

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO.4971/2022  
[@ SLP (C)No.11651/2021]

THE CENTRAL BOARD OF  
SECONDARY EDUCATION & ANR.

Appellant(s)

VERSUS

KESHAV NARAYAN & ANR.

Respondent(s)

O R D E R

Leave granted.

We had recorded the submissions of learned counsel for the appellant on 06.08.2021 in the following terms:

“Learned counsel for the petitioners has drawn our attention to the modalities and schedule for Senior School Certificate (Class XII) examination, verification of marks, obtaining photo copy of evaluated answer books and re-valuation dated 02.05.2019. The Circular envisages in the first stage, the requirement to submit a fee for verification of marks and the result thereof is uploaded on the CBSC website. Such of the candidates who apply for verification of marks would be eligible to obtain photo copy of answer books in terms of para (I) (c) read with (II).

The right to re-evaluation under the circular is triggered off only as per (III) which reads as under :

“(a) Only those candidates who have applied for obtaining the photocopy of the evaluated answer book shall be eligible to apply for re-evaluation or challenge the marks awarded to any question(s)”.

In the conspectus of the aforesaid, learned counsel for the petitioners submits that the petitioners did not obtain a photocopy of the evaluated answer books and thus there was no question of any right of evaluation of the answer books. He further submits that though the respondent No.1 is aggrieved by the marks he obtained in Mathematics, the marks for the 2020 main examination also shows that he had obtained compartment in Mathematics and had not performed well in Physics and Chemistry. The learned single Judge have taken note of this aspect but states that re-evaluation should be allowed which aspect has been affirmed by the Division Bench without recognizing the procedure which mandates that a candidate must first obtain the answer books and if on perusal of the same is still unsatisfied, apply for re-evaluation. Learned counsel also

submits that 33 lakhs candidates take the examination and if this process is not followed strictly, the re-evaluation process itself will become unworkable.”

It is in the conspectus thereof that we found a *prima facie* case for staying the operation of the impugned order, more so, as without following the formalities, if re-valuation has to take place, in such a large examination, it will become unworkable.

Despite the aforesaid, we called for the papers, which have also been seen by the counsel for the appellant, to satisfy ourselves as to whether marking has taken place of all questions and marks transposed to the top of the sheet to calculate the total marks. We find no mistake in the same. We also browsed through the answers.

All we can say that there are such fundamental mistakes which have occurred in answering that there can be little doubt that somehow at least in these papers, the respondent candidate has not been able to perform.

In view of the aforesaid, the impugned judgment is set aside and the appeal is allowed leaving parties to bear their own costs.

.....J.  
[SANJAY KISHAN KAUL]

.....J.  
[M.M. SUNDRESH]

NEW DELHI;  
JULY 29, 2022.

ITEM NO.36

COURT NO.4

SECTION XVI

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(s). 11651/2021

(Arising out of impugned final judgment and order dated 08-03-2021 in LPA No. 1341/2019 passed by the High Court Of Judicature At Patna)

THE CENTRAL BOARD OF SECONDARY EDUCATION & ANR. Petitioner(s)

VERSUS

KESHAV NARAYAN & ANR. Respondent(s)

Date : 29-07-2022 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL  
HON'BLE MR. JUSTICE M.M. SUNDRESH

For Petitioner(s) Mr. Rupesh Kumar, AOR  
Ms. Pankhuri Shrivastava, Adv.  
Ms. Neelam Sharma, Adv.

For Respondent(s) Mr. Durga Dutt, AOR  
Mr. Rohit Priyadarshi, Adv.  
Mr. Ajay Kumar, Adv.  
Mr. Santosh Kumar, Adv.  
Mr. Vaibhav Shukla, Adv.  
Mr. K.K. Mishra, Adv.  
Mr. Amarendra Choubey, Adv.

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

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application, if any, stands disposed of.

(ASHA SUNDRIYAL)  
ASTT. REGISTRAR-cum-PS

(POONAM VAID)  
COURT MASTER (NSH)

[Signed order is placed on the file]