

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 8721 OF 2018

**SUDHAKAR DIGAMBARRAO MUNGAL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. P.S. Anerao, Advocate for the petitioner.
Mr. R.B. Bagul, AGP for the respondent/State.

**CORAM : PRASANNA B. VARALE
& S.M.GAVHANE, JJ.**

DATED : 01.08.2018

P.C. :-

Heard Mr. P.S. Anerao, learned counsel appearing for the petitioner and Mr. R.B. Bagul, learned AGP appearing for the respondent/State.

2. The petitioner is before this Court with prayer (B) and (C) and the same read thus:-

"B) By issuing writ of certiorari or any other appropriate writ or directions or order against the respondents to quashed and set aside the impugned communication letter/ order bearing Ref.no. OW/2018/G/151 dated-11.06.2018 issued by the respondent no.4."

C) By issuing writ of certiorari or any other appropriate writ or directions or order against the respondents to quashed and set aside the final answer key question no.12 of the subject History paper II (C) due to wrong question asked in SET Examination and wrong answer (Option B) set by respondents authorities and seeking direction against the respondents to give two bonus marks to the petitioner for the Correct answer. (Option C) Annexation of Goa, of the question 12. "Operation Vijay was relating to.. "annexation of Goa"."

3. The facts which are submitted in the petition and advanced by way of oral submission of the learned counsel and/ or not in disputes are that the petitioner appeared for State Eligibility Test for the post of Assistant Professor. The admission card is placed on record at Exh."A". The perusal of the card shows that the paper for the examination was scheduled on Sunday 28th January, 2018. These were three papers and the times were 10.00 a.m. to 11.15 a.m., 11.45 a.m. to 01.00 p.m., 02.30 p.m. to 05.00 p.m. This examination was conducted through respondent No.4 Savitribai Phule Pune University through its SET Examination Coordinator. It will be very relevant to refer to the brochure publication placed on record by the petitioner himself stating out the formalities and procedure. The documents placed on record show that the clauses consist of admission card, how the application to be submitted, by way online process, general instructions and these are under clauses 10, 11 and 12. Insofar as general instructions are concerned there were as many as 28 general instructions for considering the grievance of the petitioner. It will be useful to refer to general instructions Nos. 20 and 21 which read thus:-

"xx) The marks of all the candidates will be uploaded on SET website <http://setexam.unipune.ac.in> soon after approval of the committee for declaration of result. Besides this, the SET state Agency will not issue any marks sheet to qualified/non qualified candidates. The qualified candidates shall be required to submit attested copies of the eligibility documents for verification immediately after declaration or result.

xxi) No Grievance with regard to Final Answer

key(s) after declaration of result of SET January, 2018 will be entertained."

(Emphasis Supplied by us)

4. We have quoted these instructions with a specific purpose on the backdrop of the facts that the petitioner himself is a person who had completed his academic qualification and was appearing for the State Eligibility Test for the post of Assistant Professor. Therefore, the expectation that the candidates who were desirous and were appearing for the said test have to be more vigilant and more careful in approaching the examination which cannot be said to be an extra ordinary expectation. It is the submission of the learned counsel appearing for the petitioner that in the said examination paper; the petitioner appeared for the paper of History and question no. 12 reads thus:

"12. 'Operation Vijay' was related to.....

- (A) India-China Conflict
- (B) India-Pakistan Conflict
- (C) Annexation of Goa
- (D) To overcome food problem"

5. The vernacular translation is also made available to the candidates and it reads thus:-

"12. 'ऑपरेशन विजय' कशाशी संबंधित आहे?

- (A) भारत-चीन संघर्ष
- (B) भारत-पाकिस्तान संघर्ष
- (C) गोवा विलिनीकरण
- (D) अन्नधान्य तुटवडा प्रश्न"

6. The learned counsel for the petitioner then invited our attention to the document placed on record at page 23. It is stated as Maharashtra State Eligibility Test 28.01.2018 interim key for paper-II booklet code (C) subject code of name (10) History.

Insofar as question 12 is concerned, the interim key answer is shown as option "C". The submission of the learned counsel is that the petitioner exercised option "C", which was a correct answer as per the interim key. Then the learned counsel submitted that by way of a final answer key it is informed that the correct answer to question 12 is option "B". These documents are placed on record at Exh."B" page 24.

