

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

**Civil Writ Petition No.24112 of 2017
Decided on : 25.10.2017**

Kuldeep

... Petitioner

Versus

State of Haryana and another

... Respondents

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

Present : Dr. Suresh Kumar Redhu, Advocate for the petitioner.

G.S. Sandhawalia, J. (Oral)

The petitioner seeks quashing of the result dated 09.10.2017 (Annexure P-12) to the post of Clerk on the ground that he has not been called for the purpose of interview.

The challenge has been raised on two grounds; firstly he has not been given the benefit of Questions No.60 and 100 and he has got 150 marks and if the benefit of those marks are given, he would make the cut, which is 152.

Qua the said argument, it would be clear from the perusal of the answer sheet that regarding two questions the petitioner has himself coloured two options, which would be further clear from the original record produced of the Answer Key. The instructions attached with the paper (Annexure P-6) particularly Clause 14 and 19 are very clear that if more than one option is found darkened, the answer should be treated as wrong and it cannot be evaluated. The same reads as under:-

*“14. Each question has four alternative answer of which only one is correct. For each question, darken only one circle, which ever you think is correct answer on the OMR answer sheet with **only Blue/Black Ball Pen provided by the Commission.** Pencil should not be used for darkening the*

circle. If more than one circle is found darkened, that answer will not be evaluated.

xxxxxxxxxxxxxx

19. While darkening the appropriate bubble(s) in the boxes darken the chosen bubble(s) fully as given below. If you darken more than one circle, your answer will be treated as wrong and such answer shall not be evaluated."

A similar proposition had come before this Court in **CWP No.22918 of 2016 'Anshu and others Vs. State of Haryana and another'**, wherein the above said instructions No.14 and 19 alongwith other instructions No.8 and 9 had been challenged which required that the Commission could even disregard and not evaluate the answer sheet, wherein there was cutting or scratching of the answer sheet. Resultantly, it was held that the candidates would be bound by the terms and conditions of the instructions and having given their papers, cannot turn around and challenge the instructions after having taken a chance. Reliance was placed upon the judgment of the Apex Court passed in '**Madan Lal and others Vs. State of Jammu and Kashmir and others**' (1995) 3 SCC 486 and '**Chandigarh Administration and another Vs. Jasmine Kaur and others**' 2014 (10) SCC 521 for the said principle.

Therefore, keeping in view the above, the petitioner cannot as such claim any benefit that the said questions should be evaluated in his favour.

Regarding the second argument, which has been raised is that the petitioner was an applicant of EBPB Category, but had applied against the General Category, as he could not attach the said certificate. After application representations dated 28.06.2017 (Annexure P-7) and

11.07.2017 (Annexure P-9) have been moved with respondent-Commission to consider his candidature in the said category and therefore the benefit should be granted for consideration against the said category, since the cut off for the said category is 132 and petitioner has qualified the same.

The said argument also cannot be accepted.

It is not disputed that the petitioner himself has applied in the General Category, which would be clear from the application form (Annexure P-5). The cut off date prescribed as 06.01.2016 as per Advertisement No.10/2015 (Annexure 4) itself. The terms of the advertisement are very clear that the benefit of reservation has to be given on the basis of certificates issued at that point of time, which also have to be incorporated in the application form and at the subsequent stage it is not open for the candidate to change his category. The same would lead to an unending correction procedure which would be followed by the respondent-Commission, which would ensure that the selection process cannot be completed on account of the mistakes detected by the candidates.

Accordingly, the second argument is also not liable to be accepted.

Resultantly, the present writ petition is dismissed in limine.

OCTOBER 25, 2017
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No