

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

ON THE 25th OF JULY, 2024

WRIT PETITION No.18656 of 2024

ADARSH PANDEY

Versus

THE BOARD OF SECONDARY EDUCATION

Appearance:

Shri Aniruddha Kumar Mishra – Advocate for the petitioner.

Ms. Swati Aseem George – Dy. Government Advocate for respondent/State.

ORDER

This Writ Petition under Article 226 of Constitution of India has been filed seeking following relief(s):-

- (i). It is therefore, prayed from this Hon'ble court that a writ of Mandamus may kindly be issued and the respondents be directed to revalued/re-check answer-sheet of petitioner's subject in question and further issued correct Mark-sheet accordingly, in the interest of justice.
- (ii). In alternative, directed to revalue of his answer-sheet by another valuer who available from nearest Govt. school through appoint for particular subject in question, in the interest of justice.
- (iii). Any other relief or writ or direction or order which this Hon'ble court may deem fit and proper looking the facts and circumstances of the case be awarded to the petitioner including the cost of the litigation.

2. It is submitted by the counsel for the petitioner that since the petitioner has filed this petition for re-checking, therefore, it would not amount to revaluation, but fairly conceded that there is no provision for revaluation of answer-sheets. By referring to some of the answers given by the petitioner with the model answer-sheets, it is submitted by the counsel for the petitioner that the answer-sheets of the petitioner were not properly checked.

3. Considered the submissions made by the counsel for the petitioner.

4. Undisputedly, there is no provision for revaluation. It is well established principle of law that in absence of any provision for revaluation, the Court cannot direct for revaluation even by appointing the Court appointed experts.

5. The Supreme Court in the case of **Ran Vijay Singh and others Vs. State of Uttar Pradesh and others** reported in **AIR 2018 SC 52** has held as under:-

“30. The law on the subject is therefore, quite clear and we only propose to highlight a few significant conclusions. They are: (i) If a statute, Rule or Regulation governing an examination permits the re-evaluation of an answer sheet or scrutiny of an answer sheet as a matter of right, then the authority conducting the examination may permit it; (ii) If a statute, Rule or Regulation governing an examination does not permit reevaluation or scrutiny of an answer sheet (as distinct from prohibiting it) then the Court may permit re-evaluation or scrutiny only if it is demonstrated very clearly, without any “inferential process of reasoning or by a process of rationalisation” and only in rare or exceptional cases that a material error has been committed; (iii) The Court should not at all re-

evaluate or scrutinize the answer sheets of a candidate – it has no expertise in the matter and academic matters are best left to academics; (iv) The Court should presume the correctness of the key answers and proceed on that assumption; and (v) In the event of a doubt, the benefit should go to the examination authority rather than to the candidate.”

6. The Supreme Court in the case of **High Court of Tripura Through The Registrar General Vs. Tirtha Sarathi Mukherjee & Ors.** by order dated 6/2/2019 passed in **Civil Appeal No.1264/2019** has held as under:-

“18. We have noticed the decisions of this Court. Undoubtedly, a three Judge Bench has laid down that there is no legal right to claim or ask for revaluation in the absence of any provision for revaluation. Undoubtedly, there is no provision. In fact, the High Court in the impugned judgment has also proceeded on the said basis. The first question which we would have to answer is whether despite the absence of any provision, are the courts completely denuded of power in the exercise of the jurisdiction under Article 226 of the Constitution to direct revaluation? It is true that the right to seek a writ of mandamus is based on the existence of a legal right and the corresponding duty with the answering respondent to carry out the public duty. Thus, as of right, it is clear that the first respondent could not maintain either writ petition or the review petition demanding holding of revaluation.

19. The question however arises whether even if there is no legal right to demand revaluation as of right could there arise circumstances which leaves the Court in any doubt at all. A grave injustice may be occasioned to a writ applicant in certain circumstances. The case may arise where even though there is no provision for

reevaluation it turns out that despite giving the correct answer no marks are awarded. No doubt this must be confined to a case where there is no dispute about the correctness of the answer. Further, if there is any doubt, the doubt should be resolved in favour of the examining body rather than in favour of the candidate. The wide power under Article 226 may continue to be available even though there is no provision for reevaluation in a situation where a candidate despite having giving correct answer and about which there cannot be even slightest manner of doubt, he is treated as having given the wrong answer and consequently the candidate is found disentitled to any marks.

20. Should the second circumstance be demonstrated to be present before the writ court, can the writ court become helpless despite the vast reservoir of power which it possesses? It is one thing to say that the absence of provision for reevaluation will not enable the candidate to claim the right of evaluation as a matter of right and another to say that in no circumstances whatsoever where there is no provision for reevaluation will the writ court exercise its undoubted constitutional powers? We reiterate that the situation can only be rare and exceptional.”

7. Even if the judgment passed by the coordinate Bench of this Court in the case of **Sharinath Das Gupta Vs. Board of Secondary Education** reported in **2018 (3) M.P.L.J. 76** is considered, still the petitioner has failed to make out an exceptional circumstance. The petitioner has not filed the copies of the books, which were referred by him. In order to find out as to whether the petitioner has made out some exceptional circumstance requiring reevaluation, the petitioner was permitted to point out some of the disputed questions as model questions. Accordingly, petitioner referred question nos.8, 9 and 10 of

the subject of Chemistry. After comparing with the model answer-sheets, it was found that either those answers were incomplete or were not correct. This Court has to give preference to the view of the experts appointed by the Board and their view cannot be substituted by the Court appointed experts. Since the sample questions, which were pointed out by the counsel for the petitioner during arguments were not suggestive of any exceptional circumstance, therefore, in the light of the judgment passed by the Supreme Court in the case of **Ranvijay Singh (supra)**, this petition is dismissed on the ground that there is no provision for revaluation and no exceptional circumstance could be pointed out warranting revaluation of answer-sheets.

8. Accordingly, the petition fails and is hereby **dismissed**.

(G.S. AHLUWALIA)
JUDGE

Arun*