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

**BEFORE
HON'BLE SHRI JUSTICE VIVEK RUSIA**

ON THE 2nd OF APRIL, 2024

WRIT PETITION No. 21406 of 2023

BETWEEN:-

**CHETAN PATIDAR MINOR THROUGH HIS FATHER
BHARATLAL PATIDAR, AGED ABOUT 57 YEARS,
OCCUPATION: GOVERNMENT TEACHER GRAM
GHINODA TEHSIL KHACHROD DISTRICT UJJAIN
(MADHYA PRADESH)**

.....PETITIONER

(BY SHRI HARSH KUMAR PATIDAR, ADVOCATE)

AND

**BOARD OF SECONDARY EDUCATION MADHYA
PRADESH THROUGH ITS SECRETARY SHIVAJI NAGAR,
DISTRICT BHOPAL (MADHYA PRADESH)**

.....RESPONDENTS

(BY MS. GAGNEET SETHI, ADVOCATE)

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*This petition coming on for admission this day, the court passed the
following:*

ORDER

The petitioner has filed the present petition under Article 226 of the Constitution of India seeking revaluation of answer book of the subjects Political Science and English in Higher Secondary School Certificate Examination, 2023, in which he is awarded 59 & 60 marks respectively

02. According to the petitioner in remaining subjects, i.e. Hindi, History & Sociology, he got distinction marks. His answer books of two subjects have not been properly valued otherwise, he would have secured 19 & 12 more marks. The petitioner has obtained the photocopy of answer books under the

Right to Information Act, 2005 and got it valued from teachers working in Government Secondary School and Shree Raj Rajendra Vidya Mandir, Khachrod and as per their opinion, the petitioner was entitled for additional 19 marks in Political Science and 12 marks in English.

03. Respondent / Board has filed a reply by submitting that revaluation is not permissible under the Rules & Regulations governing the Examination of High School and Higher Secondary School. In support of the aforesaid contention respondent has placed reliance upon judgment delivered by this Court as well as by Apex Court in the cases of *Neha Indurkhya v/s M.P. Board of Secondary Education, Bhopal* reported in 2003 (3) M.P.L.J. 368, *Pranshu Indurkhya (Minor) v/s The State of Madhya Pradesh & Others* reported in 2005 (2) M.P.H.T. 95 (DB), *Ran Vinay Singh & Others v/s The State of Uttar Pradesh* reported in (2018) 2 SCC 357, *Dr. NTR University of Health Sciences v/s Dr. Yerra Trinadh & Others (Civil Appeal No.8037 of 2022)*, *Sourabh Dubey v/s M.P. Professional Examination Board, Bhopal (Writ Petition No.8556 of 2019)*, *Ashutosh Upadhyay v/s School Education Department & Another (Writ Petition No.16634 of 2020)*, *Tarushi (Minor) v/s The State of Madhya Pradesh & Others (Writ Petition No.20074 of 2020)*, *Shivveer Singh v/s The State of Madhya Pradesh & Another (Writ Petition No.6362 of 2017)*, *Prakhar Khandar v/s The State of Madhya Pradesh & Others (Writ Petition No.26630 of 2018)* and *Maharashtra State Board of Secondary & High Secondary Education & Another v/s Paritosh Bhupeshkumar Sheth & Others* reported in (1984) 4 SCC 27.

04. Learned counsel for the petitioner made an effort to satisfy this Court

that as per the model answers, the petitioner correctly answered the questions, but they were not properly valued by the official valuer. Hence, this Court may re-examine those questions and answers to award additional marks to the petitioner. In support of the aforesaid contention, learned counsel has placed reliance upon a judgment delivered by the Apex Court in the case of ***Ran Vijay Singh & Others v/s The State of Uttar Pradesh & Others (Civil Appeal No.367 of 2017)***. Paragraph - 30 of the aforesaid judgment is reproduced below:-

"30. The law on the subject is therefore, quite clear and we only propose to highlight a few significant conclusions. They are: (i) If a statute, Rule or Regulation governing an examination permits the re-evaluation of an answer sheet or scrutiny of an answer sheet as a matter of right, then the authority conducting the examination may permit it; (ii) If a statute, Rule or Regulation governing an examination does not permit re-evaluation or scrutiny of an answer sheet (as distinct from prohibiting it) then the Court may permit re-evaluation or scrutiny only if it is demonstrated very clearly, without any "inferential process of reasoning or by a process of rationalisation" and only in rare or exceptional cases that a material error has been committed; (iii) The Court should not at all re-evaluate or scrutinize the answer sheets of a candidate – it has no expertise in the matter and academic matters are best left to academics; (iv) The Court should presume the correctness of the key answers and proceed on that assumption; and (v) In the event of a doubt, the benefit should go to the examination authority rather than to the candidate."

05. In the aforesaid judgment, the Apex Court specifically held that the Court should not re-evaluate or scrutinize the answer sheets of a candidate - it has no expertise in the matter and academic matters are best left to academics. The Court should presume the correctness of the key answers and proceed on that assumption. It has further been held that in the event of a doubt, the benefit should go to the examination authority rather than to the candidate. However, only in exceptional circumstances, only in rare case, where material error has been committed, the Court should interfere. When the petitioner falls under the

exceptional category warranting interference by this Court.

06. Earlier this Court as well as the Apex Court have taken consistent view that re-evaluation can be done only in Mathematics & Science subject where the answers are based on fixed formulas and the error in valuation can be examined by the Court or by calling expert of the subject. In objective types of question especially in arts' subjects, the Court room cannot be converted into an evaluation room. Lacs of students appear in the Board Examinations and sometime the error in valuation is bound to come, but the Court cannot re-evaluate the answer books. This Court in various occasion examined the answer sheets and directed to increase the marks to meritorious students for example who got selected in IIT, but because of shortage of one or two mark could not get the admission. No such prejudice of that level has been explained by the petitioner in this petition. He is a student of Political Science got 369 marks out of 500. He has not given any instances that because of shortage of marks, he could not get admission in desired educational institution for higher studies. No prejudice is caused to the petitioner, hence, no case of re-evaluation of answer sheet is made out as an exceptional case.

07. In view of the above, Writ Petition stands dismissed.

(VIVEK RUSIA)
JUDGE

Ravi