

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.104 of 2016

Reserved on:10.03.2016

Decided on :18.05.2016

Daljit Kaur & another

... Petitioners

Versus

State of Punjab & others

... Respondents

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

Present: Mr. H.C. Arora, Advocate,
Mr. Dheeraj Mahajan, Advocate,
Mr. B.S. Patwalia, Advocate,
Mr. Sukhdev Kamboj, Advocate
Mr. Madhav Pokhrel, Advocate
Mr. Vikas Chatrath, Advocate,
Mr. KDS Sodhi, Advocate,
Mr. R.S. Dadwal, Advocate,
Ms. Alka Chatrath, Advocate,
Mrs. G.K.Mann, Advocate
Mr.Amit Babbar, Advocate, for
Mr. R.S. Manhas, Advocate,
Mr. G.S. Brar, Advocate
Mr.Surinder Garg, Advocate
for the petitioner (s).

Mr. Anshul Gupta, AAG, Punjab.

Mr. J.S. Puri, Advocate for respondent-PSEB.

G.S. Sandhawalia , J.

This judgment shall dispose of 33 cases, i.e., CWP-104, 96, 10, 105, 223, 254, 264, 305, 311, 316, 396, 475, 506, 511, 577, 1010, 1681, 2204, 2381, 2145, 2240, 2241, 2242, 2243, 2309, 2472, 2486, 2519, 3807, 3870, 3300, 3328 & 3343 of 2016, the question of fact and law, in the present cases, being common. However, to dictate orders, facts have been taken from CWP-104-2016 titled *Daljit Kaur & another Vs. State of Punjab & others*.

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The petitioners seek the relief regarding the revision of the answer keys of Punjab State Teachers Eligibility Test-2 (for short, the 'PSTET-2015'), held on 13.12.2015. The ancillary prayer which is claimed is for consideration for applying for the post of Master Cadre, subject to the final decision of the writ petitions and for extension of the cut-off date from 09.01.2016 till the expiry of 14 days from further revision of the answer keys.

The case of the petitioners is that the result of the PSTET-2, conducted on 13.12.2015 was result of gross negligence on account of wrong answer keys. Petitioners had been ousted from the process of further applying as they had only got 81 marks and belonging to the Backward Class Category, were falling short of 1 mark from qualifying marks, which was 82 marks out of 150. It is pertinent to mention that similarly, for the General Category candidates, the qualifying marks are 90 out of 150 marks. In other cases, candidates have secured close to the qualifying marks and are short of marks ranging from 1 to 8 and therefore, seek the benefit of revision of the answer keys on the ground that the answer keys were not correct.

It is the case of the petitioners that after the examination, notice had been put up by respondent No.4-Punjab School Education Board, wherein it had uploaded the answer keys of various sets. Petitioner No.1 had lodged her objections against some of the answer keys, given at Annexure P8, with respect to questions No.122, 112 & 26 of set No.4. Resultantly, the writ petition was filed, challenging the answer keys. It was further averred that on earlier occasion also, the answer keys for the test

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held in the year 2011 had also been examined and relief had been granted. The appeal filed by the State of Punjab had been dismissed and therefore, similar benefit should be granted.

The State has not filed any reply, in the present set of cases, objecting to the benefit of revision of answer keys which the petitioners are seeking relief of nor to the issue of extension of the cut off date.

Respondent-Board filed a short affidavit and after considering the same, interim order dated 08.01.2016, was passed and it was noticed that in the answer keys of questions No.19, 25, 26, 113, 122 and 146 of Set 4, there was ambiguity apparent on the face of the record regarding the said answer keys and the same were liable to be *prima facie* reconsidered. Accordingly, it was directed that a fresh exercise be conducted by the subject experts, so that nobody is prejudiced. The cut-off date of applying by 09.01.2016 also was extended till 25.01.2016 and the 21,400 queries received against 150 questions had to be re-examined. Relevant part of the order reads as under:

"It is, in such circumstances, once there seems to be an apparent ambiguity regarding the correct answer key, this Court is of the opinion that a fresh exercise need to be reconducted by the subject experts so that nobody is prejudiced and their rights to apply is not taken away.

