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IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No. 21703 of 2024

Jyotirmayee Dutta

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Petitioner

Mr. Srinivas Mohanty,
Advocate

-versus-

State of Odisha & Ors.

....

Opposite Parties

Mr. Debasish Nayak,
Addl. Govt. Advocate

Mr. P. K. Mohanty, Sr.
Advocate along with
Mr. Pronoy Mohanty,
Advocate for O.P. No. 2

CORAM:

THE HON'BLE MR. JUSTICE S.K. SAHOO

THE HON'BLE MR. JUSTICE CHITTARANJAN DASH

Date of Judgment: 03.02.2025

Chittaranjan Dash, J.

1. Heard Mr. Srinivas Mohanty, learned counsel appearing on behalf of the Petitioner, Mr. Debasish Nayak, learned Additional Government Advocate and Mr. P. K. Mohanty, learned Senior Advocate representing Opposite Party No.2 i.e. Odisha Public Service Commission.
2. By means of this Writ Petition, the Petitioner has challenged the legality and validity of the evaluation process in the Written



Examination, Odisha Judicial Service Examination (OJS), 2022 and prays for evaluation of the left-out answer script by OPSC in the law of Property in Q-5(a) and in other questions as per the guidelines provided under the scheme of evaluation.

3. The background facts of the case are that the Petitioner appeared for the OJS Main Exam 2022 under PPSAN No. P230166010, corresponding to Roll No. 400344. Despite her impressive academic credentials, she could not qualify for the next stage of the OJS examination by a narrow margin of five marks. The Petitioner secured commendable scores in most subjects, including 94 marks in General English, 86 marks in Procedural Law, 78 marks in Jurisprudence and Constitution of India, and 74 marks in the Law of Crimes and Law of Torts. However, she received only 53 marks in the Law of Property paper, which she claims resulted from non-evaluation and improper valuation of her answers, specifically Question No. 5(a). The Petitioner alleges that Question No. 5(a) in the Law of Property paper was left unevaluated, and its marks were not added to the total. Additionally, she contends that other answers, despite meeting all criteria for an ideal response such as proper introductions, essential conditions, relevant legal provisions, Latin legal maxims, case laws, and conclusions were awarded unreasonably low marks, contrary to the scheme of evaluation. The Petitioner asserts that if her answers had been properly scrutinised, the outcome of the examination would have been different, and she would have qualified for the next stage. Consequently, she seeks re-evaluation of her answer scripts to rectify the alleged irregularities.



4. Mr. Srinivas Mohanty, learned counsel for the Petitioner argues that the evaluation process for the Odisha Judicial Service Examination (OJS) 2022 was arbitrary and flawed, violating her fundamental rights guaranteed under the Constitution. He asserts that her answer to Question No. 5(a) in the Law of Property paper was left unevaluated, as no marks were awarded or recorded for it. Furthermore, he claims that the evaluation of the Petitioner's other answers was inconsistent and unfair, despite her responses meeting the criteria for ideal answers, including proper introductions, legal provisions, maxims, case laws, and conclusions. Mr. Mohanty emphasises that such arbitrary marking prevented her from qualifying for the viva voce stage by a narrow margin of five marks. He further contended that the evaluation was contrary to the scheme of evaluation adopted in previous years, which aims to ensure uniformity and fairness in the marking process. He argues that the process should have insulated the evaluation from subjective biases, but the marks awarded to the Petitioner suggest otherwise, and the lack of transparency in the marking process deprived her of a fair opportunity to compete in the examination, which is essential in a merit-based selection system. Mr. Mohanty concludes his argument as to seeking a direction for re-evaluation of the Petitioner's answer scripts in the interest of justice. The learned counsel has resorted to three reported decisions – *Prajna Lalit Mishra vs. OPSC & Ors.* reported in 2016 (I) ILR–CUT-652, *Sanjay Singh vs. Uttar Pradesh Public Service Commission & Anr.* reported in (2007) 3 SCC 720, and *Sujasha Mukherji vs. The Hon'ble High Court of Calcutta, Thr. Registrar & Ors.*



5. Mr. P. K. Mohanty, learned Senior Advocate, representing the Odisha Public Service Commission (OPSC) contends that the writ petition is devoid of merit and should be dismissed as re-evaluation of answer scripts in competitive examinations is not permissible under the law, and cited the judgment passed by the Hon'ble Supreme Court in ***Pramod Kumar Srivastava vs. Chairman, Bihar PSC***, which explicitly bars such practices unless expressly provided in the examination rules. Mr. Mohanty further asserts that the marks awarded to the Petitioner were based on thorough evaluation by experienced and qualified examiners, including Chief Examiners in the rank of District Judge, ensuring fairness and accuracy. They have complete discretion in awarding marks, and their decisions are final. Mr. Mohanty further denies the Petitioner's claim that Question No. 5(a) in the Law of Property paper was left unevaluated, stating that the examiner had marked the question and awarded four marks, which were duly recorded in the final score. He further clarifies that there is no specific written scheme of evaluation; instead, the Chief Examiner provides verbal guidelines to ensure uniformity. Moreover, the recruitment process for the OJS 2022 has already concluded, and the process for the subsequent year is underway, rendering the Petitioner's claims infructuous. Mr. Mohanty finally submitted that any interference at this stage would disrupt the selection process and set an impractical precedent and prayed for the dismissal of this writ petition.

