

A GOA, DAMAN AND DIU BOARD OF SECONDARY
EDUCATION

v.

KUMARI HEMA LAAD AND ORS.

B August 16, 1984

[D.A. DESAI AND V. BALAKRISHNA ERADI, JJ.]

C *Goa, Daman and Diu Secondary and Higher Secondary Education Rules, 1975—Framed under Goa, Daman and Diu Secondary and Higher Secondary Education Board Act—Clauses (1) and (2) of rule 37 insofar as they prohibit inspection and/or revaluation of answer books—Validity of—Held valid.*

D On being challenged, the Bombay High Court, following its earlier decision in *Paritosh Bhupesh Kumarsheth and others v. Maharashtra State Board of Secondary and Higher Secondary Education, Pune and another*, AIR 1981 Bombay 895, declared clauses (1) and (2) of Rule 37 of Goa, Daman and Diu Secondary and Higher Secondary Education Rules, 1975 insofar as they prohibit inspection and/or revaluation of answer books, as invalid. Hence these appeals by special leave,

E Allowing the appeals.

F HELD : The decision followed by the Bombay High Court has been overruled by this Court in *Maharashtra State Board of Secondary and Higher Secondary Education and another v. Paritosh Bhupesh Kumarsheth and others* [1985] 1 S.C.R. 29. The present case is fully covered by the dicta laid down in the said ruling. Hence the judgment of the High Court is set aside and the validity of clauses (1) and (2) of Rule 37 is upheld. [431F-G]

G *Maharashtra State Board of Secondary and Higher Secondary Education and another v. Paritosh Bhupesh, Kumarsheth and others, decided by Supreme Court* [1985] 1 S.C.R. 29.

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 4152 to 4157 of 1982.

H Appeals by Special leave from the Judgment and Order dated the 2nd November, 1982 of the Bombay High Court, Panaji Bench,

(Goa), in Special Civil Application Writ Petitions Nos 129, 110, 103, 101, 102 and 104 of 1980.

Soli J. Sorabjee, Mrs. A. K. Verma and O. C. Mathur for the Appellant.

The Judgment of the Court was delivered by

BALAKRISHNA ERADI, J. These appeals by special leave are directed against the Judgment of the High Court of Bombay (Panaji Bench) dated 2.11.1982 whereby a Division Bench of the High Court allowed a batch of Writ Petitions filed by some students who had appeared in the XII standard 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 Bhupesh Kumarsheth and others v. Maharashtra State Board of Secondary and Higher Secondary Education, Pune and another*—AIR 1981 Bombay 895—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 Bombay 895) came in for examination by this Court in *Maharashtra State Board of Secondary and Higher Secondary Education and another v. Paritosh Bhupesh Kumarsheth and others*.⁽¹⁾ By Judgment dated 17th July 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.

H.S.K.

Appeal allowed.

(1) [1985] 1 S.C.R. 29.