

**IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE**

Present:

The Hon'ble **Justice Kausik Chanda**

**W.P.A. No.10051 of 2019**

**ALISHA WAHID**

**-VERSUS-**

**THE STATE OF WEST BENGAL AND OTHERS**

For the petitioner : Mr. Srijib Chakraborty, Adv.,  
Mr. Saikat Dey, Adv.

For the Burdwan University : Mr. N. C. Bihani, Adv.,  
Mr. P. B. Bihani, Adv.

For the State : Mr. Bipin Ghosh, Adv.

Hearing concluded on : 03.09.2024

Judgment on : 09.09.2024

**Kausik Chanda, J.:-**

Respondent No. 7 secured the first position in the Master's Degree programme in Sociology for the session 2016-2018, achieving a Cumulative Grade Point Average (CGPA) of 7.29.

2. Subsequently, she applied for a review of her Semester IV (final) papers, which resulted in a reduction of her CGPA from 7.29 to 7.23. Consequently, Respondent No. 7 became First Class Second, while the writ petitioner, who had originally been First Class Second with a CGPA of 7.24, was elevated to First Class First.

3. The University then initiated a suo motu review of the Semester IV (final) papers of the petitioner, which led to a reduction in her CGPA from 7.24 to 7.18. As a result, Respondent No. 7 reclaimed her first position, and the writ petitioner was demoted to the second position. The suo motu review of the petitioner's Semester IV results was conducted in accordance with the resolution of Executive Council of the University dated December 24, 2018, which stipulates that if changes in marks due to a post-publication review affect the First Class First position, then all answer scripts of the examinees securing the First, Second, and Third positions in the concerned subjects must be reviewed suo motu by the University under the supervision of the Controller of Examinations.

4. The petitioner contends that this suo motu review was conducted unfairly and without her consent, leading to a decrease in her CGPA and

negatively impacting her standing, including her eligibility for the Gold Medal.

5. The petitioner argues that the university's actions, including the retrospective application of new regulations changing the review procedures, were illegal and unjust. The decision to conduct a suo motu review of marks, without any application from the students and without prior notice, contravened principles of natural justice and violated her rights. The resolution dated December 24, 2018, which altered her results, was improperly applied. It should not affect her case, as her result was published prior to the date of the resolution.

6. The petitioner challenges the resolution dated December 24, 2018, and prays for restoration of her status as the top candidate.

7. The University, in contrast, asserts that the Executive Council's decision on December 24, 2018, was a response to prior inconsistencies in medal allocations and aimed to amend the regulations governing post-publication reviews. This resolution was within the Council's authority and intended to ensure transparency and fairness in the examination process.

8. On January 4, 2023, the Standing Committee resolved to reconsider the December 24, 2018, resolution, suggesting that it be applied on a case-by-case basis rather than as a blanket policy. This resolution was subsequently approved by the Executive Council on January 19, 2023, which confirmed that the updated process would supersede prior resolutions.

9. The University maintains that the suo motu review was a policy decision intended to ensure uniformity and was neither arbitrary nor illegal. The petitioner's claims are unfounded, as the changes were made in accordance with established procedures and regulations, and did not infringe upon her legal rights. The University's actions were consistent with its objective of correcting discrepancies and maintaining the integrity of the examination process. Therefore, the petitioner's challenge to the resolution is without merit and should be dismissed.

10. In support of its stand, the University cites the judgment reported in **(2012) 1 SCC 157 (*Sanchit Bansal v. Joint Admission Board*)**, arguing that the decision in question falls within the realm of policy and administrative decisions, and does not meet the established grounds for judicial review of administrative decisions. Furthermore, the decision aimed to adopt a uniform and non-discriminatory process, which cannot be termed as illegal or arbitrary.

11. It appears that the results for the fourth semester were published on August 24, 2018, and the provisional results following the post-publication review were published on December 19, 2018. The corrigendum, which adjusted the CGPA of the writ petitioner from 7.24 to 7.18, was published on February 26, 2019.

12. I am of the opinion that the petitioner is correct in asserting that the resolution dated December 24, 2018, could not be applied retrospectively to

her case, given that the results of the post-publication review for the fourth semester papers in 2018 were published on December 19, 2018.

13. The petitioner has also appropriately pointed out that the resolution dated December 24, 2018, was not made effective from its date of issuance. The relevant portion of the resolution is quoted below:

*“The council while considering the matter of execution of remedial steps in the matter of faulty Medal List in last Convocation held on 01.12.2017 noted that after the intervention of the Hon’ble Chancellor, university is **in process of amending the regulations of the Post Publication Review** incorporating that, in case of change of marks due to Post Publication Review affects the 1<sup>st</sup> class 1<sup>st</sup>, then all three answer scripts of the examinees securing 1<sup>st</sup>, 2<sup>nd</sup> & 3<sup>rd</sup> position with concerned subjects will be reviewed suo motu by the University under the supervision of Controller of Examinations and approved the same.”*

**(emphasis supplied)**

14. The University has not produced any order/notification amending the post-publication review process. Therefore, the University should not have conducted a suo motu review of the petitioner's fourth-semester papers based on the resolution dated December 24, 2018.

15. However, this Court cannot disregard the fact that, following the post-publication review, Respondent No. 7 has achieved a higher CGPA (7.24) than that of the writ petitioner (7.18). In light of these facts, it is, perhaps, impermissible for this Court to pass a direction to restore the pre-

review position, as it would displace Respondent No. 7 from her First Class First position despite her highest CGPA. This Court is presented with a *fait accompli*.

16. To achieve justice in the peculiar facts of this case, I direct the University to declare Respondent No. 7 as the First Class First candidate and award her the Gold Medal in the upcoming convocation of the University. The writ petitioner should also be awarded a Gold Medal as a special case, but her position in the merit list will remain second.

17. Accordingly, W.P.A. No.10051 of 2019 is hereby disposed of.

18. Urgent certified website copy of this judgment, if applied for, be supplied to the parties subject to compliance with all the requisite formalities.

**(Kausik Chanda, J.)**