

***THE HON'BLE SRI JUSTICE P.NAVEEN RAO**

+_WRIT PETITION NOS.18834, 18929, 21886 & 23173 of 2017

% 12.10.2018

WP No.18834 of 2017:

V.Ramachandra Reddy, S/o Kondal Reddy, Aged 35 years,
Hall Ticket No.2008013906, R/o.11-15-104/1, Road No.3,
Doctors Colony, Kothapet, Hyderabad and others.

... Petitioners

Vs.

\$ The State of Telangana,
Rep by its Principal Secretary General Administration
Department Telangana Secretariat Hyderabad & another

.... Respondents

!Counsel for the petitioners :

Sri M.Surender Rao, senior counsel for Sri Srinivas Rao Madiraju
in WP Nos.18834 & 21886 of 2017;

Ms. B.Rachna Reddy, counsel for petitioners in WP Nos.18929 &
23173 of 2017;

Counsel for the Respondents :

Sri G.Vidya Sagar, senior counsel for Smt. K.Udaya Sri for
respondents 3 to 12, 14 to 16, 18 to 21, 23, 25, 27, 29 to 32, 34 to
36, 38 to 40 in WP No.18834 of 2017;

Sri Vedula Srinivas counsel for respondents 41, 43 to 47, 49 to 60
in WP No.18834 of 2017;

Sri V.Ravichandran counsel for respondents 13, 17, 22, 24, 26, 28,
33, 37, 42, 48, 62, 70 and 76 in WP No.18834 of 2017;

Dr. P.B.Vijay Kumar, counsel for respondents 61, 63 to 69, 671 to
75, and 77 to 256 in WP No.18834 of 2017.

<Gist :

>Head Note:

? Cases referred:

(2018) 2 SCC 357
1983 4 SCC 309
1984(2) SCC 319
2015 (13) SCC 749
2013 0 AIR (SC) 2652
(2018) SCC Online SC 609
(2003) 7 SCC 285

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

WRIT PETITION NOs.18834, 18929, 21886 & 23173 of 2017

WP No.18834 of 2017:

Between:

V.Ramachandra Reddy, S/o Kondal Reddy, Aged 35 years,
Hall Ticket No.2008013906, R/o.11-15-104/1, Road No.3,
Doctors Colony, Kothapet, Hyderabad and others.
....Petitioners

And

The State of Telangana, rep. by its Principal Secretary,
General Administration Department, Telangana Secretariat
Hyderabad & another.
....Respondents

JUDGMENT PRONOUNCED ON : 12.10.2018

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

1. Whether Reporters of Local Newspapers may :
Be allowed to see the Judgments ? : YES
2. Whether the copies of judgment may be marked :
To Law Reporters/Journals : YES
3. Whether Their Ladyship/Lordship wish to :
See fair Copy of the Judgment ? : NO

HONOURABLE SRI JUSTICE P. NAVEEN RAO**WRIT PETITION Nos. 18834, 18929, 21886 & 23173 of 2017****COMMON ORDER:**

Heard Sri M.Surender Rao, senior Counsel for Sri Srinivas Rao Madiraju in W.P.Nos.18834 of 2017 and 21886 of 2017; Ms. B.Rachna Reddy learned counsel for petitioners in W.P.Nos.18929 of 2017 and 23173 of 2017; Sri G.Vidya Sagar, Senior counsel for Smt. K.Udaya Sri for respondents 3 to 12, 14 to 16, 18 to 21, 23, 25, 27, 29 to 32, 34 to 36, 38 to 40 in W.P.No.18834 of 2017; Sri Vedula Srinivas learned counsel for respondents 41, 43 to 47, 49 to 60 in W.P.No.18834 of 2017; Sri V.Ravichandran learned counsel for respondents 13, 17, 22, 24, 26, 28, 33, 37, 42, 48, 62, 70 and 76 in WP No.18834 of 2017; Dr. P.B.Vijay Kumar, learned counsel for respondents 61, 63 to 69, 71 to 75 and 77 to 256 in W.P.No.18834 of 2017. For convenience, broadly pleadings as averred in affidavit filed in support of W.P.No.21886 of 2017 are taken.

2. Telangana State Public Service Commission issued recruitment notification No.20 of 2015 dated 30.12.2015 calling for applications to conduct selections for recruitment to the posts in State Government Service classified as Group-II services. Five categories of posts were notified. Supplementary notification No.17 of 2016 was issued on 01.09.2016 including 13 categories. Total number of posts notified were 1032. As per the notification, selection is based on performance in the written examination and oral interview. Written examination was divided into four papers, paper – I, II, III and IV. Each paper carries 150 marks. Interview shall carry 75 marks. Paper-I dealt with general studies and

general abilities. Paper-II dealt with history, polity and sociology. Paper-III dealt with economics and development and paper-IV dealt with Telangana movement and state formation. Written examination is objective type. The candidates are required to choose an answer from out of the four options given against each of the questions. The personal particulars and the answers to questions are to be made on Optical Machine Reader (OMR) sheet furnished to the candidates in the examination centres. The OMR sheet is divided into three parts. Part-‘A’ contains personal details, such as Hall ticket number, paper code, examination centre code, booklet series number, etc.,. Against personal particulars under various headings boxes are provided where candidates are required to write their particulars. Under these square boxes bubbles are provided where candidates have to darken relevant bubbles. Part-‘B’ contains serial numbers of the questions and there are four bubbles against each question. Candidates are required to darken the bubble reflecting his choice of answer from out of four options given to him. Only one has to be darkened. In Part-‘C’, candidate has to write his name and put his signature. There is a separate box where invigilator is required to sign. The OMR sheet is fed into machine to ascertain the personal particulars and to evaluate answers furnished by the candidates.

3. The written examinations were held on 11.11.2016 and 13.11.2016. On each day, exam was conducted for 2 papers. In all 4,98,448 candidates appeared in the examinations. As per the procedure evolved, based on the performance, candidates are short listed in the ratio of 1:3 for verification of eligibility and the relevant certificates. On completing the said verification, the candidates are short listed to conduct interviews. Based on the

performance in the written examination and interview the final merit list will be drawn. On 01.12.2016 preliminary key of answers was published, and objections were invited. It appears, PSC has received several objections. After taking opinion from experts, on 10.01.2017 final key was published. The notification indicated that there would no further consideration of objections on the final key. However, PSC entertained further objections and published revised final key by notification dated 13.04.2017. It appears, there is variation in the answers chosen by the PSC in the preliminary key, in the final key and in the revised final key. Based on the revised final key the OMR sheets of candidates were evaluated and results were announced. PSC short listed candidates in the ratio of 1:3. At this stage, these writ petitions are filed.

4. The challenge to the recruitment process is two fold. Firstly, on wrong questions framed and answers finalized by the TSPSC, and secondly, evaluation of OMR sheets of candidates who have committed mistakes in bubbling of circles against personal particulars in the first part of OMR sheet. Incidentally contentions are also urged on bubbling errors in second part of OMR sheet. The respective contentions are dealt with under two separate headings.

I. WRONG QUESTIONS AND ANSWERS:

5. On the issue of wrong questions and answers, learned senior counsel Sri M.Surender Rao, appearing for petitioners in W.P.Nos.188354 and 21886 of 2017 made the following submissions:

6. According to learned senior counsel, a preliminary key was published on consideration of the objections and after taking opinion of experts a final key was published. However, for the reasons best known to the Telangana State Public Service Commission (For short TSPSC) another Expert Committee was appointed and based on their evaluation, revised final key was published. This would show that even the experts were not sure about the correct answers. He would therefore submit that TSPSC cannot expect unemployed youth and raw-graduates to answer such questions correctly. According to him some of the answers based on which marks were awarded were wrong and many of the answers given in the revised final key by TSPSC are wrong.

7. According to learned senior counsel, in paper No.1 against question Nos.16, 79, 106, 123 and 143 the answers given are wrong. In paper No.2 question Nos.8, 16, 18 and 61 are vague/ wrong. Similarly in paper No.3 against questions 111 and 134; in question paper No.4 against questions 93 and 113 answers given are wrong.

8. He would further submit that TSPSC illegally deleted 17 questions. According to learned senior counsel, question Nos.5, 10, 31, 82, 125 and 126 of Paper 1; question Nos.38, 49, 76 and 85 of paper No.2; question Nos.4 and 69 of paper No.3 and question Nos.6, 65, 99, 110, 126 and 148 of paper No.4 were deleted. Adding to this problem, TSPSC created further confusion by indicating multiple answers in the revised key. Against questions 20 and 105 of Paper-I multiple answers are indicated. Similarly, against questions 18, 89 and 119 of paper No.2, questions 42, 47, 55, 99 and 134 of paper No.3, questions 55, 102, 105, 113 of paper No.4 multiple answers were given. As required, each

question contains 4 choices and candidate participating in the examination required to answer only one of the given options. Since more than one choice was correct, it confused the petitioners in choosing the right answer. He would therefore submit that selection process undertaken by the TSPSC is vitiated.

9. Learned senior counsel while agreeing on the parameters of judicial review in view of the law laid down by the Supreme Court in **Ranvijay Singh & others v State of Uttar Pradesh & others**¹, would submit that even according to the said judgment of Supreme court, the judicial scrutiny is available and it is still open to consider the issue on formulation of questions and determination of correct answers. He would submit that as held by the Supreme Court in **Kanpur University and others v. Samir Gupta and others**², in a system of multiple choice objective type test, care must be taken not to set question having an ambiguous import. He would submit, as held by the Supreme Court, as there is no scope for reasoning or argument and answer is 'yes' or 'no'; the questions have to be clear and specific. By placing reliance on the decision of Supreme Court in **Abhijit Sen and others v. State of U.P. and others**³, learned senior counsel would submit that question cannot be vague. He was referring to question no.8 in Paper no.2 to emphasize his submission. He would submit that in this question, as no range is indicated, whereas two orders passed by the Bombay High Court were 'recent' only, the question is vague. Learned senior counsel particularly referred to paragraph-4 of the judgment, wherein Supreme Court discussed the question No.100. Supreme Court observed that question set up did not refer to range with reference to which the candidate is called upon

¹ (2018) 2 SCC 357

² 1983 4 SCC 309

³ 1984(2) SCC 319

to give his answer and in the absence of any reference to the range, there was a confusion in choosing correct answer.

10. By placing reliance on the judgment of Supreme Court in **Guru Nanak Dev University v. Saumil Garg and others**⁴, learned senior counsel would submit that as held by the Supreme Court in the said decision, the reasonable procedure required to be followed by Public Service Commission, would be to give credit only to those who attempted the disputed questions and award marks, but marks should not be awarded to candidates who have not attempted the disputed questions. According to learned senior counsel, as held by the Supreme Court in **Rajesh Kumar and others etc. v. State of Bihar and others**⁵, if the result was vitiated by application of a wrong key, any appointment made on the basis thereof would also be rendered unsustainable. He would further emphasize the observations of the Supreme Court in paragraph-16 to contend that re-evaluation was and is a better option, in the facts and circumstances of this case also.

11. Learned senior counsel has taken through the questions mentioned above, the answers chosen by TSPSC and why answers chosen by TSPSC are wrong.

12. Supplementing the submissions of learned senior counsel Ms. Rachna Reddy would submit that in addition to questions elaborately dealt with by learned senior counsel, answer chosen for Q.146 in Paper-III is also defective. TSPSC has chosen final key answer as 2, whereas this is not the correct answer.

⁴ 2015 (13) SCC 749

⁵ 2013 0 AIR (SC) 2652

13. According to learned counsel, initially preliminary key was issued, objections were received and on consideration by experts final key was issued. 2½ months after release of final key, it appears certain objections were received and considered and revised final key was issued without further notice calling for objections. In earlier recruitments, this system was never followed. In both final and revised final key, it was mentioned that 'no further objections would be considered'. Considering further objections lead to stretching the time schedule; Merit list was notified on 01.06.2017; Revised merit list was notified on 14.4.2018. Due to revision of final list there were multiple answers and some questions were deleted. When key answers were changed some candidates benefited and some were deprived. Thus, this whole process is illegal.

14. According to learned counsel, total 37 questions were affected due to final key and revised final key. In 14 questions multiple choices were shown as correct answers; for 7 questions answers were changed; 17 questions were deleted. She has taken through various averments to emphasize how illegal exercise was undertaken. According to learned counsel, as the illegality is all pervasive, independent body of experts in the relative field be constituted to examine the reasons for changes made between final key and revised final key.

15. In other words, according to learned counsel, the infirmities are two fold; firstly objections were received after final key, nature of objections are not notified and no further opportunity was given to respond to those objections or to give further opportunity to all the candidates to file their objections. Thus, publication of revised answer key is erroneous and deprived the petitioners' opportunity

to put forth their claim in deciding the correct answer and thereby there is inequitable treatment with reference to assessment of correct answers; and secondly, on account of deletion of certain questions, changing the answers and accepting multiple answers as correct, grave prejudice is caused to the petitioners in the matter of selection.