Resultantly, the Board is directed to reconsider the objections which have been received by it, within a period of 10 days from today. Once the same is done, the Board shall put on the website, the revised result of the successful candidates, immediately thereafter, latest by 10 days.

Resultantly, a direction is also issued that the cut off period of 09.01.2016, as directed in CWP-25249-2015 and other

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connected matters, for applying, will necessarily have to be extended till the result of the PSTET is revisited by the Board. Thus, the date of applying of successful candidates of PSTET, 2015 would be extended from 09.01.2016 to 25.01.2016. The State shall publish a public notice regarding this extension of time, so that the candidates who are not petitioners herein and who might be the beneficiaries of the revised result, would be able to apply, on the basis of the benefit, if any, is granted by the Board.

However, anything said herein does not mean that the Board shall consider only these questions and it will examine all the objections, since out of the 21,400 queries against 150 questions, there is bound to be overlapping pertaining to few questions.

List on 28.01.2016, for further consideration.

Copy of this order be placed on the record of each connected case and also on the records of CWP-25249-2015 and other connected cases.

Copy of this order be supplied to Mr.J.P.S.Puri, Advocate, for the respondent-Board, under the signatures of Special Secretary of this Court."

Thereafter, an additional affidavit of the Secretary was filed in the main case (CWP-104-2016) and it was agreed that the said affidavit would be read as response in all the cases. In the second affidavit, the respondent-Board has averred that the State Council of Education Research & Training had asked the Board to conduct the PSTET, 2015 and supplied the notifications and guidelines. The same was conducted in 2 groups, namely, PSTET- 1 for recruitment of ETT teachers for Classes 1 to 5 and PSTET-2 for recruitment of teachers for Classes 6 to 8. Both papers had 150 questions, having 1 mark each and duration of the examination was 2 1/2 hours, except for the handicapped category where

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extra time of 50 minutes had been granted. For Paper-2, for which the present bunch is concerned, out of total 150 questions, first 90 questions were compulsory for all and remaining 60 had been divided into 2 groups. The candidates had to opt for one group, either of Mathematics and Science or of Social Studies and Social Sciences. The advertisement was given on 07.11.2015 and the applications received from the website for Paper-2 were 1,36,210 and the roll numbers and the admit-cards were also issued on 06.11.2015. The examination was conducted in 333 centres of the Districts of Punjab, comprising of 400-500 candidates and the duration for Paper-I was 10 am to 12.30 pm and for Paper-2, it was 2.30 pm to 5 pm. with additional 50 minutes for the handicapped candidates.

On 16.12.2015, public notice (Annexure R4/1) was issued in 6 different newspapers, 2 each in Punjabi, English and Hindi, for inviting queries and the answer keys were to be available from 19.12.2015. 21,448 queries were received for both papers and for Paper-2, 13,500 queries were received. Various subject experts committees were also constituted on 26.11.2015 and additions were made on 18.12.2015 by the Chairperson of the Board. On analyzing all the queries by the subject experts, some changes were recommended in the answer keys, which were accepted by the Board and a comprehensive report was given (Annexure R4/4). Accordingly, 6 changes were effected in the answer keys of Paper-1 whereas in Paper-2, 5 changes were effected in Mathematics and Science group and 3 additional marks were given due to misprint in the questions.

Similarly, for Social Studies and Social Science combination, 4

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changes were effected and 2 additional marks were given due to the misprint in the questions. Thereafter, the result was declared on 23.12.2015 and 4351 candidates qualified out of 29,477 candidates. Thereafter, on 30.12.2015, question No.93 of Set-1, pertaining to 'Kautalya' was re-assessed and re-examined and it was decided to give benefits to the candidates who had opted for option 'A'. Accordingly, total candidates who had qualified came to 4613. In view of the interim orders passed on 08.01.2016, for re-consideration of objections, the entire exercise was again undertaken by the Board and the number of qualifying candidates arose to 5222 candidates. There was a difference of 609 candidates who had qualified out of the 210 questions (90+60+60) which were re-examined, irrespective of the fact that they were earlier examined, in which queries were received. Said queries along with the bio-data of subject experts was attached as Annexure R4/6. 26 questions which were mainly disputed in the present set of cases were thoroughly examined and with regard to 4 questions, it was held desirable to give additional marks to all candidates due to the ambiguity/unclear image of the answer keys. Regarding the remaining 22 questions, the answers remained unchanged. The list of the said 26 questions is attached as Annexure R4/6. Resultantly, the final result was declared on 18.01.2016, within the time schedule fixed by this Court.

