

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of order : 7th September, 2022**

+ **W.P.(C) 12999/2022 & CM APPL. 39407/2022**

**MUKUL BHARDWAJ THROUGH
ITS NATURAL GUARDIAN**

..... Petitioner

Through: Mr. Govind Narayan and Mr.
Mohit Kr. Sharma, Advocates

versus

CENTRAL BOARD OF SECONDARY EDUCATION

..... Respondent

Through: Mr. M.A. Niyazi, Standing
Counsel with Mr. Arquam Ali,
Advocate

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The instant writ petition under Articles 226/227 of the Constitution of India has been filed on behalf of the petitioner seeking following reliefs:-

“A) A Writ of appropriate nature under Article 226/227 of the Constitution of India for issuance of writ of appropriate nature and thereby to declare that web-page of the online portal for filing application for obtaining photocopy of evaluated answer books (Annexure P/4) is misleading in contents, in the interest of justice;

AND;

B) Writ of appropriate nature under article 226/227 of the Constitution of India and thereby to declare that web-page of online portal for filing application for re-evaluation of answer books (Annexure P/4) is misleading in contents, in the interest of justice;

AND;

C) Writ of appropriate nature under article 226/227 of The Constitution of India and there by direct the respondent to give photocopy of the evaluated answer books of subjects viz Mathematics (Subject Code 041) and Physics (Subject Code 042) after receiving the fee of Rs 1400/- (fourteen hundred only), in the Interest of justice

AND;

D) Writ of appropriate nature under Article 226/227 of The Constitution of India and there by direct the respondent to consider the petitioner eligible for the re-evaluation of the answer books qua the subjects viz Mathematics (Subject Code 041) and Physics (Subject Code 042), if applied, after receiving the fee prescribed as per notice dated 23.07.2022, in the interest of justice

E) Writ of appropriate nature under Article 226/227 of The Constitution of India for quashing the decision/order of the respondent, which has been served upon the petitioner vide email dated 26.08.2022 (part of annexure P/5-Colly), and thereby direct the respondent to provide the photocopy of the evaluated answer sheet qua the subject of Mathematics (041) and Physics (042) and further (if required) to re-evaluate the answer sheet of the petitioner qua the mentioned subjects, in the interest of justice...”

2. The Respondent conducted Senior School Certificate Examination

(Class-XII) for the session 2021-22 and the Petitioner appeared for the said examination under Roll No. 17630509. The Respondent thereafter issued a notice bearing No. CBSE/Co-ord/Veri/Class-XII/T2/2022 on 23rd July 2022, for the verification of marks, obtaining (scanned) photocopy of the evaluated answer book(s) and re-evaluation of answer(s). As per the notice dated 23rd July 2022, the Respondent invited application for verification of marks w.e.f. 26th July 2022 to 28th July 2022, and further asked to file application for obtaining photocopy of evaluated answer books w.e.f. 8th August 2022 to 9th August 2022 and again further asked to apply for re-evaluation w.e.f. 13th August 2022 to 14th August 2022. The writ-petitioner being not satisfied with his marks in two subjects, namely, Mathematics and Physics, filed an application bearing No. H22435 against the mentioned notice dated 23rd July 2022.

3. It is the case of the Petitioner that after applying for the verification of marks vide application no. H22435, he was regularly visiting the website of the Respondent but could not find the result of his mentioned application No. H22435 but suddenly on 25th August 2022, the petitioner during the course of visiting the website of the respondent found misleading contents upon the web page of the respondent. The contents of the concerned page of online application were misleading and the applicant could not proceed with the further steps i.e., filing application for obtaining photocopy of the answer books and re-evaluation of answer books.

4. The concerned page of online application was titled as "*ON LINE APPLICATION FOR RE-EVAULATION FOR EXAM 2021*" instead of

"ON LINE APPLICATION FOR RE-EVAULATION FOR EXAM-2022". This misleading content ultimately was reflecting that this page was for the year of 2021 instead of 2022, and thereby the respondent ultimately restrained the petitioner to press his legitimate rights.

5. The learned counsel for the Petitioner submitted that the act and conduct of the Respondent is extremely irresponsible and the adamant attitude of the Respondent ultimately can badly affect the career of the petitioner, which cannot be allowed at any costs. Refusal on the part of the Respondent to provide the photocopy of the evaluated answer sheets of the Petitioner is ultimately in derogation of the fundamental rights of the petitioner which are in furtherance of the spirit of the constitution of India.

6. The learned counsel appearing on behalf of the Respondent submitted that the writ-petitioner has applied after the last date of submission when the window for applying for re-evaluation on the portal was closed. He further submitted that ample opportunity with due notice was given to all those who were interested in the said process.

7. Learned counsel for the Respondent has also argued that there is no force in the submissions of the writ-petitioner that he was misled merely due to wrong year being mentioned in the link of the portal. Even otherwise such argument does not stand to reason as the writ-petitioner has failed to bring forth any parallel instances wherein other students have been misled as well.

8. Heard learned counsels for the Petitioner as well as the

Respondent. In my opinion, the present petition is misplaced as due opportunity was given to the writ-petitioner to apply for re-evaluation within the prescribed period. It is not disputed that the writ-petitioner has applied for re-evaluation after the cut-off date which was set by the Respondent. The writ-petitioner should have been more vigilant and conscious about his rights and should have submitted the form for re-evaluation on time.

9. Merely because there was a clerical error on the official website of the Respondent does not attract the writ jurisdiction of this Court under Article 226 of the Constitution of India. Only because of such a minor error, the writ-petitioner cannot claim violation of his fundamental rights in accordance with the spirit of the Constitution of India.

10. Therefore, the present writ petition fails being devoid of any merits and is accordingly dismissed. Pending application also stands dismissed.

11. The judgment be uploaded on the website forthwith.

(CHANDRA DHARI SINGH)
JUDGE

SEPTEMBER 7, 2022

Aj/mg