HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION Nos.47010, 47018, 47019, 47029, 47068, 47251, 48037, 48115 and 48140 of 2018

COMMON ORDER :

Since the issue raised in all these writ petitions is one and the same, they are heard together and being disposed of by way of a common order.

The respondents have issued the Recruitment Notification No.2560/CPR & RE/B2/2017, dated 31.08.2018 to the posts of Junior Panchayat Secretary and in pursuance of the said Notification, the petitioners in these writ petitions have appeared for the Written Examination conducted on 10.10.2018 and fared decently well in the said examination. The grievance of the petitioners is that many of the questions in the Question Paper were incorrectly framed or answers to the said questions were not properly framed and that the respondents have changed the 'Final Key' without application of mind and contrary to the material on record.

Learned counsel for the petitioners in W.P.Nos.47068, 47251 and 48115 of 2018 has specifically contended that among all the questions, 14 questions were printed in English language without being translated into Telugu language and the petitioners in these writ petitions have appeared in Telugu Medium in the Written Examination and since the Question Paper in respect of 14 questions was not printed in Telugu

language, the petitioners could not attempt those 14 questions and they were deprived of their right to answer those questions, thereby their valuable right to compete in the Competitive Examination is lost and they were denied proper assessment of their merit.

Learned counsel for the petitioners, in order to strengthen their argument, relied upon the material from various Text Books and other Journals to demonstrate that the line of reasoning for the answers written by the petitioners was appropriate and right rather than the answers finalised by the respondents and contend that the petitioners cannot be deprived of their valuable marks in spite of their attempting the questions in a more appropriate way and that the answers provided by the respondents in the 'Official Key' are contrary to the logical reasoning and also the record and, therefore, contend that all the candidates be awarded equal marks for incorrectly framed questions and for incorrectly framed answers.

In support of their contention, learned counsel appearing for the petitioners have relied upon various judgments rendered by the Hon'ble Supreme Court in KANPUR UNIVERSITY, THROUGH VICE CHANCELLOR v. SAMIR GUPTA[1]; MANISH KUMAR SHAHI v. STATE OF BIHAR[2]; MADRAS INSTITUTE OF

---

[1] (1983) 4 SCC 309
[2] (2010) 12 SCC 576

DEVELOPMENT STUDIES v. K. SIVASUBRAMANIYAN[3]; ASHOK KUMAR v. STATE OF BIHAR[4]; RICHAL v. RAJASTHAN PUBLIC SERVICE COMMISSION[5]; and contend that either the questions, which were said to have been incorrectly framed, be deleted for the purpose of evaluation, or equal number of marks be awarded to all the candidates so that no prejudice will be caused to the candidates who have answered those questions correctly. Learned counsel for the petitioners, therefore, contend that the writ petitions be allowed and the respondents be directed to award marks to the petitioners, as they cannot be deprived of marks inspite of their answering the questions correctly.

The learned Special Government Pleader for the respondents has contended that the disputed 14 questions were referred to the Expert Body and they have read the questions and contend that every attempt was made to ensure that appropriate 'Final Key' is drawn by consulting the Experts Committee. The learned Special Government Pleader would further contend that the Written Examination was conducted on 10.10.2018, thereafter 'Preliminary Key' was published on 17.10.2018, objections to the said 'Preliminary Key' were entertained from 17.10.2018 to 20.10.2018 and after receiving objections, the respondents have constituted a 'Key Committee'

---

[3] (2016) 1 SCC 454
[4] (2017) 4 SCC 357
[5] (2018) 8 SCC 81

with subject experts on 20.10.2018 to look into the said objections received in respect of 'Preliminary Key'. It is contended that, in all, the respondents have received 1,495 objections in respect of Paper-I, and 3,591 objections in respect of Paper-II and the Key Committee so constituted had examined each and every objection raised by the candidates to the 'Preliminary Key' for 3 days and thereafter 'Final Key' was released on 18.12.2018 and the 'OMR Sheets' of the respective candidates were uploaded from 20.12.2018 onwards.

