

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

CWP No. 741 of 2016

Reserved on: 17.02.2016

Date of decision: 03.03.2016

Hardeep Kaur and others

....Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

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

Present: Mr. H.C. Arora, Advocate,
for the petitioners.

Mr. J.S. Puri, Addl. A.G., Punjab.

G.S.SANDHAWALIA, J.

The petitioners seek steps for resolving the controversy regarding two different sets of question papers of paper II (Set 1) of the Punjab State Teachers Eligibility Test, 2015 (in short 'PSTET-2015') held on 13.12.2015. Resultantly, they pray for the issuance of grace marks/additional marks for various questions by examination of the anomalies in the question paper. Reliance is placed upon the representation dated 15.12.2015 submitted to the Education Minister, Punjab alongwith copies to the concerned officials.

The pleaded case of the petitioners is that they had sat in the PSTET-2015 on 13.12.2015 in the examination center in Bhai Gurdas Institute of Engineering end Technology, Sangrur. After examination, the petitioners were shocked to note that the question paper given to them was different from the question paper given to the other candidates and there

was a mistake in the answer keys. Respondent no. 3-Board had uploaded a different answer key on its website with regard to the series 2 question paper, which was removed and another answer key labelled as 'Revised Answer Key (Special)' had been put on the website. The petitioners had thus not managed to qualify and did not achieve the 90 marks on account of different question paper having been supplied to them and they had suffered serious prejudice. Reliance is placed upon the various questions and reference is made to Annexure P-1 wherein, two booklets had been attached of the set I which contained different questions bearing the same serial numbers. Accordingly, it was pleaded that the answer key of the Board could not be correct for the same set.

In the written statement filed by the respondent-Board, the factum of mistake which has occurred was not denied. It is submitted that there are 150 questions in the examination paper which was divided into two sections i.e. A and B. Section A was divided into 3 parts, Child Development and Pedagogy for question nos. 1 to 30, Punjabi language in question nos. 31 to 60 and English language in question nos. 61 to 90. This section was compulsory for all candidates. As regards Section B, it consists of two options of Maths and Science group and Social Studies group for which 60 questions were provided. In order to prevent cheating, 4 different sets of question papers were prepared which had jumbled up the serial numbers of same questions. Apart from that, one more independent back up unit was made and printed and sent to all nodal centres set up. This back up consisted of papers 1 and 2 comprising different questions of same difficulty level and using the same formula or dividing the each paper into 4 sets. It was only to be used in the unforeseen eventuality of paper leakage

and it was to be decided on the spot that which of the two is to be used. The printing had been done from a special printing press outside Punjab approved by the RBI. 6 complaints were received from the entire State regarding the mistake/mis-printing in paper 2 though they had not been given the question paper matching with the other students. 4 of the candidates from one centre of Bhai Gurdas Institute, Sangrur and the other 2 from DAV Edward Senior Secondary School, Tehsil Road Malout, District Muktsar Sahib. The complaints had been made between 14.12.2015 to 18.12.2015. Resultantly, the Chairperson had constituted a High Level Expert Committee on 18.12.2015 comprising of 4 persons including 3 members of different colleges with sound academic background. The Members of the Committee were occupying key positions in the field of education at college/university level as Principals, Professors, Head of Department, Dean of Faculties and Senators. The Committee had held its meeting on 19.12.2015 to sort out the problem regarding the 6 candidates. The problem had arisen due to the mistake which had occurred at the time of packaging and printing of the question papers at the concerned printing press. The question papers had been mixed up with the back up question papers and the central pages from 17 to 32 were the same. The pages earlier and after that were wrongly attached from the paper meant for the back up. The Committee had deliberated on the issue and segregated into groups to examine and take remedial measures and the recommendations were implemented by the Board. Therefore, separate answer key was supplied to all the 6 candidates and benefit of grace marks were ordered in the answer key given to them. The petitioners had also been informed regarding the revised special answer key and their details had been supplied to them by

M/s. Data Soft Computer Services Pvt. Ltd., New Delhi and their grievance had already been redressed. The bio-datas of the experts were attached as Annexure R-4. It was accordingly pleaded that no prejudice has been caused to the petitioners and, therefore, their grievance had already been redressed. The grace marks had been given wherever entitled to and once the experts had gone into the issue, it would not be prudent for this Court to re-examine the issue.

Counsel for the petitioner has vehemently argued that the experts were of different subjects and none were from the subject of English. Report had been given in a short span of time and did not inspire confidence and was a procured report and accordingly it was submitted that a fresh opinion should be called from an independent set of experts.

Counsel for the Board, on the other hand, justified the procedure adopted by the Board and submitted that the matter was no longer liable to be interfered with since the main relief had already been granted in as much as the petitioners redressal have been looked into and an appropriate action had been taken.

As noticed above, the factum has been admitted at the outset by the Board and there is no dispute qua this fact. Therefore, this Court is not estopped as such from going into the issue whether it was a disputed question of fact or not. The only issue thus arises as to whether the respondent-Board had acted on the request of the petitioner for redressal and whether the redressal is justified or not. The fact remains that the Board has appointed Dr. Ravinder Kaur, Principal (Retd.), Malwa Khalsa College of Education, Ludhiana who is now serving as a Principal with the SBBS Memorial Girls College of Education at Moga alongwith Dr. Amit Kauts,

Dean Faculty of Education, Guru Nanak Dev University, Amritsar, Principal, MGN College of Education, Jalandhar and associated with them, Dr. Khushvinder Kumar, Principal, M.M. Modi College, Patiala alongwith Dr. Sukhdev Singh, a Professor in the Department of Punjabi, Panjab University. 3 core questions were to be addressed by the Committee as per the decision of the Chairperson on 18.12.2015, which read as under:-

“The Committee shall submit its reports after examining the following points relating to question papers, with concrete recommendations/suggestions by 20.12.2012:-

1. Whether the different questions printed in Set No. 1 of Paper-II were in accordance with the prescribed syllabus for this examination?