16. She would further submit that as the illegalities are palpable the first option would be to set aside the entire selection and direct the Public Service Commission to undertake fresh selection process or in the alternative, body of experts be constituted and be entrusted to undertake exercise to re-look at the revised final key and to determine correct answers and merit list be drawn accordingly.

17. Ms. Rachna Reddy would submit that the *mala fides* are all pervading including the issue of evaluation of answer scripts of candidates, who have indulged in wrong bubbling, corrections in bubbling and double bubbling. She would further submit that as 42 questions are effected, the selection process is vitiated and, therefore, fresh selections should be conducted in the larger public interest of ensuing fairness in the selection for recruitment to public posts.

18. Learned Special Government Pleader appearing for TSPSC made elaborate submissions. According to learned special Government Pleader, 7,89,449 candidates have applied in pursuant to the recruitment notification to fill up 1032 posts in Group-II service. 4,98,448 candidates have appeared in the four papers. After invalidating 507, the final figure came to 4,97,961. From out of this list, candidates were short listed in the ratio of 1:3

based on the merit secured by them and in all 3,146 were called for certificate verification. In this list, only four petitioners have figured. After certificate verification, 2063 were short listed in the ratio of 1:2 and in this list only one candidate i.e., petitioner no.10 in W.P.No.2313 of 2017 is figuring. According to learned special Government Pleader, even if 70 persons whose answer scripts were evaluated ignoring the wrong bubbling/double bubbling are excluded, the petitioners are not coming within the zone of selection. He would therefore submit that no useful purpose would be served in going into the merits of contentions urged by the learned counsel appearing for petitioners. According to learned special Government Pleader, as petitioners are no way near to selection zone, no prejudice is caused to them in the revision of final key.

19. By referring to the individual pleadings in the respective writ petitions, he would submit that in WP No.21886 of 2017, there was no pleading on performance of petitioners and how they suffered, except for high lighting the questions and answers chosen by PSC. He would submit that in the absence of specific pleadings, the relief sought by them cannot be granted. According to the learned special government pleader in writ proceedings, no academic exercise can be undertaken. Petitioners miserably failed in satisfying the Court about the legal injuries suffered by them.

20. With reference to averments in WP No.18929 of 2017, he would submit that vague allegations sought to be attributed. There was no specific allegation of malice in conducting selections. There cannot be vague allegations of malice. The allegations must point out to person responsible in acting *mala fide*. He would submit that prayers 'A' and 'B' are in conflict. Both prayers cannot

coexist. He would endeavour to submit that larger interest of candidates participated in the selection should be protected ignoring the individual pleas raised, more so when no legal injury suffered by the petitioners is established. He would further submit that having participated in the selections, after the selection process is finalized, it is not open to petitioners to turn around and challenge the entire selection process.

21. Learned Special Government Pleader has taken though various material to support the stand of PSC on choosing revised final key, deletion of some questions and choosing multiple answers as valid. By referring to the questions and answers selected by the PSC, he would submit that said answers were chosen on thorough analysis of material by the Experts and as per the opinion given by the Experts, those answers were finalized.

22. Learned Special Government Pleader fairly submitted that answers chosen to Question No.111 of Paper-III and question No.93 of Paper-IV are wrong. He has contested the claims of petitioners on other questions.

23. He would further submit that decision to exclude certain questions does not have any impact on the selection process. Further exclusion is common to all and, therefore, no prejudice is caused to any individual. He would submit that in Writ Appeal No.147 of 2018, challenge was made to exclusion of 68 questions out of 300 questions in the examination to recruit Principals. The challenge was that on account of exclusion of large number of questions, the entire selection is vitiated. The Division Bench has not agreed to the said submission and relief prayed was not granted.

24. Regarding deletion of 17 questions, he would submit that these questions do not convey any meaning or options specified are not correct and therefore have to be deleted. Deletion does not affect a candidate as questions were deleted uniformly for all. Same practice is followed in the entrance examinations to Medical, Engineering and other professional courses. He would further submit that deletion of few questions has no impact on the selection process. He would further contend that petitioners have not pleaded whether they have attempted the concerned questions. Thus, they are not affected by deletion of those questions. In the absence of pleadings on the specific aspects, the prayer sought is not maintainable. If objections are raised and considering those objections, key is revised, PSC cannot be faulted.

25. Learned Senior counsel Sri G.Vidya Sagar appearing for impleaded respondents, who were short listed and their certificate verification was completed, by referring to prayer in W.P.No.18929 of 2017 would submit that it has four components, i.e., bubbling; review the entire final key through independent body; to cancel the merit list; and to direct re-examination. He would submit that petitioner no.10 Sri Ramesh made representation for revision of final key. He would therefore submit that petitioners cannot blow hot and cold. They cannot ask for revision of final key on the one hand and ask for conducting the examination afresh.

26. Petitioners did not come immediately after final key was issued. Writ petition is filed in June, 2017. On 01.06.2017, merit list was published calling for submission of certificates. Upto issuance of final key petitioners may have their grievance but once final key is issued they should not have any grievance.

27. He would submit that no case is made out to constitute one more expert body to examine revised final key. The objections made with supported documentary evidence were entertained by PSC while revising the final key. There cannot be any grievance in questions having multiple answer. Different authors have different answers based on their view point multiple answers were specified.

28. Learned senior counsel would contend that in W.P.No.18929 of 2017 petitioners are asking conflicting prayers. In the same writ petition parties cannot ask two different prayers. According to learned senior counsel, no illegalities made in undertaking revision of final key and the exercise undertaken was *bona fide*. He would submit that no *mala fides* are attributed to the Public Service Commission and when illegalities are not vitiating the entire selection process, on the ground of *mala fides* or on the ground of malpractices by the candidates, it is not open to seek cancellation of entire selection process.

29. He would submit that, when questions are defective, marks should be awarded only to candidates who have attempted the concerned questions.

30. He would emphasize that what is the correct answer in a multiple choice question format is not amenable to judicial review.

31. Excluding questions, which are deleted, questions which have multiple answers or in a given case ignoring the questions which have doubtful answers, the selection can be saved, more so when no *mala fides* or mass copying is alleged. It is also not the case of petitioners that there was allegation of formulating answers to suit few candidates. In fact, some of the petitioners themselves

made representation to re-look into the answers, but they have individually challenged the entire selection process and to conduct fresh selections.

32. In reply, learned senior counsel Sri M.Surender Rao would submit that judicial review is available if questions framed and answers chosen are demonstratively and palpably wrong. Such questions can be directed to be excluded. Public employment should stand the test of rigors of Articles 14 and 16 of the Constitution of India. Judicial Review is available on manner of conducting selections. He would further submit that when there are double answers/ wrong questions and answers, all the candidates, who have attempted such questions alone should be awarded marks.

33. In reply Ms. Rachna Reddy would submit that as illegalities are all pervading, including bubbling aspect, it would amount to malice in law and selection is vitiated. She would submit that whole selection is affected as large number of questions are affected and therefore fresh selection has to be held. She would submit that public interest requires conducting fresh selection. What is required to be seen is aspirations of lakhs of candidates and not the short listed candidates.

34. She would further submit that justification to undertake revision of final key is not answered. Further, even when more than one option is prescribed as valid, it is not necessary that a candidate must attempt to secure mark to that question.

35. Responding to the specific contention of learned senior counsel Sri Vidya Sagar that 10th petitioner also applied for re-determination of answers after publication of final key, she would

submit that merely because some have applied to re-look to certain answers cannot take away right of candidates to challenge the selection process if it is otherwise vitiated.

36. At the threshold, it is pertinent to note that PSC has not put in place mechanism to determine final answer to a question based on which marks are awarded. Material on record would disclose that questions are formulated by experts in a concerned field or subject along with answer. The PSC prepares question bank from out of which questions are selected and finalized. After the examination is over, it publishes a preliminary key and calls for objections. After receiving the objections, PSC constitutes committees of experts to consider those objections. Experts evaluate the questions and answers and suggest change of answer wherever necessary. This may vary from provisional key. Based on the recommendations of the experts, final key is published. On the basis of final key the answers of candidates are evaluated. This appears to be the standard procedure followed. In the instant recruitment process, after publication of final key also PSC received objections. PSC referred those objections to experts, re-evaluated the final key and published revised final key. Based on revised final key the OMR sheets were evaluated. It is appropriate to note that by the time revised final key exercise was undertaken and finalized the key answers, the evaluation of answer scripts were not taken up.

37. Initially, in public examinations, there was no system of publishing provisional key and calling for objections. However, experience showed that many times answer chosen by examining authority was not correct. Selection process always resulted in litigation on nature of questions asked and answers chosen. In

order to avoid the discontent and litigation, the system of publishing preliminary key and calling for objections is evolved in public examinations. After conducting examination, the examination authority publishes provisional key of answers and calls for objections. If objections are received, they are referred to subject experts. Based on the opinion of subject experts, wherever necessary corrections are made and final key is published. The process of publishing preliminary key and receiving objections underlines the objective of choosing correct answer to a question before evaluating the answer sheets of candidates. In the instant recruitment, PSC published preliminary key, called for objections. After receiving objections, constituted committees of experts to review the key answers, considered their opinion and finalised the key. However, it has entertained objections even after publishing final key and revised the final key. The decision to entertain further objections after publishing final key has to be seen on the touchstone of the purpose of undertaking the exercise, particularly when no laid down procedure is violated and assessment of performance of candidates was not taken up. It is pertinent to note that the PSC is the final authority in choosing answers to questions posed in an examination. In the process of choosing correct answers, it assesses the objections filed in consultation with subject experts and takes decisions to finalise the answers. In matters of this nature, more particularly when there is no laid down procedure that is violated, the further exercise undertaken by PSC cannot be faulted to hold the selection process as vitiated on that ground.

38. No doubt there has to be finality to an issue and that even if PSC decided to re-look at the final key it ought to have given

further opportunity to all candidates. However on that ground the selection process cannot be declared as vitiated. Further, objections are only on few questions out of total of 600 questions. Be that as it may, elaborate submissions are made on the answers chosen by PSC in the final key as well as revised final key in the questions highlighted by petitioners and they are considered hereunder, within the parameters of judicial review.

39. Before dealing with submissions on various questions, including prescribing more than one answer, it is appropriate to consider the view expressed by Hon'ble Supreme Court in two recent decisions on scope of judicial review and in the **Kanpur University** case.

40. In **Ranvijay Singh & Others**, the U.P Secondary Education Services Selection Board on 15.01.2009 published an advertisement inviting applications for recruitment to the post of Trained Graduate Teachers in Social Science. More than 36,000 candidates took the written exam and results for the same were declared in 18.06.2010. The exam was based on multiple choice answers which were to be scanned on OMR sheets. The candidates who qualified the written examination were called for interview and the combined results were declared on 14.9.2010. The Appellants were successful in the written examination as well as interview. Some candidates who were not successful in the written exam or in the interview filed writ petitions in the Allahabad High Court between 2010 and 2011. All the writ petitions were dismissed by learned single judge stating that there was no provision for re-evaluation of the answer sheets in the Uttar Pradesh Secondary Education Services Selection Boards Act, 1982. Another batch of writ petitions (having 77 petitioners) was filed wherein the subject

and issues were same. The writ petition was admitted to final hearing. Petitioners raised a plea that seven questions/answers in the written examination, according to them have incorrect answers. The learned Single judge personally examined the questions and concluded that all the seven answers were disputably wrong and on the basis of the same directed re-examination of the answer sheets of these 77 petitioners on 08.02.2012. Feeling aggrieved by the decision of the learned single judge, the board preferred special appeal before the Division Bench, which was dismissed on 13.03.2012. Judgment of the learned single judge was implemented and re-evaluation of the answer sheets was done and results were declared. The appellants were not affected by the re-evaluation and continued in the merit list. Candidates who were successful earlier were now unsuccessful and had no place in the merit list. On 12.05.2014 the board published final selection list of candidates who had qualified in the written examination as well as interview, in which the appellants did not find a place and therefore challenged the order of the learned single judge. According to the appellants the learnt single judge incorrectly re-evaluated the seven disputed questions and arrived at incorrect answers to these questions. The Division Bench heard all the review petitions as well as appeals and referred the seven disputed questions/answers to a one man expert committee. The appellants filed objections to the report submitted by the expert committee and eventually by judgment and order dated 02.11.2015 the Division Bench directed fresh evaluation of the answer sheets on the report of the expert committee. This decision of the Division bench was challenged in Supreme Court. A third evaluation was done by the board and results of the same were put in a sealed cover.

40.1. Hon'ble Supreme Court reviewed law on the subject. In paragraph-30 it has recorded its conclusions. They read as under:

“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.”