The learned Special Government Pleader for the respondents also relied upon certain documents to demonstrate that the answers mentioned in the 'Final Key' are right and that there is no defect or error in the 'Final Key' prepared by the said Committee, which consists of subject Experts drawn from various Universities across the State and every attempt was made to ensure that the 'Final Key' was published after consulting the Expert Committee. It is contended that there are no irregularities committed by the respondents and the allegations levelled by the petitioners are totally false and incorrect and hence the writ petitions are liable to be dismissed.

The learned Special Government Pleader for the respondents, apart from placing reliance on the aforesaid judgments of the Hon'ble Supreme Court in MANISH KUMAR SHAHI's case (supra 2), K. SIVASUBRAMANIYAN's case (supra 3); and ASHOK KUMAR's case (supra 4), also relied on another

judgment of the Apex Court in RAN VIJAY SINGH v. STATE OF U.P.[6] and contended that if there is any error in the 'Key' or in framing of questions, the benefit should go to the Examiner rather than to the candidate.

Admittedly, all the questions were correctly framed and the 'Key' was also properly prepared by the Expert Committee. Therefore, it is not for the Courts to interfere as to whether a particular question is properly framed or not, and it is for the Expert Committee to decide as to whether a particular question is properly framed or not. Further, it is difficult for the Courts to go into the correctness or otherwise of a question framed by the respondents and 'Final Key' as published by the respondents, after due consultation with the Expert Committee. Since both the petitioners as well as the respondents are relying on certain documents in support of their lines of reasoning, it becomes very difficult for this Court to decide as to which line of reasoning is correct. Therefore, this Court is of the considered view that it would be appropriate if the respondents are directed to once again refer the questions to the Expert Body consisting of subject Experts to see as to whether all the 19 questions were appropriately framed and the answers to those 19 questions are correct, as determined in the 'Final Key'. The Committee shall also examine the issue of 14 questions, which were printed in English language without being translated in Telugu language.

---

[6] (2018) 2 SCC 357

The reasoning given by the respondents is that, these 14 questions were framed in such a way so as to test the knowledge in English of a candidate, as these 14 questions pertain to comprehension in English language.

The learned Special Government Pleader appearing for the respondents has contended that if the Examiners wanted to test the knowledge in English of a candidate in the form of English comprehension, naturally questions will be asked in English, and there cannot be any translation of questions in Telugu language, as it would dilute the standards of testing in English language.

The learned Special Government Pleader further contended that the minimum qualification for the post of Junior Panchayat Secretary, as notified, is that of Graduation, and after Graduation, every candidate is expected to read, write and know the English language as there is no such exemption of English language in the Graduation level and hence contended that the disputed questions were rightly framed in English language without there being any translation in Telugu language.

Learned counsel appearing for the petitioners contended that they have taken up examination in Telugu Medium and as the Test was conducted in Telugu Medium, they were surprised and shocked to notice that 14 questions were not translated at

all in Telugu language, thereby they were deprived of their valuable right to take up the Examination in Telugu language.

In view of the above, this Court is of the considered view that the respondents shall refer the above 14 questions also to the Expert Committee, so that the Committee can decide as to whether the respondents are justified in printing those 14 questions in English language without translating them into Telugu language.

In view of the above, all these writ petitions are disposed of directing the respondents to constitute a Committee consisting of Academic Experts to look into the above said aspects and submit report at an early date. It is needless to say that the Members of earlier Committee shall not form part of the Committee now to be constituted by the respondents. The decision taken by the Committee on the above said aspects shall be final and binding on all the parties. The entire exercise, as directed above, shall be completed within a period of two (2) weeks from today.

With the above observations, these writ petitions are disposed of. No order as to costs.

As a sequel, miscellaneous petitions pending, if any, in these writ petitions shall stand closed.

_____

JUSTICE ABHINAND KUMAR SHAVILI

13.02.2019.
Msr

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION Nos.47010, 47018, 47019, 47029, 47068, 47251, 48037, 48115 and 48140 of 2018

13.02.2019
Msr