

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE S.V. BHATT**

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W.A.No.767 OF 2015

PC: *(Per the Hon'ble Sri Justice S.V.BHATT)*

The appeal is directed against the order dated 04.08.2015 in W.P. No.17181 of 2015. The writ petitioner is the appellant.

The writ petitioner prays for Mandamus directing the respondents to give ranking to the writ petitioner in the AP. EAMCET-2015, evaluate her answers as per the preliminary key and consider her case for admission into MBBS course and declaration that preparation of final key for evaluation of answers is illegal and invalid.

The circumstances leading to the filing of the writ petition and the grievance of writ petitioner are in a narrow compass.

The learned Single Judge has adverted to the case of writ petitioner as well as the Convener, AP. EAMCET-2015/ 2nd respondent in great detail and the learned counsel appearing for the parties admit that the narration of the circumstances as set out in the pleadings by the learned Single Judge is as borne out by the record. Therefore, we consider it appropriate not to reiterate the admitted facts and circumstances.

The short grievance of writ petitioner is that the 2nd respondent basing upon the final key approved by the experts on 20.05.2015 which finally resulted in deletion of seven questions from Agricultural and Medical Stream and final evaluation of EAMCET-2015 for Agricultural and Medical Stream restricted to 153 questions suffers from arbitrary and illegal exercise of jurisdiction by the 2nd respondent. The writ petitioner in other words prays for evaluation of the answer scripts on the preliminary key issued by the 2nd respondent.

The 2nd respondent in paragraph 5 of the counter affidavit has referred to each one of the questions deleted, the reasons for such deletion and the views of experts in the subject, and finally stated as follows:

"Thus, in this background of the matter the Common Entrance Test Committee consisting of nearly 15 experts also finally approved the final key on 20.05.2015, which was prepared by the respective subject expert committees and finally gave the decision to delete 3 questions from engineering stream and evaluate the test for 157 marks and delete 7 questions from agricultural medical stream and evaluate the test for 153 marks as per Rule 9(9) of GO Ms.No.73 dated 28.07.2011."

"It is respectfully submitted that a Division bench of this Hon'ble Court held as under in C.Satyendra Kumar v. Govt. of A.P., 1996 (3) ALD 1116 (DB).

"A Division Bench of this Court had occasion to consider the validity of the deletion of 38 questions out of 200 in EAMCET-96. In that case the Division Bench had to consider two alternatives which were suggested: (1) adding one mark each for the above 38 questions to each candidate and (2) ignoring the said 38 questions and valuing the paper for the maximum of 162 questions instead of 200 questions and raising it proportionately to the total marks of 200 and fixing the relative ranks by retaining the minimum cut off marks for eligibility. After considering all the pros and cons, the Court ultimately preferred the second alternative observing that it usually keeps the damage at the minimum and merit, though evencmg (sic) of a serious wrong done by the respondents 1 and 2 shall still receive its due. The Court further observed, "We do not, however, have any serious cause to doubt the deletion of the questions by the Committee of the Experts appointed by the Chairman of the A.P. State Council of Higher Education. The Court can hardly afford to entertain suspicion that the Experts Committee has wrongly assessed the questions for cancellation. When handicap is common to those who are successful and to those who are unsuccessful, to those who are high in the merit list and to those who are low in the merit list, it is not a cause for finding a serious fault with the conduct of examinations and cancel the same"

The learned Single Judge through the order impugned in the appeal after referring to the law on the subject has observed thus:

"In view of the law laid down in the above referred authoritative pronouncements, it can neither be said nor concluded that the respondents have no power to delete the questions and have no authorisation to publish preliminary and final keys and to invite objections before publication of final keys. The contention contra advanced and sought to be pressed into service by the learned counsel for the petitioner cannot be sustained and has no legs to stand. In fact, the judgment in R. Krishan Kumar v. Convenor, EAMCET 1998 JNT University, Hyderabad (4 supra) repelled and disapproved the said contention. The respondents while publishing the final key deleted seven (7) questions in three subjects either on the ground of the same being beyond syllabus or on the ground of "No answer" or on the ground of "typographic mistake". The reports submitted by the Three Men Expert Committee constituted for the three subjects in the instant case are placed on record by the learned Standing Counsel. A perusal of the same, manifestly and unequivocally discloses that the respondents appointed highly qualified people as members of the said Expert Committee. In the counter affidavit filed by the 2nd respondent, the reasons for deletion are categorically and elaborately assigned,

discussed and explained question wise basing on the said reports of the experts. In the absence of any malafides, the veracity of the said reports can neither be faulted nor doubted. It is a well settled proposition of law that the Courts cannot sit as an appellate body on the opinions expressed by the said Expert Committees, unless the same are tainted by any malafides. The judgments, on which, the learned counsel for the petitioner places reliance would not render any assistance to the petitioner herein in the facts and circumstances of the case and in view of the reasons assigned by the respondents in the counter and in view of the reports of the Expert Committees.”

Hence, the appeal.

The learned counsel appearing for the appellant vehemently contends that the decision to delete seven questions by the panel of 15 experts is without jurisdiction and authority. According to the learned counsel, the preliminary key is finalised by the subject experts and the experts who determined the final key cannot act as appellate authority on the preliminary key notified by the 2nd respondent. Having perused the material available on record and the extant rules we are of the view that the objection of the learned counsel for the appellant loses sight of the very purpose of notifying preliminary key and the final key of answers by the 2nd respondent. In the case on hand, the learned Single Judge after perusing the report submitted by the Expert Committee and perusing the original record which resulted in the deletion of seven questions, has rejected the very same submissions in the order impugned in the appeal. Further this Court at this stage of admission into course cannot compare the basis of preliminary key, objections received by the 2nd respondent and the views of subject expert for finally deleting seven questions from consideration as a Court of appeal and particularly direct evaluation of petitioner’s answer sheet with preliminary key.

Having perused the material available on record and also the explanation offered by the 2nd respondent in the counter affidavit, we are satisfied that the order impugned in the appeal does not suffer from any error much less any illegality. The writ appeal fails and is dismissed.

Consequently, miscellaneous petitions, if any pending, also stand disposed of.

DILIP B. BHOSALE, ACJ

S.V.BHATT, J

Date:18.08.2015
Stp