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IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE  
HON'BLE SHRI JUSTICE RAVI MALIMATH,  
CHIEF JUSTICE

&  
HON'BLE SHRI JUSTICE VISHAL MISHRA  
ON THE 5<sup>th</sup> OF JULY, 2022

**WRIT PETITION No. 13939 of 2022**

**Between:-**

JAYVARDHAN PANDEY S/O DR. SUBHASH C.P.  
PANDEY, AGED ABOUT 30 YEARS, OCCUPATION-  
ADVOCATE, R/O A-6 COMFORT GARDEN, JANKI  
NAGAR, KOLAR ROAD, CHUNABHATTI,  
BHOPAL (M.P.)

.....PETITIONER

(PETITIONER IN PERSON)

AND

THE HIGH COURT OF MADHYA PRADESH  
THROUGH THE REGISTRAR GENERAL

.....RESPONDENT

.....  
*This petition coming on for orders this day, Hon'ble Shri Justice Ravi  
Malimath, Chief Justice passed the following:*

**ORDER**

For the reasons assigned therein, I.A. No. 8898 of 2022 is allowed. The office objection regarding filing of typed copy is overruled.

The case of the petitioner (in person) is that he appeared for the preliminary exam for the post of Civil Judge Class-II Entry Level 2019 (Phase-2) Exam. He cleared the preliminary exams. He appeared in the main exam. Thereafter he was called for an interview. Final results were declared on 26th of April, 2022. The petitioner's name was not found in the said list. Thereafter he

applied for certified copies of the answer sheets through the Right to Information Act, 2005. In the interregnum, the respondent/High Court declared the score card of the candidates. The petitioner found out that even though he cleared the interview after having secured the minimum 20 marks out of 50, he fell short by 4.5 marks in the final selection to the aforesaid posts. Thereafter he obtained certified copies of the answer sheets of the main exam. He found that there were patent errors committed by the valuers of the Examination Cell in so far as at least three answer sheets of the petitioner are concerned. Being aggrieved by such an erroneous evaluation, the instant petition is filed.

The petitioner seeks for a prayer to direct the respondents to carry out a time bound re-evaluation of the answer sheets of the petitioner with respect to the subjects mentioned therein and consequential reliefs.

The plea of the petitioner is that the evaluation of the answer scripts is erroneous. That the evaluation of the questions described in the petition suffers from a patent error. That the same can be found out by plainly reading the answers. In support of his case he relies on an unreported judgment of the Hon'ble Supreme Court in the case of High Court of Tripura through the Registrar General Vs. Tirtha Sarathi Mukherjee and others in Civil Appeal No.1264 of 2019, dated 6th of February, 2019 and the Division Bench judgement of this Court reported in AIR 2005 M.P. 152 in the case of Pranshu Indurkhya (Minor) Vs. State of M.P. and others. Hence, he pleads that the petition be allowed.

Heard the petitioner in person.

The petitioner pleads that having a look at the answers furnished by him would clearly indicate that there were patent errors committed by the valuers of the examination. Therefore, the Writ Court would have to interfere in such

matters. We asked a specific question to the petitioner as to whether the relevant rules or statute entitle re-evaluation of the papers. He admits that the relevant rules do not permit re-evaluation of the papers. However, what he contends is that even though the rules do not permit re-evaluation of the papers, the Writ Court acting under Article 226 of the Constitution of India is entitled to examine the papers and can also order for re-evaluation of the papers. In support of his case, he relies on the unreported judgment of the Hon'ble Supreme Court in the case of Tirtha Sarathi Mukherjee (supra) with reference to para 19, which reads as follows:-

*"19. The question however arises whether even if there is no legal right to demand revaluation as of right could there arise circumstances which leaves the Court in any doubt at all. A grave injustice may be occasioned to a writ applicant in certain circumstances. The case may arise where even though there is no provision for revaluation it turns out that despite giving the correct answer no marks are awarded. No doubt this must be confined to a case where there is no dispute about the correctness of the answer. Further, if there is any doubt, the doubt should be resolved in favour of the examining body rather than in favour of the candidate. The wide power under Article 226 may continue to be available even though there is no provision for revaluation in a situation where a candidate despite having giving correct answer and about which there cannot be even slightest manner of doubt, he is treated as having given the wrong answer and consequently the candidate is found disentitled to any marks."*

He also places reliance on the Division Bench judgment of this Court in Pranshu Indurkhya (supra).

