

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 3561 of 2018**

Pooja Chandrakar D/o Pushkar Chandraker Aged About 23 Years R/o Village Mohandi, District Mahasamund, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, General Administration Department, New Mantralaya, Raipur Chhattisgarh.
2. Through Secretary, Chhattisgarh Public Service Commission, Raipur Chhattisgarh.
3. Through Examiner Controller, Chhattisgarh Public Service Commission, Raipur, Chhattisgarh.

---- Respondents**WPS No. 3458 of 2018**

Nirmal Singh S/o Shri Sumer Singh Aged About 37 Years R/o Village Andi, Police Station And Tahsil Daundi Lohara District Balod Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, General Administrative Department, Mahanadi Mantralaya Naya Raipur Post Office And Police Station Naya Raipur District Raipur Chhattisgarh.
2. Chhattisgarh Public Service Commission, Raipur Through Its Secretary, Chhattisgarh Public Service Commission Shankar Nagar Road, Bhagat Singh Square Raipur District Raipur Chhattisgarh.
3. Chhattisgarh Public Service Commission, Raipur, Through Its Examination Controller, Chhattisgarh Public Service Commission, Shankar Nagar Road, Bhagat Singh Square, Raipur District Raipur Chhattisgarh.

---- Respondents**WPS No. 3468 of 2018**

1. Vivek Ganguly S/o Shri PP Ganguly, Aged About 23 Years Residence Of E-7/1, Tagore Nagar, Raipur, Chhattisgarh, Post Office Malviya Road, Raipur, District : Raipur, Chhattisgarh
2. Varun Khare S/o M.B. Khare, Aged About 32 Years R/o Gomti Industry, New Shanti Nagar, Raipur, Chhattisgarh

---- Petitioners**Versus**

1. State Of Chhattisgarh Through The Secretary, General Administration Department, DKS Bhawan, Mantralaya, Raipur Chhattisgarh.
2. Through Secretary, Chhattisgarh Public Service Commission, Raipur Chhattisgarh.

3. Through Examiner Controller, Chhattisgarh Public Service Commission, Raipur, Chhattisgarh.

---- Respondents

WPS No. 3483 of 2018

Vinay Agrawal S/o Shri Rohitash Agrawal Aged About 27 Years R/o - C/o Sandeep General Store, Main Road Chiknipali, Tahsil Pathalgaon District Jashpur Chhattisgarh.

---- Petitioner

Versus

1. Chhattisgarh Public Service Commission, Through Its Secretary, Shankar Nagar Road, Raipur District Raipur Chhattisgarh.
2. Controller Of Examination, Chhattisgarh. Public Service Commission Shankar Nagar Road Raipur, Chhattisgarh.

---- Respondents

WPS No. 3528 of 2018

Amit Biswas S/o Shri Arun Kumar Biswas, Aged About 27 Years Presently Working As E.P. Fitter, R/o Behind FCI Godown, Maharani Ward, Jagdalpur, District Jagdalpur Chhattisgarh.

---- Petitioner

Versus

1. Chhattisgarh Public Service Commission Through Its Secretary, Shankar Nagar Road, Raipur District Raipur Chhattisgarh.
2. Controller Of Examination, Chhattisgarh Public Service Commission, Shankar Nagar Road, Raipur Chhattisgarh.

---- Respondents

WPS No. 3592 of 2018

Nohan Kumar Dhiwar S/o Indal Ram Dhiwar, Aged About 39 Years R/o Village Korasi, Thana Kharora District Raipur, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, General Administration Department, New Raipur Mantralaya, Raipur, Chhattisgarh.
2. Through Secretary, Chhattisgarh Public Service Commission, Raipur Chhattisgarh.
3. Through Examiner Controller, Chhattisgarh Public Service Commission, Raipur, Chhattisgarh.

