

CWP Nos.7788, 9524 & 23848 of 2014

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

- (1) **CWP No.7788 of 2014**
Date of decision:28.05.2015
Raman Garg and another ...Petitioners
Versus
State Council for Education & Research Training, Punjab ...Respondent
- (2) **CWP No.23848 of 2014**
Date of decision:28.05.2015
Lukesh Kumar ...Petitioner
Versus
State of Punjab and another ...Respondents
- (3) **CWP No.9524 of 2014**
Date of decision:28.05.2015
Nensi ...Petitioner
Versus
State Council for Education & Research Training, Punjab ...Respondent

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Sardvinder Goyal, Advocate,
for the petitioner(s) in CWP Nos.7788 & 9524 of 2014.

Mr. Raman Goklaney, Advocate,
for the petitioner in CWP No.23848 of 2014.

Mr. Anant Kataria, AAG, Punjab.

Rakesh Kumar Jain, J.

This order shall dispose of three writ petitions bearing CWP
Nos.7788, 9524 and 23848 of 2014 as all are inter-connected.

The Punjab School Education Department, in order to conduct

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the Punjab State Teachers Eligibility Test-2013 (hereinafter referred to as the “PSTET-2013”), entrusted its responsibility to the State Council for Educational Research & Training, Punjab (hereinafter referred to as the “PSCERT”), who further conducted the PSTET-2013 on 28.12.2013 through an outsourced agency i.e. NYSA Communication Pvt. Ltd., A-100, Sector-65, Noida (hereinafter referred to as the “agency”). The said agency set the question papers and also prepared the result. It was a multiple-choice test of 150 marks, in which four alternative answers are indicated against each question and the candidates were required to choose one correct answer from out of those four answers. Every question carried one mark. The qualifying marks for the General Category were fixed as 90 and for the OBC category as 83.

In CWP No.7788 of 2014, there are two petitioners. Petitioner no.1 belongs to General category and petitioner no.2 to the OBC category. Petitioner no.1 secured 89 marks out of 150 and petitioner no.2 secured 82 marks, whereas the qualifying marks are 90 and 83 respectively. Therefore, both the petitioners are short by one mark to qualify the PSTET exam. The petitioners have alleged that the answer key of four questions, namely, question nos.11, 20, 51 and 102, was wrong and question no.118 was ambiguous as there is no definite answer to that question. The petitioners have prayed that the wrong answer keys have prejudiced their rights. According to the petitioners, the answer provided in the answer key to the question nos.11, 20, 51 and 102 are wrong, which has been explained in the writ petition and is projected here-as-under with the following chart:-

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Question Nos.	Answer provided in the answer key	Answer according to the petitioner(s)
11	A	D
20	A	C
51	A	D
102	D	A

After notice was issued, the respondents have filed the reply in which it is averred that they have requested the agency to verify the correctness of answers of question nos.11, 20, 51, 102 and 118 of the Question Booklet Series-I of the PSTET-2013 and the agency has sent a report to the respondents on 14.05.2014, justifying the answers provided in the answer key, which is reproduced as under:-

“Paper:2 Subject: CDP Question Booklet No.1

Q.No. : 11

Answer : A

Justification: In option 'B' the time required for pubertal changes is not uniform but varies and in option 'C' there is sexual urge/fascination but not the need of sexual gratification.

Paper:2 Subject: CDP Question Booklet No.1

Q.No. : 20

Answer : A

Justification:Dysgraphia- Dysgraphia is a learning disability that affects hand writing, which requires a complex set of motor and information processing skills. Dysgraphia makes the act of writing difficult. Dyslexia- It inhibits recognition and processing of graphic symbols, particularly those pertaining to language. Symptoms, including very poor reading skills, reversal of words and letters etc.

Paper:2 Subject: Punjabi Language Question Booklet No.1

Q.No. : 51

Answer : A

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Justification:Register is a linguistic term and linguistic is a specific discipline. It does not relate to reading, evaluation or sentences.