(emphasis supplied)

40.2. Supreme Court observed that the single judge erred in undertaking the exercise to ascertain the correctness of the key answers to the seven questions and held that it was completely beyond his jurisdiction. Supreme Court further observed that the entire examination process should not be derailed only because candidates are disappointed or dissatisfied or received some injustice having been caused to them by an erroneous question or an erroneous answer. The Supreme Court however observed that in a given case, it is permissible for the Court to direct exclusion of suspect or offending question.

40.3. Supreme Court held :

“32. It is rather unfortunate that despite several decisions of this Court, some of which have been discussed above, there is interference by the courts in the result of examinations. This places the examination authorities in an unenviable position where they are under scrutiny and not the candidates. Additionally, a massive and sometimes prolonged examination exercise concludes with an air of uncertainty. While there is no doubt that candidates put in a tremendous effort in preparing for an examination, it must not be forgotten that even the examination authorities put in equally great efforts to successfully conduct an examination. ***The enormity of the task might reveal some lapse at a later stage, but the court must consider the internal checks and balances put in place by the examination authorities before interfering with the efforts put in by the candidates who have successfully participated in the examination and the examination authorities.*** The present appeals are a classic example of the consequence of such interference where there is no finality to the result of the examinations even after a lapse of eight years. Apart from the examination authorities even the candidates are left wondering about the certainty or otherwise of the result of the examination — whether they have passed or not; whether their result will be approved or disapproved by the court; whether they will get admission in a college or university or not; and whether they will get recruited or not. This unsatisfactory situation does not work to anybody's advantage and such a state of uncertainty results in confusion being worse confounded. The overall and larger impact of all this is that public interest suffers.

33. The facts of the case before us indicate that in the first instance the learned Single Judge [*Ranjeet Kumar Singh v. State of U.P.*, 2012 SCC OnLine All 268 : (2012) 4 All LJ 19] took it upon himself to actually ascertain the correctness of the key answers to seven questions. This was completely beyond his jurisdiction and as decided by this Court on several occasions, the exercise carried out was impermissible. Fortunately, the Division Bench [*U.P. Secondary Education Service Selection Board v. State of U.P.*, 2015 SCC OnLine All 5788 : (2016) 3 All LJ 405] did not repeat the error but in a sense, endorsed the view of the learned Single Judge, by not considering the decisions of this Court but sending four key answers for consideration by a one-man Expert Committee.”

(emphasis supplied)

41. The above decision was followed by the Supreme Court in **U.P.P.S.C, through its chairman & Anr v Rahul Singh & Anr**⁶.

In the said case, the appellant U.P Public Service Commission issued advertisement on 22.02.2017 inviting applications for filling up vacancies in the Upper Subordinate service in the state. The selection is conducted by a three step process comprising of preliminary written examination, main examination and interview. Candidate who clears the preliminary examination can appear for the main examination. The preliminary examination consisted of two papers namely General Studies-I & General Studies-II. Issue in the case was about General Studies-I paper which carried 200 marks, out of which 150 are to be answered by choosing from multiple choice answers shown against each question. After the preliminary examination was conducted, key answers were published by the Commission between 18.11.2017 to 23.11.2017, on obtaining opinion from two expert committees comprising of 15 & 18 experts respectively. Objections were to be submitted by 24.11.2017. A 26 member Committee was constituted by the board to examine 962 objections received. After a detailed analysis, the Committee decided to exclude 5 questions and corrected key answers of 2 questions. Accordingly, results were declared on 145 questions. Several writ petitions were filed by the candidates raising dispute about the correctness of the key answers of 14 questions. The High Court, after elaborate discussion and reasoning negated the prayer of the petitioners with respect to 11 questions but in respect of 3 other questions, directed to delete one question, held that there were two correct answers for one question, and with respect to one more question disagreed with the view of the Commission and accepted the submission of the

⁶ (2018) SCC Online SC 609

petitioners. This was challenged in appeal by the Commission. The Commission stated that the High Court transgressed its jurisdiction and went beyond the scope of judicial review. It was contended that High Court could not have over ruled the view of the Commission which was based on the report of two expert committees.

41.1. Supreme Court held that the Commission published the answer key only after a detailed report by two expert committees. It can be presumed that the committees consisted of experts in various subjects for which the examinees were tested. Judges cannot take on the role of experts in academic matters. Unless the candidate demonstrates that the key answers are patently wrong on the face of it, courts cannot enter into academic field and decide which answer is better or more correct. When there are conflicting opinions, the court must bow down to the opinion of these experts. Judges are not experts in all fields and therefore they must exercise great restraint and should not overstep their jurisdiction to upset the opinion of the experts.

41.2. Supreme Court held that the High court in this case overstepped its jurisdiction by giving directions which amounted to setting aside the decision of experts in the field. Holding so, judgment of the Allahabad High Court is set aside.

41.3. It is appropriate to note observations of Supreme Court in paragraph-14. It reads as under:

“14. The law is well settled that the onus is on the candidate to *not only demonstrate that the key answer is incorrect but also that it is a glaring mistake which is totally apparent and no inferential process or reasoning is required to show that the key answer is wrong.* The Constitutional Courts must exercise great restraint in

such matters and should be reluctant to entertain a plea challenging the correctness of the key answers. In *Kanpur University case* (supra), the Court recommended a system of - (1) moderation; (2) avoiding ambiguity in the questions; (3) prompt decisions be taken to exclude suspected questions and no marks be assigned to such questions.”
(emphasis supplied)

42. In **Kanpur University**. It reads as under:

“16.....We agree that the key answer should be assumed to be correct unless it is proved to be wrong and that it should not be held to be wrong by an inferential process of reasoning or by a process of rationalisation. It must be clearly demonstrated to be wrong, that is to say, it must be such as no reasonable body of men well-versed in the particular subject would regard as correct.... .

(emphasis supplied)

43. Though petitioners raised objections on several questions, during the course of arguments, learned counsel have confined their submissions only to following questions.

44.1.1. **Question No 16 (Paper I :CD series)**: According to 2011 Census Data, the most literate state after Kerela is?

Options:

1.Delhi

2.Tripura

3.Lakshadweep

4.Goa

44.1.2. In the preliminary key option chosen was ‘3’. In the final key question was deleted and in the revised final key option chosen was ‘2’.

44.1.3. According to learned senior counsel, the Primary Census Abstract published by Government of India would disclose that ‘Laksha Dweep’ is next literate state after Kerala followed by Mizoram, thus correct answer is ‘Laksha Dweep’ i.e., option No.3. In the preliminary key the correct answer was shown as ‘Laksha

Dweep', but in the final key it was deleted and in the revised final key 'Triupra' is shown. According to Government of India statistics, State of Tripura is far below.

44.1.4. According to learned special Government Pleader, candidate has to choose from out of four options given and as per four options given, Tripura is the most literate state after Kerala. He would submit that though Mizoram is the next most literate state, but as Mizoram is not included in the options, Tripura alone has to be picked up by the candidate and, therefore, the final answer key selected by PSC is correct. He would submit that petitioners cannot contend that the answer chosen by PSC is not correct merely because the next most literate State after Kerala as per 2011 census is Mizoram.

44.1.5. It is true that as per 2011 census, after State of Kerala, State of Mizoram has higher literacy rate but Mizoram is not listed in the options. Among the four options, three are States and one is Union Territory. Among the three States listed under the question, State of Triupra is having higher literacy rate. Candidate has to select one of the options shown as correct answer. 'Lakshwadeep' is not a State. Therefore, the final revised option chosen by PSC can not be said as erroneous.

44.2.1. **Question 79 (Paper I :CD series):** The first state in India which provided welfare measures, such as pension, housing and food grains to transgender?

Options :

1. Odisha
2. Manipur
3. Kerela
4. Tamilnadu

44.2.2. Learned senior counsel contended that the final option selected by PSC i.e., 4 is not correct, whereas, correct answer is Odisha state i.e., option No.1 which was also shown in the preliminary key. Reliance was placed on the news item published in 'Hindustan Times' and 'The Hindu' newspapers to contend that State of Odisha was first to introduce welfare measures to transgenders.

44.2.3. According to learned special Government Pleader, Public Service Commission relied upon the policy note of Social Welfare and Nutritious Meal Programme Department, Government of Tamil Nadu for the years 2010-11. He also relied on policy brief titled, 'The case of Tamil Nadu Transgender Welfare Board: Immigrants for Developing Practical Models of Social Protection in Programmes for Transgender people in India' and other material to contend that Tamil Nadu Government implemented welfare measures for the Transgenders earlier to Odisha State. According to learned special Government Pleader, the benefits were extended to transgenders by Orissa State in the year 2016, whereas, in State of Tamil Nadu they were extended in the year 2010.

44.2.4. The material placed on record by PSC discloses that long prior to Odisha State, various welfare measures, such as, income assistances, housing, education, employment, health care for transgenders were implemented in State of Tamil Nadu. On the contrary, the newspaper clippings relied by petitioners are of the year 2016 and deal with decision of Odisha to include transgenders in the Below Poverty Line (BPL) category in that year. Therefore, the answer finalised by PSC cannot be faulted.

44.3.1. **Question 106 (Paper I :CD series):** The Persons with Disabilities (Equal Opportunities, Protection of Right and Full Participation) Act, 1995 provides 3% reservation for disabled persons in?

Options :

1. lower level and entry level jobs only.
2. desk jobs only
3. all posts and services under the govt of india
4. Posts identified as suitable.

44.3.2. In the preliminary key option chosen was '3'. It was changed to '4' in final key. In the revised final key it was reverted to option '3'. According to learned senior counsel correct option is 4 i.e., 'posts identified as suitable'. He placed reliance on the relevant provisions of the Act in support of his contention.

44.3.3. According to learned special Government Pleader, as per to Section 33 of the 'Persons with Disabilities (Equal Opportunities, Protection of Right and Full Participation) Act, 1995', every Government has to apportion not less than 3% reservation in all posts and services under the Government of India. Therefore, the option chosen is more appropriate answer as compared to other answers.

44.3.4. Chapter-VI of the Act deals with 'employment'. Section 32 mandates appropriate Government to identify posts which can be reserved for persons with disability. Section 33 mandates to reserve at least 3% vacancies to appoint persons with disability. As the question deals with percentage of reservation in employment to persons with disability, answer is option '3'.

44.4.1. **Question 123 (Paper I :CD series):** The Union Cabinet has given its approval for the introduction of Surrogacy (Regulation) Bill,2016 to ban commercial surrogacy in the country. Consider the following statements regarding the bill. Which of the following statements(s) is/are correct?

Options :

- a. It bans unethical commercial surrogacy, and also sale and purchase of human embryo and gametes.
- b. It allows ethical surrogacy (ie altruistic surrogacy) to needy infertile couples on fulfilment of certain conditions.
- c. It bans foreigners, homosexual couples, people in live in relationships and single individuals to have babies through surrogacy.
- d. It prohibits surrogacy services in the country

Codes:

- 1. only c
- 2. both c and d
- 3. only a
- 4. only b

44.4.2. According to learned senior counsel, statement 'B' and 'C' are correct but these two statements are not included in four options. He would submit that option no.2 chosen by PSC is not correct. According to learned senior counsel, the bill does not emphasis only on unethical commercial surrogacy, sale and purchase of human embryo and gametes but it also allows ethical surrogacy to needy infertile couple on fulfilment of certain conditions. It also bans foreigners, homosexual couple, people in live in relationships and single individuals to have babies through Surrogacy. Therefore, both 'b' and 'c' are correct statements. Reliance is placed on various clauses of bill to buttress his contention.

44.4.3. Learned Special Government Pleader would submit that the candidate is required to answer as to which of the statements are correct. According to Special Government Pleader Surrogacy (Regulation) Bill 2016 envisages ban on unethical commercial surrogacy and also sale and purchase of human embryo and gametes, it allows ethical surrogacy and bans foreigners, homosexual couple, people in live-in relationships and single individuals to have babies through surrogacy. Chapter-III deals with regulation of surrogacy and surrogacy procedures.

44.4.4. He would submit that answer 'b' alone is not correct, whereas answers 'b', 'c' and 'd' are correct. As per the options given to the candidates, statement 'b' or 'c' alone cannot be the right answer as statements 'c' and 'd' are also right. Therefore, from among the statements, the candidates are required to select the statements, which are correct. According to section 33 of the act, the answer chosen by the PSC is correct.

44.4.5. On a reading of relevant provisions of the Bill, it is seen that Bill does not seek to prohibit Surrogacy services completely and exceptions are carved out. As per the options listed under the question, candidate was required to chose as to whether statement 'c' (option 1) or statement 'a' (option 3) or statement 'b' (option 4) or statement 'c' and 'd' (option 2) as correct answer. As per provisions of the Bill, answers 'b', 'c', and 'd' are correct. Even according to learned senior counsel options 'b' and 'c' are correct. If both are correct choosing 'c' (option 1) or choosing 'b' (option 4) do not make the answer as valid. From among the options candidate has to pick the correct option. In the manner in which questions and options were framed, option '2' chosen by PSC cannot be held as not valid.

