Maharashtra State Board of Secondary and Higher Secondary Education and Another

Vs

Paritosh Bhupeshkumar Sheth and Others

Alpana V. Mehta

Vs

Maharashtra State Board of Secondary Education and Another

Civil Appeals Nos. 1653 to 1691 of 1980

(D. A. Desai, V. B. Eradi JJ )

17.07.1984

JUDGMENT

BALAKRISHNA ERADI, J. -

1. It is commons experience that whenever the results of public examinations conducted by School Boards and Universities or by other bodes like the Public Service Commission are announced, amidst the rejoicings of successful candidates who have secured the grade of marks anticipated by them, it also inevitably bring with it a long trial of disappointments and frustrations as the direct outcome of the non-fructuation of hopes and expectations harboured in the minds of the examinees based on the candidates' own assessment of their performance and merit. Labouring under a feeling that there has not been a proper evaluation of their performance in the examination, they would naturally like to have a revaluation of the answer books and even a personal inspection and verification of the answer books for finding out whether there has been a proper evaluation of the answers to all question, whether the totalling of marks has been correctly done and whether there has been any tampering with the seat numbers written on the answer books and the supplementary sheets. The question canvassed before us in these appeals is whether, under law, a candidate has a right to demand such an inspection, verification and revaluation of answer books and whether the statutory regulations framed by the Maharashtra State Board of Secondary and Higher Secondary Education governing the subject insofar as they categorically state that there shall be no such right can be said to be ultra vires, unreasonable and void.

2. A number of such disappointed candidates who had appeared for the Higher Secondary Certificate and Secondary School Certificate public examination conducted by the Divisional Boards functioning under the supervision and control of the Maharashtra State Board of Secondary and Higher Secondary Education - hereinafter called 'the Board' - filed a batch of 39 writ petitions in the High Court of Bombay challenging the validity of Regulation 104(3) of the Maharashtra Secondary and Higher Secondary Education Boards Regulations, 1977 and seeking the issues of writs directing the Board - appellant herein - to allow to the petitioners disclosure and inspection of there answer books in the public examination, the results whereof had already been published and to conduct a revaluation of such of the answer papers as the petitioners may demand after the inspection. The High Court divided the writ petitions into two groups, the first group consisting of

cases where the right of inspection alone was claimed and the second group comprising of cases where the petitions had claimed also the further right to demand a revaluation of the answer papers. Though all the writ petitions were heard together by a Division Bench consisting of V. S. Deshpande and V. A. Mohta, JJ., the two groups were disposed of by separate judgments delivered on behalf of the Bench on the same day - July 28, 1980. The first group of writ petitions was disposed of by a judgment delivered by Deshpande, J. speaking on behalf of the Division Bench. Therein it was held that clause (3) of Regulation 104 which lays down that no candidate shall be entitled to disclosure or inspection of the answer books or other documents as these are to be treated as most confidential is ultra vires on the ground of its being in excess of the regulation-making power of the Board. In the opinion of the Division Bench, the said provision cannot be said to serve any purpose of the Act, but is, on the contrary, 'defeasive' of the same. It was further held that the impugned clause (3) of Regulation 104 to the extent to which it probities disclosure and inspection of the answer books and other connected documents on the ground of confidentiality is unreasonable and liable to be struck down on that ground also. Accordingly, the High Court declared clause (3) of Regulation 104 to be void and allowed the first group of writ petitions by directing the Board to allow inspection of the answer books asked for by the petitioners and to take consequential action under clauses (4) to (6) of Regulation 104 when found necessary.

3. The main judgment in the second group of writ petitions was delivered by Mohta. J., holding that the provision contained in clause (1) if Regulation 104 that no revaluation of the answer books or supplement shall be done is ultra vires the regulation-making power conferred by Section 36 and is also illegal and void on the ground of its being manifestly unreasonable. In the view of the learned Judge, inspection and disclosure will serve no purpose in case the further right of revaluation was denied and inasmuch as the right to disclosure and inspection had been recognised by the judgment just then delivered in the first group of writ petitions, the conclusion had necessarily to follow that the Board was obliged to permit revaluation as well. On this reasoning, Regulation 104(1) insofar as it prohibits revaluation was declared void and a direction was issued to the Board that in the case of those examines who had applied for revaluation, such facility should also be allowed. By a separate judgment, Deshpande, J., expressed serious doubts and reservations as to whether a further right of revaluation could be spelt out from the regulations, but finally agreed with the conclusion expressed by his colleague stating thus : "rather than allow my doubts to prevail and dissent, I prefer to agree with him in the above circumstances". Aggrieved by these judgments rendered in the two groups of cases, the Board has preferred these appeals before this Court after obtaining special leave.

4. The Maharashtra Secondary and Higher Secondary Boards Act, 1965 (for short, 'the Act') has been passed to provide for the establishment of a State Board and Divisional Boards to regulate certain matters pertaining to secondary and higher secondary education in the State. Section 3(1) provides that the State Government shall, by notification in the official gazette, establish a Board for the whole State by the name "Maharashtra State Board of Secondary and Higher Secondary Education". By sub-section (2) of the same section, it is further provided that the State Government shall, like wise, establish a Board for each of the three divisions under such name as may be specified in the notification. The appellant Board is the State Board constituted under sub-section (1) of Section 3.

5. The powers and duties of the State Board have been enumerated in clauses (a) to (r) of Section 18 of the Act. Clause (a) states that it shall be the duty of the Board to advise the State Government on matters of policy relating to secondary or higher secondary education in general. Thus under the scheme of the Act, the Board is to discharge an important role in formulating policies on all matter relating to secondary and higher secondary education. Clause (f) empowers the Board to prescribed

the general conditions governing admission of regular and private candidates to the final examination and to specify the conditions regarding the attendance and character on the fulfilment of which a candidate shall have a right to be admitted to and to appear at any such examination.

6. Section 19 deals with the powers and duties of a Divisional Board, Under clause (f) it is the duty of the Divisional Board to conduct in the area of its jurisdiction the final examination on behalf of the State Board. Clause (g) empowers the Divisional board to appoint paper setters, translators, examiners, moderators, supervisors and other necessary personnel for conducting the final examination in the area of its jurisdiction, for evaluation of candidates' performance and for compiling and release of the results in accordance with such instructions ads the State Board may from time to time issue. Under clause (h) it is within the power of the Divisional Board to admit candidates of the final examination according to the regulations made by the State Board in this behalf. Clause (m) vests the Divisional Board with power to generally evaluate the performance of students in all examinations in secondary schools and junior colleges including the final examination and make necessary recommendations to the State Board in that behalf.