Paper:2 Subject: Social Science Question Booklet Number:1

Q.No. : 102

Answer : D

Justification:In this question any amendment to the preamble was discussed first in Beru Bari case in Pakistan and in Keshvanand Bharti case in India. Keshavanand Bharti case has also referred to Beri Bari case. So answer 'd' is correct.

Paper:2 Subject: Social Science Question Booklet No.1

Q.No. : 118

Answer : B

Justification:The Indian National movement started before the first World War in which Indian troops were involved under British Flag. Therefore out of the given option the Russo-Japanese War, 1904-05 influenced the movement.”

In CWP No.23848 of 2014, the petitioner belongs to the General category. He had secured 89 marks out of 150 and is short of only one mark to qualify the exam. According to him, the answers provided in the answer key to the question nos.1 and 56 in Question Booklet Series-4 of the PSTET-2014 are wrong as the answer to question no.1 provided in the answer key is Option-C, whereas according to the petitioner, the correct answer is Option-B. Similarly, the answer to the question no.56 provided in the answer key is Option-A, whereas according to the petitioner, all the four options given in the answer to this question falls in the same category, therefore, the petitioner is entitled to the benefit of doubt.

In this case, the Director, SCERT, Punjab has given the

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justification to both the questions, which reads as under:-

“1.2 It is requested to provide the expert opinion on the question(s) as produced below:

Q. Which is not the object type question?

- (a) Filing the blank type
- (b) True false type
- (c) Multiple choice question
- (d) Matching type

Ans. (a) Is not objective type question

JUSTIFICATION:-

Because true false type, multiple choice question and matching type are not objective type. They same similarity with each others.”

“1.2 It is requested to provide the expert opinion on the question(s) as produced below:-

Q. is proponent of constructivist framework

- a. Bandura
- b. Bruner
- c. Piage
- d. Jung

Ans. (c) Piage was the proponent of constructivist theory.

JUSTIFICATION:-

Because among others:

- b. Jerome Burner dealt with cognitive psychology and cognitive learning.
- a. Albert Bandura specialized in social cognitive theory, therapy and personality psychology.
- d. Carl Jung deals with analytical psychology recognized primary importance of individual psychology.

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In CWP No.9524 of 2014, the petitioner belongs to the General category. She has secured 87 marks out of 150 and was short of 3 marks to qualify the exam. She has alleged that the answer to the question nos.7, 24, 54, 101, 110, 113, 120, 125 and 134 of the Question Booklet Series-3, as provided in the answer key, are wrong, which can be explained with the following chart:-

Question Nos.	Answer provided in the answer key	Answer according to the petitioner(s)
7	A	C
24	A	D
54	A	D
101	C	D
110	C	D
113	C	B
120	B	D
125	A	B
134	A	C

The report of the agency, justifying the answers provided in the answer key, is as under:-

Paper:2 Subject: CDP Question Booklet No.3

Q.No.:7

Answer:A

Justification:Dysgraphia-Dysgraphia is a learning disability that effects hand writing, which requires a complex set of motor and information processing skills. Dysgraphia makes the act of writing difficult. Dyslexia-It inhibits recognition and processing of graphic symbols, particularly those pertaining to language. Symptoms, including very poor reading skills, reversal of words and letters etc.

Paper:2 Subject: CDP Question Booklet No.3

Q.No.:24

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Answer:A

Justification:In option B the time required for pubertal changes is not uniform but varies and in option C there is sexual urge/fascination but not the need of sexual gratification.

Paper:2 Subject: Punjabi Question Booklet No.3
Q.No.:54

Answer:A

Justification:Register is a linguistic term and linguistics is a specific discipline. It does not relate to reading, evaluation or sentences.

Paper:2 Subject: Math Question Booklet No.3
Q.No.:101

Answer:D

Justification:Answer has been updated as option D in place of option B.