44.5.1. **Question 143 (Paper I :CD series)**: The name of the first nuclear reactor built with indigenous technology?

Options :

- 1.Kamini
- 2.Rohini
3. Apsara
- 4 .Maneka

44.5.2. Option chosen by TSPSC is '3'.

44.5.3. According to learned senior counsel APSARA Reactor was not build with indigenous technology because fuel core of the reactor was purchased from France.

44.5.4. According to learned Spl.Government Pleader, to identify the correct answer, the candidate is required to carefully read the question posed. According to question, candidate has to answer the name of the first Nuclear Reactor built with indigenous technology. The PSC relied on the material available from the official website of Bhabha Atomic Research Centre in support of the decision.

44.5.5. Careful reading of the content of letter dated 25.07.2018 from pages-101 to 102 of writ petition paper book in W.P.No.21886 of 2017, it is clear that what was sought to be emphasized in that letter was shifting of fuel core of the APSARA Reactor purchased from France and to make the fuel core available to be placed under safeguards in 2010. Thus, what was mentioned therein was regarding the fuel core only and it does not deal with building Nuclear Reactor with indigenous technology. On the contrary, reading of the material relied by the PSC would show that APSARA was the Reactor built with indigenous effort and attained first criticality on August 4, 1956. The petitioners have

misunderstood the issue based on the material relied upon by them. Thus, option chosen by PSC is the correct answer.

44.6.1. **Question 8 (Paper II: CD series)** : The Bombay High court has recently allowed the entry of women into which religious institution?

Options :

1. Sabarimala temple
2. Triambakeshwar Temple
3. Haji Ali Dargah
4. Shani Shingapur Temple

44.6.2. The option chosen by PSC is answer no.3 i.e., 'Haji Ali Dargah'.

44.6.3. According to learned senior counsel there is ambiguity in formation of question. Bombay High Court allowed entry of women into 'Shani Singnapur temple' and 'Haji Ali Dargah' by orders issued on 30.3.2016 and 26.8.2016 respectively. As both are recent orders, options 3 and 4 are correct, whereas, only one answer is chosen by TSPSC. Therefore, the answer chosen by TSPSC is wrong.

44.6.4. Learned Special Govt. Pleader would submit that word used in the question is 'recently' and it means 'latest'. Though the Bombay High Court passed two orders in the year 2016, but the 'recent order' i.e., 'latest order' is regarding entry into 'Haji Ali Dargah' and, therefore, the correct option is '3'. There is no confusion in the question posed.

44.6.5. No doubt, in the year 2016, Bombay High Court passed two orders which deal with options '3' and '4'. But candidate has to note the question posed and has to pick the correct option. As word 'recent' is used in the question, he has to

select option dealing with 'latest' order passed by the Bombay High Court. Among the two orders, order on entry into 'Haji Ali Dargah' being latest, it is the correct answer.

44.7.1. **Question 16 (Paper II: CD series):** Consider the following statements:

- A. Indebtedness and forced labour irrespective of caste is 'vetti'.
- B. Forced Labour and oppression of village servant caste is 'bonded labour'

Options :

- 1. A is wrong B is right
- 2. A & B are wrong
- 3. A&B are right
- 4. A is right and B is wrong

44.7.2. In the preliminary key and revised final key TSPSC chosen option '2' as correct, whereas, in the final key it choose '4'.

44.7.3. According to learned senior counsel, only Statement 'A' is right. In support of his contention, he refers to the definition given in 'The Bonded Labour System (Abolition) Act, 1976. As per the provisions of the Act, 'Indebtedness and forced labour irrespective of caste is vetti'. He also refers to extract from book published by P Sundarayya titled 'Telangana People's Struggle and its Lessons', wherein under the heading 'vetti system' he has exclusively mentioned that it is a forced labour which amounts to vetti system.

44.7.4. *Per contra*, learned special Government Pleader, would submit that 'vetti' is not always followed by indebtedness. 'A' statement is wrong. The candidate is required to choose whether both or one of the statements are correct. The contention of learned senior counsel that 'A' is right, whereas no option on 'A'

statement was given, is not valid. As both the statements are wrong, Option 2 is correct answer as chosen by PSC.

44.7.5. On a plain reading of question, statements listed therein and relevant provisions of the Act, it cannot be said that both statements are right. Thus, the decision of PSC to hold option 2 as right answer can not be faulted. Even otherwise, as observed by Hon'ble Supreme Court in **Ranvijay Singh (supra)** Court should presume the correctness of the key answer and in the event of doubt benefit should go to the PSC. Further, it cannot be said that decision of PSC is palpably wrong.

44.8.1. **Question 18 (Paper II: CD series)** : The tribal unrest which led to the demand for separate and autonomous states for protecting tribal's unique cultural identity and other systems.

Options :

1. Munda Oran sardar movement.
2. Naxalbari Movement
3. Chota Nagpur movement
4. Gondwana movement

44.8.2. In the preliminary and final key option 4 is shown as correct answer, whereas in the revised final key, option no.1 is also added to option no.4.

44.8.3. According to learned senior counsel options 1 and 4 are not correct answers. In fact, the question itself is defectively framed as all the tribal movements relate to colonial era/pre-independence period. Prior to independence there were no autonomous states, therefore tribal unrest relatable to autonomous states, does not arise. In post independence period separate and autonomous state demands were 'Gorkha land movement', 'Bodo land movement', 'Chattisgarh' etc, whereas none

of them were mentioned in the options. In support of his contention, he placed reliance on the book published by Telugu Academy titled 'Social Structure, Issues and Policies' and also 'Statistical Abstract relating to British India' published by his Majesty's Stationery Office of the United Kingdom.

44.8.4. According to learned Special Government Pleader, the candidate is required to understand the question and choose answer from out of options given. As per the material relied by PSC, the word 'state' used in the question is also relatable to the Pre-independence struggle by the Tribals to get autonomous states and, therefore, the option '1' or '4' chosen by PSC are valid answers.

44.8.5. Petitioners and PSC relied on book published by Telugu Academy on 'Social Structure, Issues and Policies'. Main emphasis by learned senior counsel for petitioners is that all the options except '2' relate to pre-independence era and prior to independence demand for separate and autonomous states did not arose. The said stand appears to be not valid. Paragraph 3.2.1. of the book dealt in brief Tribal Movements during colonial era. It refers to Chota Nagpur Revolts (1920), Munda-Oraon Sardar Movement (1865-1895) and Gondwana Movement (1938-1944). It also reads that 'This tribal unrest had led to demands for **separate and autonomous states** for protecting their unique cultural identity and other systems'. Thus, options 1, 3 and 4 shown against the question are mentioned in the book and refers to demand for separate and autonomous states prior to independence. With reference to Chota Nagpur Revolt, PSC explains that it was on the issue of cultural identity and not for separate State. This, stand of PSC is not disputed. In the book on

‘Social Movement in India’ by Ghanshyam Shah, relied by PSC, there is a specific reference to Chota Nagpur movement, as aimed at ‘liquidation of the racial enemies, the Dikus, European Missionaries and officials and native Christians’. This would also show that the said movement was not for separate State movement. It, thus leaves options 1 and 4. Thus decision of PSC choosing 1 and 4 as correct answers can not be faulted. It can not be said that said decision is demonstrably and palpably wrong.

44.9.1. **Question 134 (Paper III: CD series):** Which of the following districts has the largest forest area in Telangana state as per ‘Socio Economic Outlook 2016’ (Govt of Telangana) in 2015-16?

Options :

- 1.Mahabubnagar
- 2.Karimanagar
3. Adilabad
4. Khammam

44.9.2. In the final key published by TSPSC they have indicated both Adilabad and Khammam as correct answers i.e., options 3 and 4.

44.9.3. By referring to Socio Economic Outlook Report-2016 learned senior counsel would contend that forest area in Adilabad district is 7232 sq KMs whereas Khammam district forest area is 6487 sq KM, therefore only option no.3 is correct.

44.9.4. Learned Special Government Pleader submitted that after the last adjournment, the information was sought from the Principal Chief Conservator of Forests on which district has the largest forest area in Telangana State. The Principal Chief Conservator of Forests vide his letter Rc.No.1839/2016/TG/WLR-I,

dated 04.08.2018 informed that Adilabad district has the largest forest area. According to the Principal Chief Conservator of Forests, though Khammam district had the largest forest area, but after ceding seven mandals to State of Andhra Pradesh, the forest area got reduced and as per the reduced forest area, Khammam district does not have the largest forest area. He would therefore submit that the correct option is '3' only, though initially PSC has chosen '3' and '4' as correct options.

44.9.5. At this stage, it is appropriate to note the objection of learned senior counsel appearing for some of the selected candidates. According to senior counsel, the question is relatable to information placed in the public domain by the Government of Telangana in the form of 'Socio Economic Outlook-2016' and in the said book in page no.50, Adilabad is shown as having highest forest area, whereas in page no.152, Khammam is shown as having highest forest area and that alone is relevant to identify the correct answer. He would therefore submit that the revised final key answer chosen by PSC i.e., '3' and '4' is correct.

44.9.6. Learned senior counsel for petitioners, learned Special Government Pleader and learned senior counsel appearing for unofficial respondents relied on same material i.e., "Reinventing Telangana-The Way Forward-Socio Economic Outlook 2016" published by Planning Department, Government of Telangana. Paragraph XIV (page 49) deals with 'Forestry'. In the Table 3.14 at page 50 under the heading "District wise Geographical Area and Forest Area in Telangana State" it is stated that Adilabad has largest area under forest followed by Khammam. It is also stated that in terms of Percentage of Area Under Forest, Khammam stands first with 48.90 % followed by Adilabad with 44.91%.

Serial number 1 in the table is Adilabad district. Compared to geographical area of 16,105 sq.Kms; forest cover is shown as 7,232 sq.kms and percentage of forest area is mentioned as 44.90%. Serial number 3 is Khammam. Total geographical area is shown as 13,266 sq.kms; forest area shown as 6,487 sq.kms and percentage of forest area is mentioned as 48.90 %.

44.9.7. In Table 32 at page 152 of the same book under the heading **“District wise Geographical Area and Forest Area in Telangana”** Adilabad is at Serial No. 1. The total geographical area mentioned in this table tallies with earlier table but when it comes to ‘forest area’ in this table it is printed as 6895.17 sq.kms compared to table 3.14 where it was mentioned as 7,232 Sq.Kilometers. The percentage of forest area mentioned in table 32 is 42.81%. Khammam district is shown at serial no.10. The total geographical area mentioned is same in both tables. With reference to forest area, in table 32, it is mentioned as 7594.38 sq.kilometers compared to 6487 sq.kilometers in table 3.14; forest area mentioned in table 32 is 57.25% compared to 48.90% mentioned in table 3.14. In other words, in two tables in the same book, dealing with geographical area, forest area and percentage of forest area, different extents are mentioned on forest cover and percentage concerning both districts.

44.9.8. The question posed was which District has largest forest area in Telangana State. As noted above, in Table 3.14 at page 50 Adilabad district is shown as having largest forest area, whereas in Table 32 at page 152 of same book, Khammam is shown as having largest forest cover. How this discrepancy crept in is not known. Since, there are two different statements made in the same book, which is relied by both the sides, the decision of

PSC to choose option no.3 and 4 as correct answers cannot be faulted. Obviously, as the book titled 'Socio Economic Outlook 2016' is a publication by Government of Telangana, it would be the source for candidates to assess forest cover in the process of their preparation for public examinations. When two tables printed in the book disclose two different extents, candidates cannot be faulted in choosing either Adilabad or Khammam.

44.9.9. Though, during the course of arguments, learned Special Government Pleader sought to place reliance on subsequent correspondence from the Principal Chief Conservator of Forest, Government of Telangana, clarifying that though initially Khammam had larger extent of forest cover, since seven mandals of Khammam district were deleted from state of Telangana and added to state of Andhra Pradesh the extent of forest cover in Khammam district got reduced, it is seen from 'Socio Economic Outlook 2016' this material was not incorporated. This information was not placed in the public domain and unless such statistical information is placed in the public domain the candidates cannot be expected to know the intricate aspects of coverage of forest area to now hold that Adilabad district has larger forest area compared to Khammam. Further, the correspondence, makes it clear that there was ambiguity on the issue. In the facts as noted above, the decision of PSC to choose both options as valid, cannot be faulted.

44.10.1. **Question 113 (Paper IV: CD series):** Which commission appointed by the Govt. of A.P submitted its report entitled 'Report of Tribal land issues in the Telangana Area' in 2005?

Options :

- 1.Koneru Rangarao Committee.
- 2.Justice Ramchandra Raju Commission
- 3.J.M. Girglani Commission
- 4.Justice K. Ramaswami Commission

44.10.2. TSPSC chosen 'Koneru Ranga Rao Commission and J.M.Girglani Commission i.e., options '1' and '3' as correct.

44.10.3. According to learned senior counsel, only J.M.Girglani Commission is correct answer. In support of his contention, he refers to letter written by Dr Gautam Pingle, Dean of Research and Consultancy, Director, Center for Public Policy and Governance, Administrative Staff College of India addressed to Mr V.K.Duggal, Member Secretary of 'The Sri Krishna Committee' and Land Committee Report, 2006.