7. Section 36(1) of the Act empowers the State Board to make 'regulations' for the purpose of carrying into effect the provisions of the Act. Sub-section (2) states that, without prejudice to generality of the foregoing power, such regulations may provide for any of the matters enumerated in clauses (a) to (n) thereof. Clauses (c), (d), (f) and (g) which alone are relevant for our present purpose are reproduced below :

> (c) the general conditions governing admission of regular and private candidates for the final examinations, and any particular conditions regarding attendance and character, on the fulfillment of which a candidate shall have a right to be admitted to an to appear at any such examination;
>
> (d) the marks required for passing in any subject and the final examination as a whole, and for exemption, credit and distinction in any subject;
>
> #(e) * * *##
>
> (f) the arrangements for the conduct of final examinations by the Divisional Boards and publication of results;
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> (g) the appointment of examiners, their powers and duties in relation to the final examinations and their remuneration;
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> Sub-section (3) lays down that no regulation made under this section shall have effect until the same has been sanctioned by the State Government.

8. Section 38 has conferred on the State Board a distinct power to make 'bye-laws' consistent with the Act and the regulations made thereunder. Such bye-laws are to provide for the procedure to be followed at the meetings of the Board and the Divisional Boards and the Committee appointed by any of them and the number of members required to form a quorum at such meetings and any other matters solely concerning the Boards and their Committees not provided for by the Act and the regulations made thereunder.

9. Three Divisional Boards have been set up in Maharashtra the State Government in exercise of the power conferred by Section 3 and these Boards are in charge of the Poona Division, Aurangabad

Division and Vidharbha Division respectively. These three Division Boards conduct two public examinations, namely, the Higher Secondary Certificate examination - "H.S.C. examination" - which is conducted at the end of the higher secondary education course and the Secondary School Certificate examination - "S.S.C. examination" - conducted at the end of the secondary school education course.

10. In exercise of the power conferred by Section 36 of the Act, the State Board has framed the Maharashtra Secondary and Higher Secondary Education Board Regulations. 1977. These regulation were sanctioned by the State Government under sub-section (3) of Section 36 and were published on July 11, 1977. They are to be deemed to have come into force on June 15, 1977. These regulations were applied to the Secondary School Certificate examination and Higher secondary Certificate examination held in October 1977 and thereafter. The regulation consist of 3 parts. Part I contains the provisions common to Secondary School Certificate (S.S.C.) and Higher Secondary Certificate (H.S.C.) examination; Part II contains regulations pertaining to S.S.C. examination only and Part III those pertaining exclusively to the Higher Secondary Certificate examination. Regulation 104 with which we are concerned occurs in Part III and clauses (1) to (3) thereof which alone are relevant for the purposes of this case required to be reproduced here :

> 104. Verification of marks obtained by a candidate in a subject. - (1) Any candidate who has appeared at the Higher Secondary Certificate examination may apply to the Divisional Secretary for verification of marks in any particular subject. The verification will be restricted to checking whether all the answer have been examined and that there has been no mistake in the totalling of marks for each question in that subject and transferring marks correctly on the first cover page of the answer book and whether the supplements attached to the answer book mentioned by the candidate are intact. No revaluation of the answer book or supplements shall be done.
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> (2) Such an application must be made by the candidate through the head of the junior college which presented him for the examination, within two weeks of the decoration of the examination results and must be accompanied by a fee of Rs. 10 for each subject.
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> (3) No candidate shall claim, or be entitled to revaluation of his answers or disclosure or inspection of the answer books or other documents as these are treated by the Divisional Board as most confidential.

11. Before the High Court, the writ petitioners had based their challenge against the validity of clause (1) and (3) of Regulation 104 on three main grounds. The first ground of attack was that the impugned clauses were violative of the principles of natural justice. Secondly, it was urged that both clauses (1) and (3) were ultra vires and void on the ground of their being in excess of the regulation making power conferred on the Board by Section 36 of the Act. The third ground of challenge was that the impugned provisions contained in clauses (1) and (3) were highly unreasonable and since the regulations framed by the Board are in the nature of bye-laws, they are liable to be struck down on the ground of unreasonableness.

12. Though the main plank of the arguments advanced on behalf of the petitioners before the High Court appears to have been the plea of violation of principles of natural justice, the said contention did not find favour with the learned Judges of the Division Bench. The High Court rejected the contention advanced on behalf of the petitioners that non-disclosure or disallowance of the right of

inspection of the answer books as well as denial of the right to ask for a revaluation to examinees who are dissatisfied with the results visits them with adverse civil consequences. The further argument that every adverse 'verification' involves a condemnation of the examinees behind their back and hence constitutes a clear violation of principles of natural justice was also not accepted by the High Court. In our opinion, the High Court was perfectly right in taking this view and in holding that the "process of evaluation of answer papers or of subsequent verification of marks" under clause (3) of Regulation 104 does not attract the principles of natural justice since no decision-making process which brings about adverse civil consequences to the examinees is involved. The principles of natural justice cannot be extended beyond reasonable and rational limits and cannot be carried to such absurd lengths as to make it necessary that candidates who have taken a public examination should be allowed to participate in the process of evaluation of their performances or to verify the correctness of the evaluation made by the examiners by themselves conducting an inspection of the answer books and determining whether there has been a proper and fair valuation of the answer by the examiners. As succinctly put by Mathew, J. in his judgment in the Union of India v. Mohan Lal Kapoor ((1974) 1 SCR 797 : (1973) 2 SCC 836 : 1974 SCC (L&S) 5 : (1973) 2 LLJ 504), it is not expedient to extend the horizon of natural justice involved in the audi alteram partem rule to the twilight zone of mere expectations, however great they might be. [SCC para 56, p. 863 : SCC (L&S) p. 31]. The challenge levelled against the validity of clause (3) of Regulation 104 based on the plea of violations of natural justice, was therefore, rightly rejected by the High Court.

13. The High Court in its judgment in the first group of cases then went on to consider the next two grounds of challenge put forward by the petitioners, namely, that clause (3) is ultra vires on the ground of its being in excess of the regulation-making powers of the Board and that in any event it is void on the ground of unreasonableness. Both these grounds of challenge were upheld by the High Court and, in consequence thereof, clause (3) of Regulation 104 has been struck down by the learned Judges as illegal, ultra vires and void. After giving out careful consideration to the arguments advanced by the learned counsel appearing on both sides, we have unhesitatingly come to the conclusion that the view so taken by the High Court is wholly erroneous and unsustainable.