---- Respondents

WPS No. 3593 of 2018

Devshree Baghel D/o Late Shri K K Baghel, Aged About 28 Years House No G-26, Irrigation Colony, Shantinagar, Raipur, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, General Administration Department, New Raipur Mantralaya, Raipur, Chhattisgarh.
2. Through Secretary, Chhattisgarh Public Service Commission, Raipur (Chhattisgarh)
3. Through Examiner Controller, Chhattisgarh Public Service Commission, Raipur Chhattisgarh.

---- Respondents**WPS No. 3594 of 2018**

Ajay Kumar Soni S/o Shri Santram Soni, Aged About 33 Years R/o Sonarpara, Baloda, District Janjgir Champa Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, General Administration Department, New Raipur, Mantralaya, Raipur, Chhattisgarh.
2. Through Secretary, Chhattisgarh Public Service Commission, Raipur Chhattisgarh
3. Through Examiner Controller, Chhattisgarh Public Service Commission, Raipur, Chhattisgarh.

---- Respondents**WPS No. 3595 of 2018**

Sourabh Sahu S/o Shri Rajesh Sahu, Aged About 29 Years R/o House No. 756, Village Sakri, District Bilaspur, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through The Secretary, General Administration Department, New Raipur, Mantralaya, Raipur Chhattisgarh.
2. Through Secretary, Chhattisgarh Public Service Commission, Raipur (Chhattisgarh)
3. Through Examiner Controller, Chhattisgarh Public Service Commission, Raipur Chhattisgarh.

---- Respondents**WPS No. 3596 of 2018**

Sandeep Kumar Sahu S/o Shri Arvind Kumar Sahu, Aged About 29 Years R/o In front Of L37, Dhebar City Road, Awadhpuri, Sector 2, Bhatagaon, Chhattisgarh 495001

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, General Administration Department, New Raipur, Mantralaya, Raipur Chhattisgarh.
2. Through Secretary, Chhattisgarh Public Service Commission, Raipur (Chhattisgarh)

3. Through Examiner Controller, Chhattisgarh Public Service Commission, Raipur Chhattisgarh.

---- Respondents

WPS No. 3597 of 2018

Upma Chandraker D/o Eman Lal Chandraker, Aged About 24 Years
R/o Village Sisdeori, Block Pallary, District Baloda Bazar,
Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, General Administration Department, New Raipur, Mantralaya, Raipur, Chhattisgarh.
2. Through Secretary, Chhattisgarh Public Service Commission, Raipur Chhattisgarh.
3. Through Examiner Controller, Chhattisgarh Public Service Commission, Raipur, Chhattisgarh.

---- Respondents

WPS No. 3598 of 2018

Vinay Agrawal S/o Dulichand Agrawal Aged About 28 Years R/o LIG
72 Sector DDU Nagar Raipur Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, General Administration Department, New Raipur, Mantralaya, Raipur Chhattisgarh.
2. Through Secretary, Chhattisgarh Public Service Commission, Raipur (Chhattisgarh)
3. Through Examiner Controller, Chhattisgarh Public Service Commission, Raipur Chhattisgarh.

---- Respondents

WPS No. 3532 of 2018

Devendra Kumar Tiwari S/o Shri Geeta Ram Tiwari, Aged About 27
Years R/o Village Birra, P.S. Birra, District Janjgir Champa
Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of General Administration, Mantralaya, Naya Raipur Chhattisgarh.
2. Chhattisgarh Public Service Commission, Through Its Secretary, Shankar Nagar Road, Raipur Chhattisgarh.
3. Controller Of Examination, Chhattisgarh Public Service Commission, Shankar Nagar Road, Raipur Chhattisgarh.

---- Respondents

WPS No. 3612 of 2018

Neeraj Kumar Soni S/o Shri Krishna Kumar Soni, Aged About 29 Years R/o Village Faraswani, Via Champa, District Korba, Chhattisgarh

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, General Administration Department, D.K.S. Bhawan, Mantralaya, Raipur, Chhattisgarh.
2. Through Secretary, Chhattisgarh Public Service Commission, Raipur Chhattisgarh.
3. Through Examiner Controller, Chhattisgarh Public Service Commission, Raipur, Chhattisgarh.

