

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4265 of 2018

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Vidya Raj, Son of Rasdeo Prasad @ Rajdeo Prasad, Resident of Village + Post- Sain @ Sain Shiv Parsan Singh, Police Station- Kanti, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, GAD, Government of Bihar, Patna.
2. The Secretary, Bihar Public Service Commission, Bailey Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Manoj Kumar, Adv. Mr. Mazharul Hassan, Adv.
For the BPSC	:	Mr. Lalit Kishore, Sr. Adv. Mr. Satyabir Bharti, Adv.
For the State	:	Mr. Divya Verma, AC to AG-3

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 16-08-2018

Heard learned counsel for the petitioner and counsel for the State.

In this case, a grievance has been raised by the petitioner that he has wrongly been declared disqualified in the preliminary test for want by one number on the ground that the Bihar Public Service Commission (in short “B.P.S.C.”) wrongly refused to grant one number to the question no.62 which he has correctly answered and submitted that if that mark is added, in such circumstances, he will come under the zone of consideration and, as a consequence, he will have an opportunity to participate in the main examination.



Virtually, the question has been raised that this Court should give direction to the B.P.S.C. to recheck the answer-sheet with respect to the petitioner.

The B.P.S.C. published the advertisement dated 15.9.2016 inviting application from the eligible candidates for 60th to 62nd Common Combined (Preliminary/Main) Competitive Examination, 2016 for filling up 642 posts in Forest Department of Government of Bihar, the last date of submission of the application after being extended from time to time was fixed on 5.12.2016. Several applications were received including the petitioner whereafter the preliminary test examination was conducted on 12.2.2017 comprising 150 of objective types of test inclusive general knowledge and general science, the answer-sheet was of OMR type having multiple choice alternative answers for each question. After the examination was over, the Commission issued notice on 7.4.2017 in daily newspaper intimating all the candidates that the provisional answer-sheet has been uploaded in the website of the Commission, if any candidates have to raise any objection to the same, that must be submitted along with the suggestion and supporting materials by 24.4.2017 by 5.30 PM. In pursuance thereof, 271 objections were received whereafter the Expert Committee was constituted, all the objections were placed before



the Expert Committee for consideration, their proposed suggestion and finalize the answer. The Committee examined all the suggestions and has found that the answer of question no.32, 102, 131 (equivalent to question no.62 of C series) and 140 of question booklet series 'A' have wrongly been mentioned in the key answer and, accordingly, proper recommendation was given by the Expert Committee which was approved by the B.P.S.C. After making necessary correction, the result was published.

The petitioner has not filed any objection on the ground that the provisional answer key-sheet shows that the question no.62 of 'C' series is answer no. A which he has marked, is the correct answer. All the objections were placed before the Committee, deliberation before the Commission by way of counter affidavit reflects the Expert Committee finally approved the answer as 'A' to the question no.131 which is equivalent for Set "C" Question No.62 A-E. Accordingly, the final answer-key was prepared and also notified in their web-site. Accordingly, the necessary correction has been made showing the answer of question no.62 as 'E'.

Learned counsel for the petitioner submits that the answer-key which was finally arrived by the B.P.S.C. is incorrect answer and for that he has attached a book of general knowledge



published by Lucent's Publication wherein he has pointed out that the proper answer will be 'A' as vitamin B1 is not found in orange. The petitioner is correct that vitamin B1 is not found in orange but, the question no.62 has been formulated in the following manner;

62. Which of the following pairs is not correctly matched?

- (A) Vitamin B1 – Oranges
- (B) Vitamin D – Cod-liver oil
- (C) Vitamin E – Wheat germ oil
- (D) Vitamin K – Alfalfa
- (E) None of the above/More than one of the above

Therefore, the question is not that which vitamin is found in which the material item but, the question is that pairs are not correctly matched. As per petitioner, vitamin B1 is not found in orange but, other vitamins which are also not found the corresponding material and that is the reason the Expert has given the correct answer as option 'E' for question no.62.

This issue is no longer res integra as the dispute arising from this examination has already been gone into by the Coordinate Bench of this Court in C.W.J.C. No. 16241 of 2017 and on perusal of that order, it appears that the Court has also recorded that there the question answer was corrected by the Expert Committee and one of the questions was 131 of A series was made necessary correction by the Expert Committee and



finally the result was published and the Court has not found any error in the action of the B.P.S.C. as the law is very well settled that after the examination is over, the provisional answer-sheet is published in the website, the objections are invited and the same was placed before the Expert committee for necessary opinion. If any answer is found to be incorrectly mentioned in the provisional answer-sheet is accordingly corrected by the B.P.S.C. on the basis of opinion given by the Expert committee. In this case also the same process has been adverted to and this process has been approved by this Court in the case of Ravindra Kumar Singh & Ors. Vs. The High Court of Judicature at Patna & Ors. reported in 2016 (1) PLJR 865. In that case, this court had directed the procedure for conducting the competitive examination and its result. Another judgment of single Bench of this Court in the case of Ashutosh Kumar Jha & Ors. Vs. The State of Bihar & Ors. reported in 2016 (3) PLJR 270 which has been approved in L.P.A. No. 1235 of 2016 (Ashutosh Kumar Jha Vs. State of Bihar & Ors.). Inasmuch as the Hon'ble Apex Court also in the case of Ran Vijay Singh & Ors. Vs. State of Uttar Pradesh & Ors. reported in 2018 (2) SCC 357 has held that and approved the same view. It is relevant to quote paragraph no. 30 and 31 which reads as follows:-

“30. The law on the subject is therefore, quite clear and we only propose to highlight a few significant conclusions. They are:



30.1. *If a statute, Rule or Regulation governing an examination permits the re-evaluation of an answer sheet or scrutiny of an answer sheet as a matter of right, then the authority conducting the examination may permit it;*

30.2. *If a statute, Rule or Regulation governing an examination does not permit re-evaluation or scrutiny of an answer sheet (as distinct from prohibiting it) then the Court may permit re-evaluation or scrutiny only if it is demonstrated very clearly, without any “inferential process of reasoning or by a process of rationalisation” and only in rare or exceptional cases that a material error has been committed;*

30.3. *The Court should not at all re-evaluate or scrutinize the answer sheets of a candidate – it has no expertise in the matter and academic matters are best left to academics;*

30.4. *The Court should presume the correctness of the key answers and proceed on that assumption; and*

30.5. *In the event of a doubt, the benefit should go to the examination authority rather than to the candidate.*

31. *On our part we may add that sympathy or compassion does not play any role in the matter of directing or not directing re-evaluation of an answer sheet. If an error is committed by the examination authority, the complete body of candidates suffers. The entire examination process does not deserve to be derailed only because some candidates are disappointed or dissatisfied or perceive some injustice having been caused to them by an erroneous question or an erroneous answer. All candidates suffer equally, though some might suffer more but that cannot be helped since mathematical precision is not always possible. This Court has shown one way out of an impasse – exclude the suspect or offending question.”*

In that view of the matter, this Court is of the view that this Court cannot act as an appellate forum, it is basically the job of the expert to find out the correct answer, only in case of the



extreme circumstances if it is found that the opinion of the expert which has been accepted by the Commission is wrong, in that circumstances, the Court can interfere. If the Court finds no error in the opinion of the Expert Committee, in such circumstances, the Court should refrain from interfering in the action of the B.P.S.C. which has published the final result on the basis of opinion given by the Expert Committee.

Hence, this Court does not find any merit in this writ application and, accordingly, the same is dismissed.

(Shivaji Pandey, J)

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