Accordingly, the benefit of 3 questions having been given in the Science & Mathematics combination, before 23.12.2015 and there was no change in the said subject combination. Whereas benefit of 2 marks had been given in Social Science & Social Studies combination and additional 4 marks were given after 23.12.2015, raising the benefit to 6 marks.

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Resultantly, the grievance of the petitioners stood redressed as the questions had been re-assessed by the Committee of subject experts twice and the benefits of additional grace marks had been given and the result had been revised, accordingly. The opinion of the subject experts, who had valuable experience, was not liable to be substituted by the Court and accordingly, the writ petition was liable to be dismissed.

The issue of correct answer keys and the jurisdiction of the Court to interfere or deliberate upon, has been dealt by a Three Judges Bench of the Apex Court in **Kanpur University & others Vs. Samir Gupta & others 1983 (4) SCC 309**. In the said case, the High Court had accepted the contention of the students that the answers ticked 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 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

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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 CL case. But that is not a correct way of looking at these 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."

In **Gourav Jain Vs. Haryana Public Service Commission 2009 (4) PLR 161**, while examining the answer keys of the Haryana Civil Services (Judicial Branch) Examination, it was held that 4 questions were palpably wrong and accordingly, directions were issued that the benefit should be given regarding the said 4 questions.

Similar view has also been taken by this Court in **Manmit Singh Vs. State of Punjab & another 2015 (2) PLR 796** wherein it was held that the Court would be failing in its duty not to exercise its jurisdiction where the answer keys are patently incorrect. The said view was, thereafter, reiterated in CWP-19113-2015 titled *Mukesh Kumar Vs. State of Punjab & others*, decided on 27.11.2015.

A similar issue arose before the Division Bench of this Court in LPA-1956-2012 titled *Sameer Khurana & others Vs. Board of School Education Haryana & others*, decided on 16.01.2013, regarding the HTET Examination, 2011. It was, accordingly, held that the Court had a very limited expertise and would not sit in appeal over the decision of the subject experts and reference was made to **Himachal Pradesh Public Service Commission Vs. Mukesh Thakur and another (2010) 6 SCC 759**.

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In similar circumstances, a Division Bench of this Court, in **Reetika & others Vs. State of Punjab & others 2016 (1) SCT 71**, while examining the answer keys of the PMET Test, 2015, also came to the same opinion that where remedial steps had been taken, then the examiner's answer key is considered to be correct. It was, accordingly, held that the answers or formation of answer keys to the questions should be left to the subject experts and the specialists in the subjects. It was also further noticed that where the options are shown to be glaringly improbable or impossible, the Court would go into the issue. Relevant portions of the judgment read as under:

"26. It may also be noticed that the answers or formation of answers key to the questions set in the PMET 2015 is best left to the wisdom of the resource persons and subject experts and the Courts would not impose themselves as specialists of subject experts in matters like the present. The limited indulgence that the Court has is to direct the examining body to take cognizance of the objections received from the aggrieved candidates and decide such objections. This exercise has already been undertaken in extenso before the learned Single Judge.

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32. In the present case it is appropriate to notice that the learned Single Judge has dealt with and considered each of the questions that were raised on behalf of the petitioners before him and some of which have been reiterated by the appellants herein and wherever there is a doubt, remedial steps it was noticed had been taken. Besides, as has been noticed the PMET text books did not enjoin that the correct answer is to be considered as right but it is the examiner's key which is to be considered correct or at least appropriate against the questions that have been set unless these are shown to be glaringly improbable or not possible. In the

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circumstances, the learned Single Judge has gone into the entire gamut of controversy in this case and there is no infirmity in the same."