---- **Respondents**

WPS No. 3674 of 2018

1. Priyanka Banjara D/o Subhash Banjara, Aged About 28 Years R/o Pendra Road, Gorala, Tehsil And Thana Gorala District Bilaspur Chhattisgarh.
2. Atul Kumar, S/o Ravindra Vaishnav, Aged About 26 Years R/o Village Malhar, Tahsil And Thana Masturi, District Bilaspur Chhattisgarh.

---- **Petitioners**

Versus

1. State Of Chhattisgarh Through The Secretary, General Administration Department, Mahanadi Bhawan, Mantralaya, Naya Raipur Chhattisgarh.
2. Chhattisgarh Public Service Commission, Through Secretary, Chhattisgarh Public Service Commission, Shankar Nagar, Raipur Chhattisgarh.
3. Examiner Controller, Chhattisgarh Public Service Commission, Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- **Respondents**

WPS No. 3689 of 2018

1. Deepak Kumar Dubey S/o Dr. Pradeep Dubey, Aged About 30 Years R/o SM - 50, Sector - 03, Pt. Din Dayal Upadhyaya Nagar, Raipur District Raipur Chhattisgarh.
2. Aashutosh Kumar S/o Yoeshwar Kumar, Aged About 27 Years R/o House No. 208, C/o Parmanand Dewangan, Housing Board Colony, Dhamtari District Dhamtari Chhattisgarh.

---- **Petitioners**

Versus

1. The State Of Chhattisgarh Through The Secretary, General Administration Department, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur Chhattisgarh.
2. State Public Service Commission, Chhattisgarh, Through The Secretary, Raipur, District Raipur Chhattisgarh.

3. State Public Service Commission, Chhattisgarh, Through Examiner Controller, Raipur, District Raipur Chhattisgarh.

---- Respondents

For respective Petitioners	:	Mr. Mateen Siddiqui, Advocate Mr. Vinay Pandey, Advocate Mr. Amrito Das, Advocate Mr. Vivek Kumar Agrawal, Advocate Mr. P. Acharya, Advocate Mr. Rishi Mahobia, Advocate
For State	:	Mr. Shashank Thakur, Govt. Advocate
For. Respondents-PSC	:	Mr. Y.C. Sharma, Advocate Mr. B.D. Guru, Advocate Mr. Anumeh Shrivastava, Advocate

Hon'ble Shri Justice P. Sam Koshy
Order on Board

15/05/2018

1. Since the disputes revolving in these bunch of writ petitions are common, this Court proceeds to decide these writ petitions by a common judgment.
2. The disputes raised by the petitioners herein are that in the Preliminary State Services Examination, 2017-18, held on 18.02.2018, the respondents is said to have first come out with a model answer on 22.02.2018 and invited objections. A few of the petitioners had filed objections while some had not objected treating their answers to be correct. Subsequently on scrutinizing the objections, the respondents deleted as many as three questions from the General Studies subject and three questions from Aptitude test. That on the deletion of these questions, no marks were allotted to any of the candidates. Later on, the respondents again published an amended model answer on 07.04.2018 and on the basis of which preliminary results were declared on 18.04.2018. In between, some

of the petitioners had filed a fresh objection to the amended model answer published and some of the petitioners raised the objection to the incorrect answers, which has been reflected in the revised/amended model answer, which was the basis on which the results were declared on 18.04.2018.