14. We shall first take up for consideration the contention that clauses (3) of Regulation 104 is ultra vires the regulation-making powers of the Board. The point urged by the petitioners before the High Court was that the prohibition against the inspection or disclosure of the answer papers and other documents and the declaration made in the impugned clause that they are "treated by the Divisional Board as confidential documents" do not serve any of the purposes of the Act and hence these provisions are ultra vires. The High Court was of the view that the said contention of the petitioners had to be examined against the backdrop of the fact disclosed by some of the records produced before it that in the past there had been a few instances where some students possessing inferior miters had succeeded in passing off the answer papers of other brilliant students as their own by tampering with seat numbers or otherwise and the verification process contemplated under Regulation 104 had failed to detect the mischief. In our opinion, this approach made by the High Court was not correct or proper because the question whether a particular piece of delegated legislation - whether a rule or regulation or other type of statutory instrument - is in excess of the power of subordinate legislation conferred on the delegate has to be determined with reference only to the specific provisions contained in the relevant statute conferring the powers to make the rule, regulation, etc. and also the object and purpose of the Act as can be gathered from the various provisions of the enactment. It would be wholly wrong for the Court to substitute its own opinion for that of the Legislature or its delegate as to what principle or policy would best serve the objects and purposes of the Act and to sit in judgment over the wisdom and effectiveness or otherwise of

the policy laid down by the regulation-making body and declare a regulation to be ultra vires merely on the ground that, in the view of the Court. The impugned provisions will not help to serve the object and purpose of the Act. So long as the body entrusted with the task of framing the rules or regulations acts within the scope of the authority conferred on it, in the sense that the rules or regulations made by it have a rational nexus with the object and purpose of the statute, the court should not concern itself with the wisdom or efficaciousness of such rules or regulations. It is exclusively within the province of the Legislature and its delegate to determine, as a matter of policy, how the provisions of the statute can best be implemented and what measures, substantive as well as procedural would have to be incorporated in the rules or regulations for the efficacious achievement of the objects and purposes of the Act. It is not for the Court to examine the merits or demerits of such a policy because its scrutiny has to be limited to the question as to whether the impugned regulations fall within the scope of the regulation-making power conferred on the delegate by the statute. Though this legal position is well-established by a long series of decisions of this Court, we have considered it necessary to reiterate it in view of the manifestly erroneous approach made by the High Court to the consideration of the question as to whether the impugned clause (3) of Regulation 104 is ultra vires. In the light of the aforesaid principles, we shall now proceed to consider the challenge levelled against the validity of the Regulation 104(3).

15. As already noticed, the power to make regulations is conferred on the Board by Section 36 of the Act. Sub-section (1) of the said section lays down that the Board may make regulations for the purpose of carrying into effect the provisions of the Act. Sub-section (2) enumerates, in clauses (a) to (n) the various matters for which the provisions may be made by such regulations, the said enumeration being without prejudice to the generality of the power conferred by sub-section (1). We have already extracted clauses (c), (d), (f) and (g) which deal with the conditions governing admission of candidates for the final examinations, the arrangement for the conduct of final examinations by the Divisional Boards and for publication of results, and the appointment of examiners, their powers and duties in relation to the final examinations, etc. These topics are comprehensive enough to cover the prescription of the procedure for finalising the results of the examination based on the evaluation of the answers of the candidates who have appeared for the examinations, as well as the laying down of the restrictive provisions relating to verification of marks, prohibition against disclosure and inspection of answer books and denial of any right or claim for evaluation. We fail to see how it can be said that these are not matters pertaining to the conduct of the final examination and the publication of the results of such examination. Further, Section 19 of the Act which sets out the powers and duties of a Divisional Board lays down in clauses (f) and (g) that the Board shall have the power and is under a duty to conduct in the area of its jurisdiction the final examination on behalf of the State Board and to appoint paper setters examiners, etc., for conducting the final examination in the area of its jurisdiction, for evaluation of candidates' performances and for compiling and release of results in accordance with such instructions as the State Board may from time to time issue. It is thus clear that the conduct of the final examination and the valuation of the candidates' performance and the compiling and release of results are all to be carried out by the Division Board in accordance with the instructions to be issued by the State Board from time to time. It is, therefore, manifest that a duty is case on the State Board to formulate its policy as to how the examination are to be conducted, how the evaluation of the performances of the candidates is to be made and by what procedure the results are to be finalised, compiled and released. In our opinion, it was perfectly within the competence of the Board, rather it was its plain duty, to apply its mind and decide as a matter of policy relating to the conduct of the examination as to whether disclosure and inspection of the answer books should be allowed to the candidates, whether and to what extent verification of the result should be permitted

after the results have already been announced and whether any right to claim revaluation of the answer books should be recognised or provided for. All these are undoubtedly matter which have an intimate nexus with the objects and purposes of the enactment and are, therefore, within the ambit of the general power to make regulations conferred under sub-section (1) of section 36. In addition, these matter fall also within the scope of clauses (c), (f) and (g) of sub-section (2) of the said section. We do not, therefore, find it possible to accept as correct the view expressed by the High Court that clause (3) of Regulation 104 is ultra vires on the ground of it being in excess of the regulation-making power conferred on the Board. Instead of confining itself to a consideration whether the impugned regulation fall within the four corners of the statute and particularity of Section 36 thereof which confers the powers to make regulations, the High Court embarked upon an investigation as to whether the prohibition against disclosure and inspection of answer books and other documents imposed by the impugned clause (3) of the Regulation 104, would, in practice, effectively serve the purpose of the Act ensuring fair play to the examinees. The High Court was of the opinion that in deciding the question as to whether the impugned clause was ultra vires, the Court had to bear in mind "the glaring deficiencies" found to exist in the working of the system in spite of all the elaborate precautionary measures taken for preventing such lapse which were details in the affidavit in reply and "the far-reaching implications of the said deficiencies on the future of the examinees" and it went on to observe the "the nexus or absence thereof between the purpose of the Act or the purpose of the examination and the prohibition against inspection in the impugned clause can be discovered only by reference to these factors". Then the High Court proceeded to make following further observations :

> The examinee is the person affected by miscalculation of totals, omissions to examine any answer, misplacement of the supplementaries of the answer books and misplacement or tampering with the said record in any manner, if any. Adverse result creates suspicion in his mind about the possible errors in the system and his claim to inspection against this background must be held to be reasonable and calculated to subserve the purposes of the examination as also the overall purposes of the Act. This enables him to verify if his suspicions are ill or well founded. Existence of some overriding factors alone can justify denial or his claim.
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> The High Court concluded the discussion by stating : "Such confidentiality cannot be found to be serving any purpose of the Act merely because it was acquiesced in the past or accepted without challenge. According to Mr Setalvad, authority to treat these documents confidential is implicit in the very power to hold the examination itself, it being necessary to secure effective achievement of the process. This is, too broad a statement to admit of any scrutiny. No such power can, however, be implied unless its indispensability of treating the question papers, and names of the question setters and examiners confidential upto a certain stage can easily be appreciated. Their premature disclosure or exposure may defeat the purpose of examinations and make a mockery of is very conception. It is, however, difficulty to see any purpose of continuing to keep them confidential at any rat after the declaration of the results".