Resultantly, keeping in view the above principles and the fact that in the present case, the Board, on its own, had already revised the answer keys once and initially had granted benefit to 262 students. On account of this Court passing an interim order on 08.01.2016 and asking the Board to have a fresh look, another 609 candidates have benefitted, now, whether the Court should interfere.

Counsel for the petitioners, however, submit that there are several other questions which patently, on the face of it, have been given wrong answer keys. Resultantly, this Court should also go into the said issues and interfere where the answer keys are palpably wrong. However, counsels have raised no objection regarding the constitution of the Expert Committees or their ability to go into the questions and therefore, this Court is not considering that aspect and accepts the same, since the parties have accepted that the Subject Experts are competent to deal in their own fields.

Accordingly, reference has been made to the following questions from Set-1:

S .No . 1

Question No.5. The one major purpose of administering an IQ test to school going children is

(A) To help a child keep his level of aspiration in line with reality

(B) To keep a record in case the child should need guidance

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(C) To help the teacher in making more realistic demands upon the child

(D) To make the parents aware of their child's limitations.

A perusal of the above-said question would go on to show that the Board has given option 'C' as the correct option, which has been reiterated by the expert committees.

Counsels for the petitioners have submitted that option 'B' would also be a correct option.

No reliable material, as such, has been brought on record for the said proposition as to how option 'B' would also be a correct option, over and above the option given by the Subject Experts. An argument has been raised that the IQ test would help finding the cause of backwardness of the children in studies and suffering from problems and reliance is placed upon Annexure P4 (in CWP-2240-2016) that the child could be guided to bring them on the right path. The option given by the Board, as such, whereby the IQ test would only help the teacher in not demanding unrealistically from the child, which apparently, is not incorrect, in any manner. The issue is not regarding the cause which is to be found with regard to backwardness of the child in studies and therefore, has nothing to do with keeping a record, as such, for the guidance of the child. Counsel for the Board is well justified by falling back and showing material from the book titled as *Dr. Schaum's Outline of Test Items in Education* by George J.Mouly & Lewis E.Walton, wherein also, the same answer has been given as opted by the Board. The purpose of conducting the Intelligence Quotient test is, thus, to help the teacher in making realistic demands upon

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the child. Accordingly, knowing the intellectual potential of the child and therefore, the teacher, being the main player in the school life, has to be realistic about the child and therefore can only help him move further and accordingly, assist the child and the parents, keeping in mind the intelligence quotient (IQ) and therefore, comparatively, be more realistic. Thus, no fault can be found in the option given by the Board.

S.No.2

Question No.6. Two boys have an IQ of 120. It can be concluded that

- (A) The boys are equal in their mental age
- (B) Parents of both boys are of above-average intelligence
- (C) Both boys would be successful in academic CO performance
- (D) None of the above is necessarily true

For the above-said question, the correct option given by the Board is option D', whereas, as per the counsels for the petitioners, the correct answer would be option 'A', that both the boys had a similar IQ.

Accordingly, reference is made by counsels for the petitioners to the foundations of education and psychology (Annexure P14 in CWP-577-2016) to submit that once there was an IQ of 120, it would be a superior IQ and reference is made to the formula prescribed that it was the ratio between the mental age and the chronological age. The mental age being the age received on the test and the chronological age being the mean of the actual age.

Counsel for the Board, on the other hand, again fell back on

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showing material from the book titled as *Dr. Schaum's Outline of Test Items in Education* by George J.Mouly & Lewis E.Walton, to submit that the question concerns with the inter and intra individual differences and the laws of heredity and as per said book, the correct option was as given.

However, the definition of the Intelligence Quotient, as relied upon by counsel for the petitioners itself, does not support them, in any manner. Relevant portion reads as under:

"(D) INTELLIGENCE QUOTENT (MENTAL RATIO)

First of all Wilhelm Stern, a German psychologist used the term Intelligence Quotient (I.Q.) in 1912, the idea of I.Q. was utilised in the Stanford-Binet test. Intelligence Quotient is an Index of Intelligence. It is the ratio between mental age (M.A.) and chronological age (C.A.) By mental age, we mean the age received on the test and by chronological age we mean the real or actual age. Formula for finding I.Q.:

$$\text{I.Q.} = \frac{\text{M.A.}}{\text{C.A.}} \times 100$$

For example, a child who is 10 years old, but possesses M.A. of 12 years his I.Q. will be calculated with the help of the following equation :

$$\text{I.Q.} = \frac{12}{10} \times 100 = 120$$

I.Q. of this child shows that he is a superior child."