3. According to the counsel for the petitioners, the petitioners herein have answered all these questions correctly, but in the light of the amended model answer published by the respondents, these have been reflected as incorrect answer and in the same manner, the petitioners had answered of few of the questions, which have subsequently stood deleted, and which to were correct as per the first model answer published by the respondents.
4. The contention of the counsel for the petitioners is that because of these discrepancies/anomalies, the petitioners have been put to loss, or else they could have been selected for participating in the mains examination. After the publication of the results on 18.04.2018, the respondents have also issued a notification inviting applications for filling up the forms for the mains examination, only for those candidates, who have been short listed as per Annexure P/1 dated 18.04.2018 and depriving the petitioners to fill up those forms.
5. The contention of the petitioner was that they had answered some of the questions correctly, however the Public Service Commission on the basis of a wrong model answer held the answer of the petitioner to be incorrect denying them proper marks. Similarly, it was also contended that in the model answer sheet also the answer shown against some of the questions were incorrect and realizing this they

have deleted a few of the questions without granting any pro-rata marks to the petitioners. According to the petitioners, the Commission has wrongfully deleted a few of the questions and so far as the incorrect answers are concerned, inspite of objection, the authorities have not cared to consider the objection and to reevaluate the answers of the petitioners so far as the incorrect questions are concerned.

6. Though in the different writ petitions, the petitioners have challenged the legality and validity of various questions, however during the course of the arguments after due deliberation and on considering the submissions of each of the petitioners, the dispute narrowed down and stood confined in respect of only 13 questions in the two subjects of General Studies and Aptitude Test.
7. The details of the disputed questions involved both inclusive of the incorrect answers, so also in respect of the deleted questions are reproduced herein in the form of a chart for better understanding the whole issue:

GENERAL STUDIES

SL. No.	Corresponding Question No. as per the respective Set of Question				As per amended Model Answer	Petitioners who have objected the questions
1.	A	B	C	D	Unchanged	Sourabh Sahu
	12	6	40	19		
2.	34	42	26	5	Deleted	Sandeep Kumar Sahu, Vivek Ganguly, Varun Khare, Priyank Banjara, Asutosh Kumar, Deepak Dubey, Atul Kumar, Arpit Kumar Sinha.
3.	53	51	84	62	Changed from "C" to "E"	Nohar Kumar Dhiwar, Neeraj Kumar Soni.
4.	57	78	61	89	Deleted	Nohar Kumar Dhiwar,

						Sandip Kumar Sahu, Vivek Ganguly, Varun Khare, Atul Kumar, Arpit Kumar Sinha.
5.	58	79	62	90	Unchanged	Pooja Chandrakar, Deoshree Baghel, Sourabh Sahu, Ajay Kumar Soni, Upama Chandrakar, Nohar Kumar Dhiwar, Niraj Kumar Soni, Sandeep Kumar Sahu, Vivek Ganguly, Varun Khare, Deepak Kumar Dubey.
6.	74	86	69	97	Changed from “B” to “C”	Deoshree Baghel, Ajay Kumar Soni, Vivek Ganguly, Varun Khare.
7.	91	71	54	82	Deleted	Nohar Kumar Dhiwar, Sandip Kumar Sahu, Vivek Ganguly, Varun Khare, Priyanka Banjara, Atul Kumar, Deepak Kumar Dubey, Asutosh Kumar, Arpit Kumar Sinha.
8.	24	11	45	28	Unchanged	Asutosh Kumar

APTITUDE TEST

SL. No.	Corresponding Question No. as per the respective Set of Question				As per amended Model Answer	Petitioners who have objected the questions
1.	A	B	C	D	Deleted	Amit Vishwas, Devendra Kumar Tiwari, Vinay Agrawal, Nirmal Singh, Arpit Kumar Sinha.
	10	67	38	8		
2.	42	6	64	30	Changed from “A” to “E”	Amit Vishwas
3.	60	35	6	59	Changed from “D” to “E”	Amit Vishwas, Sandeep Kumar Sahu, Nirmal Singh
4.	73	64	35	5	Deleted	Vinay Agrawal, Arpit Kumar Sinha.
5.	84	92	88	96	Deleted	Vinay Agrawal, Nirmal Singh, Arpit Kumar Sinha