44.10.4. Learned Special Government Pleader would submit that Government of Andhra Pradesh commissioned J.M.Girglani IAS (Retd.) to study the issue of the 'Telangana Tribal Land Rights'. The Government also appointed Koneru Ranga Rao Commission to look into the issue. Koneru Ranga Rao Commission in turn requested J.M.Girglani to look into the issue, and thereon he submitted report and he would therefore submit that both answers i.e., '1' and '3' are also correct and, therefore the revised final key chosen by the PSC is valid.

44.10.5. From the material placed on record by petitioners and PSC, it is apparent that Government commissioned J.M. Girglani, IAS (Retd) to study issue of 'Telangana Tribal Land Rights'. Government also constituted the 'Land Committee' under the Chairmanship of Sri Koneru Ranga Rao, then Hon'ble Minister for Municipal Administration and Urban Development. The Land Committee was required to assess over all implementation of land

distribution programmes of the Government, to suggest measures for their more effective implementation, to suggest required changes and amendments to the Act/Rules for improved enforcement of land related legislations, to suggest measures for removal of obstacles in their implementation along with action plan with time lines and to monitor implementation of the Committee recommendations. The Committee submitted its report titled 'Land Committee Report' in the year 2006. Mr Girglani, submitted his report 'Report of Tribal Land Issues in the Telangana Area' in the year 2005.

44.10.6. The question asked was which **Commission** submitted report entitled '**Report of Tribal Land Issues in Telangana Area in 2005**'. This report was submitted by Mr Girglani. What was constituted under the Chairman of Hon'ble Mr Koneru Ranga Rao was a 'land committee' and not a 'Commission'. The said committee report did not contain the title mentioned in the question. Learned Special Government Pleader sought to rely on statement made by Mr Girglani in Prof.B.Janardhan Rao Memorial Lecture- stating that he had submitted his report to Mr Koneru Ranga Rao committee. The said statement has no relevance in view of question framed and options furnished. PSC has not shown any justification to chose '1' also in the revised final key. The material placed on record clearly demonstrates that only correct option is '3'. The options chosen by PSC i.e., '1' and '3' as correct answers is palpably and demonstratably wrong. The correct answer is '3' only and not '1' and '3'.

44.11.1. **Question 146 (Paper III: CD series):** The largest category of consumers that consume highest share of electric power in Telangana State is?

Options :

- 1.(HT<) Commercial
- 2.domestic category
- 3.agriculture
- 4.industry

44.11.2. PSC has chosen option '2' as correct answer.

44.11.3. According to learned counsel Ms Rachana Reddy, as per Statistical Year Book, 2016, Directorate of Economics and Statistics, Government of Telangana, Agriculture consumes more power than any other category.

44.11.4. Learned special Govt. Pleader would submit that question posed is to identify the largest category of consumers that consume highest share of electrical power in Telangana State. Thus, what is required to be identified by the candidate from out of the options given is which is the largest category of consumers that consume highest share of electrical power. Even according to the material relied by the petitioners, though agriculture including RESCOS consume more power compared to other categories, but largest category of consumers who consume power is domestic category. He would further submit the answer given only deal with domestic category and agriculture against Sl.No.2 and 3, whereas the material relied by the petitioners would show that agriculture including RESCOS and, therefore, they cannot place that material to contend that option '3' is correct.

44.11.5. According to learned senior counsel Sri G.Vidayasagar, in the 'Socio Economic Outlook-2016' percentage and classification of consumption is given in tables 29 and 30. Domestic consumer constitutes 73% (Table 10.5 and 10.6). The Statistical Year Book-2016 relied by petitioners refers to consumption of power.

Consumption of power is different from consumer. Question relates to consumption by the largest category of consumers. Candidate has to visualize the question and the answer given. He would further submit that even if two views are possible, benefit of doubt should go to TSPSC. He would further submit that even if there is doubt or more than one answer is possible, as held by Apex Court, unless a candidate attempted the question, he cannot agitate. Pleadings are not raised on how petitioners are affected.

44.11.6. Statement from 'Statistical Year Book 2016' relied by learned counsel Ms Rachana Reddy dealt with category wise consumption. Item (1) is domestic supply and item (5) Agriculture including RESCOS. Put together Agriculture and RESCOS the consumption is more. PSC relied on statistics published in 'Socio Economic Outlook-2005' Table 30 of extract of page 100 of said outlook would show consumer categories. It shows domestic consumption at 73% and Agriculture at 17%.

44.11.7. To appreciate respective submissions, it is appropriate to note the question. The question asks the candidate to state which is the **largest category of consumers** that **consume highest share of electrical power**. Material placed on record would disclose domestic category is the largest category of consumers. Further, according to material relied by PSC, they consume higher percentage of electrical power. Petitioners' claim is based on combined consumption of electricity in Agriculture sector and RESCOS. No separate statistics placed on record to show how much electricity is consumed by Agriculture sector alone. Thus, based on combined assessment of consumption for Agriculture and RESCOS, it cannot be assumed, even as per the contention of learned counsel for petitioner, holding Agriculture as

the right answer. In the light of question framed and material placed on record, it cannot be said that the decision of PSC is demonstrably and palpably wrong. Even otherwise, benefit of doubt has to be given to PSC even if there is ambiguity or uncertainty to the answer. Thus, it cannot be said that answer chosen by PSC is not valid.

45. Since Special Government Pleader fairly submitted that Question No. 111 of Paper III of CD series and Question No. 93 of paper IV of CD series are defective, the questions are not discussed in detail.

46. Petitioners raised objection on answers chosen by PSC against 13 questions discussed above. Out of those 13 questions, learned Special Government Pleader was fair in submitting that in question No.111-CD series of paper III and question No.93 of paper IV- CD series answers shown to questions and/or formulation of questions and answers were defective. On assessment of respective submissions, the Court found that except for question number 113 of Paper IV-CD series, the options for the remaining contested questions are valid and no interference is called. In question 113 of Paper IV-CD series the multiple options specified in revised final key is found to be defective and correct option is only '3'. Thus, out of 13 questions discussed above as revised final answer claimed by PSC in question No.113 of paper IV-CD series is found to be defective, PSC has to revise the assessment of candidates performance based on the answer to above question as option '3' only.

47. It is not uncommon that in public examinations, duly taking note of objections against formulation of questions and

options specified and on due assessment examining authority may delete few questions, may prescribe more than one option as correct answer and may change the answer. As can be seen from the counter averments, the questions and answers were evaluated by subject experts comprising of several committees. Nine Committees reviewed objections on preliminary key. The PSC received objections on final key. Again 4 committees were constituted to re-verify the key. A High Power Committee looked into the reports of the committees before publishing revised final key. It appears decisions were made only after an elaborate exercise was undertaken by PSC. In the process, PSC took considered decision to exclude 17 questions. From out of total 600 questions in four papers, deleted questions are (a) Paper-I: Question Nos.5, 10, 31, 82, 125 and 126; (b) Paper-II: question Nos.38, 49, 76 and 85 (c) Paper-III: question Nos.4 and 69 and (d) Paper-IV: question Nos.6, 65, 99, 110, 126 and 148. It cannot be said that said decision is vitiated on ground of malice nor can it be classified as arbitrary and discriminatory.

48. Further, in 14 questions, Paper-I: question Nos.20 and 105; Paper-II: question Nos.18, 89 and 119; Paper-III: question Nos.42, 47, 55, 99 and 134; and Paper-IV: question Nos.55, 102, 105 and 113, in all 14 questions, PSC prescribed more than one option as correct answer. On consideration of respective submissions, the Court found that choosing two answers to question 113 in paper IV-CD series is erroneous. Prescribing more than one option as correct answer in question 18 of Paper –II CD series and question 134 of Paper-III- CD series is held valid. The petitioners have not contested the decision to choose more than one option as correct answer in other questions referred to above. This decision was

made based on the recommendations of experts and on due consideration and recommendation of high power committee. Formulation of questions do not get vitiated merely because more than one option out of four options prescribed are valid answers, if such decision is supported by well considered exercise. It would make the choice of candidates on either of the options as valid.

49. It is appropriate to note that except 13 questions discussed above, petitioners have not challenged PSC decision to prescribe more than one option as valid/change of answers.

50. In other words, in addition to disputing the revised final answers in 13 questions discussed above, petitioners have grievance against deletion of 17 questions and prescribing multiple choices as valid answer in 14 questions. On detailed consideration of respective submissions, this Court held that the revised final key called for no interference except for question 113 of paper IV-CD series. Learned Special Government Pleader accepted that 2 questions/ answers in 2 questions as defective and to be deleted. In all 19 questions get deleted. Answer changes in one question.

51. The percentage of total questions affected in this manner is minimal. The deletion and multiple answers are applicable to all candidates uniformly.

52. On assessment of respective contentions, it cannot be said that the selection is vitiated on the ground that few questions are deleted, for few questions more than one answer is prescribed and change of key answers.

53 In the public examination conducted by PSC pursuant to recruitment notification dated 02.06.2017 to make selection for recruitment to the posts of Principals in Residential Institutions,

out of total of 300 questions, 67 questions were deleted by responding to complaints that they were copied verbatim from private blogs/coaching centres. This deletion was challenged in WP (PIL) 147 of 2018. The Division Bench accepted the stand of PSC for deletion of 67 questions and declined to set aside the selection process on the ground of deletion of large number of questions.

54. In the instant recruitment only 19 questions get deleted out of 600 questions. The percentage of questions deleted is far less compared to above case. Thus, deletion of 19 questions and prescribing multiple answers to 14 questions do not vitiate the selection process. However, since 2 more questions are deleted and for 1 question multiple answer is not agreed, the merit list has to be redrawn. However, as 1:3 ratio comes to 3146, this exercise be confined to first 6000 candidates to arrive at fresh 1:3 ratio.

55. However, with reference to questions which are now deleted, as held by Supreme Court in **Guru Nanak Dev University**, marks are to be awarded only to those candidates who have attempted the said questions irrespective of answer and not to award marks to candidates who have not even attempted. In paragraph-12, Supreme Court observed:

“12. There is yet another problem, namely, that of seven questions which are so vague that they are incapable of having a correct answer. The appellant University, in respect of those seven questions, has given the credit to all the students who had participated in the entrance test irrespective of whether someone had answered the questions or not. We do not think that that is the proper course to follow. *It is wholly unjust to give marks to a student who did not even attempt to answer those questions. This course would mean that a student who did not answer say all the seven questions would still get 28 marks, each correct answer having four marks. The reasonable procedure to*

be followed, in our opinion, would be to give credit only to those who attempted the said questions or some of them. Having regard to the circumstances of the case, we direct that for the students who attempted those questions or some of those questions, insofar as they are concerned, the said questions should not be treated to be part of the question paper. To illustrate, if a student answered all the said seven vague questions, insofar as that student is concerned, total marks would be counted out of 772 i.e. 800 less 28 and likewise depending upon number of such questions, if any, answered by the student. The seven vague questions are Question 4 in Physics, Questions 76 and 89 in Chemistry, Questions 147 and 148 in Botany and Questions 156 and 163 in Zoology of Question Paper Code A.”

(emphasis supplied)

II ON ILLEGALITIES IN BUBBLING:

56. Before recording the respective submissions of learned counsel, in the short list of candidates called for certificate verification there are candidates who have committed errors in entering relevant particulars in Part-‘A’ of the OMR sheet. To ascertain the number of such candidates and the nature of mistakes committed by them, all counsel appearing for respective parties and learned Advocate General representing PSC have agreed to constitute committee of three senior advocates to go through the OMR sheets of upto 5000 candidates, who have secured top merit from out of whom candidates were called for verification process in 1:3 ratio. Learned Advocate General and counsel for parties have given names of three senior Advocates who have consented to undertake the job.

57. On 28.02.2018, following order was passed:

“3. Broadly the committee is requested to examine extent of corrections made; whether those corrections were genuinely made as sought to be projected; impact of such corrections; number of candidates who are involved in making such corrections in the short listed candidates in the ratio of 1:3 and

candidates now identified to subject them to oral interview; whether such corrections vitiate entire selection process, even assuming those corrections were not made intentionally. It is also necessary to ascertain whether such mistakes were repeated even in second session of 11.11.2016 and on 13.11.2016; whether there were mistakes committed by candidates without regard to mismatch of question paper booklet series and OMR sheet series; whether manual verification can result in influencing the performance of a candidate; whether such mistakes are all pervasive; whether only few short listed candidates resorted to such corrections and if so, what is the nature of corrections/mistakes made by them; whether the corrections are made *inter se* between two candidates whose OMR sheets were exchanged on the ground of mismatch of the booklets series and OMR sheets series; the Committee shall also consider whether such corrections were made because of confusion on mismatch or mistakes were committed by the candidates on their own; whether manually also is it possible to match candidates name, roll number and question paper booklet and whether it is possible for the scanning agency to identify and match correct OMR sheets to right candidate.