A perusal of the above would go on to show that I.Q. is calculated by taking both, the mental age and the chronological age and as per the above formula, there can be a difference in the chronological age and the mental age, of similarly situated boys and it would not mean that they necessarily would have a equal mental age. Thus, no fault, as such,

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can be found with the option given by the Board.

S.No. 6

Question No.29 According to Howard Gardner's theory of multiple intelligence, which of the following statements is true?

- (A) Intelligence is not a single entity
- (B) Intelligence are interdependent
- (C) Different types of intelligence interact and work together
- (D) All of the above

Regarding the above question, the option given by the Board is option 'D' whereas stress has been laid by counsels for the petitioners, upon option 'B', since all intelligences are interdependent and option 'D' would not be the correct answer. Reliance is placed upon material attached with CWP-1681-2016, to submit that intelligences are interdependent, since they are inter se interlinked. It is submitted that intelligence is not a single entity but there exists multiple intelligences which work together to provide a solution to the problem and therefore, the better option was option 'B' instead of option 'D'.

Mr.Puri, on the other hand, referred to the book by Howard Gardner titled 'Frames of Mind: The theory of Multiple Intelligences' in 1983. It was, accordingly, submitted that intelligences possess relatively autonomous intellectual potential but it is difficult to confine them in water tight compartments and the interactions and interdependence cannot be denied when one talks about different aspects of human behaviour. The ability to understand, reason and perceive quickness in learning, mental alertness, ability to grasp relationship and the capacity and shrewdness to

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understand well and to reason well. Adaptability and comprehending of different classes of skills or abilities including thinking, obstructing and using samples and concepts, were the traits. It is, accordingly, submitted that the primary mental abilities of verbal furnishing, indicative reasoning, memory and speed, all combined together and therefore, the better option was that intelligence was not a single entity or interdependent and interconnected and worked together and therefore, it would mean all of the above rather than only the word interdependent. Thus, in view of the above, no fault can be found with the option given by the Board.

S.No.8

Question No.47

- (A)
- (B)
- (C)
- (D)

As per counsels for the petitioners, option 'D', 'all of the above' was the correct answer, instead of option 'A', 'speech', opted by the Board. Reference was made from CWP-506-2016, to the UGC NET examination for the year 2012, Paper-II and the Modern Punjabi Grammar and Lekh Rachna of the Punjab School Education Board, in respect of 10th class, to submit that what the petitioners projected was correct and similarly, reference was made to various other books including Language Science written by Babu Ram Saxena of Language Department, Punjab, Punjabi Grammar and Essay Writing published by Punjab School Education Board.

Counsel for the Board, on the other hand, projected that as per

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the opinion of the Subject Experts, the catch in the question was the word 'language' and the other option, 'sign expression', had nothing to do with the speech, which was the essential ingredient and the primary mode of communication of a language. Accordingly, it was submitted that 'language' is only method of communicating ideas, emotions and desires by means of a system of voluntarily produced symbols and vocal science and signals. The submission, thus, has been rightly made that the stress in the question was 'language' which was the primary mode around which the question revolves and the option which is projected as above, would not relate to the concept of language, which is the question which had been asked from the candidates. Therefore, the better option necessarily, as held out by the experts, does not apparently suffer from any mistake, which would warrant interference.

Keeping in view the above discussion, this Court is, thus, of the opinion that no fault, as such, can be found in the option given by the Subject Experts, on the face of the record.

S.No. 11

Question No.84 Which of the following statements is not correct?

- (A) Dictation can help in teaching spellings.
- (B) Transcription can be used for practicing writing.
- (C) Substitution tables may be used for teaching a new construction of a sentence.
- (D) In a good composition ideas should be placed in logical sequence.

Regarding question No.84, which is in a negative form, the

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Board had opted for option 'A'.