8. The counsel for the petitioners submits that all that the petitioners want is that their answers may be got verified from a expert on the field relating to the questions and thereafter reach to the conclusion whether the answers given by the petitioners were correct or not and their further request is that their answers should not be left erroneously evaluated detrimental to the interest of the petitioners.
9. At this juncture, it would be relevant to refer to the judgment of Hon'ble Supreme Court in the case of **"Himanchal Pradesh Public Service Commission v. Mukesh Thakur" (2010) 6 SCC 759**, wherein in paragraph No.20 it has been held as under:

"20. 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 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 were 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."

10. The issue raised in these bunch of writ petitions are not which are new to the exams conducted by the respondent-State Public Service Commission.
11. Counsel for the petitioners produced before this Court an order of this Court in the case of **"Sanjay Tiwari & others vs. State of**

Chhattisgarh” WPS No. 3202/2009, which was in respect of the same examination conducted for the year 2008, so also there is another order passed in the case of “**Prem Prakash Sinha & others vs. State of Chhattisgarh & others**” WPS No. 2663/2012, which is again in respect of the mains examination for the Civil Services conducted by the State Government for the year 2008. In both these writ petitions, the Hon’ble High Court has been of the view that taking note of the nature of disputes raised and considering the questions and the model answers held that it would be a case which could be better processed and appreciated by a team of experts on the subject dealing with the questions and accordingly had directed the respondent-PSC to constitute a committee of experts and obtained their opinion and thereafter to rearrange the results accordingly.

12. It would be more relevant at this juncture to take note of the decision of the Hon’ble Supreme Court in the case of “**Subash Chandra Verma and others v. State of Bihar and others**” 1995 Supp (1) SCC 325, wherein in paragraph No. 25(3) it has been held as under:

“25(3) Several controversial questions were set and in relation to some questions, there could be more than one answer: In an objective type of test, more than one answer are given. The candidates are required to tick mark the answer which is the most appropriate out of the plurality of answers. The questions and answers were prescribed by the experts in the field with reference to standard books. Therefore, it is incorrect to say that a question will have more than one correct answer. Even if the answers could be more than one, the candidates will have to select the one which is more correct out of the

alternative answers. In any event, this is a difficulty felt by all the candidates.”

13. A similar view has also been taken in the past by the Hon'ble Supreme Court in the case of ***“Kanpur University, Through Vice-Chancellor and others v. Samir Gupta and others”*** (1983) 4 SCC 309, wherein in paragraph No.17, it has been held as under:

“17. Students who have passed their Intermediate Board Examination are eligible to appear for the entrance Test for admission to the Medical Colleges in U.P. Certain books are prescribed for the Intermediate Board Examination and such knowledge of the subjects as the students have is derived from what is contained in those text-books. Those text-books support the case of the students fully. If this were a case of doubt, we would have unquestionably preferred the key answer. But if the matter is beyond the realm of doubt, it would be unfair to penalise the students for not giving an answer which accords with the key answer, that is to say, with an answer which is demonstrated to be wrong.”

14. Further, the Hon'ble Supreme Court in the case of ***“Rajesh Kumar and others v. State of Bihar and others”***, (2013) 4 SCC 690, in paragraph No.15, it has been held as under:

“15. xxxxxxxxxxxx If the key which was used for evaluating the answer sheets was itself defective the result prepared on the basis of the same could be no different. The Division Bench of the High Court was, therefore, perfectly justified in holding that the result of the examination in so far as the same pertained to ‘A’ series question paper was vitiated. This was bound to affect the result of the entire examination qua every candidate whether or not he was a party to the

proceedings. It also goes without saying that if the result was vitiated by the application of a wrong key, any appointment made on the basis thereof would also be rendered unsustainable. The High Court was, in that view, entitled to mould the relief prayed for in the writ petition and issue directions considered necessary not only to maintain the purity of the selection process but also to ensure that no candidate earned an undeserved advantage over others by application of an erroneous key.”

