

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P. (C) No. 30810 of 2022

Debaraj Tripathy

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Petitioner

Mr. S.K. Samal, Advocate

Vs.

State of Odisha and others

.....

Opposite parties

Mr. S. Jena, SC, S&ME Deptt.

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

06.12.2022

Order No.

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This matter is taken up through hybrid mode.

2. Heard Mr. S.K. Samal, learned counsel for the petitioner and Mr. S. Jena, learned Standing Counsel for School & Mass Education Department.

3. The petitioner has filed this writ petition seeking direction opposite party no.2 to re-evaluate/ re-assess question no.109 in Sanskrit Paper of the Computer Based Test (CBT) in terms of the supported documents submitted by the petitioner and after examining the same to award appropriate marks in favour of the petitioner.

4. Mr. S.K. Samal, learned counsel for the petitioner contended that there is gross error pertaining to question no. 109 and therefore, it requires re-evaluation. If that mark will be added, the petitioner will succeed in the selection process. Therefore, he has approached this Court in the present writ petition.

5. Mr. S. Jena, learned Standing Counsel for School & Mass Education Department contended that essentially the petitioner seeks for evaluation of question no. 109, which is not permissible in absence of any rules, regulations or guidelines issued by the authority concerned. Therefore, the writ petition is liable to be dismissed. To substantiate his

contention, he relied on the decision of the apex Court in the case of ***Himachal Pradesh Public Service Commission v. Mukesh Thakur and another***, (2010) 6 SCC 759.

6. Having heard learned counsel for the parties and after going through the records, it appears that the Director Secondary Education, Odisha issued an advertisement on 13.08.2021 for filling up the posts of Contractual Hindi, Sanskrit and Physical Education Teacher in Government Secondary Schools of the State of Odisha, 2021. Accordingly, on-line applications were invited from 23.08.2021 to 14.09.2021. So far as Sanskrit Teacher is concerned total 1304 posts were advertised. The petitioner having Master in Education (M.Ed) from Rashtriya Sanskrit Sansthan (Deemed University), New Delhi and also having Sikshya Shastri (B.Ed) from the same University applied within the prescribed time pursuant to the advertisement for the post of Contract Teacher (Classical Sanskrit). After due scrutiny admit card was issued in favour of the petitioner bearing roll no. 23047031. The CBT was held on 04.10.2021, where objective types of questions were given and the candidates were to answer 150 numbers of questions. So far as question no. 109 is concerned there was an error. Therefore, in the event the petitioner answers one question correctly he is to get one mark and for every wrong answer there is negative marking of 0.25. On 06.11.2021, provisional answer keys to the CBT, i.e. objective type pattern question answers was circulated in the website of opposite party no.2. From the said answer key, the petitioner came to know that in respect of question no.109, wrong answer has been given and contended that if the same is corrected, he would have been awarded mark for the said question and thereby got selected.

7. On perusal of the writ petition itself, it clearly indicates that the petitioner seeks for re-evaluation/re-assessment of the question no.109 in

terms of the supported documents submitted by him. As such, nothing has been placed on record to indicate the rules applicable for re-evaluation or re assessment of the question. In absence of any such rules, regulations or guidelines the question of re-evaluation/re-assessment does not arise.

8. In ***Himachal Pradesh Public Service Commission*** (supra) at paragraph-24, the apex Court observed that the issue of re-evaluation 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 & Anr. Vs. Paritosh Bhupesh Kurmarsheth etc.etc.*** AIR 1984 SC 1543, wherein this Court rejected the contention that in absence of provision for re-evaluation, 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/re-evaluation cannot be challenged unless there are grounds to show that the policy itself is in violation of some statutory provision. Finally at Paragraph-27, the apex Court held that 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 for re-evaluation.

9. Applying the said ratio to the present case, this Court is not inclined to direct for re-evaluation/ re-assessment of question no.109 in terms of the supported documents submitted by the petitioner.

10. Thus, this writ petition merits no consideration and the same stands dismissed.