Counsels for the petitioners have relied upon Annexure P1 of CWP-316-2016 to submit from Hand Book of Teaching English, that the methods of teaching word are spelled out under right principles, which are as under:

- (1) Old Drill Method
- (2) New Drill Method
- (3) Incidental Method
- (4) Transcription Method
- (5) Play-way Method
- (6) Dictionary Method
- (7) Dictation Method
- (8) Grouping Method

It is, accordingly, submitted that by the process of dictation of words, the words' spellings of a student would improve and therefore, option 'A', as given by the Board, is incorrect option and the experts opinion was apparently, on the face of it, was incorrect.

Mr.Puri has relied upon observations by Tomkinson wherein it has been observed as under:

“Some educationists may believe that it can be used for teaching spelling to the pupils. But even this notion is not correct. In this regard, Tomkinson observes:

"Dictation does not and cannot and never has taught spellings"

However, part of the material supplied by Mr.Puri itself would go on to show that some educationists also believe that it may be used for teaching spellings to the pupils. The reasons which has been given by the petitioners, in the present case, apparently, make out that the option which has been given by the Board that 'dictation does not help in teaching spellings' is apparently, on the face of it, palpably wrong. It is common knowledge that a person while taking down dictation would help and improve his spellings as necessarily, he will have to put down the words heard, in the written format and for that, his spellings skills would necessarily improve. Therefore, the option given by the Board, does not seem to be a correct option. Resultantly, the petitioners are right to submit that benefit of question No.84 should be given to them.

S.No.16 Question No.98. In the Vedic period which of the three gods were important?

- (A) Rudra, Vishnu and Indra
- (B) Agni, Indra and Soma
- (C) Indra, Varun and Rudra
- (D) Agni, Indra and Vishnu

The Board had given option 'B' as correct option, which was dispelled by counsels for the petitioners on the ground that option 'D' was the correct answer. Reference was made to the material attached as Annexure P13 along with CWP-577-2016, a Social Science book of the Punjab School Education Board wherein it was mentioned that 'Vishnu' also is one of the three Gods of the Rigveda period.

In contrast, Mr.Puri relied upon a textbook in History for Class

VI of the National Council of Educational Research and Training, to submit that 'Agni' the God of fire, 'Indra' a warrior God and 'Soma' a plant from which a special drink was prepared, would go on to show that option given by the Board was correct. It was further submitted that even from the material placed by counsels for the petitioners also, there was mention of the same three Gods. However, merely because there was mention of Varuna, Surya, Pushan, Vishnu and Asvins, that would not make option 'D' the better option. Resultantly, this Court is of the opinion that the material placed by counsels for the petitioners also does not, as such, demonstrate or confirm, in any manner, that option 'D' would be the correct option and this Court is not convinced that there is any scope for interference, as projected.

S.No.22

Question No.133. Judiciary plays an important role because it is

- (A) Dependent
- (B) Independent
- (C) Independent of executive and legislature
- (D) None of the above

Regarding the above question, there seems to be no iota of doubt that option 'C' is the better option and not option 'B', though it might be partially correct, but option 'C' is more elaborative regarding the independence of the judiciary from the executive and legislature and therefore, there is no scope for accepting the submission of counsels for the petitioners.

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S. No. 23

Question no.142. For the effective use of the story-telling method is Social Science, which of the following statement is incorrect?

- (A) The teacher should tell the story in an orderly manner.
- (B) The teacher should use catchy words and phrases.
- (C) The teacher should add his/her own imagination.
- (D) The narration should suit the level of the audience.

Regarding question No.142, the Board having opted for option 'B', was opposed by counsels for the petitioners that even option 'C' would be a correct answer as the teacher could always add to the effective use of story telling methods in Social Sciences.

Counsel for the Board, accordingly, submits that the effective method would be arousing the interests of the learners and motivating them to learn by giving them concrete live experiences and making the story more meaningful. The question being framed in a negative manner, the story teller had to narrate the story using appropriate skills and follow a particular manner by adding his own imagination to suit the level of the audience. In such circumstances, the use of catchy words and phrases would not come into play and accordingly, that statement is incorrect. Accordingly, there seems to be no scope for interference in the above question also, which is sought to be objected to.