16. In our opinion, the aforesaid approach made by the High Court is wholly incorrect and fallacious. The Court cannot sit in judgment over the wisdom of the policy evolved by the Legislature and the subordinate regulation-making body. It may be a wise policy which will fully effectuate the purpose of the enactment or it may be lacking in effectiveness and hence calling for revision and improvement. But any drawbacks in the policy incorporated in a rule or regulation will not render it ultra vires and the Court cannot strike it down on the ground that, in its opinion, it is

not a wise or prudent policy, but is even a foolish one, and that it will not really serve to effectuate the purposes of the Act. The Legislature and its delegate are the sole repositories of the power to decide what policy should be pursued in relation to matters covered by the Act and there is no scope for interference by the Court unless the particular provision impugned before it can be said to suffer from any legal infirmity, in the sense of its being wholly beyond the scope of the regulation-making power or its being inconsistent with any of the provisions of the parent enactment or in violation of any of the limitations imposed by the Constitutions. None of these vitiating factors are shows to exist in the present case and hence there was no scope at all for the High Court to invalidate the provision contained in clause (3) of Regulation 104 as ultra vires on the grounds of its being in excess of the regulation-making power conferred on the Board. Equally untenable, in our opinion, is the next and last ground by the High Court for striking down clause (3) of Regulation 104 as unreasonable, namely, that it is in the nature of a by-law and is ultra vires on the ground of its being an unreasonable provision. It is clear from the scheme of the Act and more particularly, Sections 18, 19 and 34 that the Legislature has laid down in broad terms its policy to provide for the establishment of a State Board and Divisional Boards to regulate matters pertaining to secondary and higher secondary education in the State and it has authorised the State Government in the first instance and subsequently the Board to enunciate the details for carrying into effect the purposes of the Act by framing regulations. It is a common legislative practice that the Legislature may choose to lay down only the general policy and leave to its delegate to make detailed provisions for carrying into effect the said policy and effectuate the purposes of the statue by framing rules/regulations which are in the nature of subordinate legislation. Section 3(39) of the Bombay General Clauses Act, 1904, which defines the expression 'rule' states : "Rule shall mean a rule made in exercise of the power under any enactment and shall include any regulation made under a rule or under any enactment". It is important to notice that a distinct power of making bye-laws has been conferred by the Act on the State Board under Section 38. The Legislature has thus maintained in the statute in question a clear distinction between 'bye-laws' and 'regulations'. The bye-laws to be framed under Section 38 are to relate only to procedural matters concerning the holding of meetings of the State Board, Divisional Boards and the Committee, the quorum required, etc. More important matters affecting the rights of parties and laying down the manner in which the provisions of the Act are to be carried into effect have been reserved to be provided for by regulations made under Section 36. The Legislature, while enacting Sections 36 and 38, must be assumed to have been fully aware of the niceties of the legal position governing the distinction between rules/regulations properly so called and bye-laws. When the statute contains a clear indication that the distinct regulation-making power conferred under Section 36 was not intended as a power merely to frame bye-laws, it is not open to the Court to ignore the same and treat the regulations made under Section 36 as mere bye-laws in order to bring them within the scope of justiciability by applying the rest of reasonableness.

17. It is also relevant to notice in this context the nature and composition of the body on which the regulation-making power has been conferred by the Act. The composition of the State Board is set out in Section 5. It will be seen therefrom that the Board is to have as ex officio members the Director of Education of the State Government, the Director of Higher Educational of the State Government, the Chairmen of the Divisional Boards, the Director of Technical Education of the State, the Director of Agriculture, the Director of the State Institute of Education. Then there is a class of elected members consisting of one representative from each University in the State elected by the Academic Council of the university, two members elected by the Maharashtra Legislative Assembly from amongst its members and one member elected by the Maharashtra Legislative Council from amongst its members. Next comes the category of nominated members belonging to

five different categories described in clauses (i) to (v) under class (C) in the section, aggregating 21 in all. It will be seen from these clauses that these nominated members are to be drawn from amongst principals, headmasters, head-mistresses, teachers of junior colleges and secondary schools, representatives of managing bodies of secondary schools and junior colleges, persons having special knowledge or practical experience in matters connected with primary, secondary or higher secondary education. The State Board is thus comprised of members who can be reasonably expected to possess intimate knowledge, practical know-how, expertise and experience in all matters pertaining to the field of education - school and collegiate - and it is to such a highly responsible body of professional men that the Legislature has entrusted the task of framing regulation laying down the details of policy of working out the provisions of the Act to be carried into effect. Section 37(1) lays down that the first regulations shall be made by the State Government and they shall continue to be in force until the new regulations are made by the Board under Section 36. There is also the further safeguard provided in sub-section (3) of Section 36 that no regulation made under that section shall have the effect until the same has been sanctioned by the State Government. Even more significant is the provision contained in sub-section (2) of Section 37 conferring a concurrent power on the State Government to make any new regulations in respect of any of the matters referred to in Section 36 and thereby modify or repeal either wholly or in part the regulations made by the State Board. The said sub-section is in the following terms :

> 37. (2) If it shall at any time appear to the State Government that it is expedient to make any new regulations in respect of any of the matters referred to in Section 36 or that any regulations referred to in sub-section (1) or made by the State Board under Section 36 need to be modified or repealed, either wholly or in part, the State Government may, after consultation with the State Board and by notification in the Official Gazette, make such regulations or modify or repeal any such regulations, either wholly or in part. The regulations so made, modified or repealed shall take effect from such date as the State Government may in such notification specify or if no such date is specified, from the date of publication of the said notification in the Official Gazette, except as respects anything done or omitted to be done before such date.