4. The above parameters are only suggestive and it is for the Committee to look into any other aspect and make an assessment on the entire exercise undertaken by TSPSC.”

58. The senior advocates of the committee, by taking assistance of their office colleagues have undertaken mammoth exercise of physical verification of approximately 20000 OMR sheets and submitted their report. Copies of reports were submitted to learned counsel. Petitioners in W.P.Nos.18929 & 23173 of 2017 filed objections to the report.

Submissions on the report of learned Senior Counsel:

59. Learned senior counsel Sri M.Surender Rao pointed out that it is possible to edit the images of OMR sheets captured and stored in computer data base. There are tools available to undertake said editing and therefore merely because images of OMR sheets were already taken and stored is no ground to hold that there is no possibility of manipulation. This fact was not taken note by the committee. He would submit that apparently, several candidates committed illegalities in entering their particulars in Part-‘A’ and Part-‘C’ and, therefore, fresh selection process should be undertaken.

60. Learned counsel Ms Rachana Reddy would submit that Committee erred in considering only the Bar Code without Hall Ticket. By doing so, the identify of candidate is not disclosed. She points out that Committee report is silent on how many candidates indulged in use of scratches and whiteners. She further pointed out that report is silent as to whether in part-B of OMR sheet, whitener was used. She would submit that scanning does not recognize whitener. This fact was also noted by the Committee in paragraph-16 of the report.

61. By referring to paragraph-19 of the Report, she would submit that though the committee points out errors in part-B of OMR sheet, but the said paragraph is silent on use of whitener. She further submitted that no detailed reasons are assigned on answer to question no.8. Question no.8 requires answer as to whether manual verification can result in influencing the

performance of the candidate, but answer recorded by the Committee is vague.

62. By referring to the answer against question no.6, she points out that according to the committee report, even in the subsequent papers mistakes were detected. If that is so, the initial stand of the PSC that as there was some confusion with the Chief Superintendents and Invigilators on distribution of question paper booklet series resulting in over writings in the Hall Ticket numbers and question paper booklet series is not correct.

63. She further submitted that conclusions recorded by the Committee are not supported by reasons. As the illegalities noticed by the Committee are all pervading, entire selection process is vitiated.

64. In reply to the submissions on the report of the Committee, Senior Counsel Sri G.Vidya Sagar submitted that as can be seen from the order of this Court dated 28.2.2018, where under Committee was constituted to look into the various aspects noted therein, the committee was only required to look into the errors in Part-A of OMR sheet and, therefore, petitioners cannot now contend that the committee ought to have gone into the errors in Part-B. What is contended now would amount to enlarging the scope of such enquiry. Petitioners having agreed for appointment of the Committee with the terms of reference therein, it is not open to them to make submissions beyond the scope of reference.

65. He read out various portions of the report and points out that illegalities are not all pervading as sought to be contended and that they are only minor lapses which would not vitiate the selection process *per se*.

66. Learned Special Government Pleader submitted that as committee of senior advocates have not pointed out any grave illegalities in the process undertaken by the PSC, no case is made out for scraping the entire selection process. He would submit that if selection process is set aside grave injustice would be caused to the candidates, who were successful in the selection process. He would submit that if the Court opines that there were lapses in conducting selections, the Court may issue directions for smooth conducting of examinations in future. He has also filed written submissions.

67. Sri P.B.Vijay Kumar appearing for impleaded respondents, who are short listed in 1:3 ratio for certificate verification process, has taken through the report of the senior counsel. He would submit that as per PSC, 120 candidates committed mistakes, whereas according to the report of the Committee there are more than 120 candidates. Additionally 38 committed mistakes in Part-A, 57 in Part-B and 5 in Part-C and in all 100 in addition to 120. He would submit that all these candidates should be excluded from short listed candidates.

Submissions on malpractices:

68. Ms. B.Rachna Reddy submitted that PSC has notified instructions to Chief Superintendents. According to instructions, the Penal provisions of the A.P.Public Examinations (Prevention of Malpractice and Unfair Means) Act, 1997 (Act No.25/97) would apply if malpractice and unfair means are committed by candidates. She has taken through the instructions manual and contended that candidates have committed malpractices and the

PSC ought to have taken penal action against candidates who have committed malpractices.

69. As per contents of page-19 of the Booklet, the Chief Superintendents and the Invigilators are expected to take necessary precautions against resorting to malpractice by candidates. It is specifically pointed out that cases of violation of relevant instructions printed on Hall Ticket amounts to adopting unfair means. She would further submit that according to clause-viii, any other aspect as per the circumstances noticed in the examination room/hall by the concerned officers also amounts to unfair means. 'Unfair means' is given wider connotation and any means adopted by the candidates which are contrary to instructions furnished to the candidates would amount to unfair means and thus it amounts to malpractice. Therefore, such candidates are liable to be proceeded against under the Act 25 of 1997.

70. She further emphasized that in page-10 of booklet, it has specified how seating arrangements should be made for distribution of question paper booklets, which are grouped as AB/BC/CD/DE series. In page-11 the Chief Superintendents are advised to display the Venue Code Number, Name of the Venue, Paper Code Numbers and time table on the Notice Board. They have to frisk the candidates thoroughly at the main gate of the Venue. While frisking they should ensure that the candidates are not carrying any electronic or any other gadgets, mobile phones, tablets, pen drives, whitener etc; that all such items should be deposited at the entrance gate. In spite of frisking if any candidate is found in possession of forbidden items, the same should be seized and confiscated and candidate should be debarred from

writing the rest of the examinations. According to learned counsel, this being procedure of frisking, it is not known how whiteners were allowed inside the examination hall. There is no whisper by the PSC on this aspect.

71. In page-17, the Chief Superintendents/Invigilators/Assistant Liaison Officers were given special attention to the fact that they should verify whether Hall Ticket, Paper Code and Question Booklet series are encoded and the particulars are filled in correctly by the candidates. In page-19, PSC cautioned the Chief Superintendents and Invigilators to take necessary precautions against the candidates resorting to malpractices. From page 26 onwards contain instructions to Invigilators. By reading through the various clauses in the instructions to Invigilators, she would submit that Invigilators have to ensure that the candidate should not use whitener, erasers and using of whitener or eraser for correcting any field in the answer sheet should be rejected and should not be replaced with fresh once.

72. She further emphasized that candidates are given detailed instructions in the recruitment notification, in the Hall Tickets and at every stage of recruitment process; candidates are aware that they should not carry any devices inside the examination hall and they should not resort to corrections in any of the fields in OMR sheets.

73. She would therefore submit that wider connotation to the malpractice, include even bringing forbidden substances and candidates have committed malpractices by using the whiteners/ erasers, question of allowing those answer scripts to be evaluated

is impermissible, amounts to arbitrary exercise of power and authority and vitiate the entire selection process.

74. Learned counsel Sri P.B.Vijay Kumar would submit that the instructions furnished to the candidates particularly paragraphs- 2, 7 and 9(4) clearly inform the candidates how to circle the bubbles, prohibits using of whitener/blades/ erasers and if any type of tampering is noticed would lead to invalidation of the candidate. That being so, their OMR sheets ought not to have been evaluated. He would submit that in all other recruitments, PSC has not valuated the OMR sheets of candidates who have resorted to wrong bubbling. Therefore, there is no justification to take a different view in the present selections.

75. According to learned Counsel Sri V.Ravichandran, alleged mistakes do not amount to malpractice. He would further submit that for the mistakes committed by the PSC, the candidates cannot be penalized at any rate. As the mistakes are not grave and are not all pervading, there is no justification to cancel the entire selection process. He would submit that the candidates who are now short listed for further selection process, have not indulged in using whiteners or erasers, but only concerned with wrong bubbling of relevant entries in part-A of OMR sheet.

76. In reply, Ms. Rachna Reddy contended that Part-A cannot be separated from Part-B and therefore once mistakes are committed in Part-A, answer scripts cannot be evaluated. Petitioners have alleged mala fides in the entire selection process and therefore, prays for appointment of Three Men Judicial Committee. Dealing with the contention of Sri V.Ravichandran, she submitted that as can be seen from the manual of instructions referred to earlier, the

wrong bubbling, corrections/use of whitener/eraser would amount to malpractice and once a candidate commits malpractice he has to be debarred and his OMR sheet cannot be evaluated.

77. With reference to the written submissions filed on behalf of PSC, learned counsel Ms. Rachna Reddy would further submit that figure of 120 candidates is not correct. There are several more and, therefore selection process is vitiated. As entire exercise is vitiated on account of illegal procedure adopted by the PSC, the same would amount to mala fide exercise of power and it is not possible for re-conciliation of selection process by separating the alleged illegalities.

78. The relevant clauses of Manual of Instructions to Chief Superintendents and Invigilators and instructions to candidates relied upon and referred to, read as under:

79.1. 2. Procedure for candidates to enter examination rooms/halls:

Frisking of Candidates:

- a) Every candidate should be thoroughly frisked at the Main Gate of the venue and allowed to enter into the examination halls only with the printout of the Admit Card downloaded from the TSPSC website and valid identity proof in original
- b) It should be ensured that the candidates are not carrying any electronic or any other gadgets, mobile phone, tablets, pen drives, Bluetooth devices, watch, calculator, log tables, whitener, wallet, purse, notes, charts, loose sheets or recording instruments or any other electronic devices strapped on their body or in pockets under any circumstances.
- c) Xxxx
- d) In spite of frisking, any candidate is found to be in possession of forbidden items, the same will be seized and

confiscated by the Invigilator/Chief Superintendent and the candidates will be debarred from writing the rest of the examination and future direct recruitment examinations of TSPSC and all other State PSCs and UPSC.

79.2. **5. OMR Answer Sheets:**

The OMR answer sheet is inserted in the sealed Question Paper. After receiving the sealed question paper, the candidate has to takeout the OMR sheet from the question paper without tearing the seal. On ringing of bell/announcement only, the candidates has to tear the seal of question paper.

79.3. **Special Attention:**

Commission's experience had been that on previous occasions a large Number of Answer Sheets were invalidated for wrongly encoding or not encoding Hall Ticket Number, Paper Code and Question Booklet Series due to negligence / ignorance on the part of the invigilators. At times, the Commission also had to face embarrassing situations when used Answer Sheets/Scripts were not tallying or missing, which led to abnormal delay in finalization of the results.

79.4. **III. Malpractices and misbehaviour:**

Cases of malpractice: Such cases are defined under Act No.25 of 1997 as follows:

2(f) – “Unfair means” in relation to an examinee appearing in a public examination means the unauthorized help from any person in any manner or from any material written, recorded, printed or reproduced in any form whatsoever, or, the unauthorized use of any telephonic, wireless or electronic or other instrument or gadget in any manner. It also means cases of,

- ii) Violation of relevant instructions on the Hall Ticket;
- viii) Any other as per the circumstances noticed in the examination room/hall by concerned officials

79.5. X. Instructions to the Invigilators:

10) In case of any candidate found using unfair means, immediately bring it to the notice of Chief Superintendent. Invigilator should ensure that each candidate do not possess any material other than the print-out of the Admit Card supported by a valid original photo proof of identity.

12) The candidates are wholly and solely responsible for writing and encoding the relevant columns in the answer sheets. The Invigilator should ensure that the answer sheet is NOT damaged or made liable for invalidation due to failure of the candidates. The Invigilator should also ensure that the candidate (i) Encoded the Hall Ticket Number, Paper Code & Test Booklet series correctly and also that the Hall Ticket Number and Paper code are written correctly; and (ii) Do not make markings/writings at other places of the answer sheet. The Chief Superintendent should ensure that all the Invigilators have announced the instructions on encoding of Hall Ticket Number, Paper Code and Test Booklet Series etc., as follows:

79.6. XI. Instructions to the candidates issued on Hall-tickets:

8. The OMR answer sheet is inserted in the sealed question paper. After receiving the sealed question paper, the candidate has to takeout the OMR sheet from the question paper without tearing the seal. On ringing of bell/announcement only, the candidate has to tear the seal of question paper.

11. The OMR sheet is to be bubbled only by Ball Point Pen (blue/black). Bubbling by Pencil/Ink Pen/Gel Pen WILL LEAD TO INVILIDATION OF OMR ANSWER SHEET.