6. Mr. Debashish Nayak, learned Additional Government Advocate for the State argued that this writ petition is devoid of merit and should be dismissed at the outset. While supporting the stand of O.P. No.2-OPSC, Mr. Nayak too emphasised that



competitive examinations require strict adherence to established rules, and as per *Pramod Kumar Srivastava vs. Bihar PSC*, re-evaluation of answer scripts is not permissible unless explicitly provided for in the rules governing the examination. Additionally, OPSC's own notification of 2017 explicitly bars re-evaluation, reinforcing that the Petitioner's demand for reconsideration of marks could not be entertained. He further argued that, unlike objective-type questions where an answer is either right or wrong, the evaluation of descriptive answers involves examiner discretion. These examiners are experienced professionals who have evaluated the scripts fairly and in accordance with uniform guidelines, ensuring consistency and impartiality. Mr. Nayak concluded his argument by stating that, since the OPSC rules do not provide for post-examination scrutiny, the Petitioner's claim for re-evaluation is beyond the permissible scope of judicial intervention and is, therefore, liable to be dismissed.

7. Having regard to the prayer in the Writ Petition, two essential questions arise for determination:

- (i) whether marks were not awarded for any question in the Petitioner's answer script, and,
- (ii) if so, whether the Petitioner would succeed in the examination after the evaluation of the unmarked answers.

8. At the outset of the hearing and upon a perusal of the case records, it is evident that the "Law of Property" question paper carried a total of 150 marks, with all questions carrying equal value. Candidates were required to answer six questions, selecting two questions from each of the three sections – A, B, and C. The Petitioner's answer script, annexed as Annexure-6, reveals that she



opted to answer Question No. 5 from Section B, which is divided into two sub-questions, 5(a) and 5(b). The Petitioner's grievance is that while marks were awarded for her answer to sub-question 5(b), the examiner failed to award any marks for her answer to sub-question 5(a). The opposite party (OPSC) argued that re-evaluation of answer scripts in competitive examinations is not permissible under the law, citing the judgment passed by the Hon'ble Supreme Court in *Pramod Kumar Srivastava vs. Chairman, Bihar PSC* reported in (2004) 6 SCC 714, which explicitly bars re-evaluation unless expressly provided in the examination rules. Additionally, OPSC referred to its own Notification No. 1009/PSC dated 27.06.2017, which prohibits re-evaluation of answer scripts in its examinations.

9. However, having regard to the facts in the present case, the above contention appears irrelevant. The issue here is not of re-evaluation but of non-evaluation. The Petitioner has demonstrated, and it is apparent from the answer script, that while her answer to sub-question 5(b) was evaluated and marks was awarded, her answer to sub-question 5(a) was left unmarked by the Examiner. Consequently, this Court deemed it necessary, in the interest of justice, to have the Petitioner's answer to sub-question 5(a) evaluated by independent academic professionals. Accordingly, the Court directed the OPSC to send the Petitioner's answer script to three reputed universities – *National Law University, Cuttack*; *M.S. Law University, Cuttack*; and *Law University, Vani Vihar, Bhubaneswar* for the evaluation by their respective Vice-Chancellors or subject experts.



The individually marked answer scripts were subsequently placed before this Court on 15.01.2025 in sealed covers. Upon review, it was confirmed by all three universities that sub-question 5(a) in Section B had indeed not been evaluated earlier. Subsequently, each university assigned marks for the answer, and the average of the marks awarded by the three universities was calculated to be **3.5**. The Petitioner argued that had her “Law of Property” answer script been properly scrutinised earlier, she could have qualified for the next stage of the OJS examination.

10. After adding the average marks awarded for sub-question 5(a) (i.e., 3.5) to the Petitioner’s **original score of 53** in the “Law of Property” paper, **her revised total becomes 56.5**. Despite this, the Petitioner’s overall score remains insufficient for qualification in the OJS Mains examination. Therefore, while the Petitioner’s grievance regarding the non-evaluation of sub-question 5(a) is valid and has been rectified, the outcome of her examination remains unchanged, and she does not qualify for the next stage of the recruitment process.

11. The learned counsel for the Petitioner has relied upon these decisions – *Prajna Lalit Mishra vs. OPSC & Ors.* reported in 2016 (I) ILR–CUT-652, *Sanjay Singh vs. Uttar Pradesh Public Service Commission & Anr.* reported in (2007) 3 SCC 720, and *Sujasha Mukherji vs. The Hon’ble High Court of Calcutta, Thr. Registrar & Ors.* reported in [2015] 2 S.C.R. 480. However, the decisions in these matters are not directly applicable to the Petitioner’s case due to significant factual and legal differences. In *Prajna Lalit Mishra*, the Court addressed incorrect marking of objective-type questions with fixed answers under a clearly defined scheme of valuation,



whereas the Petitioner's grievance pertains to alleged non-evaluation and undervaluation of descriptive answers, which involve subjective assessment. Similarly, ***Sanjay Singh*** focused on the arbitrariness of the scaling system used by the UPPSC, which adjusted raw marks to a common scale, leading to irrational results and systemic issues in evaluation. However, the Petitioner's case does not involve a scaling or moderation process but rather an individual examiner's alleged oversight. In ***Sujasha Mukherji***, the Court dealt with arbitrary moderation and re-assessment of marks without procedural transparency, disqualifying a candidate who initially topped the merit list. In contrast, the Petitioner's claim is limited to rectifying an alleged omission in marking and subjective inconsistencies, not broader systemic issues in moderation or scaling.