35. ' '

- (A)
- (B)
- (C)

(D)

For the said question, the Board had opted for option 'B' as the correct answer key, which was sought to be objected by counsels for the petitioners as being wrong on the ground that option 'C' 'tan' would be the correct option, being the last portion of the word. Reliance was placed upon the material (Annexure P5 from CWP-2145-2016) to submit that 'vartan' was the correct option. The said submission also does not take counsels for the petitioners a long way, since the textbook is a guide for the Punjab State Civil Services Preliminary Examination. Reliance, as such, cannot be placed upon the credibility of the author. However, one of the options given is 'vartan', which is the second portion of the word, whereas, option 'C' 'tan' has not been given. The phonetic sound of Punjabi language and word 'n' would also be the last portion. As such, the option given by the Board does not suffer from any infirmity, which would require interference, keeping in mind the basic principles, elaborated above.

Lastly, the issue arises regarding the argument raised by Mr.H.C.Arora, counsel for the petitioners, regarding the questions in the bilingual section. Mr. Arora has referred to question No.1, 3, 7, 16, 19, 20 & 22 of Set No.1, to submit that the petitioners who had attempted the questions in Punjabi would be at a disadvantage in answering those questions. It is submitted that the words given were in English, meaning of which was asked for and being a difficult English word. Thus, the candidates were at a disadvantage, who had attempted the paper in Punjabi. The questions are as under:

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1. 'Extinction' occurs when
 - (A) A natural response of the organism is not reinforced.
 - (B) A conditioned stimulus is not accompanied by reinforcement
 - (C) A stimulus is not associated with reward
 - (D) A conditioned response is not reinforced
3. The phenomenon of 'Differential Inhibition' is associated with
 - (A) Spontaneous recovery
 - (B) Experimental extinction
 - (C) Discrimination learning
 - (D) None of the above
7. 'Brain Storming' technique is essentially used for
 - (A) Developing general mental ability
 - (B) Encouraging convergent thinking
 - (C) Creating interest in activities
16. A period during which little conscious thought is applied to a problem may be a period of
 - (A) Preparation
 - (B) Incubation
 - (C) Illumination
 - (D) Verification
19. In developmental terminology, Phenylketonuria (PKU) refers to
 - (A) Down's syndrome
 - (B) A hereditary enzyme deficiency
 - (C) Microcephaly
 - (D) Cretinism
20. The upper part of a baby develops earlier than the lower

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part is termed as

- (A) Proximodistal
- (B) Cephalocaudal
- (C) General to specific
- (D) Corticodistal

22. The term 'intra-individual differences means

- (A) Differences among various traits in a given individual
- (B) Differences in a given traits between two or more individuals
- (C) Differences in a given trait in a given individual associated with the passage of time
- (D) Differences in a given trait in a given individual associated with errors of measurement

The contention of the counsel for the Board is that it would not be within the scope of the petitioners to challenge the answer keys as to the difficulty of the questions. Admittedly, they are part of the syllabus of child development and pedagogy (bilingual). The same is regarding the principles and instructions of teaching. Similarly situated students had also attempted the questions in Punjabi and were equally placed in answering the same and facing the same difficulty. The same students have also necessarily to even answer questions No.61 to 90 which were in English language and which were of a far higher plane and level and were compulsory.

It is not disputed that the petitioners are competing for selection to the post of Masters Cadre and are to teach the students from Class 6 to 8. Therefore, for them to object that they were not up-to-date

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with the principles of basic instructions of teaching, would not be justified. Even otherwise, it would not be within the scope of this Court to go into the issue of the difficulty of the questions as other candidates would also necessarily be facing and other similarly situated persons are entitled the same problems. Similarly, the candidates who had attempted the questions in English language would have also to face the problem regarding questions No.31 to 60 whereas the questions were totally Punjabi based and therefore, the argument raised is without any basis.

Accordingly, keeping in view the above settled position of law and keeping in view the fact that the Committee of experts had gone into the issue to remove any discrepancy in the answer keys and have examined the same, not once but twice, this Court is of the opinion that no further fault can be found in the answer keys. It is not for this Court to substitute its opinion over and above that of the experts, except where the answer keys, on the face of it, is apparently wrong. Resultantly, the maximum benefit that the candidates can draw is regarding question No.84, which has been discussed in detail above.

