

(2021) 03 PAT CK 0099

Patna High Court

Case No: Civil Writ Jurisdiction Case No. 8315 Of 2019

Deepak Kumar

APPELLANT

Vs

Baba Saheb Bhimrao Ambedkar
Bihar University Muzaffarpur
And Ors

RESPONDENT

Date of Decision: March 10, 2021

Acts Referred:

- Indian Penal Code, 1860 - Section 34, 120B, 406, 409, 467, 468

Hon'ble Judges: Rajeev Ranjan Prasad, J

Bench: Single Bench

Advocate: Lakshmi Kant Tiwary, Nitesh Kumar, Sandeep Kumar, Indrajesh Kumar

Final Decision: Dismissed

Judgement

Ques. No,Marks provided by the Examiner,Marks Given in tabulation sheet of answer paper

1,12,10

4,12,10

5,8,8

6,12,10

7,12,10

College, Bhagwanpur. The said Committee in its final report recommended to cancel the result of the petitioner. Annexure ~Câ€™™ to the counter",,

affidavit is the copy of the final report submitted by the Committee.,,

13. As regards the request of the petitioner for re-evaluation of answer sheet of paper IV, it is the stand of the respondent University that there is no",,

provision regarding re-evaluation of the answer sheets. It is further disclosed in paragraph 12 of the counter affidavit that the Examination,,

Board in its meeting held on 27.10.2018 considered the case of the petitioner vide agenda item no. 5 and resolved that the recommendation of the,,

Inquiry Committee be followed in the case of the petitioner and other similar cases.,,

14. A First Information Report has also been lodged by the Registrar of the University giving rise to University P.S. Case No. 44 of 2018 dated,,

16.12.2018 under Sections 406, 409, 467, 468, 120B and 34 of the Indian Penal Code. The matter is still under investigation.",,,

15. Learned counsel for the petitioner has contested the stand of the University by filing a rejoinder. It is his submission that wrong allegations have,,

been made against the petitioner. The University has ruined the career of the petitioner and improper allegations have been made against him in,,

complete violation of principles of natural justice.,,

16. After hearing learned counsel for the petitioner and learned counsel for the University, this Court finds that serious allegations have been made by",,,

the University as regards the marks shown in Part- II examination held in the month of December 2016. Annexure 1(i) to the writ application,,

is the marksheet showing 19 marks awarded to the petitioner in paper IV. The total of paper III and paper IV comes to 67. Annexure 2(i) is,,

the copy of the answer sheet. The very first page of it shows that the petitioner obtained total 48 marks in paper III. Annexure 3 is the copy,,

of the question paper of the 2016 (re-examination of paper Chemistry (IV)). Annexure 3(i) is the copy of the answer sheets and a bare,,

perusal of the same would show that the total marks awarded to the petitioner in paper IV is 16 only.,,

17. A further perusal of the answer sheets of paper IV would show that against answer to question no. 1.a and 1.b the petitioner has obtained zero,,

marks. He has at the top recorded the question which do not tally with the question paper of paper IV (Annexure 3).,,

18. Similar is the position with regard to question no. 2(a) and (b). He has attempted two questions from group A but those questions do not,,

tally with the question paper. In group B of paper IV the petitioner was required to answer three questions. Again the questions answered by,,

him as question no. 5(a), 5(d) and 5(c) do not tally with the question papers. Question no. 6 answered by him tallies with the question paper and",,,

against this he has been awarded 5 marks. One of the question which he had answered was in fact question no. 5 but he had taken it as question no. 7,,

and against this question he has been awarded 3 marks only but on the first page where the marks obtained have been recorded against 7th question,,

he has been shown to have obtained 13 marks which is not tallying with the answer sheets. There is nothing to suggest that answer sheet of paper IV,,

has been checked on the basis of question paper of previous examination.,,

19. On the face of the fact that the Vice-Chancellor constituted a Committee to Inquire into the allegations of irregularities and tampering of marks,,

and that committee has submitted its report raising serious issues against the integrity of the tabulators, the submission of learned counsel for the",,,

petitioner does not inspire confidence of this Court. The committee recommended for cancellation of result and the same has been accepted by the,,

Examination Committee. They are the expert bodies and this kind of issues may be resolved only by those bodies who have the expertise in dealing,,

with such matters.,,

20. Learned counsel for the petitioner has relied upon the judgment of the Honâ€™ble Division Bench of this Court in the case of Ashutosh Kumar,,

Karn Vs. Tilka Manjhi Bhagalpur University through Vice Chancellor & Ors. reported in 2017 (2) PLJR 468. In the said case the Honâ€™ble,,

Division Bench was prima-facie of the view after going through the materials that evaluation of answer sheets was not done in accordance with law.,,

The facts situation of the present case are completely different which would be evident from the discussions made by this Court hereinabove. The,,

another judgment of the learned co-ordinate Bench of this Court in the case of Sweta Kumari & Ors. Vs. The Magadh University through its,,

Registrar & Ors. (C.W.J.C. No. 6281 of 2018 disposed of on 15.05.2018) is equally not applicable in the facts of the present case. In the opinion of,,

this Court the petitioner has failed to make out a case for direction to the University to consider the case for re-evaluation.,,

21. This Court is not sitting in appeal over the decision of the Examination Committee. In fact those decisions are not under challenge in the present,,

writ application. The petitioner has failed to make out a case for mandamus.,,

22. The writ application has, thus, no merit. It is dismissed accordingly.",,