marks upon increase of the four marks along with the signature of the reviewer. These facts taken together, cast a serious shadow of suspicion on the marksheet annexed to the writ petition showing that the petitioner had been given

four marks after applying to the University under the RTI. It is also significant that the marksheet with the four added marks was produced pursuant to the RTI application without any other consequential changes effected by the University pursuant to such increase in marks. As stated above, no fresh marksheet was uploaded by the University on its website.

This court is hence of the view that the marksheet annexed to the writ petition which has the four additional marks in the Political Science Paper is not a genuine document. This view is buttressed by the original marksheet produced by the University in Court, a copy of which is part of the Report filed by the University.

The University, on the other hand, has produced documents showing that the University had lodged a written complaint in the concerned Police Station against two employees for illegal pecuniary gratification from the students of the University and had also filed an FIR to that effect on 30th July, 2016 under sections 420/467/120B of the Indian Penal Code. The affidavits state that CID took control of the investigation and filed a charge-sheet against the accused persons named in the FIR and also against the Controller of Examination who was one of the accused. A disciplinary enquiry was initiated by the University against the Controller of

Examination who was suspended on 3rd March, 2017. The affidavit further states that FIRs were lodged against the students who possessed forged and interpolated marksheets which did not match with the University records. It is also the submission of the learned counsel appearing for the University that there has been a large scale interpolation of marksheets and registration certificates in the University which would be evident from the marksheet produced by the petitioner in the present writ petition. The affidavit is backed by lists of complaints and FIRs lodged by the University from May, 2016 to August, 2018. The role of the University in being a party in perpetrating the wrongdoing is evident from the affidavits.

The University also failed to take any steps in verifying the marksheets of the petitioner at the relevant point of time and admitted the petitioner in its M.A. Course and allowed her to write the M.A. Part- I and Part – II Examinations. It is only at the time of Registration for the final examination that the University has woken up to the interpolated marksheet. More significantly, the University failed in its duty of a complete enquiry in the wrongdoings of its officials and particularly the Controller of Examination which would be evident from the petitioner using interpolated document from 2015 till date. Lodging FIRs against errant officials is not enough; the endorsement of the

University and the documents show that the University is admittedly a party to such wrongdoing.

Although, the petitioner's name does not feature in the list of complaints submitted by the University, there is little doubt that the petitioner's marksheet with the four additional marks is an interpolated document. It is hence arguable whether the petitioner is an unsuspecting victim or a willing participant in the generation of forged marksheets. Since the marksheet relied upon by the petitioner is found to be interpolated, this Court is constrained to refuse the relief as prayed for in the Writ Petition.

Learned counsel appearing for the University suggests that the concerned Investigating Agency shall take possession of all the questionable mark-sheets and conduct an enquiry into the large scale interpolation of mark-sheet in the University. It is further suggested that charge-sheet may be issued upon conclusion of the enquiry and submitted before the jurisdictional Criminal Court.

The University having a proved and definite role in the racket cannot absolve itself from all responsibilities. The University shall therefore consider the case of the petitioner with as much sympathy as is warranted under the circumstances within two weeks

from date. This direction is only by reason of the fact that the petitioner's entire future is at stake.

W.P.A. 22207 of 2017 is accordingly disposed of without any order as to costs.

Urgent Photostat copies of this order, if applied for, be supplied to the respective parties, upon fulfilment of usual formalities.

(Moushumi Bhattacharya, J.)