

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

CWP No.740 of 2015

Decided on : 19.11.2015

Jaspal Kumar and others

... Petitioners

Versus

State of Punjab and others

... Respondents

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

Present : Mr. Sunny Singla, Advocate for the petitioners.

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

Mr. Ashish Rawal, Advocate for respondent-NCTE.

G.S. Sandhawalia , J. (Oral)

In the present writ petition challenge is being made to the process of evaluation of the answer sheets in the Punjab State Teachers Eligibility Test (PSTET) (Annexure P-2) and for considering the case regarding the discrepancies relating to Question No.59 in booklet series No.1 of the test which was held on 24.10.2014.

The case of the petitioners is that the said Question No.59 had four options and all of them are correct and, therefore, the benefit of ambiguity should be given. Question No.59 reads as under:-

“59. Which of the following is not an objective type question?

a. Fill in the blanks

b. Correct-in correct ones

c. Multiple-choice questions

d. Matching type.”

It is submitted that the petitioners have got 89 marks and, therefore, the benefit of said question be given to them and accordingly, they would be deemed to be qualified having secured 90 marks.

The State in its reply has submitted that the Committee of Experts had clarified regarding the correctness of the question and come to the conclusion that the correct answer was Option 'a'. The Report of the Committee Members reads as under:-

“Justification:- (a) in option b, c and d candidate is to write (✓) or (x) or (→) out in case of option the candidate is expected to write a word or a phase of his own.

'Fill in blank' type question may become an objective type when is given to choose from multiple choice. Here multiple choice option (c) has already been given as a separate option. Hence the option (a) is the best answer.

Committee Members:

- 1. Mrs. Baljeet Kaur, Subject Expert SCERT.*
- 2. Mrs. Jaswinder Kaur, Lecturer DIET, Ropar.*
- 3. Mrs. Nirmal, Lecturer, GISTC, Ropar.”*

Reference can be made to the judgment of the Apex Court in **'Basavaiah (Dr.) Vs. Dr.H.L.Ramesh & others 2010 (4) RSJ 154** wherein it had been held that until there was mala fide alleged, no interference by the Courts is called for. Relevant observations of the Apex Court read as under:-

“We have dealt with the aforesaid judgments to reiterate and reaffirm the legal position that in the academic matters, the courts have a very limited role particularly when no mala fide has been alleged against the experts constituting the selection committee. It would normally be prudent, wholesome and safe for the courts to leave the decisions to the academicians and experts. As a matter of principle, the courts should never make an endeavour to sit in appeal over the decisions of the experts. The courts must realize and appreciate its constraints and limitations in academic matters.”

A similar view was also expressed in ***Himachal Pradesh Public Service Commission Vs. Mukesh Thakur & another (2010) 6 SCC 759***, wherein it was held as under:-

“(i) As to whether it is permissible for the court to take the task of examiner/Selection Board upon itself and examine discrepancies and inconsistencies in the question papers and evaluation thereof? (ii) Whether the court has the power to pass a general order restraining the persons aggrieved to approach the court by filing a writ petition on any ground and depriving them of their constitutional rights to approach the court, particularly, when some other candidates had secured the same marks i.e. 89 and stood disqualified for being called for interview but could not approach the court? (iii) Whether in the absence of any statutory provision for revaluation, the court could direct for revaluation? After making reference to number of precedents, the Court finally held as under:- “In view of the above, it was not permissible for the High Court to examine the question papers and answer sheets itself, particularly, when the Commission had assessed the inter se

merit of the candidates. If there was a discrepancy in framing the question or evaluation of the answer, it could be for all the candidates appearing for the examination and not for Respondent No.1 only. It is a matter of chance that the High Court was examining the answer sheets relating to Law. Had it been other subjects like Physics, Chemistry and Mathematics, we are unable to understand as to whether such a course could have been adopted by the High Court. Therefore, we are of the considered opinion that such a course was not permissible to the High Court.”

Perusal of the opinion would go on to show that the opinion of the experts *prima facie* seems to be correct, as the experts have also given the opinion that the other three options are of objective type option and option 'a', wherein in the absence of any choice of multiple options pertaining to fill in blanks, the same would not be a objective type question. The law regarding the opinion of the experts has been time and again held to be binding upon the Courts and it has been held that the academic issues are to be decided by the said experts and Court should not interfere on the said issues and should opine on them. The Division Bench of this Court in ***LPA No.1956 of 2012*** titled as **'Sameer Khurana and others Vs. Board of School Education Haryana and others'** decided on 16.01.2013 has also taken the same view by placing reliance upon the above various judgments of the Apex Court. While upholding the judgment of the learned Single Judge, it was noticed that the

Courts have very limited academic expertise and cannot sit in appeal over the decision of the experts.

“We have dealt with the aforesaid judgments to reiterate and reaffirm the legal position that in the academic matters, the courts have a very limited role particularly when no mala fide has been alleged against the experts constituting the selection committee. It would normally be prudent, wholesome and safe for the courts to leave the decisions to the academicians and experts. As a matter of principle, the courts should never make an endeavour to sit in appeal over the decisions of the experts. The courts must realize and appreciate its constraints and limitations in academic matters.”

The State is also well justified in pointing out that the same question was also subject matter of consideration before another Bench in **CWP No.23848 of 2014**, which was decided alongwith bunch of cases in **CWP No.7788 of 2014** titled as **'Raman Garg and another Versus State Council for Education & Research Training, Punjab'** on 28.05.2015 (Annexure R-3/3).

Counsel for the petitioner, however, submits that Letters Patent Appeal is still pending.

Accordingly, in view of above discussion, this Court is of the opinion that there is no scope for interference in the present writ petition and same is accordingly dismissed.

NOVEMBER 19, 2015
Naveen

(G.S. SANDHAWALIA)
JUDGE