

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14828 of 2023

Ashish Ranjan Son of Late Maheshwar Mahto, Resident of Village- New Colony, Near Sadar Block Darbhanga, Police Station- Sadar, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Law and Justice, Bihar.
2. The Chairman, Bihar Public Service Commission, 15th Jawarhar Lal Nehru Marg, Bailey Road, P.S.- Shastri Nagar, District- Patna.
3. The Controller of Examination, Bihar Public Service Commission, 15th Jawarhar Lal Nehru Marg, Bailey Road, P.S.- Shastri Nagar, District- Patna.
4. The High Court of Judicature at Patna, through the Registrar General, 15 Jawarhar Lal Nehru Marg, Bailey Road, P.S- Sachivalaya, District Patna.
5. The Law Secretary, Department of Law, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Jagdish Prasad Singh, Adv.
For the State	:	Mr. Sunil Kumar Mandal, SC 3 with Mr. Arjun Prasad, AC to SC 3
For the BPSC	:	Ms. Parul Prasad, Adv.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HARISH KUMAR)

Date : 12-03-2024

Heard the parties.

2. The petitioner was an aspirant of 31st Bihar Judicial Service (Junior Division) examination and has filed the present writ petition seeking a direction upon the respondents to re-evaluate his answer sheet(s) and to follow up with the consequential effect thereof on the premise that the examiner has crossed the answer despite the correct answer and awarded



less marks, apart from the allegation of erasing of the initial marks and giving fresh marks.

3. Learned Counsel for the petitioner contended that the petitioner having been declared successful in the preliminary examination of 31st Bihar Judicial Service (Junior Division) appeared in the Written (Main) Examination, however, despite his good performance was declared unsuccessful. It is submitted that the petitioner, a candidate of Scheduled Caste category, secured 340 marks and cut-off marks of the S.C. category went up to 364 marks. The petitioner being dissatisfied made a representation before the Chairman of the Bihar Public Service Commission (hereinafter referred to as the 'Commission') requesting for re-evaluation of his answer sheet as also re-calculation of the marks, thereafter. Applications were also filed under the Right to Information Act, 2005 and when the matter has been placed before the First Appellant Authority, the respondent Commission supplied photocopies of the answer sheets.

4. It is the case of the petitioner that having gone through the answer sheets, the petitioner found certain discrepancies therein as he has been awarded less marks, despite the correct answer and in some of the places, though answer has



been written correctly but the same has not been valued and no mark was allowed, apart from some underlines and erasing & fresh marking.

5. Adverting to the aforesaid facts, learned Counsel for the petitioner contended that the answer sheet of the petitioner must be re-evaluated as there is a good chance of his being successful in the written examination, if he would have been allowed the marks as per his performance.

6. Before arriving at the final decision, it would be appropriate to observe that so far as the 31st Bihar Judicial Service (Junior Division) Examination is concerned, the final result has already been published and now a new selection process in connection with 32nd Bihar Judicial Service (Junior Division) Examination has commenced, as has been informed to this Court.

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.”

8. Now coming to the case in hand, the petitioner is



unable to show any provision for re-evaluation of the answer sheet, though contrary to that there are certain statutory rules, regulation/law which does not permit re-evaluation, apart from the fact the process of selection in connection with 31st Bihar Judicial Service (Junior Division) has already culminated in the appointment of Judicial Officers. Moreover, the petitioner also failed to make out a glaring case to enable this Court to invoke extraordinary jurisdiction to direct the Commission for re-evaluation of the answer scripts. Individual perceptions of a candidate of what is correct and what is wrong cannot regulate a selection process, especially where the subject-experts evaluate the answer sheets.

9. This Court does not find any merit in the present writ petition, the same stands dismissed.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	14.03.2024
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