

HIGH COURT OF SIKKIM
Record of proceedings

W.P. (C) No.63/2015

Bikash Karki (Chettri) Petitioner

Versus

State of Sikkim & Ors. Respondents

Date:30.07.2018

CORAM

HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, J.

For Petitioner : Mr. A. Moulik, Senior Advocate with Ms. K.D. Bhutia and Mr. Ranjit Prasad, Advocates.

For Respondent No.1, 2, 3 & 5. : Mr. J. B. Pradhan, Additional Advocate General with Mr. Thinlay Dorjee Bhutia, Government Advocate, Mr. S.K. Chetti and Mrs. Pollin Rai, Assistant Government Advocates.

For Respondent No.4. : Mr. Bhusan Nepal, Advocate.

For Respondent No.6. : Ms. Prathana Ghataney, Advocate.

For Respondent No.7. : Mr. D. K. Siwakoti, Advocate.

For Respondent No.8. : Mr. B. K. Rai and Mr. Loknath Khanal, Advocates.

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This Writ Petition has been pending since 2015. During the course of the arguments for final hearing being made by Mr. A. Moulik, Learned Senior Advocate for the Petitioner the Learned Additional Advocate General would seek liberty to point out that during the pendency of the said Writ Petition there has been an amendment to Rule 38 of the Procedure and Conduct of Business of the Sikkim Public Service Commission. It is submitted that clause 3 has since been inserted to the said Rule which now provides:

“38(3) *Whenever, the Commission is satisfied in a particular case that the Answer Books needs to be evaluated again, for*

reasons to be recorded in writing, it may direct the Controller of Examination to send all the Answer books in question to another Examiner. The marks allotted by the first Examiner, in such a case, shall be ignored completely and marks allotted by the second Examiner shall be taken into consideration OR whenever required for certain examinations if any such situation arises, re-evaluation of Answer Books will be undertaken as per the discretion of the Controller of Examination duly obtaining approval of the Commission.”

In view of the aforesaid it was submitted by the Learned Additional Advocate General that since the entire grievance of the Petitioner relates to the marks and alleged disparity in evaluation the Petitioner could, if advised, resort to Rule 38(3) thereof to resolve this issue. Mr. A. Moulik has since conferred with the Petitioner and on instructions seeks to withdraw the present Writ Petition to exercise his remedy under Rule 38(3) of the Rules thereof. On such doing, the Sikkim Public Service Commission shall examine the grievance of the Petitioner and pass necessary orders as per the Rules. In the circumstances, Liberty sought is granted. The Writ Petition stands withdrawn. Needless to say, if the Petitioner is aggrieved by the order passed by the Commission he is at liberty to seek redressal before the appropriate fora including this Court. During the writ proceedings, the original answer sheet and documents, which have been filed by the Commission, shall be returned forthwith.

Judge
30.07.2018

tsh **Index: yes/No**
 Internet: yes/No