

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2017

CORAM

THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.Nos.8969 and 8970 of 2017

Minor K.Varshinidevi
rep. by her mother and guardian
A.Geetha .. Petitioner in W.P.No.8969/2017

Minor M.S.Aarthy
rep. by her mother and guardian
S.Rajeswari .. Petitioner in W.P.No.8970/2017

vs

1. The Directorate of Government Examinations
rep. by its Director,
College Road, Chennai-6.
2. The Government of Tamil Nadu
rep. by its Secretary,
School Education Department,
Fort St. George, Chennai-600 009.
3. The Director of School Education,
College Road, Chennai-6. .. Respondents in both W.Ps.

Prayer: Writ Petition No.8969/2017 has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st respondent herein to award One (1) mark to the students who attempted Question No.16 of Section -A of Part-II (Zoology) in the B-Type Question Paper for the subject Biology in the HSC Examinations, March 2017.

Prayer: Writ Petition No.8970/2017 has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st respondent herein to award One (1) mark to the petitioner since she attempted Question No.14 of Section-A of Part II (Bio-Zoology) in the A-Type Question Paper for the subject Biology in the HSC Examinations, March 2017.

For Petitioners : Mr.Kandhan Duraisami
in both W.Ps.

For Respondents : Mr.K.Venkataramani, AAG
assisted by
Mr.V.Anandhamurthy,
Additional Government Pleader

ORDER

The Writ Petitions have been filed seeking to issue a Writ of Mandamus, directing the 1st respondent herein to award One (1) mark to the students who attempted Question No.16 of Section -A of Part-II (Zoology) in the B-Type Question Paper and Question No.14 of Section-A of Part II (Bio-Zoology) in the A-Type Question Paper for the subject Biology in the HSC Examinations, March 2017.

2. According to the petitioners-wards, they did their schooling at Tagore Matriculation Higher Secondary School, Deviyakurichi, Attur Taluk, Salem District and their Higher Secondary Examinations during March 2017 with Registration Nos.359503 and 359234 respectively. It is stated that in Biology Question Paper supplied on 31.03.2017, the answers (a) to (d) given to Question No.16 in Section-A of Part-II (Bio-Zoology) (B Type Question Paper) and Question No.14 of Section-A of Part II (Bio-Zoology) in the A-Type Question Paper are wrong which is given hereunder:

'In a new born child the water content is of body weight

(a) 80-90%; (b) 55-60% (c) 71-78%; and (d) 80-95%'

The correct answer for the same as per Text Book is 85 to 90%. Though the petitioners knew the correct answer to that Question as 85-90 very well, they were not able to attend the above question properly because of the fact that all the multiple choice answers to the above questions were wrong. Later, it came to their knowledge that in the Key Answer supplied to the Valuers of the Question Papers, it is instructed that if answer is given as 80-90% or 85-90% mark should be awarded. Since there was no chance of giving the correct answer as 85-90% and also the same does not find a place in the multiple choices answer, the petitioners pray to award one mark for them since the question was attempted by them. In this regard, the petitioners sent representations dated 08.04.2017 to the respondents herein requesting the authorities to forthwith award one mark to the students who attempted Question No.16 of Section-A of Part II (Zoology) in the B-Type Question Paper for the subject Biology and Question No.14 of Section-A of Part II

(Bio-Zoology) in the A-Type Question Paper in the HSC Examinations, 2017. As there was no reply for the same, the petitioners are before this Court with this Writ Petition.

3. Learned Counsel appearing for the petitioners would submit that in Biology Question Paper supplied on 31.03.2017, the answers (a) to (d) given to Question No.16 in Section-A of Part-II (Bio-Zoology) (B Type Question Paper) and Question No.14 of Section-A of Part II (Bio-Zoology) in the A-Type Question Paper are wrong and the correct answer is only 85 to 90%. Though the petitioners knew the same very well, they could not give the correct answer as the same does not find a place in the multiple choices answer. Therefore, one mark should be awarded to the petitioners since the said question is attempted by them.

4. Learned Additional Government Pleader appearing for the respondents would submit that no mark could be awarded as sought for by the petitioners because though as per the Text Book, the correct answer for the question-in-dispute is 85% to 90%, in the question papers, the students were asked to choose the most suitable answer only from the given four alternatives. Hence, the most suitable answer as per the options available is (a) 80% to 90%. Therefore, an instruction was given to the Valuers to give one mark for the students those who have ticked 80% to 90% or the correct answer 85% to 90%. Hence, the Writ Petitions are liable to be dismissed.

5. Heard both sides and perused the materials available on record.

6. The petitioners-wards have come up with the present Writ Petitions to award one mark for the wrong answer given to Question No.16 in Section-A of Part-II (Bio-Zoology) (B Type Question Paper) and Question No.14 of Section-A of Part II (Bio-Zoology) in the A-Type Question Paper in Biology Question Paper supplied on 31.03.2017. According to the Text Book, the correct answer for the said question is 85 to 90%, but the same has not been given. But, the grievance of the petitioners is that the Valuers were given instructions to give one mark for the said question, if the students have ticked either 80 to 90% or written the correct answer 85 to 90%. The students who have attempted the said question also should be given one mark for the same. But, according to the respondents, the students should choose the most suitable answer only from the given four alternatives as per the instructions given to them in the question paper. Hence, the most suitable answer as per their knowledge is option (a) 80% to 90%. Therefore, no mark could be awarded for those who have ticked other than 80% to 90% or written the correct answer.

