

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CWP No.3074 of 2015

Date of Decision: 21.02.2015

Varun Chandiok

...Petitioner

Versus

Haryana Public Service Commissioner & another

...Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Tarun Chandiok, Advocate, with
Mr. Varun Chandiok – petitioner in person.

HEMANT GUPTA, J. (ORAL)

Challenge in the present writ petition is to the final answer key prepared by the respondents for the purpose of short-listing the candidates for the written examination of Haryana Civil Services (Judicial Branch).

The petitioner has challenged the deletion of five questions as well as answer key in respect of question Nos.73 & 115, but during the course of arguments, learned counsel for the petitioner does not press the said questions as part of challenge in the writ petition. It is also contended that final answer key in respect of question Nos.105 & 67 has been wrongly revised.

It is also contended that question No.92 pertains to location of Kaushalya dam on the river Kaushalya, which is not a current event of national and international importance. Therefore, such question was out of syllabus and was required to be deleted. Learned counsel for the petitioner also sought deletion of question Nos.78, 83 & 125.

It is contended that the purpose of the examination is to select a suitable candidate. The preliminary examination is the first stage of the examination process and since the petitioner has answered the disputed questions correctly, therefore, on the basis of objection of some other

candidates, who have not either understood the said questions rightly or found the questions vague, the same should not have been deleted.

It is contended that in terms of the Hon'ble Supreme Court judgment in Guru Nanak Dev University Vs. Saumil Garg & others (2005) 13 SCC 749, credit should have been given either to all the students or '0' marks could have been given, whereas the respondents have decided to delete the questions, which has caused prejudice to the petitioner.

Having heard learned counsel for the petitioner, we do not find any merit in the present writ petition. Earlier the question in respect of legality of deletion of five questions has been examined in number of judgments such as CWP No.2117 of 2013 titled 'Ankita Mittal Vs. State of Haryana & others' decided on 09.02.2015, but since the counsel for the petitioner has vehemently argued, we proceed to decide the arguments raised.

In Guru Nanak Dev University's case (supra), the Punjab Medical Entrance Test conducted by the appellant-University was subject matter of consideration. The writ petitions were filed before this Court by some of the candidates raising a grievance that the key answers in respect of 21 questions were incorrect. The High Court appointed the Central Board of Secondary Education (CBSE) to examine the correctness of key answers. The report was submitted to the effect that 10 key answers out of 21 were incorrect. Thereafter, the High Court directed that key answers in respect of 200 questions deserves to be re-examined without cancelling the entire Entrance Test. It was ordered that the majority view of the Committee appointed by the High Court would be the basis of the revised/correct key answers. In an appeal, the Hon'ble Supreme Court sought report from the CBSE as well as from the Delhi University on the correctness of 10 key answers. The Court found that out of such questions, 8 questions are demonstrably erroneous, whereas in respect of 2 questions, benefit of doubt as per law well settled has to go in favour of the examining body. The

be re-examined by the University in the light of the reports of the CBSE and the Delhi University.

The Court also found that 7 questions are so vague as that they are incapable of having a correct answer. The University has given credit to all the students, who had participated in the Entrance Test. Such course was not found to be proper. Having said so, the Court found that the reasonable procedure would be to give credit only to those, who attempted such questions or some of them. The University was directed to revise the result accordingly.

We do not find that the said judgment provides any assistance to the arguments raised. The action of the University in giving credit to all the students, whether they have attempted the questions or not, was found to be unjustified. In the present case, the examining body has taken a conscious decision that credit or discredit of such questions shall not be given to any student irrespective of the fact whether a student has attempted such questions or not. Therefore, all students have been assessed on the basis of 120 questions rather than on the basis of 125 questions. Numerous eventualities can be conceived as a result of such decision; such as, a candidate, who has answered the questions correct, has been deprived of the marks, whereas a candidate, who has not understood the questions correctly and not attempted the same or attempted wrongly, would stand to benefit.

In a writ petition, we are not to examine the numerable circumstances, which may ensue as a result of deletion of such questions. As a part of judicial review, the jurisdiction of this Court is to examine the decision making process. Whether the decision making process of deleting the questions is so arbitrary, unreasonable or irrational that it cannot be sustained. The examining body is the most suitable to decide, whether such questions are vague or the options are incorrect or not possible. Such decision of the examining body has to be respected. The decision of the examining body that questions

need to be deleted cannot be said to be arbitrary, unreasonable or irrational, which may warrant interference by this Court in exercise of its writ jurisdiction.

We find that the argument of learned counsel for the petitioner to be contradictory, when the petitioner seeks deletion of three questions i.e. 78, 83 & 125. Again, whether the question should be deleted or not depends upon the opinion of the examining body. The decision of the examining body to delete some questions or not to delete other questions cannot be said to be violative of any principle of natural justice or arbitrary or irrational, which may warrant interference in any manner.

In respect of question No.92, it is contended that the syllabus of preliminary examination was the same as that of the main examination. In respect of main examination, the candidates are expected to have a general and basic over view of the main subjects and also the ability to answer questions on current events of national and international importance, Indian legal and constitutional history and governance, therefore, the said question does not relate to any current national event. Since the examination in question is of State Judicial Services, therefore, knowledge of the region is also a part of the nation. Therefore, it cannot be said that question pertaining to the location of Kaushalya Dam in the State of Haryana, was not the part of the syllabus and, thus, required to be deleted.

In view of the above discussion, we do not find any merit in the present writ petition. The same is accordingly dismissed.

(HEMANT GUPTA)
JUDGE

21.02.2015
Vimal

(HARI PAL VERMA)
JUDGE