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

+ W.P.(C) 3903/2024 & CM APPL. 16049/2024

MADHAV CHAUDHARY Petitioner

Through: Mr. Rohan Taneja and Ms.
Prerna Bhardwaj, Advs.

versus

UNIVERSITY OF DELHI & ANR. Respondents

Through: Mr. Mohinder J.S. Rupal and
Mr. Hardik Rupal, Advs.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

J U D G M E N T (O R A L)

22.03.2024

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1. The petitioner has instituted this writ petition before this Court with two prayers of which the petitioner presses only prayer (b).

2. By the said prayer, the petitioner seeks a direction to the respondents to evaluate (though the prayer uses the word “re-evaluated”), the petitioner’s answer sheets for the supplementary examination undertaken by the petitioner in the Competition Law Paper with Subject Code LB-4033 held on 31 May 2023.

3. The paper in question belongs to the fourth semester of the LLB course undertaken by the petitioner in the Campus Law Centre, Faculty of Law, University of Delhi.

4. An identical dispute had come up before this Court in W.P. (C)



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15330/2023 (*Ishaan Kumar v. University of Delhi*¹).

5. The grievance of the petitioner in that case was also with respect to the evaluation of the Competition Law paper of the fourth semester of the LLB course.

6. The petitioner has placed on record a photocopy of the answer sheet of the petitioner in which, on the cover page, the Examiner has entered the following comment “very poor handwriting, hardly could read anything”. In the answer sheet, the Examiner has circled and underlined certain sentences. Presumably, the words and sentences which have been thus marked by the Examiner are those which She/he was unable to read.

7. For the sake of clarity, a screenshot of two pages of the petitioner’s answer sheet may be provided thus:

¹ In order dt. 31 January 2024 in W.P. (C) 15330/2023



UP Question 5: Rules of Combination :-

If any enterprise, people or two or more people or group of people come for the merger or amalgamation of such enterprises then they will be combined with each other with all their entities.

The merger of the enterprises or one or more people or group of people have to satisfy the minimum limits of Assets or turnover in their threshold limits.

If the merger or the acquisition have their assets or turnover less than the required threshold limits, then the merger will not have to present their merger and acquisition in front of CCI to get their approval.

Q.2

CCI have to check the combination of such enterprises which can lead to make Applicable Adverse effect of competition in India.

All the merger and acquisition have to disclose their page of assets and turnover in front of CCI. And if the assets or turnover cross the minimum limits of assets or turnover then they have to get the approval from Competition Commission of India before their merger and acquisition with each other.

Competition Commission of India is a Regulatory body who also check these merger and acquisition which can make the Applicable Adverse effect in relevant market of India.

These enterprises have to pass from the lengthy procedure of the Competition Commission which is given in the Competition Act, 2002.



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8. Though Mr. Rupal pointed out that the examiner has in fact provided marks against the answers given by the petitioner, that submission does not harmonise with the examiner's comment that he could hardly read anything written by the petitioner. If the examiner could hardly read anything, it is obvious that the marks awarded by him do not represent the actual marks which the candidate would be entitled to on the basis of the answers given by him. That is not to say that the petitioner would be entitled, to any higher marks. All that is intended to be conveyed is that, as the examiner himself confessed that he was not in a position to read most of what was written by the petitioner, the marks awarded to the petitioner by the examiner cannot be treated as the actual marks to which the petitioner was entitled.

9. Mr. Rupal has sought to submit that there is no provision in the Rules applicable to the examinations conducted by the University which permits re-evaluation of answer sheets, and that all that is permitted is re-totalling of marks in case there is an error. He has also sought to rely, in this context, on the decision of the Supreme Court in *Pramod Kumar Srivastava v. Chairman, Bihar Public Service Commission*², to contend that, where the applicable Rules did not envisage re-evaluation, the Court could not direct such an exercise to be undertaken.

10. What the petitioner is seeking – and what the Court is inclined to grant – in the present case, is not *re-evaluation* of the petitioner's answer sheet, but *evaluation*. The manner in which the petitioner's answer sheet has been evaluated by the examiner cannot be regarded



as a proper evaluation at all, as the examiner himself states that he could hardly read the handwriting of the petitioner. An evaluation of an answer sheet which the evaluator/examiner is unable to read, cannot be treated in law as evaluation at all.

11. There is, therefore, no question of re-evaluation.

12. A student, who undertakes an examination is entitled, as a matter of right, to have his paper evaluated. That is not to say that if the student's handwriting is so unintelligible that *no one* can read it, the student can nonetheless approach the Court, and state that his paper has not been evaluated properly. It is the duty of the student to at least write intelligibly. Examiners cannot be asked to evaluate handwritings which are completely unintelligible, and if a student writes his answer in such a fashion, he cannot come to Court seeking relief. The approach of the Court has, therefore, to be circumspect and case based.

13. If the Court finds the handwriting of a student to be completely unintelligible, then the Court must necessarily refuse relief.

14. In the present case, however, the petitioner's handwriting, though it leaves much to be desired, is not so unreadable that it is incapable of evaluation on merits. It is to underscore this position, that I have deemed it appropriate to reproduce the screenshots of two pages from the petitioner's answer sheet, which may be treated as

² (2004) 6 SCC 714



representative.

15. The circled and underlined words on the said two pages are intelligible as :

- i. “or more”,
- ii. “people have to”,
- iii. “acquisition”,
- iv. “to get their approval”,
- v. “range”,
- vi. “they have to get the approval from Competition Commission of India for their merger and acquisition with each other”,
- vii. “regulatory”,
- viii. “checks”,
- ix. “enterprises”,
- x. “competition”.

All the words which the examiner could not read, are, therefore, in my considered opinion, intelligible.

16. I hasten to clarify that this Court is not finding fault with the examiner. The examiners who examine answer sheets have an arduous task before them, especially in institutions of higher education. It is also the duty of students to ensure that their answers are properly readable. If the handwriting of a candidate is very poor, an individual examiner may be excused if she/he so observes, on the answer sheet.

17. At the same time, if the handwriting is at all intelligible, the



student is entitled to be marked for the concerned answer. After all, the examination system does not permit students being penalized for having poor handwriting. That, however, is what has happened in the present case.

18. In *Ishaan Kumar*, which involved an identical situation, I had allowed the petitioner to submit a typed transcript of his answer sheet to the concerned examiner and requested the examiner to evaluate the answer sheet based on the typed transcript. Liberty was, however, reserved with the examiner to satisfy herself, or himself, that the typed transcript corresponded to the handwritten answer-sheet.

19. The examiner, in that case, very fairly, evaluated the answer sheet on the basis of the typed transcript and, therefore, this Court was able to close the writ petition by order dated 19 March 2024.

20. I am inclined to follow the same procedure in this case.

21. The petitioner is, therefore, permitted to provide a typed transcript of his answer sheet to the University within 48 hours. The transcript would be provided to Mr. Rupal, who would forward it to the University. The typed transcript shall be placed before the examiner who initially checked the petitioner's Competition Law paper. The examiner is requested to evaluate the petitioner's answer sheet based on the typed transcript, provided she, or he, is satisfied that the transcript corresponds exactly to the handwritten answer sheet.



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22. Let the said exercise be conducted within three weeks, pursuant whereto, the result of the said paper should be communicated to the petitioner within a period of one week thereof.

23. This writ petition is disposed of in the aforesaid terms.

24. Needless to say, this order has been passed in the peculiar facts and circumstances of the present case.

25. *Dasti.*

C. HARI SHANKAR, J.

MARCH 22, 2024

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Click here to check corrigendum, if any