In our opinion, there cannot be a clearer indication of the intention of the Legislature regarding the true character of the regulations which are to be made either under Section 36 or under the provisions of either sub-section (1) or sub-section (2) of Section 37, namely, that they are in the nature of subordinate legislation having the force of rules framed under a statute amplifying and supplementing its provisions by laying down how the legislative policy is to be carried into effect with respect to different situations that may arise in the implementation of the object and purposes of the statute. Viewed in this setting, we are unhesitatingly of the opinion that the regulations made by the Board under Section 36 are in the nature of statutory rules and they have the full vigour and force of subordinate legislation made by a delegate duly empowered in that behalf by the Legislature. In support of its conclusion that the regulations framed under Section 36 are only in the nature of bye-laws, the Division Bench of the High Court has strongly relied on an earlier ruling of the same Court in Sophy Kelly v. State of Maharashtra ((1967) 69 Bom LR 186 : AIR 1968 Bom 156 : 1967 Mah LJ 400) where another Division Bench has expressed the view that the earlier set of regulations framed under section 36 of the Act are only in the nature of bye-laws. In arriving at the said conclusion, the Court is not seen to have adverted to most of the crucial aspects pointed out by us in the preceding paragraphs. We are unable to accept the said decision as laying down correct law.

18. In the light of what we have stated above, the constitutionality of the impugned regulations has to be adjudged only by a three-fold test, namely, (1) whether the provisions of such regulations fall within the scope and ambit of the power conferred by the statute on the delegate; (2) whether the rules/regulations framed by the delegate are to any extent inconsistent with the provisions of the parent enactment and lastly (3) whether they infringe any of the fundamental rights or other restrictions or limitations imposed by the Constitution. We have already held that the High Court was in error in holding that the provisions of clause (3) of Regulation 104 do not serve the purpose of carrying into effect the provisions of the Act and are ultra vires on the ground of their being in excess of the regulation-making power conferred by Section 36. The writ petitioners had no case before the High Court that the impugned clauses of the regulations were liable to be invalidated on the application of second and third tests. Besides the contention that the impugned regulations were ultra vires the power conferred under Section 36(1), the only other point urged was that they were in the nature of bye-laws and were liable to be struck down on the ground of unreasonableness.

19. In view of the conclusion expressed by us that the regulations cannot be regarded as mere bye-laws, the contention raised on alleged unreasonableness does not really call for consideration. However, since the High Court has discussed the said aspect at great length in its two judgments and fairly elaborate arguments were also advanced before us by the learned advocates appearing on both sides, we think it is only fair and proper that we should briefly express our views on the merits of the question concerning the reasonableness of impugned regulation. The reason which weighed with the High Court for declaring that clause (3) of Regulation 104, which states that no candidate should be entitled to claim disclosure and inspection of the answer books and other connected documents and that they are to be treated as confidential suffers from the vice of unreasonableness is that denial of the right of disclosure and inspection is 'defeasive' of the right of verification conferred on the examinees under sub-clause (1) of the same clause as well as the right flowing from sub-clause (2) of Regulation 102 whereby the Divisional Board is invested with the power to amend the result of any candidate in an examination where it is found that the result has been affected by error, malpractice, fraud, etc. Dealing with this aspect, the High Court has observed as follows in paras 46 and 47 of its judgment :

> We, however, do not think that mere absence of any positive provisions for inspection can be decisive of examinees' claim thereto. The Board itself is conscious of the fallibility of its system, and the possibility of inadvertent or deliberate errors and malpractices. It has, therefore, provided correctives against such errors in Regulations 102 and 104. Right of verification and power of correction of the results, conferred under these regulations must be assumed to have been intended to be effective. Experience of a few years, however, has revealed several deficiencies in the functioning of the system and demonstrated how the said system of verification and powers of correction can become ineffective. Entire reliance on the Board's administration even for the ministerial part of these functions may reduce these provisions to a dead letter. These rights and powers can be better effectuated by enabling the examine, to have himself inspection of the papers. Such a right indeed is implicit in the right of verification. The power to correct the errors and amend result contemplated under Regulations 104 and 102 also imply an obligation to facilitate tracing of such errors and malpractices and provide effective machinery for their detection. This includes an implied obligation to give inspection of the answer papers to the interested person such as the examinee. The malpractices involved in passing off papers written by one as that of others and manipulations and tampering and the frauds involved therein, cannot be effectively detected and remedied unless, among

> others, the examinee himself is enabled to inspect the answer papers. This is indispensable even for verifying the claim as to the presence or absence of any examinee. The right of inspection thus is the integral part of right of verification and obligation to trace and correct the errors as implied in Regulations 102 and 104. Doctrine of implied power and obligation and right and duties make up for the absence of positive provisions.
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> 47. It is true that such right of inspection does not seem to have been recognised under any system of examination in India and its recognition is bound to unsettle the age old practice followed and notions entertained. The decision is bound to have effects on examinations in several other fields, apart from the one contemplated by the Board or Universities. Consequences on administration also are bound to be far-reaching, necessitating setting up some additional machinery, and may prove to be time consuming and expensive. We, however, find that such right of inspection has now become indispensable for effectuating the underlying purpose of examination. None of these considerations appears to us to be, therefore, relevant.

20. We consider that the above approach made by the High Court is totally fallacious and is vitiated by its failure to follow the well-established doctrine of interpretation that the provisions contained in a statutory enactment or in rules/regulations framed thereunder have to be so construed as to be in harmony with each other and that where under a specific section or rule a particular subject has received special treatment, such special provision will exclude the applicability of any general provision which might otherwise cover the said topic. Regulation 102(2), if properly construed in the setting in which it occurs, only confers a suo motu power on the Divisional Board to amend the result of the examination in respect of any candidate or candidates on its being found that such result has been affected by error, malpractice, fraud, improper conduct, etc. The 'error' referred to in the said provision has, in the context, to be understood as being limited to an error arising in consequence of malpractice, fraud, improper conduct or other similar matter of whatsoever nature. We are unable to understand this provision as conferring any right on an examinee to demand a disclosure, inspection or verification of his answer books or other related documents. All scope for doubt or speculation in relation to this matter has, however, been eliminated by the provision contained in Regulation 104 which specifically deals with the subject of verification of marks obtained by a candidate. Clause (1) of the said regulation states that any candidate who has appeared at the H.S.C. examination may apply to Divisional Secretary for verification of marks, particularly in any subject, but such verification will be restricted to check whether all the answers have been examined and whether any mistake has been committed in totalling of marks in that subject or in transferring marks correctly on the first cover page of the answer book as well as whether the supplements attached to the answer books as mentioned by the candidates are intact. Clause (3) of the said regulation imposes the further limitation that no candidate shall claim or be entitled to revaluation of his answer book or disclosure or inspection of the answer book or further documents as these are to be treated by the Divisional Boards as most confidential. It is obvious that clauses (1) and (3) have to be read together and not in isolation from each other as has apparently been done by the High Court. The right of verification conferred by clause (1) is subject to the limitation contained in the same clause that no revaluation of the answer books or supplements shall be done and the further restriction imposed by clause (3), prohibiting disclosure or inspection of the answer books. The High Court seems to have construed the last portion of clause (3) as implying that the confidentiality of the answer books is to be declared by some order of the Divisional Board and it has proceeded to hold that since no such order was brought to the notice of the Court there was no basis for treating the answer books as confidential. In our opinion, this interpretation of the

