

IN THE HIGH COURT OF JHARKHAND AT RANCHI
(Letters Patent Appellate Jurisdiction)

L.P.A. No. 39 of 2023

Rakesh Kumar, aged about 44 years, son of Laxman Roy, resident of Kailash Puri, Mani Tola, Pathar Road, Hinoo, P.O & P.S: Doranda, Dist: Ranchi, Jharkhand
..... **Appellant**

Versus

1. The State of Jharkhand represented by the Chief Secretary, Govt. of Jharkhand, Ranchi, Project Bhawan, P.O & P.S: Dhurwa, Dist: Ranchi
2. The Principal Secretary, Department of Personnel & Administrative Reforms, Govt. of Jharkhand, Ranchi, Project Bhawan, P.O & P.S: Dhurwa, Dist: Ranchi
3. Jharkhand Public Service Commission, through its Secretary, Circular Road, P.O & P.S: Lalpur, Dist: Ranchi
4. Examination Controller, Jharkhand Public Service Commission, through its Secretary, Circular Road, P.O & P.S: Lalpur, Dist: Ranchi

..... **Respondents**

CORAM : HON'BLE MR. JUSTICE SHREE CHANDRASHEKHAR
HON'BLE MR. JUSTICE RATNAKER BHENGRA

For the Appellant	: Mr. Ankur Anand, Advocate
For the State	: Ms. Omiya Anusha, AC to AAG-IA
For the JPSC	: Mr. Sanjoy Piprawall, Advocate

ORDER
15th May 2023

Per Shree Chandrashekhar, J.

This is an assigned matter.

2. This matter has come on Board pursuant to an urgent slip dated 10th May 2023 tendered by Mr. Ankur Anand, the learned counsel for the appellant.

3. Rakesh Kumar who was a candidate for appointment on one of the various posts which were advertised through Advertisement No.23 of 2016 approached the writ Court for re-evaluation of the answer-sheet. This prayer has been declined by the writ Court by an order dated 5th January 2023.

4. The writ Court has held as under:

“Petitioner's result was published wherein he had obtained less marks than the cut off marks, thus he was declared unsuccessful and was not finally selected. The numbers in each paper he has received is also reflected in the mark-sheet which is at page 29

of the writ application. Since the petitioner obtained less marks than the cut off marks no relief can be granted to the petitioner. Further the Hon'ble Supreme Court in the case of Pramod Kumar Srivastava Vrs. Chairman Bhara Public Service Commission reported in 2004 (6) SCC 714, has held that in the absence of any provision for the re-evaluation of answer books in the relevant rules, no candidate in an examination has any right to claim or ask for re-evaluation."

5. The aforesaid order passed in WP(S) No.4202 of 2020 has been challenged by Rakesh Kumar by filing the present Letters Patent Appeal.

6. The brief facts of the case are that written test was conducted on 17th January 2019 and the results were published on 15th February 2020. Before that, the appellant had approached the Hon'ble Supreme Court against the order passed in L.P.A. No.518 of 2017 because he was disqualified in the Preliminary Test. By an order dated 10th September 2018, the Hon'ble Supreme Court observing that since the candidate has secured 40% marks in both the papers taken together he shall be allowed to appear for the Main Examination.

7. This is the case pleaded by the appellant that on 15th February 2020 his marks were not notified by the Jharkhand Public Service Commission and, therefore, he had to file an application under RTI. This is an admitted position that there is no error in calculation of marks in any of the six papers for which Mains Examination was conducted. The grievance of the appellant is that in one of the questions in paper-II of Geography he was awarded one marks for the question of 40 marks.

8. Ms. Omiya Anusha, the learned State counsel has referred to "*Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupeshkumar Sheth*" (1984) 4 SCC 27 to submit that re-evaluation of a paper may bring in serious controversy and, therefore, the examining body has not made any provision for re-evaluation of the answer-sheets.

9. In "*Paritosh Bhupeshkumar Sheth*" the Hon'ble Supreme Court has held as under:

"12. Though the main plank of the arguments advanced on behalf of the petitioners before the High Court appears to have been the plea of violation of principles of natural justice, the said contention did not find favour with the learned Judges of the Division Bench. The High Court rejected the contention advanced on behalf of the petitioners that non-disclosure or disallowance of the right of inspection of the answer books as

well as denial of the right to ask for a revaluation to examinees who are dissatisfied with the results visits them with adverse civil consequences. The further argument that every adverse “verification” involves a condemnation of the examinees behind their back and hence constitutes a clear violation of principles of natural justice was also not accepted by the High Court. In our opinion, the High Court was perfectly right in taking this view and in holding that the “process of evaluation of answer papers or of subsequent verification of marks” under clause (3) of Regulation 104 does not attract the principles of natural justice since no decision-making process which brings about adverse civil consequences to the examinees is involved. The principles of natural justice cannot be extended beyond reasonable and rational limits and cannot be carried to such absurd lengths as to make it necessary that candidates who have taken a public examination should be allowed to participate in the process of evaluation of their performances or to verify the correctness of the evaluation made by the examiners by themselves conducting an inspection of the answer books and determining whether there has been a proper and fair valuation of the answers by the examiners. As succinctly put by Mathew, J. in his judgment in the *Union of India v. Mohan Lal Kapoor* it is not expedient to extend the horizon of natural justice involved in the *audi alteram partem* rule to the twilight zone of mere expectations, however great they might be. The challenge levelled against the validity of clause (3) of Regulation 104 based on the plea of violation of natural justice, was therefore, rightly rejected by the High Court.”

10. Mr. Sanjoy Piprawall, the learned counsel for the Jharkhand Public Service Commission has submitted that the Commission has also not made any provision for re-evaluation of the answer-sheets and, moreover, no candidate has any right to claim or ask for re-evaluation of the answer-sheets.

11. In “*Pramod Kumar Srivastava v. Chairman, Bihar Public Service Commission*” (2004) 6 SCC 714 the Hon'ble Supreme Court has held as under:

“7. 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. 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."

12. Evidently, the law on the subject does not provide any help to the appellant and his grievance could not have been redressed in exercise of the powers under Article 226 of the Constitution of India.

13. Therefore, finding no merits in this Letters Patent Appeal, L.P.A No.39 of 2023 is dismissed.

14. I.A. No.3030 of 2023 stands disposed of.

(Shree Chandrashekhar, J.)

(Ratnaker Bhengra, J.)

*Jharkhand High Court, Ranchi
Dated: 15th May, 2023
R.K./N.A.F.R.*