Paper:2 Subject: Math Question Booklet No.3
Q.No.:110

Answer:D

Justification:Answer has been updated as option D in place of option C.

Paper:2 Subject: Math Question Booklet No.3
Q.No.:113

Answer:B

Justification:Answer has been updated as option B in place of option C.

Paper:2 Subject: Math Question Booklet No.3
Q.No.:120

Answer:B

Justification:The purpose of the maths laboratory is to give chance to students to work and experiment on their own where teacher is a facilitator. It is not a place to keep teaching aids or do only controlled.

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Paper:2 Subject: Science Question Booklet No.3

Q.No.:125

Answer:A

Justification:For a lens of focal lens 12 cm and object placed beyond 24 cm means objects is beyond 2f. For which image will be formed between f and 2f that is 12cm and 24 cm.

Paper:2 Subject:Science Question Booklet No.3

Q.No.:134

Answer:C

Justification:Answer has been updated as option C in place of option A.”

Insofar as the petitioner no.2 in CWP No.7788 of 2014 is concerned, he belongs to OBC category and has secured 82 marks out of 150 though he is required to have secured 83 marks to clear the exam.

In the case of **Ruby Kapoor v. State of Punjab and others**, CWP No.8776 of 2012, decided on 04.12.2014, similar issue was cropped up in regard to the Teacher Eligibility Test that 5% relaxation has been given to the OBC category as envisaged under the NCTE guidelines and accordingly, the qualifying marks from 90 out of 150 were reduced to 83. It was held by this Court that since 5% relaxation has been given, which comes to 7.5 marks out of 150, it should have been rounded off or approximated to the nearest to the whole number i.e. 8 instead of 7.5, as per which the qualifying marks in the OBC category was held to be 82.

The case of the petitioner no.2 in CWP No.7788 of 2014 is covered by the decision of this case in **Ruby Kapoor's case (supra)** and is thus allowed. The respondents are directed to consider petitioner no.2 in CWP No.7788 of 2014 to have cleared the PSTET-2013.

As regards the other petitioners who belong to the General Category and are short of one or three marks to qualify the exam, they have disputed the correctness of the answer provided in the answer key of as many as 15 questions.

The correctness of Question No.20, as mentioned in CWP No.7788 of 2014, came up for consideration before this Court in CWP No.5637 of 2015 titled as **“Rajinder Singh v. State of Punjab”**, decided on 26.03.2015. In that case also, the petitioner was short of one mark and had raised the dispute with regard to Question No.30 of Question Booklet Series-1, which is the same as the Question No.20 in CWP No.7788 of 2014.

At that time, this Court took upon itself and decided about the correctness of the answer as the petitioner had given option (b), whereas the answer provided in the answer key was option (d) and this Court had held that the answer of option (d), as provided in the answer key, is the correct answer and the option (b) given by the petitioner is incorrect.

In the case of **“Ajay Kumar v. State of Punjab and others”**, LPA No.2017 of 2014, decided on 08.12.2014, the Division Bench of this Court has held that the decision on the correct answer or formation of answer-key has to be left to the wisdom of resource persons/subject experts and Courts would not impose themselves as super specialists in such like matters. The only indulgence a Court can show is to direct the Examining Body to take cognizance of the objection(s) received from aggrieved candidate(s) and decide whether there is any substance in such objections or

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not. Accordingly, the direction was issued to the extent that the objection raised by the appellant in that case against the answer-key be put up before the resource person or a Committee who would decide whether or not there is any merit in the appellant's plea.

Since the resource person in these cases, namely, NYSA Communication Pvt. Ltd., has already given its justification in respect of the answers given by them in their answer-key, therefore, no interference is called for in the present writ petitions.

In view thereof, I do not find any merit in the present writ petitions and hence, the same are hereby dismissed.

May 28, 2015
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(Rakesh Kumar Jain)
Judge