12. On the other hand, the learned counsel for OPSC cited the decision in the matter of ***Pramod Kumar Srivastava vs. Chairman, Bihar PSC, Patna*** reported in (2004) 6 SCC 714 and Notification No. 1009/PSC dated 27.06.2017 to argue that re-evaluation of answer scripts is not permissible under the law unless explicitly provided for in the examination rules. In ***Pramod Kumar Srivastava***, the Court held that BPSC's rules allowed only for scrutiny limited to checking totalling errors or whether questions were left unmarked and not re-evaluation. The judgment also noted the absence of model answers for teachers conducting re-evaluation, highlighting this as a procedural lapse.

The O.P. No.2's reliance on its own notification aligns with the principle that re-evaluation cannot be entertained unless expressly permitted. However, the case of the Petitioner does not



seek re-evaluation but rather addresses the distinct issue of non-evaluation of her response to Question No. 5(a).

13. Non-evaluation pertains to an examiner's failure to assess an answer altogether, which is a procedural lapse and violates the principles of fairness and due process, for which, this Court has entertained this Writ Petition in part. As seen, the Petitioner's plea for rectification of an unevaluated answer does not involve a challenge to the examiner's discretion or marking scheme but seeks judicial intervention to correct an apparent omission. Such omissions undermine the credibility of the examination process and can adversely affect the outcome for candidates. Therefore, the Court, in the interest of justice, can order corrective measures, as it falls within its jurisdiction to address procedural irregularities that lead to arbitrary or unfair results.

Admittedly, the Petitioner did not succeed in securing relief. However, her case underscores a critical issue as to had she not requested her answer script, she would have not known about the non-evaluation of one question. The Petitioner's case, while unsuccessful, has highlighted a critical flaw in the system and her grievance regarding the non-evaluation of a question was legitimate and genuine one. Through her efforts, she succeeded in bringing to the Court's attention a procedural lapse that demands rectification. In any other circumstances as the one in front of us, this lapse would have gone unnoticed, potentially altering the candidate's chances of proceeding to the next round, or they could have successfully gone ahead for the next round in the selection process. Nevertheless, we presume, that this could be the solitary case. Be that as it may, if such cases arise, it may raise the alarming



possibility that similar errors may be affecting other candidates who remain unaware of the lapse. Such errors are unacceptable, particularly in examinations like the OJS, where accuracy and integrity in marking are paramount.

14. Needless to mention how competitive examinations are the cornerstone of countless aspirations. For a large number of young individuals, these exams represent years of relentless preparation, often involving rigorous schedules, significant financial investments by families, and personal sacrifices. The stakes for these aspirants are extraordinarily high, as these exams often determine the trajectory of their future.

It is, therefore, imperative for O.P. No.2-OPSC to exercise the highest level of scrutiny and adopt rigorous quality control measures during the evaluation process, to ensure that the entire process is carried out with the utmost care, fairness, and diligence. Examiners and authorities must remain vigilant, as even a minor oversight can irreparably damage a candidate's hopes, undermine their hard work, and shake the trust placed in the examination system. O.P. No.2-OPSC is expected to take this responsibility with the seriousness it demands, as fairness and accuracy are non-negotiable in competitive examinations that hold the dreams of millions.

15. In an effort to address the Petitioner's concerns regarding the alleged non-evaluation of her answer to Question No. 5(a), this Court took the exceptional step of arranging for her answer script to be independently assessed by experts from three reputed universities to ensure a fair and unbiased evaluation of her performance. Unfortunately, despite this thorough reassessment, the



Petitioner did not achieve the necessary marks to pass the examination.

16. As a result, while the Petitioner's grievance regarding non-evaluation was partly addressed through the Court's intervention, and it was found that the evaluation process had a procedural lapse, the results do not alter her eligibility for the next stage of the examination.

17. However, considering the mental trauma and financial burden the Petitioner has endured in pursuing this case to highlight the said lapse, this Court deems it appropriate to award compensation of ₹1,00,000/- (Rupees One Lakh) to the Petitioner, which shall be paid by the Odisha Public Service Commission (OPSC) within a period of 60 days from the date of this judgment.

18. Accordingly, the Writ Petition is dismissed on merit as the Petitioner has failed to substantiate her claim for further relief. It is made clear that the compensation is awarded to acknowledge the procedural flaw brought to light and to serve as a reminder for OPSC to maintain stricter scrutiny in its evaluation processes.

(Chittaranjan Dash)

Judge

(S.K. Sahoo)

Judge

A.K.Pradhan/Bijay

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