

said letter dated 05.01.2023 and further seeking direction to re-evaluate the said question that the Writ Petition was filed. The appellant herein who was the respondent therein entered appearance on advance notice and submitted before the High Court that the answer to question No.9 of Law Paper-I of the respondent herein was wrong in the light of Section 134(2) of the Trademarks Act, 1999 and therefore, the examiner had not given him any mark for it. The impugned judgment would reveal that without going into the merits of the case and without commenting upon the decision taken by the said Committee of six Hon'ble Judges, a direction was given to the respondent therein/appellant herein on the following lines:

"3. However, without going into the merits of the present case and without commenting upon the decision taken by the Committee on the Administrative side, in the interest of justice, we hereby direct the respondent to sent answer of question No.9 of Law Paper-I of petitioner to any other Examiner to re-evaluate the said answer and on receipt of the assessment, the respondent shall take steps accordingly."

2. Heard the learned counsel for the appellant and the learned counsel for the respondent.
3. The core contention of the appellant is that Clause

XII, Rule 7C of the Appendix to the Delhi Higher Judicial Service Rules, 1970 (for short "the DHJS Rules") prohibits re-evaluation of answer sheets. The said provision reads thus:

"RE-EVALUATION OF ANSWER SHEETS

There shall be no re-evaluation of answer sheets in respect of Preliminary Examination and Mains Examination. No request for re-evaluation of answer sheets shall be entertained and the same shall be liable to be rejected without any notice to the candidates."

4. It is submitted that in the light of the aforesaid provision prohibiting re-evaluation, the appellant would contend that prayer of the respondent herein could not have been accepted and therefore, the writ petition ought to have been dismissed. *Per contra*, the learned counsel for the respondent would submit that Clause XV of the DHJS Rules would indicate that there is no absolute prohibition for re-evaluation and in fact, it is permissible. To support the contention he relied on the Clause XII of Rule 7, of DHJS Rules.

5. In the light of the aforesaid rival submissions made relying upon the aforesaid provisions, we have given our anxious consideration. We do not think, in the light of

the indisputable and undisputed facts obtained in this case that it is necessary to undertake any survey on the authorities on the subject of evaluation for a consideration of the captioned appeal. The fact is that in the case on hand, the respondent sought for re-evaluation of his answer to question No.9 of Law Paper-I. The impugned judgment itself would reveal that he was awarded no marks viz., 'zero marks' in respect of the said question in the light of specific provision under Section 134(2) of the Trademarks Act, 1999. We have carefully scanned the grounds raised in the captioned appeal and also considered the arguments advanced on behalf of the respondent. They would reveal that the respondent got no case that Section 134 (2) of the Trade Mark Act, 1999 is not the specific provision applicable as relates question No.9 of Law Paper-I and therefore, we are at a loss to understand as to how he could attribute 'material error' warranting interference in exercise of power under Article 136 of the Constitution of India. As noted earlier, the specific case of the appellant herein is that the answer of the respondent to question No. 9 of Law Paper-I is wrong in the light of Sections 134(2) of the Trade Mark Act, 1999. In view of the said position,

it can also be said that there is no 'material error' requiring a re-evaluation, even if it is taken that despite Clause XII, Rule 7 of DHJS Rules, re-evaluation is permissible. The decision relied on by the respondent viz., the decision in ***Ran Vijay Singh V. State of Uttar Pradesh [(2018) 2 SCC 357]*** itself would reveal the position that when a statutory provision prohibits re-evaluation it cannot be ordered to be undertaken. So also, the decision is to the effect that 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 court may permit re-evaluation or scrutiny on if it is demonstrated very clearly, without any "inferential process of reasoning or a process of rationalisation" and only in rare and exceptional cases that a material error has been committed. When that be the position, in the light of the provision of Clause XII, Rule 7C of the DHJS Rules and specially taking note of the fact that it is not a case where the respondent is seeking correction of a patent error in the matter of totaling of the marks, or an omission in evaluating an answer warranting an evaluation we do not think that it is a case where the prayer of the

respondent could have acceded to in the light of the provisions under Clause XII, Rule 7C of the DHJS Rules and also in the light of the aforesaid decision, as per the impugned judgment, the petitioner-herein was directed to send the respondent's answer to question No.9 for re-evaluation to any other examiner. We are of the considered view in the light of the specific prohibition in Clause XII of Rule 7 of the DHJS Rules for re-evaluation as also in view of our conclusion that there is no 'material error' in the evaluation warranting an interfering with the decision of the petitioner herein.

6. In the aforesaid circumstances, the impugned judgment cannot be sustained and it invites interference. Consequently, the judgment dated 13.01.2023 in WP(C) 434/2023 stands set aside and the Writ Petition stands dismissed. The Civil Appeal is allowed, accordingly.

Pending application(s) shall stands disposed of.

....., J.
(C.T. RAVIKUMAR)

....., J.
(MANOJ MISRA)

**NEW DELHI;
JULY 11, 2023.**

ITEM NO.48

COURT NO.16

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No.3144/2023

(Arising out of impugned final judgment and order dated 13-01-2023 in WP(C) No. 434/2023 passed by the High Court of Delhi at New Delhi)

REGISTRAR GENERAL, HIGH COURT OF DELHI

Petitioner(s)

VERSUS

RAVINDER SINGH

Respondent(s)

(IA No. 30040/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 11-07-2023 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE C.T. RAVIKUMAR
HON'BLE MR. JUSTICE SUDHANSHU DHULIA

For Petitioner(s) Mr. Gautam Narayan, AOR
Ms. Asmita Singh, Adv.
Ms. Akriti Arya, Adv.
Mr. Harshit Goel, Adv.

For Respondent(s) Mr. Nagendra Kasana, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The Civil Appeal stands allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(VIJAY KUMAR)
COURT MASTER (SH)

(MATHEW ABRAHAM)
COURT MASTER (NSH)

(Signed Order is placed on the file)