On considering the contentions being advanced, we do not find any reason to accept the same. So far as considering the answer-papers of the petitioner and as to whether the evaluation done is just or appropriate, would

largely depend upon the fact as to whether the relevant rules permit such a re-evaluation. Even according to the petitioner, the rules do not permit such re-evaluation. Therefore, in the absence of any provision to the contrary, the re-evaluation cannot take place. It is, under these circumstances, that the aforesaid judgments are relied upon by the petitioner.

We have considered the said judgments. The judgment in the case of Tirtha Sarathi Mukherjee (supra) is the judgment rendered by a Bench of two Hon'ble Judges of the Hon'ble Supreme Court. However, a three-Judge Bench of the Hon'ble Supreme Court in the case of Pramod Kumar Shrivastava vs. Chairman, Bihar Public Service Commission, Patna and others reported in (2004) 6 SCC 714 have come to the conclusion that if the rules do not permit re-evaluation then the re-evaluation is not permissible even in exercise of the powers under Article 226. In fact, the relevant portions of paras 7 and 8 therein were also extracted in the judgment relied upon by the petitioner in the case of Tirtha Sarathi Mukherjee (supra). We also find that the three-Judge Bench judgment of the Hon'ble Supreme Court, as aforesaid, was followed by another three-Judge Bench of the Hon'ble Supreme Court in the case of Board of Secondary Education Vs. Prabas Ranjan Panda and another reported in (2004) 13 SCC 383.

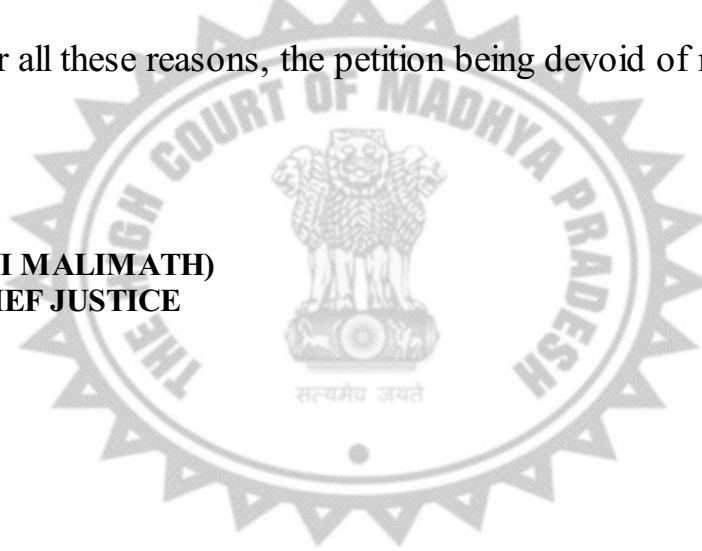
Therefore, we are of the view that the reliance placed by the petitioner on the judgment rendered by a Bench of two-Judges of the Hon'ble Supreme Court, cannot be followed. The Larger Bench of the Hon'ble Supreme Court consisting of three Hon'ble Judges have answered the position in law. Therefore, the judgments in the cases of Pramod Kumar Shrivastava (supra) and Prabas Ranjan Panda (supra) are the law of the land. Therefore, the contention of the petitioner that the two-Judge Bench judgment of the Hon'ble

Supreme Court has to be followed, in our considered view, may not be appropriate. The law of precedents does not permit so. Therefore, we are bound by the judgments of the Larger Bench of the Hon'ble Supreme Court. Since the Larger Bench of the Hon'ble Supreme Court have already held so, the contention of the petitioner to the contrary, cannot be accepted. Therefore, in view of the absence of a specific provision seeking re-evaluation, no relief could be granted to the petitioner.

In view of the above, the plea of the petitioner to look into the answer-scripts and to evaluate or to send them for re-evaluation cannot be accepted. Hence, for all these reasons, the petition being devoid of merit, is dismissed.

**(RAVI MALIMATH)**  
**CHIEF JUSTICE**

MSP-S/



**(VISHAL MISHRA)**  
**JUDGE**