

Goa, Daman and Diu Board of Secondary Education

Vs

Kumari Hema Laad and Others

Civil Appeals Nos. 4152 to 4157 of 1982

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

16.08.1984

JUDGMENT

BALAKRISHNA ERADI, J. -

1. These appeals by special leave are directed against the Judgment of the High Court of Bombay (Panaji Bench) dated November 2, 1982 whereby a Division Bench of the High Court allowed a batch of writ petitions filed by some students who had appeared in the standard XII examination conducted by the Goa, Daman and Diu Board of Secondary and Higher Secondary Education and declared the provisions of clauses (1) and (2) of Rule 37 of the rules framed by the Administrator of Goa, Daman and Diu under Goa, Daman and Diu Secondary and Higher Secondary Education Board Act as ultra vires and invalid insofar as they prohibit inspection and/or revaluation of answer books. In reaching the said conclusion on the validity of the impugned rules the High Court followed its earlier Judgment in Paritosh Bhupeshkumar Sheth v. Maharashtra State Board of Secondary and Higher Secondary Education, Pune (AIR 1981 Bom 95 : 1981 Mah LJ 587) wherein Regulation 104(3) framed by the Maharashtra State Board of Secondary and Higher Secondary Education which is an identical provision prohibiting inspection and/or revaluation of answer books was declared illegal and ultra vires. The correctness of the said Judgment (AIR 1981 Bom 95) came in for examination by this Court in Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupeshkumar Sheth ((1984) 4 scc 27). By Judgment dated July 17, 1984, this Court reversed the view taken by the Bombay High Court and upheld the validity of the impugned clauses (1) and (3) of Regulation 104. The present case is fully covered by the dicta laid down in the said ruling. Hence we set aside the Judgment of the High Court and uphold the validity of clauses (1) and (2) of Rule 37 of the rules framed under the Goa, Daman and Diu Secondary and Higher Secondary Education Board Act. These appeals are allowed and the writ petitions filed in the High Court will stand dismissed. The appellant will get its costs from the respondents.

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