

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

**LPA No.42 of 2015 (O&M)
Date of decision : 14.01.2015**

State of Punjab and another

..... Appellants

versus

Manmit Singh

..... Respondent

**CORAM: HON'BLE MR. JUSTICE SATISH KUMAR MITTAL
HON'BLE MR. JUSTICE DEEPAK SIBAL**

Present:- Mr. Gaurav Garg Dhuriwala, DAG, Punjab, for the appellants.

DEEPAK SIBAL, J.

CM No.91-LPA of 2015

For the reasons mentioned in the application, which is duly supported by an affidavit, delay of 61 days in filing the present appeal is condoned.

LPA No.42 of 2015

The present intra-Court appeal filed under Clause X of the Letters Patent challenges the judgment dated 20.08.2014 passed by a learned Single Judge of this Court allowing the writ petition filed by the respondent.

The respondent had approached this Court with a grievance that the Punjab State Teacher Eligibility Test-I (hereinafter referred to as the 'test') in which he had appeared, several questions were wrong as they did not contain correct options or contained multiple correct options. The respondent had illustrated his grievance through two questions, i.e., question Nos.93 & 132 to submit that there were glaring infirmities in the

answer keys which had resulted in the respondent not qualifying the above test.

The learned Single Judge went through the grievances raised by the respondent and after considering the facts on record as also the law on the subject allowed the writ petition, directing the appellants to grant to the respondent benefit of one mark and declare him to have passed the test.

A perusal of the judgment under appeal shows that the learned Single Judge had taken pains to go through the questions and the options and when questions were put to the counsel for the State to clarify the position it has been categorically recorded that he was not in a position to explain the ambiguity. Being convinced that there was ambiguity in question No.132 and after considering the law on the subject as declared by the Apex Court in ***Kanpur University and others versus Samir Gupta and others 1983(4) SCC 309***, the writ petition filed by the respondent was allowed.

The relevant portion of the judgment in appeal is reproduced as under:-

“Counsel was at pains to explain that question No.132 had 4 options which reads as under:-

“132. Rotation is the movement of the earth:-

- a) On its axis b) On its orbit
c) Around the sun d) Around the sun in a fixed path”*

The case of the petitioner, thus, was that the correct answer was option 'A' i.e. Earth rotates on its axis. Since there is no dispute on the said issue and it does not rotate on its orbit or around the sun or around the sun in a fixed path which were other three options since it revolves around the sun. The petitioner, however, had marked the option 'D'

because he had answered the question in Punjabi wherein the Punjabi translation of the word 'Rotation' was 'GHUMDI'. Admittedly, if the answer is attempted in Punjabi then the correct version in Punjabi would also be option 'D' that the earth rotates around the sun in a fixed path which was the question in dispute.

Counsel for the State was not in a position to explain this ambiguity since in Punjabi there would be no equivalent to the word “Revolution”. Option 'D' in English that earth rotates around the sun in a fixed path” would not mean 'rotation' but would mean 'Revolution' and therefore, it is apparent that the petitioner has given a correct answer if the version in Punjabi is to be seen since the option 'D' in Punjabi was 'around the sun in a fixed path' and in Punjabi it would amount to rotating around the sun and there would no equivalent to revolving around the sun in Punjabi Language.

Counsel for the State only answer to this issue is that under the instructions on the answer sheet as per Clause 11 if there was any dispute, the question in English will be treated as final and in case of any doubt/confusion/ lack of clarity, the candidates were advised to refer to question in English. Clause 11 reads as under:-

“In case of any dispute, the question in English will be treated as final. Candidates are advised to refer to question in English in case of any doubt/confusion/lack of clarity.”

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.”

*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.***

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.”

Learned counsel appearing for the State vehemently argued that there was no ambiguity in question No.132 as held by the learned Single Judge. According to him, when the questions were given in both i.e. Punjabi and English languages, the respondent should have read the questions in both the languages before answering them as according to him there was no ambiguity when question No.132 and its options were read in english.

Question No.132 was answered by the respondent in Punjabi and having read the same and the options given there to, we are in agreement with the findings recorded by the learned Single Judge that there was ambiguity in the same. Once the respondent had answered question No.132 in Punjabi then we find no reason so as to why he should have also read the question as given in the english language.

Finding the judgment of the learned Single Judge to be well-reasoned, we find no reason to interfere in the same.

Resultantly, the present appeal is dismissed but with no order as to costs.

(SATISH KUMAR MITTAL)
JUDGE

(DEEPAK SIBAL)
JUDGE

14.01.2015
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