

Nirmal Kumar Deva Vs. The State of Jharkhand and Ors

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Court : Jharkhand

Decided On : Feb-05-2015

Appellant : Nirmal Kumar Deva

Respondent : The State of Jharkhand and Ors

Judgement :

1 IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P. (C) No. 6070 of 2014
Nirmal Kumar Deva S/o Late Gyaneshwar Saha R/o Sahari PO Arjunpur PSRanga
Distt.Sahebganj Petitioner Versus

1. The State of Jharkhand

2. Jharkhand Academic Council through its Secretary, Gyandeep Campus,
Bargawan, PO & PSNamkum, Distt.Ranchi

3. Jharkhand Academic Council through its Chairman, Gyandeep Campus,
Bargawan, PO & PSNamkum, Distt.Ranchi

4. The Chief Secretary, HRD Deptt., Govt. of Jharkhand, Project Building, Dhurwa
PODhurwa & PSJagarnathpur, Distt.Ranchi . Respondents CORAM: HONBLE
MR. JUSTICE SHREE CHANDRASHEKHAR For the Petitioner : Mr. Yogesh
Modi, Advocate For the J.A.C. : Mr. Rajesh Kumar, Advocate 3 /05.02.2015
Seeking cancellation of result published on 28.05.2013 and for constitution of a
committee of expert teachers for proper evaluation of question and answers, the
present writ petition has been filed. A further prayer seeking quashing of order

dated 04.01.2014 passed by respondent no.3 whereby, the representation of the petitioner has been rejected, has also been made in the writ petition.

2. Briefly stated, the Advertisement No.95 of 2012 was issued on 18.11.2012 in the daily newspaper namely, Prabhat Khabar inviting applications for Teachers Eligibility Test 2012 (TET 2012). The petitioner submitted his application for TET 2012 primary level (Class 6 to

8) and he appeared in the examination held on 26.04.2013. When the Model Answer Key was published, the petitioner detected that the Model Answer Key contained wrong/improper answer or more than one correct answers and this fact was brought to the notice of respondent no.2 Jharkhand Academic Council. Subsequently, 2nd Answer Key was published with some correction in the 1st Model Answer Key. However, when the result was published on 28.05.2013, the petitioner was declared not qualified. The petitioner submitted his representation to respondent no.2 bringing it to the notice of the respondent no.2 that in the Revised Answer Key also, there are several wrong answers however, when the petitioner did not get any response from the Jharkhand Academic Council, he preferred W.P.(C) No.4568 of 2013, which was disposed of on 20.12.2013 directing the Chairman, Jharkhand Academic Council to consider the petitioner's grievance and pass appropriate order. The petitioner accordingly submitted his representation however, the same has been rejected by order dated 04.01.2014. Aggrieved, the petitioner has approached this Court once again.

3. A counteraffidavit has been filed on behalf of respondent nos.2 and 3 stating that in the examination held on 26.04.2013 for Class 6 to 8 level, the petitioner obtained 76 marks out of 150 marks whereas, the qualifying marks for Class 6 to 8 level for B.C. category was 78 marks and as such, the petitioner did not qualify. After the TET 2012 examination was held, the Model Answers were uploaded on the website of Jharkhand Academic Council and vide notification published in the newspaper on 28.04.2013, objections were invited till 02.05.2013. The objections were placed before the Subject Experts/Committee of Experts, who recommended the correct/most appropriate answers and in this manner, the Revised Model Answers were prepared and uploaded on the website of Jharkhand

Academic Council. The OMR sheets of the candidates have been evaluated on the basis of Final Model Answers. It is stated that there is no illegality or irregularity in the evaluation of the answersheets. The representations of the petitioner were received on 31.05.2013 and 05.06.2013. It is further stated that the petitioner did not submit any objection with respect to Question Nos.43, 123, 127 and 143 on or before 02.05.2013, when the candidates were required to submit their objections to the model answers. The representation of the petitioner has been rejected because the plea taken by the petitioner is completely misconceived.

