

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5226 of 2023

Goldi Kumari Daughter of Parmeshwar Prasad, Resident of Village- Kateya,
P.O.- Kateya P.S.- Kateya, District- Gopalganj, Pin- 841437

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Law, Government of Bihar, Main Secretariat, Patna- 800001
2. The Bihar Public Service Commission, through its Chairman, 15, Jawahar Lal Nehru Marg, Bailey Road, Patna, Bihar- 800001
3. The Chairman, Bihar Public Service Commission 15, Jawahar Lal Nehru Marg, Bailey Road, Patna, Bihar- 800001
4. The Controller of Examination, Bihar Public Service Commission 15, Jawahar Lal Nehru Marg, Bailey Road, Patna, Bihar- 800001.
5. The High Court of Judicature at Patna through the Registrar General, the High Court of Judicature at Patna, Bihar- 800001
6. The Registrar General, High Court of Judicature at Patna, Bihar- 800001
7. Sri Abhinav Raj Sri Brajesh Sinha, Resident of Village- Sahopur, P.O.- Panditganj, P.S.- Kadirganj (Masaurhi), District- Patna, Bihar- 804451
8. Akash Kumar Roll No. 126937 son of Abhinash Kumar Singh, Resident of Rasai Bigha, P.S.-Hilsa, District-Nalanda, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sumit Kumar, Advocate Mr. Shekhar Kumar, Advocate Mr. Sumit Kumar, Advocate Mr. Avinash Kr. Singh, Advocate
For the Respondent/s	:	Mr. Gyan Prakash Ojha (Ga7)
For BPSC	:	MR. Sanjay Pandey, Advocate Mr. Nishant Kr. Jha, Advocate
For High Court	:	Mr. Piyush Lal, Advocate
For Respondent no. 7&8:	:	Mr. Prince Kr. Mishra, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 10-09-2024

The petitioner is concerned with the 31st Bihar Judicial Service (Junior Division) examination and is specifically concerned with many answers; she asserts were the correct answers; for which she was not granted marks. Two of



them have been pointed out by the learned Counsel for the petitioner. It is also submitted that in the backward category, to which the petitioner belongs, she lost out only by one mark lesser than the last candidate selected.

2. The petitioner essentially seeks re-evaluation of the answer papers. We have already considered the same in CWJC No. 14828 of 2023 from which we extract paragraph no. 7, which is quoted here-in-below:-

“7. The question which arises for consideration is that whether this Court can direct for re-evaluation of the answer book of the petitioner in absence of any relevant rules for the same. The law in this regard is well settled by the Hon'ble Apex Court in a catena of decisions, more particularly in the case of Pramod Kumar Srivastava vs. Chairman, Bihar Public Service Commission [(2004) 6 SCC 714]; Secretary, West Bengal Council of Higher Secondary Education v. Ayan Das [(2007) 8 SCC 242]; Ran Vijay Singh & Ors. vs. State of Uttar Pradesh & Ors. [(2018) 2 SCC 357] and Tanya Mallick v. the Registrar General of the High Court of Delhi [Writ Petition(Civil) No. 764 of 2017] wherein the Hon'ble Court succinctly opined that if there is no provision entitling a candidate to have an answer sheet re-evaluated under the recruitment rules, the Court cannot direct for re-evaluation of the answer sheet of a candidate, unless there are glaring infirmities. In the afore-noted case of Pramod Kumar Srivastava (supra), the question came up for consideration as to



whether the High Court was right in directing the re-evaluation of the answer sheet of a candidate in the absence of any provision and the Hon'ble Court has held at paragraph no. 7, which is as follows:

"7. We have heard the appellant (writ petitioner) in person and learned counsel for the respondents at considerable length. The main question which arises for consideration is whether the learned Single Judge was justified in directing re-evaluation of the answer-book of the appellant in General Science paper. Under the relevant rules of the Commission, there is no provision wherein a candidate may be entitled to ask for re-evaluation 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 answers 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 re-evaluation of answer-books in the relevant rules, no candidate in an examination has got any right whatsoever to claim or ask for re-evaluation of his marks. This question was examined in considerable detail in Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupeshkumar Sheth [(1984) 4 SCC 27: AIR 1984 SC 1543]. In this case, the relevant rules provided for verification (scrutiny of marks) on an application made to that effect by a candidate. Some of the



students filed writ petitions praying that they may be allowed to inspect the answer-books and the Board be directed to conduct re-evaluation of such of the answer-books as the petitioners may demand after inspection. The High Court held that the rule providing for verification of marks gave an implied power to the examinees to demand a disclosure and inspection and also to seek re-evaluation of the answer-books. The judgment of the High Court was set aside and it was held that in absence of a specific provision conferring a right upon an examinee to have his answer-books re-evaluated, no such direction can be issued. There is no dispute that under the relevant rule of the Commission there is no provision entitling a candidate to have his answer-books re-evaluated. In such a situation, the prayer made by the appellant in the writ petition was wholly untenable and the learned Single Judge had clearly erred in having the answer-book of the appellant re-evaluated."

3. In the present case also, there is no rule for re-evaluation as per the scheme of the examination. We have also looked at the two specific questions pointed out by the petitioner and the grievance regarding the marks awarded.

4. In question no. 13, the candidates were asked to write the sports to which the persons named were connected, as against M. Rahi Sarnobat, which the petitioner answered 'shooting'. The counter affidavit indicates that the specific sport which she is connected with is, 'pistol shooting' and hence, no



marks were awarded.

5. The second contention is with respect to question no. 7. The candidates were asked about the scientists who discovered the processes in the elementary general science paper. Regarding the name of scientist who discovered the process of fermentation, the petitioner wrote ‘Loui Pasteur’ in hindi, while the examiner has given only one mark as against two marks since the correct answer would have been ‘Louis Pasteur’.

6. The petitioner’s contention is that in hindi it is written, as pronounced. The discretion of the examiner cannot be examined by us, especially when there is no re-evaluation provided in the Rules. When a common standard is applied to the evaluation, it is not for the Court to re-evaluate the answers.

7. We find absolutely no reason to interfere with the selection process.

8. The writ petition stands dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Harsh/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	.09.2024
Transmission Date	