Lastly, the issue, thus, arises is whether the petitioners and other similarly situated persons are entitled for the extension of the cut-off date, as admittedly, the PSTET was conducted on 13.12.2015 and the test was held on 14.08.2014, as per their Right to Free & Compulsory Education Act, 2009. The guidelines issued by the NCERT held that the said test was to be held every year. A period of almost 16 months has expired since the last test was held. A large number of unemployed youth have become eligible for Government jobs. The Government, though being

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aware of it, has issued a spate of advertisement of as many as 5, through the Education Recruitment Board on 20.11.2015, for the following number of posts:

- "(i) 1200 posts of Math Masters/Mistresses*
- (ii) 1000 posts of Punjabi Masters/Mistresses*
- (iii) 350 posts of Hindi Masters/Mistresses*
- (iv) 1800 posts of Science Masters/Mistresses*
- (v) 1500 posts of Social Studies*
- Masters/Mistresses"*

The petitioners had approached this Court before the cut-off date, in the advertisement in question, which was 12.12.2015, a day before the cut of date, aggrieved by this action of the Government. Resultantly, on 12.12.2015, in CWP-25249-2015 titled Mandeep Kaur & another Vs. State of Punjab & others, an interim order had been passed by this Court, keeping in view the earlier directions issued in CWP-21301-2011 titled Gurjinder Singh Vs. State of Punjab & others, on 13.02.2012. Keeping in view the directions issued by this Court, in that case, the State had rectified the grievances and given opportunity to the candidates who had passed the test but could not submit the application before the last date.

Similarly, in CWP-1965-2012 titled Parminder Pal & others Vs. State of Punjab, it had been held out that the Government would comply with the directions issued by the NCTE, so that prospective candidates for the posts of teachers are not divested of their right of consideration. The objection of the State that Division Bench judgment in CWP-346-2013 titled Antim Kumari Vs. State of Haryana & others, would be applicable,

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was, accordingly, kept in mind and it had been noticed that the observations of the Division Bench did not support the State and even the Division Bench had permitted the petitioners who had been allowed to appear for the interview, provisionally, on account of the non-holding of the test in the year 2012. Thereafter, the State Government had granted its approval to consider those candidates for appointment who had sat in the test and became successful and had been permitted to apply provisionally.

It is pertinent to mention that in Antim Kumari's case (supra), the cut-off date for applying was 08.12.2012 and the writ petitions had been filed, thereafter, on account of the candidates' applications being not considered, in view of the condition in the advertisement. The test had been held on 26.06.2013 and the result had been declared on 17.07.2013. In the present case, the petitioners have approached this Court prior to the cut off date and therefore, reliance of the State upon the said case, would not be applicable. It is in such circumstances, on 12.12.2015, the cut off date had been extended for a period of 2 weeks and the declaration of the result of the PSTET, which was to be held on 13.12.2015, would entitle the persons who would qualify in the said test to be eligible to apply.

Thereafter, the present set of litigation regarding the validity of the answer keys came to be initiated in which interim order was, thereafter, passed on 08.01.2016 and the extension which had been granted on 12.12.2015 was further extended, in continuation of the order dated 12.12.2015. The date of applying was extended till 25.01.2016, till the result of the PSTET was revisited by the Board. State Government was directed to issue public notice regarding the extension of time, so that

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candidates who would be beneficiary of the revised result, would be able to apply, on the basis of the benefit, if any, granted by the Board.

In such circumstances, the interim orders dated 12.12.2015 and 08.01.2016 are confirmed, especially keeping in view the fact that the State had never contested the issue of extension of the cut-off date by filing reply, thereafter.

Accordingly, the writ petitions are partly allowed, with the directions to the Board to give the benefit of the marks to all the candidates for question No.84, as reproduced above and similarly, in the corresponding sets of question papers and revise and declare the result, accordingly, by 01.06.2016. On the basis of the revised result, the candidates will be eligible to apply for the posts advertised of Masters Cadre, by 15.06.2016.

(G.S. SANDHAWALIA)

JUDGE

May 18th, 2016

sailesh