concluding words of clause (3) is incorrect. What is laid down therein is that the answer books and other documents are to be treated by the Divisional Boards as most confidential. In other words, this clause of the regulation contains a mandate to the Divisional Boards to treat the answer books and documents as confidential and lays down that no candidate shall be entitled to claim disclosure or inspection of the said confidential books and documents. We are also of the opinion that the High Court was in error in invoking the "doctrine of implied power and obligation" for the purpose of holding that because the right of verification has been conferred by clause (1) of Regulation 104, there is an implied power in the examinees to demand disclosure and inspection and a corresponding implied obligation on the part of Board to accede to such a demand. There is no scope at all for invoking any such implied power or imputing to the regulation-making authority an intention to confer such power by implication when there is an express provision contained in the very same regulation [clause (3)] which clearly manifests the contrary intention and states in categorical terms that there shall be no claim or entitlement for disclosure or inspection of the answer books.

21. The legal position is now well-established that even a bye-law cannot be struck down by the Court on the ground of unreasonableness merely because the Court thinks that it goes further than "is necessary" or that it does not incorporate certain provisions which, in the opinion of the Court, would have been fair and wholesome. The Court cannot say that a bye-law is unreasonable merely because the Judges do not approve of it. Unless it can be said that a bye-law is manifestly unjust, capricious, inequitable, or partial in its operation, it cannot be invalidated by the Court on the ground of unreasonableness. The responsible representative body entrusted with the power to make bye-laws must ordinarily be presumed to know what is necessary, reasonable, just and fair. In this connection we may usefully extract the following oft-quoted observations of Lord Russel of Killowen in Kruse v. Johnson ((1898) 2 QB 91, 98, 99 : 78 LT 647 : 46 WR 630 (DC)), (quoted in Trustees of the Port of Madras v. Aminchand Pyarelal ((1976) 1 SCR 721, 733 : (1976) 3 SC 167, 178 : AIR 1975 SC 1935)) (SCC p. 178, para 23) :

> When the Court is called upon to consider the bye-laws of public representative bodies clothed with the ample authority which I have described, accompanied by the checks and safeguards which I have mentioned, I think the consideration of such bye-laws ought to be approached from a different standpoint. They ought to be supported if possible. They ought to be, as has been said, 'benevolently interpreted', and credit ought to be given to those who have to administer them that they will be reasonably administered.

The learned Chief Justice said further that there may be cases in which it would be the duty of the court to condemn bye-laws made under such authority as these were made (by a county council) as invalid because unreasonable. But unreasonable in what sense ? If, for instance, they were found to be partial and unequal in their operation as between different classes; if they were manifestly unjust; if they disclosed bad faith; if they involved such oppressive or gratuitous interference with the rights of those subject to them as could find no justification in the minds of reasonable men, the court might well say, "Parliament never intended to give authority to make such rules; they are unreasonable and ultra vires". But it is in this and in this sense only, as I conceive, that the question of reasonableness or unreasonableness can properly be regarded. A bye-law is not unreasonable merely because particular Judges may think that it goes further than is prudent or necessary or convenient, or because it is not accompanied by an exception which some Judges may think ought to be there.

We may also refer with advantage to the well-known decision of the Privy Council in Slattery v.

Naylor ((1888) 13 AC 446 : 59 LT 41 : 36 WR 897 (PC)), where it has been laid down that when considering whether a bye-law is reasonable or not, the Court would need a strong case to be made against it and would decline to determine whether it would have been wiser or more prudent to make the bye-law less absolute or will it hold the bye-law to be unreasonable because considerations which the Court would itself have regarded in framing such a bye-law have been overlooked or rejected by its farmers. The principles laid down as aforesaid in Kruse v. Johnson ((1898) 2 QB 91, 98, 99 : 78 LT 647 : 46 WR 630 (DC) and Slattery v. Naylor ((1888) 13 AC 446 : 59 LT 41 : 36 WR 897 (PC)), have been cited with approval and applied by this Court in Trustees of the Port of Madras v. Aminchand Pyarelal ((1976) 1 SCR 721, 733 : (1976) 3 SCC 167, 178 : AIR 1975 SC 1935).

22. As already noticed, one of the principal factors which appears to have weighed with the High Court is that in certain stray instances (specific instances referred to in the judgment are only about three in number), errors or irregularities had gone unnoticed in the past even after verification of the concerned answer books had been conducted according to the existing procedure and it was only after further scrutiny made either on orders of court or in the wake of contentions raised in petitions filed before a court that such errors or irregularities were ultimately discovered. In this connection we consider it necessary to recall the observations made by Krishna Iyer. J. in R. S. Joshi v. Ajit Mills Ltd. ((1977) 4 SCC 98 : 1977 SCC (Tax) 536 : (1978) 1 SCR 338 : (1977) 40 STC 497) that "a law has to be adjudged for its constitutionality by the generality of cases it covers, not by the freaks and exceptions it martyrs" [SCC para 10, p. 106 : SCC (Tax) p. 544]. It is seen from the affidavits that form part of the record of this case that the three Divisional Boards conduct the H.S.C. examinations twice every year, i.e. in March and October every year. The number of candidates who appeared for the H.S.C. examination in March 1980 was 1,15,364. Likewise, the S.S.C. public examination is also conducted by the Divisional Boards twice during the year, and the number of candidates appearing in the said examination is very much larger than the number appearing in the H.S.C. examination. From the figures furnished by the Board, it is seen that there is a progressive increase from year to year in the number of candidates appearing in both these public examinations. In March 1980, a total number of 2,99,267 had appeared in the S.S.C. examination. Considering the enormity of the task of evaluation discharged by the Board through the examiners appointed by it, it is really a matter for satisfaction that proved instances of errors and irregularities have been so few as to be counted on one's fingers. Instead of viewing the matter from this correct perspective, we regret to find the fact that the High Court laid undue and exaggerated stress on some stray instance and made it a basis for reaching the conclusion that reasonable fair play to the candidates can be assured only if the right of disclosure and personal inspection is allowed to the candidates as part of the process of verification. This approach does not appeal to us as legally correct or sound. We do not find it possible to uphold the view expressed by the High Court that clause (3) of Regulation 104 which disentitles the examinees to claim disclosure and inspection of the answer books and declares those documents to be confidential is "defeasive of the corrective powers of the Board under regulations 102 and 104 and the right of verification under Regulation 104(1) as also destructive of the confidence of public in the efficacy of the system". The reasons which prompted the High Court to reach the aforementioned conclusions are to be found in the following observations occurring in para 33 of the judgment of Deshpande, J. :

33. On the other hand, access of the student to the answer books would enable him to verify (1) if the papers are his own, and (2) supplementary answer papers are duly tagged, and (3) all answers are evaluated and (4) totals are correct, and (5) marks of his practicals or internal assessments are included therein and (6) his adverse results are not due to any error or manipulations. This will at once not only make the verification process under Regulation 104(1) effective and real, but facilitate

Board's exercising its powers to trace errors and malpractices and amend the result preventing frustration of the students. The purpose of the Act can be served thus better by permitting inspection than by preventing it. In other words, the confidentiality, rather than serve any purpose of the Act goes to defeat it firstly by making the functioning of the system dependent entirely on the staff, and, secondly, by making process under Regulations 102(3), (4) and 104(1) ineffective for want of assistance of the examinee himself.