14. The candidates should bring Ball Point Pen (Blue/Black) and smooth writing pad) to fill up relevant columns on the Answer Sheet. The candidate must ensure encoding the Register Number, Subject/Subject Code, Booklet Series, Name of the Examination Centre, Signature of the Candidate and Invigilator etc., on the O.M.R. Answer sheet correctly, failing which the Answer Sheet will be rejected and will not

be valid. Use of Whitener/Blade or Eraser on OMR sheet will lead to invalidation of OMR answer sheet. Those answer sheets will be rejected and **shall not be replaced with fresh ones.**

80. The instructions are very clear. No prohibited instruments should be allowed inside examination centre/hall; candidates using prohibited instruments should face penal consequences; corrections in any form is not valid. Not bubbling or double bubbling also invalidates the entry. The consistent stand of TSPSC is in accordance with the above instructions.

81. Two things have to be noted on evaluation of OMR sheets of candidates who have committed mistakes in bubbling. Firstly, the manual of instructions to Chief Superintendents and Invigilators, instructions to candidates, the consistent stand of TSPSC and report of Three Senior Advocates and secondly, decision of this Court in W.P.No.3862 of 2017.

82. Having regard to two aspects mentioned above, issue for consideration is whether PSC was justified in undertaking evaluation of answer scripts of candidates who have committed mistakes in Part-A.

83. At this stage, it is also useful to note the earlier round of litigation on mistakes in bubbling of circles in Part-A of OMR sheets of same recruitment. Some of the candidates who have appeared in the examination filed W.P.No.3862 of 2017 praying to process their OMR sheets and to declare results ignoring bubbling mistakes.

84. It was their contention that mistakes in bubbling were due to confusion created by Invigilators. According to them, after they

have darkened the bubbles against relevant entries in Part-A, their OMR sheets were replaced on the premise that number of OMR sheet should match with booklet series. After change of OMR sheets candidates have to darken the bubbles by correcting and by darkening another bubble to reflect their particulars resulting in double bubbling and/or corrections. All this was due to mistake of PSC and candidates should not suffer. This contention of candidates was vehemently opposed by PSC. According to PSC, once wrong bubbling or double bubbling or no bubbling was made in Part-A, the OMR machine do not accept such mistakes and their answer scripts cannot be evaluated. On elaborate consideration of the issue, this Court upheld the stand of PSC and dismissed the writ petition.

85. Relevant paragraphs of judgment are extracted hereunder:

“11. Though counter-affidavit is silent, learned standing counsel for the Respondent-PSC, on instructions, submitted that there are thousands of candidates whose applications were not processed on the very same deficiencies/mistakes and it is not possible to undertake the exercise manually of such large number of candidates and PSC cannot undertake the job of doing manual exercise even if it is assumed to be permissible only to selected candidates who approached this Court.

12. He submitted that the candidates being aware and instructed and informed to be careful in making appropriate entries in the OMR sheet have to blame themselves for the mistakes.

17. The instructions are comprehensive and deal with all aspects of recruitment examination. Thus, it is not a case where the candidates were not aware of how the entries should be made in the OMR sheet and the relevance of proper entries and bubbling of proper

circles. The only defense taken by petitioners is, in an anxiety and in a hurry, mistakes were committed and that they were not deliberate and willful.

18. The original OMR sheets of petitioners were summoned and verified. It is seen from the OMR sheets produced that there were double entries or no entry and in some cases there was an attempt to erase the entry made. Having regard to these facts the issue needs to be considered.

33.1. At this stage, it is also appropriate to note the observations of Division Benches of this Court.

33.2. In WP No.20088 of 2003, the Division Bench held,

“4.When the petitioners themselves committed mistake in encoding their register numbers/optional codes, they have to suffer for the same and nobody could be blamed for their mistakes.”

33.3. In W.P.No.41273 of 20016, Division Bench held as under:

“Sri D.Balkishan Rao, learned standing counsel, would however assert that the invigilator had no such right as candidates are required to be careful while entering not only the answers but also the hall ticket number and the paper code by way of bubbling.

We find force in this contention as candidates are cautioned to be extremely careful while bubbling the correct answers and also entering their hall ticket number. In the present case, the answer script produced before us shows that the petitioner was careless in doing so.

In the light of the decision rendered by this Court in W.P.No.20088 of 2003, extracted by the Tribunal in its order under challenge, we find no reason to interfere.”

34. The decision in WP No.41273 of 2016 being later and latest decision on the point, it is binding on this Court. I am in respectful agreement with the view taken by the two Division Benches referred to above. Candidates ought to have been careful in entering relevant details. In view of clear instructions furnished to candidates, the mistakes committed by them in bubbling the circles against appropriate entries would disentitle their answer sheets from evaluation. Further, the entire process is pre-programmed and processed through computers. No manual correction is possible and computer does not accept double entry/not bubbling/erasing/improper bubbling. Unless the entire OMR sheet is replaced with corrected entries, OMR sheets cannot be processed. Thus, even assuming the mistakes committed by petitioners are only minor, not significant and un-intentional, no direction can be granted as sought for by them.”

86. It is also relevant to note that though writ petition was instituted by few candidates, the stand of PSC is on the primary issue and issue decided is applicable on evaluation of OMR sheets of candidates who have committed mistakes on bubbling/use of correction material.

87. After the judgment, PSC has taken a ‘U’-turn and allowed evaluation of answer scripts even though there were mistakes in bubbling of circles in Part-A. Some of the candidates are now figuring in the list of candidates drawn in 1:3 ratio and list of candidates drawn in 1:2 ratio to conduct interviews.

88. PSC stand is best reflected in paragraphs-16, 17, 19 and 21 of the counter in W.P.No.18834 of 2017. It reads as under:

“16. I submit that approximately, 300 representations were received from exam centers staff like Chief Superintendents who are generally Principals or Senior Lecturers of the institutions. Four (4) District Collectors and hundreds of students addressed the Commission stating that they were mistaken by the notion that the question booklet and OMR need to possess the same stamp number/serial number and, therefore, they had exchanged the OMRs which led to overwriting of candidate data. They requested that corrections on their response sheets may be ignored and valuation of their answer sheets be undertaken.

17. In view of the Collectors report and representations, the Commission in its meeting held two weeks post the exam on 26.11.2016, decided to constitute a Technical Committee to examine the issue. The Technical Committee gave specific recommendations. While the Technical Committee's enquiry was underway, writ petition No.3862 of 2017 was filed before this Hon'ble Court wherein the respondent Commission, in line with its policy of not considering corrections, no bubbling, wrong bubbling, filed a counter that the errors made by the candidates cannot be considered.

19. While the matters stood thus, the Technical Committee report was received on 17/03/2017 and placed before the Commission. On the basis of Technical Committee report, Commission deliberated on the errors committed by candidates (re-writing data, wrong bubbling, etc.) which were partly due to lack of proper guidance from some invigilators in the exam centers. However, Commission could not take any decision as nowhere was it mentioned in the guidelines given to candidates that the Question

Booklet and OMR numbers should match and as such there was no fault of the Commission in the confusion that occurred in examination centers. The Commission entrusted scrutiny of recommendations of Technical Committee to a Sub-Committee consisting of (3) members of the Commission.

21. I submit that the fact that for reasons beyond human control, despite best and successful conduct of the exam and for the mistakes for which the candidates may not be accused of malafide, based on the Technical Committee recommendations and on the advise of (3) member Committee, the Commission decided to accept the recommendations of the Technical Team and took a decision to ignore the corrections carried out in the candidates information (part-A) and in signature corrections (part-C), whereas unequivocally, the responses recorded in (part-B) which mirrors the performance in the exam will be valued as such, the date recorded by candidate remains intact as such and will be evaluated according to the OMR software.”

89. It is appropriate to note at this stage that in W.P.No.3862 of 2017 counter-affidavit on behalf of PSC was deposed on 15.03.2017. Later, instructions were furnished to learned standing counsel affirming its stand. PSC was firm in opposing evaluation of answer sheets of candidates, who have committed errors in bubbling entries. The judgment was rendered on 24.04.2017.

90. In the counter-affidavit filed in W.P.No.18834 of 2017, deposed on 31.07.2017, PSC has taken entirely different stand. From the reading of this counter, it is apparent that certain aspects within the knowledge of PSC by the time counter-affidavit was filed in W.P.No.3862 of 2017 were not stated. No explanation is forthcoming why these facts were not disclosed in the earlier

round of litigation. On the one hand, PSC was opposing claim of petitioners therein, on the other hand was entertaining their representations, appointed committees to look into the grievances and after the judgment, contrary to the decision of this Court, decided to evaluate all OMR sheets ignoring errors committed by candidates. Assuming that what is stated now is true, it is inappropriate for the Commission to take a decision contrary to the stand taken before this Court and contrary to the judgment and without the leave of the Court.

91. From the report of three senior advocates it is seen that PSC noticed errors of 120 candidates and their OMR sheets were kept separately. The committee tabulated errors committed by those candidates and also noticed errors committed by others. The errors noticed by committee range from wrong bubbling/no bubbling/double bubbling of various entries in Part-‘A’, scratching, putting initials, not writing name and not signing in Part-‘C’ and scratching of answers in Part-‘B’. It is seen from this tabulated statement that majority of mistakes were against Roll numbers. It is also to be noted that what was pointed out by PSC to accept the mistakes of candidates and undertake to evaluate their answers is contrary to earlier stand in W.P.No.3862 of 2017. Further, from the report of the Committee, it is seen that errors committed by short listed candidates are not the same as stated by PSC to undertake special exercise. If there was exchange of OMR sheets due to wrong understanding of Invigilators and candidates, there could have been extensive correction of entries in part-A, but that does not appear to be so in the case of short listed candidates. They are normal bubbling errors or use of whitener or scratching and PSC consistently opposing evaluation of OMR sheets if such

mistakes are committed by candidates. Further, even if what is stated by PSC is true, such mistakes can happen in the first examination i.e., Paper-I, but such mistakes are noticed in subsequent examinations, i.e., Papers-II, III and IV.

92. As rightly pointed out by learned counsel Sri P.B.Vijay Kumar, in no other recruitment PSC is evaluating OMR sheets of candidates who have committed mistakes on bubbling.

93. At this stage, it is useful to note the observations of senior Advocates committee in their report. The salient features of report of the three senior advocates are:

1. The committee divided physical verification into three parts. First part verification was confined to OMR sheets of short listed candidates in the ratio of 1:3 i.e., 3027, excluding 120 candidates whose OMR sheets contained errors; second part verification was OMR sheets of candidates ranked from 3147 to 5000; and lastly, OMR sheets of 120 candidates separate from 3147 list.

2. PSC undertook three stage process to evaluate OMR sheets. OMR sheets are scanned for creating JPEG images and stored in hard disk; at the second stage part-A of OMR sheet scanning was undertaken; and at the third stage Part-B of OMR sheet is scanned twice. After this scanning process computer develops error list of candidate who committed errors in Part-A, errors in darkening, use of whitener or scratching of bubbles.

3. 55,000 candidates are found to have committed errors in Part-A.

4. PSC decided to evaluate performance of candidates ignoring errors noticed by computer in Part-A.

5. PSC took raw data from scanning of OMR sheets in Parts-‘A’ and ‘B’ by applying separate software programme in its office, evaluated the raw data and allotted marks to the candidates.

6. OMR scanner would not pick up corrections made by applying whitener.

94. The findings recorded by the Committee on the issues referred to it, to the extent relevant are as under:

Q.3. Impact of such corrections ?

ANS: Candidates who would otherwise be eliminated due to the errors in Part-A have been brought back into the evaluation process.

Q.6. Whether such mistakes/corrections were made in the afternoon session of 1/11/2016 and 13/11/2016 ?

ANS: Such mistakes were detected by the Committee even for the subsequent papers in the tests which were conducted in the afternoon sessions of 11/11/2016 and 13/11/2016.

Q.7. Whether the corrections were made even if there was no mismatch between QPB and OMR ?

ANS: Yes

Q.10. Whether only few short listed candidates resorted to such corrections and if so ?

ANS: 120 candidates were identified on this count by TSPSC. The Committee had identified some more OMR sheets, set out in the tables above, in which TSPSC has taken a call to ignore the corrections/errors on the ground that these errors/corrections do not merit disqualification.

Q.11. What is the nature of the mistakes/ corrections made by them ?

ANS: The mistakes appear to be wrong bubbling, no bubbling or double bubbling of the information relating to Roll number, question paper booklet number, test book series number in Part-A of the OMR sheets.

Q.12. Whether the mistakes are made inter se between two candidates whose OMR sheets were exchanged ?

ANS: The Committee could not identify such instances from the material available.

Q.13. Whether mistakes were made due to confusion or due to their own mistakes ?

ANS: Most errors appear to have been done due to confusion in bubbling the correct numbers in Part-A. The Committee has noticed that since '0' was mentioned as the 1st number in each row, the candidates started darkening the number in the circles treating the zero as '1' and having realized the mistake, tried to correct it.

Q.16. Committee can examine any other aspect and make an assessment on the entire exercise taken up by TSPSC.

A. To avoid any possibility of such erasure/ alteration in Part-A of the OMR sheets, the committee feels that the short listed candidates should be verified manually as the scanner cannot register whitener or any other colour ink except blue and black.

