

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

BEFORE

HON'BLE SHRI JUSTICE VIVEK JAIN

WRIT PETITION NO. 20603 of 2023

SAKET TIWARI

Versus

M.P. BOARD OF SECONDARY EDUCATION AND OTHERS

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Appearance:

Shri Vijay Pandey – Advocate for the petitioner.

Ms. Anjana Shrivastava – Advocate for respondent No.1.

Shri Amit Mishra –Panel Lawyer for respondent / State.

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ORDER

(Reserved on:- 26.11.2024)

(Pronounced on :- 20.12.2024)

Petitioner has filed the present writ petition making a prayer for revaluation of marks awarded to him in Higher secondary School Certificate Examination 2023 (Class-12th) in the subject of Mathematics only, and for the questions No. 1 (i), (ii), (iii), (iv), (v) and (vi), Question No. 3 (i) and Question No. 4 (i), (iv), (vi) and (vii).

2. The aforesaid examination has been conducted by Board of Secondary Education in the year 2023. The contention of the petitioner is that questions No.1, 2, 3 and 4 of subject Mathematics were objective type or one word question/answers and same have been wrongly evaluated inasmuch the correct answers have been scored off as incorrect.

3. To elaborate, the contention of the petitioner is that there were six objective type questions of one mark each in question No.1 and 3 whereas seven objective type/one word questions of one mark each in question No.2 and 4. The Board of Secondary Education issued a answer key (Annexure P-4) which has not been withdrawn or modified by the Board. The contention of the petitioner is that said objective type answers in question No.1, 2, 3 and 4 were wrongly valued contrary to the model answer key and the same was not taken into consideration by the valuer. The petitioner has placed on record the question paper, the copy of answer sheet obtained under RTI Act as well as the model answer key issued by the Board. It is contended that even though there is no provision for revaluation in the Regulations of the Board, yet looking to the blatant negligence and misconduct of the examiner, it is a fit for interference as it is a exceptional case where material irregularity has been committed by the evaluator/examiner.

4. *Per contra*, it is the case of the respondent/Board that there is no provision for revaluation and in absence of provision, no relief can be granted to the petitioner. It is contended that out of the various questions agitated, 1 (one) mark for question No. 4(vii) has already been awarded and modified marksheet has been issued.

5. After hearing learned counsel for the parties, it is seen by this Court that the said question No. 1 to 4 are indeed objective type/one word questions and answers. The petitioner has agitated in respect of following 14 questions of one mark each :-

Question No.1 (i), (ii), (iii), (iv), (v), (vi).

Question No.2 (i), (vi), (vii).

Question No.3 (i).

Question No.4 (i), (iv), (vi), (vii).

6. This Court has gone through the answers attempted by the petitioner and the answers given in the model answer key. Though this Court is not a mathematics expert, but as the answers are only one word/objective type answers, it is evident to this Court and also could not be disputed by the learned counsel for the Board on facts, that the following answers have been scored out as wrong, though they have been correctly attempted as per model answer key :

Question No.1 (i), (ii), (iii), (iv), (v), (vi).

Question No.2 (i), (vi).

Question No.3 (i).

Question No.4 (i), (iv), (vi), (vii).

As per contention of the Board, out of the above 13 questions, 1 (one) mark of question No. 4 (vii) has already been awarded to the petitioner. Therefore, 12 questions of 1 (one) mark each still remain where the answers have been scored out as wrong, though they were correctly attempted as per model answer key.

7. The Board of Secondary Education has stated that as per regulation 119 of M.P Board of Secondary Education regulations, there is no provision for revaluation of answer scripts, hence, no relief can be granted to the petitioner. However, the Board seems to be ignorant of Regulation 117 of its own Regulations, known as the Board of Secondary Education Madhya Pradesh Regulations, 1965. Regulation 117 is as under :-

117. Except when otherwise provided in these Regulations the names of candidates who have passed an examination of the Board shall be placed in the division specified in the prospectus, and, further the names of students from the recognised Institutions shall be grouped according to the institution in which they have studied :

Provided that in any case where it is found that the result of the Examination has been affected by error, malpractice, fraud improper conduct, or other matter of whatsoever nature, the Results Committee shall have power to amend such result in such manner as shall be in accord with the true position and to make such declaration as it may consider in that behalf:

Provided that except as provided in the proviso below no result shall be amended after the expiry of six months from the publication of the result :

Provided further that in any case where the result of the examination been ascertained and published and it is found that such result has been affected by any malpractice, fraud or any other improper conduct whereby an examinee has in the opinion of the Results Committee been a party to or privy to or convicted at such malpractice, fraud or improper conduct, the Results Committee shall have power, at any time, notwithstanding the issue of the certificate or the award of the prize or scholarship, to amend the result of such examined and to make such declaration as it may consider necessary in that behalf.

8. The Board is having power to correct the result in case it is established that there has been an affect on the result by error, malpractice, fraud improper conduct, or other matter of whatsoever nature. In the present case, there was a glaring malpractice of the examiner where he misconducted in evaluating the objective type and one word type questions contrary to the model answer key. It was a fit case to invoke clause 117. The Board which deals with adolescent students cannot permit such malpractice and injustice with a candidate to take place and get unremedied.

9. If it was case of subjective answers, the position would have been different, so would have been the case where there was any dispute with correctness of the answer key, where the Board could have pleaded benefit of doubt. However, if the examiners evaluate the answer scripts contrary to model answer key of the Board itself, and the position is not remedies, the faith of the students in the examination system of the Board is bound to be shaken, and that should be the last which a responsible education would allow to take place.

10. Moreover, the Apex Court in judgment reported in **(2019) 16 SCC 663 (High Court of Tripura Through The Registrar General V. Tirtha Sarathi Mukherjee and others)**, has held that despite there being no provision for revaluations, directions in some exceptional cases can be issued by the Courts. Such exceptional cases may be where questions are not valued or there is some interpolation in answer sheet or if the incorrect valuation can be discerned without any process of detailed reasoning. The present case falls in the third category.

11. As in the present case the answers are objective/one word type and Board itself has issued the model answer key and 12 answers are scored off as wrong contrary to model answer key, the petitioner has made out a case in terms of the aforesaid judgment of the Hon'ble Supreme Court.

12. Consequently, this petition deserves to be and is hereby **allowed**. The Board is directed to award marks of the 12 wrongly scored off answers as mentioned in para-6 above, as per its own answer key. Thereafter a modified marksheet be issued to the petitioner. Looking to the irresponsible manner in which the petitioner has been treated by the Board, a cost of Rs.25,000/- shall be paid to the petitioner by the Board of Secondary

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Education, Bhopal. The Board is free to recover the amount from the erring person, after paying the same to the petitioner. Let the needful be done within an outer limit of 6 weeks.

nks

**(VIVEK JAIN)
JUDGE**