

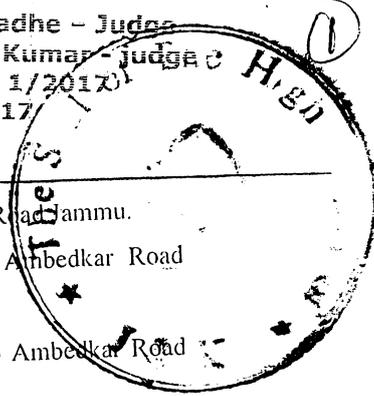
**HIGH COURT OF JAMMU AND KASHMIR AT JAMMU**

Present: Hon'ble Mr. Justice Alok Aradhe - Judge

Hon'ble Mr. Justice Sanjeev Kumar - Judge

LPAOW No. 60/2012 MP NO. 1/2017

Caveat No. 2139/2017



1. Vice Chancellor University of Jammu Baba Sahib Ambedkar Road Jammu.
2. The Jammu University, though its Registrar Baba Sahib Ambedkar Road Jammu.
3. Controller of Examination University of Jammu Baba Sahib Ambedkar Road Jammu.

....APPELLANTS

VERSUS

Apoorva Koul D/O PinulKoul R/O H.No. 143 AmbikaVihar , Poonch House, TalabTillo Jammu.

.....RESPONDENTS

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Asstt. Registrar

High Court of J&K  
JAMMU.

16/8

LPAOW No.60/2017  
MP No. 1/2017  
Caveat No.2139/2017

**Appearing counsel:**

For the Appellant (s) : Mr. W.S.Nargal, Advocate.  
For the Respondent(s) : Mr. Anshuja Tak, Advocate.

i/	Whether to be reported in Press/Media	:	Yes/No
ii/	Whether to be reported in Digest/Journal	:	Yes/No

**Alok Aradhe-J**

1. With the consent of learned counsel for the parties, this appeal is admitted and is heard finally.
2. In this intra court appeal, the appellants have assailed the validity of order dated 08.06.2017 passed by the learned Single Judge by which the writ petition preferred by the respondent has been allowed and notification dated 28.09.2015 issued by the appellants has been quashed. In order to appreciate the appellants' challenge to the impugned order, few facts need mention, which are stated infra.
3. The respondent at the relevant time was a student of second year of BCA Course, who appeared in the annual examination, conducted in the year 2015 and secured 292 out of 550 marks. The result of the aforesaid examination was

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admittedly declared on 01.08.2015. Being dissatisfied, the respondent applied for re-evaluation in three subjects, namely English (papers A & B), MF-A and CF-A. The result of the re-evaluation was declared on 04.10.2015. In the re-evaluation, three marks of the respondent in the English Paper-B were increased as a result of which she was shown to have secured 295 out of 550 marks. However, marks obtained by her in respect of other subjects, namely MF-A and CF-A remained unchanged. On re-checking of the result, it was detected that the marks of other candidates were wrongly awarded to the respondent. Accordingly, in purported exercise of Statute 61 of the University Statutes, the aforesaid mistake was rectified and result of some of the candidates including the respondent was amended vide notification dated 28.09.2015 by which the respondent was required to re-appear in MF & CF subjects and it was mentioned in the result that she had obtained 23 marks in MF-A instead of 33 marks.

4. The respondent thereupon challenged the aforesaid notification before the learned Single Judge. The learned Single Judge vide order dated 08.06.2017, inter alia, held that the amended result of the respondent which was declared on re-evaluation, till date has not been rectified by the appellants in terms of Statute 61 despite a period of 22 months from the date

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of declaration of the result i.e. 01.08.2015. It was further held by the learned Single Judge that since the appellants did not rectify the mistake within a period of six months from the date of declaration of the result. Therefore, they could not have rectified the result in purported exercise of power under Statute 61 in the case of the respondent. Accordingly, notification dated 28.09.2015 was quashed. In the aforesaid factual background the appellants have filed this intra court appeal.

5. Learned counsel for the appellants submitted that the initial result was declared on 01.08.2015 and on scrutiny when it came to the notice of the appellants that marks of other student have been awarded to the respondent, the mistake which was crept in while awarding marks to the respondent in one subject i.e, MF-A was rectified in exercise of power under Statute 61 and the result was notified on 28.09.2015, i.e., well within a period of six months, however, the aforesaid aspect of the matter has escaped consideration of the learned Single Judge.

6. On the other hand, learned counsel for the respondent submitted that the marks sheet supplied to the respondent contains a note that for confirmation of the result, the reference may be made to the gazette. It is further submitted that the statute governing re-evaluation provides that the result of the

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re-evaluation will be final and irrevocable and no further re-evaluation shall be allowed. It is also submitted that the result of the respondent was published in the gazette notification on 28.09.2015. It is further submitted that in the instant case, the appellants have failed to comply with the mandate contained in Statute 60 of the Statutes of the University and till date no correction has been made in respect of the result of the respondent, which has been published in the gazette, which is final and conclusive.

7. We have considered the submissions made on both the sides. Admittedly, the result was declared on 01.08.2015 in which the respondent secured 292 out of 550 marks. Thereafter she applied for re-evaluation, the result of which was declared on 04.10.2015 in which three marks in English subject were increased, whereas in remaining two subjects i.e., MF-A and CF-A, the marks remained unchanged. Thereafter, while scrutiny it came to the notice of the appellants that marks in MF-A subject of another candidate have been awarded to the respondent, who infact had secured 23 marks instead of 33 marks. Therefore, in purported exercise of power under Statute 61, her marks in MF-A were rectified and the result was amended on 28.09.2015, i.e., well within a period of six months.

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8. Before proceeding further, it is apposite to reproduce Statutes 60 and 61:-

- "60. Failure statements of the regular candidates showing the subject or subjects in which they have failed to obtain the prescribed minimum number of marks, shall be prepared and communicated to the University Department, College or Institution concerned within three weeks of the publication of result.
61. In any case where it is found that the result of an examination has been affected by an error the Controller of Examinations shall amend such result in such manner as shall be in accordance with the true position and report each such case to the Vice-Chancellor.  
Provided that no such result shall be amended at the expiration of six months from the date of declaration."

Thus, in the fact situation of the case, the appellants were well within their right to rectify the mistake which had crept in awarding marks to the respondent within a period of six months, which was done in the instant case. Mere non-communication of the marks obtained by the respondent to the College or Institution concerned within three weeks of the publication of result would have no bearing on the result of the respondent.

9. So far as action of the appellants in not correcting the result of the respondent in gazette notification is concerned, from the perusal of the gazette notification, it is evident that same was not done as the respondent had approached this Court by filing writ petition and the matter was subjudice. Presumably, therefore, the appellants against the name of the respondent mentioned in the notification that court case is

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pending. It is also relevant to mention here that the respondent nowhere has disputed that she had secured 33 marks in MF-A subject and the same were wrongly reduced to 23 marks. Thus, apparently, the instant case is a case of rectification and the statute 61 has rightly been resorted to by the appellants in the fact situation of the case.

10. In the aforesaid reasons, the order impugned dated 08.06.2017 passed by the learned Single Judge is hereby quashed and set aside. In the result the appeal succeeds and is hereby allowed.

*Sd/Hon'ble*  
(Sanjeev Kumar)  
Judge

*Sd/Hon'ble*  
(Alok Aradhe)  
Judge

Jammu  
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*16-08-2017*

High Court of Jammu & Kashmir  
Dated the 16/8/17  
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