2. Whether the difficulty level of these questions is the same in comparison with that of questions of other sets.

3. Under which circumstances/level the mixing of a few different questions of set No. 1 of Paper-II occurred”

Superintendent (Confidential) will provide all documents relating to these question papers to the committee and he will also intimate the members for holding meetings.”

The said questions were answered by the Committee as under:-

“Superintendent (Confidential) provided the Committee with complete Syllabus of Paper II, all the four sets of Paper A, manuscript of Paper B printed and kept for reserve and photocopy of the question papers submitted by the complainant who appeared in the PSTET examination. After thorough examination of all the documents the committee clarified the facts mentioned below:

(A) Description regarding differently printed question

<i>Sr. No.</i>	<i>Question No.</i>	<i>Subject</i>	<i>Remarks</i>
1	1 to 30	Child Development and Pedegogy	All these questions are of Paper B (Reserve Paper) of Paper-II which were according to the prescribed syllabus and their difficulty level is the same as of Paper A.
2	31 to 60	Punjabi Language	All these questions are of Paper B (Reserve Paper) of Paper-II which were according to the prescribed syllabus and their difficulty level is the same as of paper A.
3	61 to 68	English Language	All these questions are of Paper B (Reserve Paper) of Paper-II which were according to the prescribed syllabus and their difficulty level is the same as of Paper A
4	69 to 70	English Language	These questions have not been printed in the booklet
5	71 to 75	English Language	These questions cannot be solved because they are not related to the passage printed in the question paper.
6	76 to 90	English Language	These questions are of Paper A.
7	91 to 120	Mathematics	These questions are of Paper A.
8	121 to 145	Science	These questions are of Paper A.
9	146 to 150	Science	English and Punjab version do not match with each other
10	91 to 150	Social Studies/Social Science	All these questions are of Paper B (Reserve Paper) of Paper-II which were according to the prescribed syllabus and their difficulty level is the same as of Paper A.

(B) Suggestions of the Committee in light of the facts presented at Sr. No. 'A'

1. The questions at S. No. 1, 2, 3, 6, 7, 8 and 10 are correct as per the prescribed syllabus and their difficulty level is same as that of Paper A. Therefore a separate answer key of these questions should be prepared for evaluation.

2. Q No. 69 to 75 and 146 to 150 specified at Sr. No. 4, 5 and 9 cannot be solved by the candidates due to above said reasons. Keeping in view the fact that this is just a qualifying exam and not a competitive examination, candidates may be given the benefit of these 12 questions as per the marks allotted to these questions.

3. *Thus serious mistake was done by the printing press at the time of printing and packaging of Paper A Paper B.”*

A perusal of the above would go on to show that the 150 questions were analyzed by the 4 academicians to come to a conclusion that 30 questions belonging to the reserve paper was according to the prescribed syllabus and had the same difficulty level of the subject of Child Development and Pedagogy. Similarly, another 30 questions of Punjabi language were according to the prescribed syllabus and also of the reserve paper and questions no. 61 to 68 of the English language were according to prescribed syllabus. Accordingly, for the above said questions, the benefit of separate answer key was given for evaluation. Questions no. 69 to 75 of English language were not printed or were not related to the passage printed and questions no. 146 to 150 of Science did not match with each other. Accordingly, the benefit of 12 marks was given for these questions. From question nos. 76 to 90 of English language, 91 to 120 of Maths and 121 to 145, they being correct as per the prescribed syllabus were also evaluated by the separate answer key as were questions no. 91 to 150 of the social studies/social science which also belong to the reserve paper. The Committee had thus come to a conclusion that the mistake was done by the printing press at the time of packaging of paper A and paper B.

It is, this, apparent that the petitioners grievance already stand redressed by the time they approached this Court on 14.01.2016. It is, however, another matter that they might not have been informed in detail of how the Board had tackled the issue.

In such circumstances, once the matter has been redressed by the academicians who were appointed by the Board and whose bio datas

have been attached and who are eminent persons in their field of education having obtained various distinctions and achievements and occupied positions in various faculties of education. It is to be noticed that Dr. Sukhdev Singh is a present Professor of the Panjab University whereas, Dr. Ravinder Kaur was Dean, Faculty of Education, Panjab University from 2006 to 2010 and Convener, Board of Studies, Panjab University from 2008 to 2011. Similarly, Mr. Amit Kauts is Principal, MGN College of Education since the last more than 10 years whereas Dr. Khushvinder Kumar being the Member of M.M. Modi College, Patiala has also been associated with the Panjab University in various levels including Principal, Faculty of Education, Principal, Academic Council, Principal, Staff Selection Committee and other Committees for extension of affiliation courses etc.

Reference can be made to the judgments 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.”

In such circumstances, the Board has rightly fallen back on their advice and tried to sort out the issue and in the opinion of this Court, the grouse of the petitioners has been adequately redressed and calls for no interference under Article 226 of the Constitution of India and the present writ petition is accordingly dismissed.

03.03.2016
shivani

(G.S. SANDHAWALIA)
JUDGE