7. In the objective method of test, students are to select the correct answer from the answer furnished in the question paper itself. The paper setters who set the question paper also furnish the correct answer along with the question and such correct answer is called 'Key Answer'. Normally, the key answers are reviewed by various committees. In the instance case also, the Key Preparation Committee members of Bio-Zoology subject prepared the key answers. After several reviews, the key answers are furnished. While doing so, the said Key Preparation Committee found certain defects in question No.16 and recommended that "In Question Type A, Question No.14 and Question Type-B, Question No.16 - if answered as 85% - 90% mark should be awarded". This is the recommendation of the above committee, as they did not agree with the answers suggested by the paper setters.

8. In this regard, it will be useful to extract the portion of an affidavit filed on behalf of Key Preparation Committee Members of Bio-Zoology Subject in which it has been stated as follows:

'5. We humbly submit that the correct option as per the text book is 85% to 90% which is not given in the question paper. But while preparing the key, it may be kindly noted that in the question paper the students were asked to choose the most suitable answer only from the given four alternatives. Hence the most suitable answer as per our knowledge is option (a) 80% to 90%. Hence as per the key answer if the student has mentioned option (a) mark should be awarded.

6. We humbly submit that if the student has answered as per the text book which is 85% to 90% mark should be awarded and the same has been mentioned in the key answer as NOTE prepared by this committee members for the benefit of the students.

7. It is humbly submitted that in the interest of the welfare of the students the committee members have the right as subject expert to mention in the key answer, the correct answer according to the text books and award mark, if there is no text book answer in given choices in the question paper.'

Albeit, no candidates can claim as a matter of right that a mark be awarded for the answer subsequently found to be incorrect, he is entitled to be awarded mark even if his answer is incorrect, based on the 'Key Answer'.

9. It is pertinent to point out that in similar circumstances, in W.A.No.2476 of 2004 and etc. batch in G.Nanthini Vs. The Registrar, Anna University, Guindy, Chennai-

25 and others, a Division Bench of this Court, while giving a positive direction to the respondents has held as follows:

'3. Out of above mentioned questions, dispute regarding the correctness of the valuation over 25 questions was raised. There was no argument on three of the questions, leaving 22 questions to be addressed by this Court. The learned Single Judge has taken much pains in going into the matter in detail referring to several standard books on various disciplines.

4. In the dispute relating to the evaluation of answer papers of entrance examination with multiple choice objective type tests, the judgment rendered by the Supreme Court in Kanpur University v. Samir Gupta (AIR 1983 SC 1230) is an authoritative one. The said view holds good even now and has been followed in several decisions. What is deducible from the above Supreme Court decision is that (i) normally the key answer is presumed to be correct unless there is a glaring instance of fallacy;

(ii) the standard text book is the norm; and

(iii) the key answer as traceable to the standard text book has to be preferred and relied upon as that is the basis well known to the students for preparation for examinations.

In the above decision, one more significant factor is the acceptance of the students' contention regarding correctness of the questions answered by them basing upon the text books. If the prescribed test book is not followed, then, it would lead to endless litigation as there are infinite number of books written by different authors on each of the disciplines and at times they may differ from each other by which more confusion is added rather than solving the problem. It is also necessary to have some suitable guidelines so as to avoid this perpetual litigation relating to the entrance tests which almost crop up every year when the entrance tests are conducted resulting in the delay in admissions and also heart-burn among the student community and particularly, mental anguish to their parents. That is why, we feel it safe, as propounded by the Supreme Court to follow the prescribed text books in deciding the correctness of the key answers provided by the paper setters. Only if the key answers provided by the paper setter are against the text book, we can go to other standard books.

It may be stated based on the above decision that there can be only one key answer. But, when the multiple choices given

for the question are all wrong, in the interest of the career of the students, marks have to be awarded. Though that should be only an exception, unfortunately, the exception has become a rule. Therefore, the authorities have to be careful in setting the question papers. When the questions are set, the key answers should be furnished by the paper setters. The Expert Committee collecting answers after the examination is over leads to these kinds of risks.

10. In the light of the above discussion, the first respondent is directed to take necessary steps to award one mark for the Question No.16 of Section -A of Part-II (Zoology) in the B-Type Question Paper and Question No.14 of Section-A of Part II (Bio-Zoology) in the A-Type Question Paper for the subject Biology in the HSC Examinations, March 2017 and / or recompute the marks, if the evaluation is already done.

11. The Writ Petitions are disposed of with the above directions. No costs.

Sd/-

Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

To

1. The Director,
The Directorate of Government Examinations
College Road, Chennai-6.
2. The Secretary,
The Government of Tamil Nadu
School Education Department,
Fort St. George, Chennai-600 009.
3. The Director of School Education,
College Road, Chennai-6.

+2ccs to M/s.Muthumani Dorai sami,Advocate sr.36431
+1cc to Government Pleader sr.36523

W.P.Nos.8969 and 8970 of 2017

ad(co)
ss(5/5/2017)