15. More recently, the Hon’ble Supreme Court again in the case of **“Richal & others etc. etc. v. Rajasthan Public Service Commission & others etc. etc.”** in Civil Appeal Nos. 4695-4699 of 2018, decided on 3rd May, 2018, in paragraph No.23 has held as under:

“23. In the affidavit filed by the Commission it is mentioned that the result has been revised of only 311 appellants who are before this Court. We are of the view that key answers having been corrected, merit of all the candidates except those who have already been selected needs to be redetermined. In our order dated 16.01.2018 it is mentioned that this exercise shall not affect those who have already been selected. We, thus, are of the view that the Commission should revise the entire result of all the candidates except those who have been selected on the basis of the report of Expert Committee and publish revise result of all the candidates. When the key answers are correct of the candidates who appeared in the examination, they are entitled for revision of their result, since, fault does not lie with the candidates but lies with the examination body. It shall not be equitable to not extend the benefit to those

candidates who have not come to the Court being satisfied with the steps taken by the Commission and its earlier Expert Committee which was given the task of revising the key answers.”

16. Taking aid of the judgments referred to in the preceding paragraphs, more particularly the judgment of this Court in the case of “***Sanjay Tiwari & others vs. State of Chhattisgarh***” WPS No. 3202/2009, so also the judgment in the case of “***Prem Prakash Sinha & others vs. State of Chhattisgarh & others***” WPS No. 2663/2012, this Court is of the opinion that present is also a case where the matter needs to be reexamined by a team of experts and to revisit the results thereafter publish a fresh list of the short listed candidates in accordance with the marks that each of the candidates would be granted after revaluation on the basis of the experts committee's report.
17. It is expected that the respondents would constitute a committee for all the disputed questions consisting of experts in the field relating to the subject questions involved, and the committee thereafter shall evaluate the questions and the model answers and the amended model answers published by the respondents and thereafter reach to a conclusion, as to whether which amongst the two was the correct answer. The experts would also be at liberty to even hold whether the proposed answers by the respondents in the two model answers were still incorrect and the correct answer is different and they can make a suitable advise to the respondents accordingly. The petitioners before this Court if they want to submit an additional submissions, if any relating to the disputed/complicated questions

within 7 days and which shall also be scrutinized by the experts committee.

18. Similar scrutiny would also be done, so far as the questions, which stand deleted and give a finding in this regard as well. Thereafter, the Chhattisgarh Public Service Commission shall reconstitute the entire merit list and thereafter prepare a list of the short listed candidates, who would be eligible to participate in the mains examination.
19. On a query, the counsel for the Public Service Commission submits that the mains exams are proposed to be conducted from 22nd of June, 2018 onwards. That since about more than one month time is still available with the respondents, it is expected that they shall forthwith constitute an experts committee so as to give a report as expeditiously as possible preferably within a period of maximum of 10-15 days and thereafter, the Public Service Commission shall complete the other formalities required well before 22nd of June, 2018, with all necessary consequences to be followed.
20. It is further directed that so far as the deleted questions are concerned, if the experts committee reaches to the conclusion that those questions are still to be deleted from the examination, each of the candidates would be entitled for pro-rata marks for each of those deleted questions, as had also been held by this Court in the litigation for the same examination of the year 2008 in the case of **“Sanjay Tiwari”** (supra).
21. In case if for any reason, the experts committee is not able to scrutinize the controversial/disputed questions and give a report before the 22nd of June, 2018, it is expected that the Public Service

Commission shall take all necessary steps for postponing the mains exam accordingly, so that the interest of the writ petitioners would also stand protected. In other words till the directions issued are completed, the impugned short list shall not be given effect too.

22. Leaving open the option of the petitioners to assail any subsequent development, if at all, if it goes against any of the petitioners, all these writ petitions stand allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge

Ved