In making the above observations, the High Court has ignored the cardinal principle that it is not within the legitimate domain of the Court to determine whether the purpose of a statute can be served better by adopting any policy different from what has been laid down by the Legislature or its delegate and to strike down as unreasonable a bye-law (assuming of the purpose of discussion that the impugned regulation is a bye-law) merely on the ground that the policy enunciated therein does not meet with the approval of the Court in regard to its efficaciousness for implementation of the object and purposes of the Act.

23. In the light of foregoing discussion, we hold that the conclusion recorded by the Court that clause (3) of Regulation 104 is liable to be struck down on the ground of unreasonableness is totally incorrect and unsustainable.

24. That takes us to the question concerning the validity of the provision contained in clauses (1) and (3) of Regulation 104, which provides that no revaluation of the answer books or supplements shall be done and that no candidate shall claim or be entitled to claim a revaluation of his answer books. This aspect has been dealt with in the separate judgment of the Division Bench delivered by Mohta, J. On perusal of the judgment, it will be seen that the entire reasoning therein is based on the conclusion recorded in the judgment of Deshpande, J. delivered in the first group of cases, that the provision contained in clauses (1) and (3) of Regulation 104 prohibiting the disclosure and inspection of answer books is liable to be struck down on the ground of unreasonableness as well as on the ground of its being ultra vires the scope of the rule-making power conferred by Section 36(1) of the Act. Making this as the starting point of his reasoning, Mohta, J. has proceeded to observe that the "logical end of permitting inspection and disclosure of answer books and other documents is to permit revaluation" and that "no useful purpose will be served by having inspection and disclosure in case further right of revaluation is denied". Based on such an approach, the learned Judge has proceeded to state that there was "no justification whatsoever to restrict the obligation of correcting of mistake only to verification and exclude revaluation from the operation of Regulation 102". Accordingly, it was held that clauses (1) and (3) of Regulation 104 insofar as they prohibit revaluation, are also void on the ground of unreasonableness.

25. As already noticed, the other learned Judge (Deshpande, J.) has written a separate short judgment in this group of cases expressing his doubts and reservations concerning the correctness of the conclusion reached by his colleague but he has finally wound up his judgment stating that even though he was diffident of spelling out a right of revaluation from any of the provisions contained in the regulations he would prefer to agree with the judgment prepared by Mohta, J. "rather than allow my views to prevail and dissent". Having regard to the substantial nature and general importance of the question and the repercussions that would inevitably be produced by the recognition of the right to demand revaluation in public examinations of every kind conducted by Universities, School Education Boards and even bodies like the Union and State Public Service Commission, it would have been much more appropriate if the learned Judge (Deshpande, J.) had independently discussed the question in all its aspects in accordance with his own light or referred the matter to a larger Bench or to a third Judge as the case may be if he felt that the view propounded in the judgment

prepared by his colleague was of doubtful correctness. However that may be, we have already held that the reasons stated by the Division Bench in its judgment in the first group of cases for holding that clause (3) of Regulation 104 insofar as it prohibits disclosure and inspection of answer books and treating them as confidential documents is ultra vires on the ground of its being in excess of the regulation-making power of the Board and is also void on the ground of unreasonableness are all incorrect and unsustainable. The validity of the prohibition against disclosure and inspection having been thus upheld by us, the entirety of the reasoning contained in the judgment of Mohta, J. in support of his conclusion invalidating prohibition against revaluation contained in clauses (1) and (3) of Regulation 104 loses its foundation. The view expressed by the learned Judge that Regulation 102(2) which confers on the Board a suo motu power of amending the results where it is found that such a result has been affected by any error, malpractice, fraud, improper conduct, etc., will be rendered nugatory and ineffective by the prohibition on revaluation is fallacious and unsound. While discussing the scope of the said regulation, we have pointed out that its purpose and effect is only to confer a suo motu power on the Board to correct errors in cases where irregularities like malpractices, misconduct, fraud, etc. are found out and it does not confer any right on the examinees to demand any correction of the results. In the scheme of the regulations after the publication of the results, the only right which the examinees have in relation to this matter is to ask for a verification of the results under clause (1) of Regulation 104 and the scope of such verification is subject to the limitations imposed in the said clause as well as in clause (3) of the very same regulation.

26. We are unable to agree with the further reason stated by the High Court that since "every student has a right to receive fair play in examination and get appropriate marks matching his performance" it will be a denial of the right to such fair play if there is to be a prohibition on the right to demand revaluation and unless a right to revaluation is recognised and permitted there is an infringement of rules of fair play. What constitutes fair play depends upon the facts and circumstances relating to each particular given situation. If it is found that every possible precaution has been taken and all necessary safeguards provided to ensure that the answer books inclusive of supplements are kept in safe custody so as to eliminate the danger of their being tampered with and that the evaluation is done by the examiners applying uniform standards with checks and cross-checks at different stages and that measures for detection of malpractice, etc. have also been effectively adopted, in such cases it will not be correct on the part of the courts to strike down the provision prohibiting revaluation on the ground that it violates the rules of fair play. It is unfortunate that the High Court has not set out in detail in either of its two judgments the elaborate procedure laid down and followed by the Board and the Divisional Boards relating to the conduct of the examinations, the evaluation of the answer books and the compilation and announcement of the results. From the affidavit filed on behalf of the Board in the High Court, it is seen that from the initial stage of the issuance of the hall tickets to the intending candidates right up to the announcement of the results, a well-organised system of verification, checks and counter-checks has been evolved by the Board and every step has been taken to eliminate the possibility of human error on the part of the examiners and malpractices on the part of examinees as well as the examiners in an effective fashion. The examination centres of the Board are spread all over the length and breadth of each Division and arrangements are made for vigilant supervision under the overall supervision of a Deputy Chief Conductor in charge of every sub-centre and at the conclusion of the time set for examination in each paper including the main answer book all the answer books and the supplements have to be tied up by the candidate securely and returned to the Supervisor. But before they are returned to the Supervisor, each candidate has to write on the title page of main answer books in the cages provided for the said particulars, the number of supplements attached to the main answer book. The Supervisor is enjoined to verify whether the number so written tallies with the actual number of supplements, handed over by the