7. The learned counsel then submitted that the result of the examination was declared on 24.05.2018 and the University declared that the answer option exercised by the petitioner is incorrect option or erroneous option. The petitioner submitted his representation after the result is declared. This would be clear from the fact that in the representation itself it is stated that the result is declared on 24.05.2018 and the representation is made on 01.06.2018. In the detailed representation to respondent No.4, the petitioner states that actually the answer in interim key answer i.e. option "C" was the correct answer to the question. To support his submissions the petitioner states that the answer "C" is correct as per his study and in his opinion. Then he stated in the representation that the University itself committed mistake in framing the question by erroneous way. In the representation the petitioner states that the options shown to the question 12 ought to have been inclusive of Kargil War. Then he states that the answer ought to have been inclusive of reference to the year when Kargil War took place and he states that in his opinion and as per this study the answer exercised by him i.e. option "C" is correct

answer and it was the mistake in the question paper itself committed by the University. As such he ought to have been awarded two marks for the correct answer and then he states that for the mistake of the University, the petitioner lost two marks and then he states that his grievance be redressed within stipulated period, otherwise he will avail the remedies open to him, namely, approaching the Defence Ministry or the Government of Goa. To the representation of the petitioner the respondent No.4 University replied by communication dated 11.06.2018. Perusal of the reply shows that it is made very clear in the reply that the candidates were made aware that they cannot raise any grievance after the results are declared and they were made known that if any grievance is to be raised, it ought to have been raised prior to the declaration of the result and this communication was in accordance with the University Grants Commission guidelines. For the ready reference we quote the reply which reads thus:-

"This is with reference to your application regarding said subject. Please refer to Page No.12 of Notification (xxi) which states that no grievances with regards to Final Answer Key(s) after declaration of result of SET January, 2018 will be entertained. It is also stated under xxiv that the decision of the State Agency will be final in all matters. In addition, it is also stated under Public Notice (Item No.12) regarding inviting challenges on answers in the Interim Answer Key. It is stated that "As per UGC guidelines and as notified in the Notification for SET 28th January, 2018, the grievance will not be accepted once the SET result is declared". In view of above points, your request for grievances is declined."

8. Considering all above referred facts we are of the clear opinion that the petition is hopelessly meritless. Firstly we are not the expert in academic field. How the question paper is to set? what should be the answer key? what should be the syllabus? how the answer keys interim and final answer is or to be set? All these activities are under the domain of those persons who are expert in the academic field. We cannot enter into that area nor we wish to encroach upon the area which is occupied by the academic experts. The grievance of the petitioner is misconceived in our opinion for the simple reason, the petitioner places a very heavy reliance on an interim key answer. The nature of the interim key answer itself suggest that the life of the interim key answer is limited one and if the final key answer are placed on record the life of the interim key comes to an end. The petitioner himself has placed on record the final answer key showing the correct answer option is the option "B". Now as we have stated above, the publication issued prior to the examinations being conducted by the University specifically states that if any grievance is to be raised, the candidate is expected to raise that grievance before the declaration of final results. If the facts of interim key and final key were within knowledge of the petitioner well before the declaration on results, nobody prevented the petitioner to raise his grievance to the Competent Authorities. The approach of the petitioner to the Competent Authority after the results are declared itself show that the petitioner is taking only a chance. The perusal of the communication dated 11.06.2018 then shows that a policy of the University is clear and it is best on the UGC

guidelines. The University namely Savitribai Phule, Pune University will have certainly to abide by the guidelines issued by University Grants Commission and respondent No.4 University acted in that very way following the directions of the University Grants Commission at the cost of repetition. We states that all these things were made known to the candidates who were desirous for appearing the examinations which were scheduled on 28.01.2018.

9. It is also not the case that the petitioner is a student and not having sufficient experience of life. The status of the petitioner shows that the petitioner is already working as a Professor, who had completed his degree and it is stated that he is working in some private college for 10 long years. As we stated it was more necessary for the petitioner to follow the directions of the University vigilantly and carefully instead of making grievance after the result is declared.

10. Considering all these aspects, we are of the opinion the petition being hopelessly meritless deserves to be dismissed at the threshold and accordingly we dismiss the petition.

[S.M.GAVHANE, J.]

[PRASANNA B. VARALE, J.]