

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CWP No.19113 of 2015 (O&M)
Date of decision : 27.11.2015**

Mukesh Kumar

....Petitioner

Versus

State of Punjab & ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Ms. Alka Chatrath, Advocate
for the petitioner.

Mr. L.S.Virk, Addl.AG, Punjab.

G.S.Sandhawalia, J. (Oral)

The petitioner seeks one marks grace for question No.114 of booklet series No.4 in PSTET 2014 conducted on 24.08.2014. The benefit is sought on the ground that question of Punjabi version is totally different from English version and thus, there is no correct option of answer in the Punjabi version. The petitioner, thus, seek relief of one grace mark since it is the case of the petitioner that he has secured 81 marks and if the one grace mark is given to him, the petitioner would be considered pass since the petitioner belongs to BC category.

The issue in question pertains to the wrong key since for the English version the area of land concerned, which has to be taken into consideration for the purpose of calculation of water fall has been shown in "hectares". For the Punjabi version in which the petitioner attempted the area of land has been shown in "acres" where the answer options are the same. It is thus, the case of the petitioner that the answers in Punjabi version do not co-relate to the question

and correct answer is only pertaining to the area shown in hectares.

The question in Punjabi version and English version reads as under:

114. Barsaat de ik din vich 5 sentimeter bearish maapi jandi hai. 2 acre jameen te pai pani da aaytan (ghan meter) howega:

Ans. a. 50 b. 100 c. 500 d. 1000

114. On a rainy day, rainfall of 5 cm is observed. The volume of the water (in m³) that falls on 2 hectares of ground is

Ans. a. 50 b. 100 c. 500 d. 1000

It is the categorical case of the petitioner that the attempt was made in Punjabi version. The case of the petitioner is that his medium is Punjabi. The grace marks have been given for three more questions namely 104, 134 and 137 but not for 114.

The State in its reply admits the fact that the petitioner has attempted all the questions in Punjabi version, however, the defence was that by virtue of Clause 10 in case of any confusion English version is to be treated as correct. Clause 10 reads as under:

"10. In case of any confusion in Punjabi & English translation of questions, English version will be treated as correct. Candidates are advised to refer to question in English in case of any doubt/confusion/lack of clarity."

It has also been averred that question Nos.61 to 90 were only in English language and petitioner has also answered the same. It is also not denied that regarding questions No.104, 134 and 137 grace marks have also been granted. The issue came before this Court regarding the aforesaid clause in **Manmit Singh vs. State of Punjab and another, 2015(2) PLR 796**. In the said case also, the person attempted the question in Punjabi version and the correct answer was as per the key of the English version. The petitioner in

the said question also marked option D, which in Punjabi version was correct but in English version the correct answer was option 'A'. It is accordingly, observed by this Court that if there is any ambiguity, which is on the face of it visible, the Court would be failing in its duty not to exercise its jurisdiction. The relevant observation reads as under:

*"10. However, the said clause cannot be held to be applicable since the petitioner has attempted his paper in Punjabi for him there was no such confusion and it would not be possible for him to have such intricate grammatical knowledge of English language. He had rightly ticked the option 'D' since in Punjabi it would be the correct answer. In such circumstances, it is clear that the petitioner has made out a case for grant of 1 mark on account of ambiguity being regarding question no.132. The objection of the counsel for the State that this Court will not go into the said issue would not be a correct view since if on the face of it, it is apparent that there is a mistake in the answer key and if the petitioner is given the benefit of ambiguity he makes the grade, this Court would be failing in its duty if it does not exercise its jurisdiction. Reliance can be placed upon the three Judges Bench of the Hon'ble Apex Court in **Kanpur University and others Vs. Samir Gupta and others 1983 (4) SCC 309**. In the said case, the High Court had accepted the contention of the students that the answers ticketed by them are correct and the key answers furnished by the paper setters were wrong, since there was two options as per Hindi and the English version. The publication of the key was approved since the students had benefited otherwise they would have suffered injustice. Relevant observation reads as under:-*

"The findings of the High Court raise a question of great importance to the student

community. Normally, one would be inclined to the view, especially if one has been a paper setter and an examiner, that the key answer furnished by the paper setter and accepted by the University as correct, should not be allowed to be challenged. One way of achieving it is not to publish the key answer at all. If the University had not published the key answer along with the result of the test, no controversy would have arisen in this case. But that is not a correct way of looking at these matters which involve the future of hundreds of students who are aspirants for admission to professional courses. If the key answer were kept secret in this case, the remedy would have been worse than the disease because, so many students would have had to suffer the injustice in silence. The publication of the key answer has unravelled an unhappy state of affairs to which the University and the State Government must find a solution. Their sense of fairness in publishing the key answer has given them an opportunity to have a closer look at the system of examinations which they conduct. What has failed is not the computer but the human system."

*11. The said view thereafter followed by two Division Benches of the Andhra Pradesh High Court in **G. Nalini Vs. The Director of Medical Education Govt. of A.P., Hyderabad and others 1984 AIR (AP) 321 and the Calcutta High Court respectively in Amalendu Santra Vs. University of Calcutta and others 1986 AIR (Calcutta) 153.***

12. In such circumstances, the present writ petition is allowed. Accordingly, a writ of mandamus is issued directing the respondents to grant the petitioner benefit of

one mark on account of correct answer of question No.132 in Punjabi language and declare him pass in the PSTET examination. The needful be done within a period of 4 weeks from today."

Herein also as noticed above, there is a mistake in the question itself as in the Punjabi version the area of land has been shown in "acres" whereas the correct answer is in "hectares" on the basis of English version. In such circumstances, the petitioner is held to be entitled for relief for one grace mark on account of the lapse, which has happened on behalf of the State.

Accordingly, the present petition is allowed. The respondent shall grant the benefit of one grace mark to the petitioner. Accordingly, the petitioner be considered qualified in the Punjab State Teacher Eligibility Test, which was conducted on 24.08.2014.

Copy of the order be given dasti to the learned counsel for the petitioner under the Bench Secretary of this Court.

27.11.2015
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(G.S.Sandhawalia)
Judge