candidate together with his main answer book. After the return of all the answer books to the Deputy Chief Conductor, a tally is taken of the answer books including supplements used by the candidates by the Stationery Supervisor who is posted by the Board at each sub-centre. This enables the supervisory staff at a sub-centre to verify and ensure that all answer books and supplements issued to the candidates have been turned in and received by the supervisory staff. At this stage of checking and double-checking, if any seat number has been duplicated on the answer books by mistake or by way of deliberate malpractice it can be easily detected and corrective measures taken by the Deputy Chief Conductor or the Chief Conductor. The answer books are then sent by the Deputy Chief Conductor to the Chief Conductor in charge of the main centre. He sorts out the answer books according to the instructions issued by the Board and sends them to the examiners whose names had been furnished in advance except in the case of the science subjects, namely, "mathematics and statistics, physics, chemistry and biology". The answer books in the science subjects are forwarded by the Chief Conductor under proper guard to camps in Pune already notified to the Chief Conductors. The further procedure followed in relation to the valuation of the answer books has been explained in paragraphs 22 to 26 of the counter-affidavit dated July 10, 1980 filed in the High Court by the Joint Secretary to the Pune Divisional Board of Secondary Education. We do not consider it necessary to burden this judgment with a recapitulation of all the details furnished in those paragraphs, and it would suffice to state that the procedure evolved by the Board for ensuring fairness and accuracy in evaluation of the answer books has made the system as foolproof as can be possible and it meets with our entire satisfaction and approval. Viewed against this background, we do not find it possible to agree with the views expressed by the High Court that the denial of the right to demand a revaluation constitutes a denial of fair play and is unreasonable. The Board is a very responsible body. The candidates have taken the examination with full awareness of the provisions contained in the Regulations and in the declaration made in the form of application for admission to the examination they have solemnly stated that they fully agree to abide by the regulations issued by the Board. In the circumstances, when we find that all safeguards against errors and malpractices have been provided for, there cannot be said to be any denial of fair play to the examinees by reason of the prohibition against asking for revaluation.

27. The High Court has relied upon the fact that the University of Bombay and some other Universities have recently made provisions permitting candidates to demand revaluation. In our opinion, this has little relevance for the purpose of deciding about the legal validity of the impugned regulations framed by the Board. We do not know under what circumstances, the University of Bombay has decided to recognise a right in the examinees to demand a revaluation. As far as the Board is concerned it has set out in the counter-affidavit the enormity of the task with which it is already faced, namely, of completing twice during each year the process of evaluation and release of results of some 3 lacs of candidates appearing for the S.S.C. and H.S.C. examinations to be held in an interval of only a few months from one another. If the candidates are all to be given inspection of their answer books or the revaluation of the answer papers is to be done in the presence of the candidates, the process is bound to be extremely time consuming and if such a request is made by even about ten per cent. of the candidates who will be 30,000 in number, it would involve several thousands of man hours and is bound to throw the entire system out of gear. Further, it is in the public interest that the results of public examinations when published should have some finality attached to them. If inspection, verification in the presence of the candidates and revaluation are to be allowed as of right, it may lead to gross and indefinite uncertainty, particularly in regard to the relative ranking, etc. of the candidates, besides leading to utter confusion on account of the enormity of the labour and time involved in the process.

28. As pointed out by a Constitution Bench of this Court in Fatehchand Himmatlal v. State of

Maharashtra ((1977) 2 SCR 828 : (1977) 2 SCC 670 : AIR 1977 SC 1825), "the test of reasonableness is not applied in vacuum but in the context of life's realities". If the principle laid down by the High Court is to be regarded as correct, its applicability cannot be restricted to examinations conducted by School Education Boards alone but would extend even to all competitive examinations conducted by the Union and State Public Service Commissions. The resultant legal position emerging from the High Court judgment is that every candidate who has appeared for any such examination and who is dissatisfied with his results would, as an inherent part of his right to 'fair play' be entitled to demand a disclosure and personal inspection of his answer scripts and would have a further right to ask for revaluation of his answer papers. The inevitable consequence would be that there will be no certainty at all regarding the results of the competitive examination for an indefinite period of time until all such requests have been complied with and the results of the verification and revaluation have been brought into account.

29. Far from advancing public interest and fair play to the other candidates in general, any such interpretation of the legal position would be wholly defeasive of the same. As has been repeatedly pointed out by this Court, the Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference those formulated by professional men possessing technical expertise and rich experience of actual day-to-day working of educational institutions and the departments controlling them. It will be wholly wrong for the Court to make a pedantic and purely idealistic approach to the problems of this nature, isolated from the actual realities and grass root problems involved in the working of the system and unmindful of the consequences which would emanate if a purely idealistic view as opposed to a pragmatic one were to be propounded. It is equally important that the Court should also, as far as possible, avoid any decision or interpretation of a statutory provision, rule or bye-law which would bring about the result of rendering the system unworkable in practice. It is unfortunate that this principle has not been adequately kept in mind by the High Court while deciding the instant case.

30. In the light of the foregoing discussion, we hold that the High Court was in error in striking down clauses (1) and (3) of Regulation 104 as illegal, unreasonable and void. We uphold the validity of these provisions.

31. In the result, both the judgments of the High Court are set aside and the two groups of writ petitions which were allowed under those judgments will now stand dismissed. These appeals are accordingly allowed. The appellant will get its costs from the respondents.

32. This appeal was heard along with other Civil Appeals, No. 1653 to 1691 of 1980 wherein we have delivered our judgment today, allowing the appeals and setting aside the two judgments of the High Court of Bombay. The appellant in this case had filed a similar writ petition before the High Court but by that time the earlier writ petitions had been already allowed by the two judgments referred to above. Her writ petition was however dismissed by the High Court in limine on the sole ground that the operation of those judgments had been stayed by this Court by interim orders passed by this Court in special leave petitions filed against those two judgments. Though the appellant is on firm ground in her contention that the High Court was not justified in dismissing her writ petition on the said ground, no useful purpose will not be served by sending back the case to the High Court in view of the judgment that we have just now delivered wherein all the contentions raised by the petitioner which are identical with those considered in the said judgment have been found to be devoid of merit. This appeal is, therefore, dismissed. The parties will bear the respective costs.

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