B. In the OMR sheets, no intervention by TSPSC was seen.

95. As can be seen from the report of Three Senior Advocates, the evaluation of identified candidates who have committed mistakes was separately undertaken by TSPSC as against evaluation of OMR sheets by JNTU as the computers were not

processing answers when such mistakes were noticed. They were programmed in that manner. It is also pertinent to note the specific objection of TSPSC in WP No. 3862 of 2017 opposing the prayer of petitioners therein that once bubbling errors are noticed by computer, it could not evaluate the answers of such candidates. Strangely, TSPSC took upon the task of undertaking such exercise to the identified candidates contrary to its stand and deviating from the procedure of evaluation by independent agency, in this case JNTU.

96. Further, the manual of instructions to Chief Superintendents, Invigilators and candidates are very clear and unambiguous. Those instructions invalidate a candidate who has committed mistakes in bubbling/used prohibited instruments to change the darkening of bubbles and that his answer script cannot be evaluated. The material on record and the report of the Three Senior Advocates Committee, would show that wherever errors were committed by candidates, the computer was showing the errors in evaluating such answer scripts. In the instant recruitment, TSPSC took itself the task of evaluating their answer scripts in its office by selecting different software. It would necessarily mean that TSPSC was undertaking the manual exercise. At this stage, it is appropriate to note that the objective of introducing the OMR sheets and evaluation of personal particulars and answers through machine reader is to avoid manual intervention of any individual and assessment of relative particulars manually. This is to ensure transparency in the selection process and to avoid scope for manipulation. On account of the exercise undertaken by the TSPSC in this manner, the very objective of introducing OMR system got defeated. Even assuming

that the bubbling errors committed by the candidates were on account of the confusion created in the examination centres and exchange of OMR sheets/question paper booklets, nothing prevented TSPSC from making proper assessment of the grievances of the individuals, the extent of the alleged inconvenience caused to the candidates and ought to have taken appropriate steps in that regard instead of deciding to manually assess the performance of those candidates contrary to instruction manual, established procedure and consistent stand. Thus, PSC erred in undertaking evaluation of OMR sheets of candidates whose OMR sheets were affected by bubbling errors including scratching and use of whitener. Such candidates cannot be short listed for further selection process.

97. Next issue for consideration is whether the decision to evaluate the answers of few candidates who have committed various mistakes would vitiate the entire selection.

98. It is seen from the submissions made by learned counsel and the material on record, the alleged illegalities are not all pervasive. There are no allegations of mass copying, leakage of question papers, exchange of answers etc. The allegations concern candidates committing mistakes like indulging in wrong bubbling, double bubbling, no bubbling, scratching, using whitener, writing with different ink, some wrong entries made in Part-‘C’, no signature of invigilator etc. Thus, they are individual issues concerning few candidates. It appears, the computers identified about 55,000 out of 4,97,961 candidates who appeared in the examinations committing one or many such mistakes, but in the list of candidates drawn in the ratio of 1:3, such candidates are about 158 and in the list of 5000 meritorious candidates about

200. Further, according to the committee of three senior advocates, there was no scope to influence the performance of the candidates, mistakes were not all pervasive, that manually names of candidates, roll number and QPB can be matched. Learned senior counsel Sri M Surender Rao contended that JPEG images can be edited and tampered. It may be true that with modern online tools editing of objects may be possible but it is appropriate to note that physical copies are not destroyed and are stored. Thus, it is always possible to cross verify the physical copies. Cancellation of entire selection process can be resorted when illegalities are all pervasive and it is not possible to segregate tainted from innocent candidates. The material on record would disclose that ignoring bubbling errors of candidates, TSPSC subjected them to evaluation of answers. Bubbling errors and corrections are not uncommon in public examinations. The selection process *per se* is not tainted. In the facts of this case, it cannot be said that the entire selection process is vitiated due to bubbling errors of few candidates. There is material on record to show the identity of persons whose OMR sheets were evaluated even though they have violated the instructions issued to them and manual of instructions to Chief Superintendents and Invigilators prohibit doing such mistakes by candidates and can be segregated. Excluding such candidates, selection process can be saved.

99. In **Union of India vs. Rajesh P.U. Puthuvalnikathu**⁷, subject matter was illegality in recruitment to the post of Constable in CBI. Illegalities relate to valuation of answer sheets, such as, awarding of marks to incorrect answers and not awarding marks to correct answers. In the said manner, 31 candidates found to have

⁷ (2003) 7 SCC 285

benefited and equal number were denied the selections. As seen from the facts, the candidates who were benefited were identified and the nature of malpractices was confined to them. There were 134 successful and 184 unsuccessful candidates. Supreme Court noticed that there was no serious grievance of any malpractices as such in the process of written examination - either by the candidates or by those who actually conducted them. Supreme Court held as under:

“6. There was no infirmity whatsoever in the selection of the other successful candidates than the 31 identified by the Special Committee. In the light of the above and in the absence of any specific or categorical finding supported by any concrete and relevant material that widespread infirmities of all pervasive nature, which could be really said to have undermined the very process itself in its entirety or as a whole and it was impossible to weed out the beneficiaries of one or other of irregularities, or illegalities, if any, there was hardly any justification in law to deny appointment to the other selected candidates whose selections were not found to be, in any manner, vitiated for any one or other reasons. **Applying an unilaterally rigid and arbitrary standard to cancel the entirety of the selections despite the firm and positive information that except 31 of such selected candidates, no infirmity could be found with reference to others, is nothing but total disregard of relevancies and allowing to be carried away by irrelevancies, giving a complete go bye to contextual considerations throwing to winds the principle of proportionality in going farther than what was strictly and reasonably required to meet the situation. In short, the Competent Authority completely misdirected itself in taking such an**

extreme and unreasonable decision of cancelling the entire selections, wholly unwarranted and unnecessary even on the factual situation found too, and totally in excess of the nature and gravity of what was at stake, thereby virtually rendering such decision to be irrational”.
(emphasis supplied)

100. CONCLUSIONS:

1. There is no infirmity in the selection process to conduct recruitment to Group II service pursuant to recruitment notification No.20 of 2015 dated 30.12.2015, per se to hold that selection process is vitiated. Selection process cannot be held as vitiated merely because the OMR sheets of few candidates who have committed errors such as, wrong bubbling, no bubbling or double bubbling of the information relating to Roll number, question paper booklet number, used Whiteners/ used Erasers were evaluated. Such candidates are identifiable and can be separated. The candidates who have committed such mistakes can be excluded and rest of the selection process can be continued.
2. The candidates who have committed errors in bubbling, such as wrong bubbling, no bubbling or double bubbling of the information relating to Roll number, question paper booklet number, centre code etc used whiteners/ used Erasers, shall be excluded from consideration for certificate verification process in the ratio of 1: 3 and for subjecting them to interview in the ratio of 1: 2. TSPSC may continue selection process after excluding the candidates referred to above.

3. Exclusion of few questions, change of answers in revised final key and prescribing more than one option as valid do not vitiate the selection process on that ground.
4. TSPSC shall exclude Question No. 111 of Paper III: CD series and question No.93 of paper IV: CD series. This is in addition to questions already excluded.
5. TSPSC shall treat option No. 3 in question No.113 of Paper IV: CD series only as valid answer.
6. TSPSC shall re-evaluate the merit of candidates after excluding Question No. 111 of Paper III: CD series and question No.93 of paper IV: CD series and treating Option '3' only as the correct answer to Question No. 113 of Paper IV: CD series to arrive at the final list of candidates for certificate verification in the ratio of 1: 3.
7. For the questions which are deleted, only those candidates who have attempted the said questions should be awarded marks.
8. As substantial number of candidates are to be excluded and two additional questions are to be deleted and for one question answer changes, there is no certainty as to who would be in the final list of candidates called in the ratio of 1:3 for certificate verification. Therefore, the contention of special Government Pleader that petitioners are not in the zone of consideration even after excluding some candidates and that petitioners have not suffered legal injury and therefore no adjudication is required on various contentions urged is stated to be rejected.
9. As the committee of senior advocates opined that the OMR machine reader was not recognizing the use of whitener, before finalizing the list of candidates for

interview, the TSPSC shall physically verify the OMR sheets to ascertain whether any of the candidates used whitener to change the answers in Part –B and personal particulars in Part-A and exclude candidates who have used whiteners. The proceedings of such verification should be conducted in the presence of Member-Secretary and two members of the TSPSC; should be video graphed; and be stored at least for a period of six months after finalization of selections.

10. If any candidate applies for verification of his OMR sheet, images of such candidate's manual verification of OMR sheet be captured and furnished to him/her.

101. Before parting with this case, Court deems it necessary to make following observations.

Whenever recruitment is taken up, Court is flooded with litigation on various aspects, about eligibility criteria, which include educational qualifications, equation of qualifications, age, social status, creamy layer and local candidature claim in terms of Presidential order; parameters of evaluation of OMR sheets; prescribing answers, short listing of candidates; and final merit list. There is lack of transparency in all these aspects leading to doubts in the minds of candidates, compelling them to seek legal remedy. The litigation is not helping any of the stake holders, the State, the recruiting agency and the candidates aspiring for public employment.

102. Transparent procedure shall be the hallmark of selection to public employment. It is high time the TSPSC undertakes through review of procedures and shall put in place transparent mechanism, few of which are mentioned here under:

- i) A fully functional web site which shall contain the Service Rules which regulate recruitment in general, relevant provisions of the Presidential Order and special rules which govern particular post;
- ii) Through revision of questions and appropriate answer before they are finally identified.
- iii) Clear instructions on bubbling of circles and carrying of prohibited instruments and firm policy on issue of evaluation of OMR sheets of candidates who have committed such errors be put in place.
- iv) Awareness campaign be put in place to enlighten candidates the importance of bubbling the circles and consequences of errors committed by them and/or use of prohibited instruments. PSC can explore possibility of hosting a video on website on bubbling aspects.
- v) The Chief Superintendents and Invigilators be given proper training on various aspects of conducting examination. A video can be made to demonstrate to them and also hosted on the website.
- vi) Preliminary key be notified soon after the examination is conducted.
- vii) After preliminary key is published and objections are called, a thorough and proper review of questions and answers be undertaken and finalise the key answers. TSPSC shall not indulge in changing the answers again and again.

- viii) Videographing of entire process of evaluation of OMR sheets in addition to taking the images and preserving the images.
- ix) Publishing the merit list containing all details of candidates on the web site including names, hall ticket number, social status, local candidate status, marks secured, educational qualifications with option to all candidates to search for the information required and to download the matter.
- x) Strictly follow procedure to conduct selections and to prepare final merit list as per TSPSC Procedure Rules, particularly Rule 6-A.
- xi) Create a web based platform to clear all doubts to candidates/to redress grievance on any issue and minimize the candidates visiting the office of TSPSC.

103. PSC is reminded of the observations made by Hon'ble Supreme Court in **Kanpur University**. Paragraph 18 reads as under:

“18. If the State Government wants to avoid a recurrence of such lapses, it should compile under its own auspices a text book which should be prescribed for students desirous of appearing for the Combined Pre-Medical Test. Education has more than its fair share of politics, which is the bane of our Universities. Numerous problems are bound to arise in the compilation of such a text-book for, various applicants will come forward for doing the job and forces and counter forces will wage a battle on the question as to who should be commissioned to do the work. If the State can succeed in overcoming those difficulties, the argument will not be open to the students that the answer contained in the text-book which is prescribed for the Test is not the correct answer. Secondly, a system should be devised by the State Government for moderating the key answers furnished by the paper-setters. Thirdly, if English questions have to be translated into Hindi, it is not enough to appoint an

expert in the Hindi language as a translator. The translator must know the meaning of the scientific terminology and the art of translation. Fourthly, in a system of 'multiple choice objective-type test', care must be taken to see that questions having an ambiguous import are not set in the papers. That kind of system of examination involves merely the tick-marking of the correct answer. It leaves no scope for reasoning or argument. The answer is "yes" or "no". That is why the questions have to be clear and unequivocal. Lastly, if the attention of the University is drawn to any defect in a key answer or any ambiguity in a question set in the examination, prompt and timely decision must be taken by the University to declare that the suspect question will be excluded from the paper and no marks assigned to it."

104. Further, the Court acknowledges and places on record word of appreciation to the three Senior Advocates of this Court, Sri P.Sree Raghu Ram, Sri S. Niranjan Reddy and Sri Rao Raghunandan Rao and their office colleagues for sparing their valuable time and undertaking the onerous task assigned to them.

105. Writ Petitions are accordingly disposed of. Pending miscellaneous petitions, if any, shall stand closed.

Date: 12.10.2018
TVK/KKM

JUSTICE P.NAVEEN RAO

HONOURABLE SRI JUSTICE P. NAVEEN RAO



WRIT PETITION Nos. 18834, 18929, 21886 & 23173 of 2017

Date : 12.10.2018