

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2017

CORAM:

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE DR.JUSTICE S.VIMALA

W.A.No.564 of 2017
and
C.M.P.No.8042 of 2017

1. The Directorate of Government Examinations,
rep. by its Director,
College Road, Chennai - 600 006.
 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 - 600 006.
- Appellants/Respondents

... Vs ...

Minor K.Varshinidevi
rep. by her mother and guardian
A.Geetha. Respondent/Petitioner

Prayer: Writ Appeal filed under Clause 15 of Letters Patent Act, against the order dated 28.04.2017 made in W.P.No.8969 of 2017.

Writ Petition 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

For Appellants :Mr.K.Venkataramani,
Additional Advocate General
Assisted by Mr.T.N.Rajagopalan,
Special Government Pleader

For Respondent :Kandhan Duraisami

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JUDGMENT

(Judgment of the Court was delivered by
HULUVADI G.RAMESH,J.)

Heard the learned Additional Advocate General and the learned counsel appearing for the respondent.

2. We have gone through the order of the learned Single Judge. Insofar as question No.14 of Section A of Part II (Bio-Zoology) in the A-Type Question paper and Question No.16 in Section A of Part II (Bio Zoology) (B-Type Question Paper) are concerned, specifically options are provided in (a) to (d), but the correct answer to the said questions was not given in any of the said options. In such situation, as per the expert opinion, one mark should be awarded in the absence of such key answer, which is the requirement.

3. Though it is argued by the learned Additional Advocate General that the student ought to have chosen the near suitable answer to the question. At para No.5 of the affidavit filed on behalf of Key Preparation Committee Members of Bio-Zoology subject, it is stated as under:-

"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."

4. In para No.6 of the aforesaid affidavit, it is stated 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." In para No.7 of the said affidavit, it is stated 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 book and award mark, if there is no text book answer in given choices in the question paper."

5. The reasoning given by the learned Single Judge referring to the judgement of a Division Bench of this Court in the case of G.Nanthini Vs. The Registrar, Anna University, Guindy, Chennai-25 and others in W.A.No.2476 of 2004 and etc., batch, wherein, a judgment of the Apex Court in the case of Kanpur University Vs. Samir Gupta reported in AIR 1983 SC 1230 was referred to is correct. In the said decision, the Division Bench of this Court has held as under:-

"..... 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 Vs. 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."

6. It was further observed by the Supreme Court in the above referred decision that

"..... if the prescribed text 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. Only if the key answers provided by the paper setter are against the text book, we can go to other standard books."

7. The learned Single Judge referring to the above view of the Division Bench and the Supreme Court referred supra, held that 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. It was also held that though that should be only an exception, unfortunately, the exception has become a rule. The learned Single Judge, after discussion, directed the first respondent 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.

8. It is the plea of the learned Additional Advocate General that when the near suitable answer to the Question is "a", the writ petitioner ought to have opted the said option and the petitioner having failed to do so, the learned Single Judge ought not to have held when the multiple choices given are all wrong in the interest of the carrier of the students automatically marks have to be awarded.

9. A perusal of the documents filed in the typed set of papers reveals that as per the text book, the correct answer is 85% to 90%. Such being the case, apart from option (a) 80-90%, even option (d) - 80-95% is also the nearest option. Therefore, in our considered view that there is ambiguity as the said questions suggest more than one correct nearest answer. The writ petitioner cannot certainly be penalised for the same. However, in our considered opinion, one mark has to be awarded to a candidate, who has selected even wrong option though not the nearest in view of the opinion of the Key Answer Preparation Committee on this issue.

10. We make it easy to the State to award one mark for the said question uniformly to all those who applied for revaluation invariably without expecting nearest answer to be marked.

11. The Writ Appeal is disposed of accordingly. No costs. The connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To:

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The Directorate of Government Examinations,
College Road, Chennai - 600 006.
2. The Secretary,
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3. The Director of School Education,
College Road, Chennai - 600 006.

+1cc to Ms.Muthumari Duraisamy, Advocate sr.41514

W.A.No.564 of 2017

kgk(co)
ss(21/6/2017)

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