4. Heard learned counsel appearing for the parties and perused the documents on record.

5. The learned counsel for the petitioner refers to the Booklet of TET2012 for Class 6 to 8 and submits that answers for Question Nos.43 and 123 were incorrectly shown in the Revised Model Answers. It is further submitted that Question No.127 was improper. It is submitted that for Question No.43, the correct option should have been A and B both whereas, in the 2 nd Answer 4 Key, the correct option is reflected as option B. Similarly, for Question No.123 in the Revised Model Answers option A and D are reflected as correct answers whereas, as per the textbook/course material, option A and B both ought to be correct answers. Insofar as, Question No.127 is concerned, the question itself is wrong whereas, Question No.143 corroborates the answer of Question No.143. In these facts, it is submitted that had the above discrepancies been corrected, the petitioner would have scored more than 78 marks and thus, qualified in TET2012 examination. It is further submitted that though vide order dated 20.12.2013 in W.P.(C) No.4568 of 2013, a direction was issued for constituting a Board of experts for reviewing the answersheet of the petitioner and other similarly aggrieved candidates however, in defiance of the said order, the representation of the petitioner has been rejected vide order dated 04.01.2014 and therefore, the matter requires interference by this Court.

6. As against the above, Mr. Rajesh Kumar, the learned counsel appearing for the respondent Jharkhand Academic Council, Ranchi submits that, the objections were

examined by the experts and the final model answers were prepared by them. Reiterating the stand in counteraffidavit it is stated that in cases where two answers for one question were found correct, both the answers were accepted as correct and full marks has been allotted to such answers. In those cases, where more than two answers were found 5 correct, the candidates were given full marks for that question and thus, uniformity was maintained and there was no arbitrariness and discrimination in evaluation of OMR sheets.

7. I have carefully considered the submissions of the learned counsel for the parties and perused the documents on record.

8. From the materials on record, it is apparent that in the representations dated 31.05.2013 and 05.06.2013 submitted by the petitioner, the petitioner did not raise any grievance with respect to Question Nos.43, 123, 127 and 143. Much after the Revised Model Answer Key was published, the petitioner allegedly submitted the representation to the Jharkhand Academic Council however, neither a copy of those representations have been brought on record nor do I find any reference of such representation in order dated 20.12.2013. It is also apparent that Jharkhand Academic Council, Ranchi after inviting objections from the candidates, has taken action on the recommendation of the subject experts. The final model answers were prepared on the opinion of the experts and therefore, it is difficult to accept the contention of the petitioner that the final model answers also contained wrong answers for question nos. 43, 123, 127 and 143. The course material and the Question Booklet have been brought on record however, it does not appear that the answers selected by the petitioner were the alleged correct answers for question nos. 43, 123, 127 and 143. In the 6 counteraffidavit, it has been disclosed that in cases where two answers were found correct, full marks were allotted for both answers and where more than two answers were found correct, full marks were given to all the candidates. In the present case, the Model Answer Key was revised on the recommendation of the experts and a modified Answer Key was published. I find no infirmity in the decision of the respondent Jharkhand Academic Council . Insofar as, contention that the JAC was required to constitute Board of Experts, I find that in order dated 20.12.2013, this Court has observed that if in the opinion of JAC or the Board of Experts, as may be constituted for that purpose,

more than one answer to any question is found correct, Jharkhand Academic Council shall review the answer sheets of the petitioner. It is thus clear that there was no mandatory direction by this Court to constitute a Board of Experts. After considering the representation of the petitioner, the same has been rejected by the Jharkhand Academic Council, Ranchi vide order dated 04.01.2014. The writ petition does not disclose that the options for question nos. 43, 123, 127 and 143 have been correctly opted by the petitioner. 9. I find no infirmity in the impugned order dated 04.01.2014 and the result published on 28.05.2013. Accordingly, the writ petition stands dismissed. (Shree Chandrashekhar, J.) R.K./A.F.R.

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