

**30.08.
2024**

Ct. No. 08

Ab

FMA 453 of 2015
IA No. CAN 1 of 2014 (Old No. CAN 6721 of 2014)

The Vidyasagar University, Medinipur
Vs.
Monalisha Maiti and others.

Ms. Debjani Sengupta,
Mr. Abhijit Chatterjee,
Ms. Koyel Bag..

... for the appellant.

Mr. Sirsanya Bandyopadhyay,
Mr. Debopriyo Karan.

... for the State.

Despite service there is no representation on behalf of the respondent no. 1.

The affidavit of service along with the latest up to date copy downloaded from the official website of India Post filed in Court today is kept with the record.

The University is the appellant before us and assailed an order dated 20th June 2014 passed by the Single Bench in WP 36884 (W) of 2013.

The State is also represented in the matter and candidly submits that they have negligible role in relation to the dispute raised in the instant appeal.

Obviously, the matter relates to awarding the extra marks and, therefore, the main respondent is the writ petitioner, who approached the Court.

Astonishingly, the Single Bench directed the University to award “at least 12 marks” in paper 7th and 8th without recording any reasons as to why it convinced the Court in this regard. The Court cannot substitute itself into the armchair of an examiner nor should usurp the power of the University, who have the team of experts in academics and evaluation of the answer scripts are within the realm of their expertise.

The Court should be slow and circumspect in interfering with the marks allotted to each of the students in the examination unless the Court finds that there has been a gross mistake, illegality and the act of evaluating is per se beyond the conceivable limits set forth in the statutory provisions.

A teacher, who examine the answer script is an expert in the said subject and in absence of any convincing materials produced before the Court, the Court cannot surreptitiously jumped to the conclusion that the University should award 12 marks in each of those papers.

We are further perplexed the manner in which such direction was passed. The expression “at least” has inculcated a sense in us that even the Single Bench was not convinced on the claim of the writ petitioner/respondent. If the Court finds that the student is entitled to particular marks, there is no scope of using the expression “at least” that shows that the Court was in dilemma whether the marks should be given to such student or not. The Court must arrive at definite conclusion and should not pass a direction upon the authorities, which is smack of illegality.

As indicated above, the Court should not usurp the domain of the academicians in respect of the fields and should not substitute itself in deciding the academic matter.

We, thus, set aside the impugned order. As a consequence whereof the appeal and the connected application are dismissed.

There shall, however, be no order as to costs

(Harish Tandon, J.)

(Prasenjit Biswas, J.)

