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HIGH COURT OF CHHATTISGARH BILASPUR**Judgment Reserved on 08.12.2020****Judgment Delivered on 10.12.2020****Writ Appeal No.165 of 2020**

*(Arising out of order dated 09.08.2019 passed in Writ Petition (S)
No.5847 of 2019 by the learned Single Judge)*

Umang Gauraha S/o Shri Umesh Gauraha, Aged About 28 Years
R/o C-34, Songanga Colony, Seepat Road Sarkanda, Bilaspur,
Tahsil and District Bilaspur Chhattisgarh.

---- Appellant**Versus**

1. State of Chhattisgarh Through The Secretary, Public Works Department, Mahanadi Bhawan, Atal Nagar, Raipur Chhattisgarh.
2. Engineer-In-Chief, Public Works Department, Atalnagar, Raipur Chhattisgarh.
3. Chhattisgarh Professional Examination Board, Through Its Secretary, Vyapam Bhawan, North Block, Sector 19, Atal Nagar, Raipur Chhattisgarh.
4. Avichal Tiwari, S/o Shri Gopal Narayan Tiwari, Aged About 25 Years R/o Near Laxmi Provision Stores, Dubey Colony Mowa, Raipur Chhattisgarh.

---- Respondents**Writ Appeal No. 236 of 2020**

*(Arising out of order dated 06.09.2019 passed in Writ Petition (S)
No.6918 of 2019 by the learned Single Judge)*

Mukesh Kumar Ogrey S/o Shri P.D. Ogrey, Aged About 32 Years
R/o Bhartiya Nagar, Street No. R4, Vyapar Vihar Road, Bilaspur,
Tahsil and District Bilaspur Chhattisgarh.

---- Appellant**Versus**

1. State of Chhattisgarh Through The Secretary, Public Works Department And Health And Family Welfare Department, Mahanadi Bhawan, Atal Nagar, Raipur, P.O. and P.S. Naya Raipur, District Raipur Chhattisgarh.
2. Engineer In Chief, Public Works Department, Nirmal Bhawan, Atalnagar, Raipur P.O. and P.S. Naya Raipur, District Raipur Chhattisgarh.
3. Managing Director, Chhattisgarh Medical Services Corporation Limited, III Floor, Govind Sarang Vyavsayik Parisar, New Rajendra Nagar, Raipur, P.O. and P.S. Naya Raipur, District Raipur Chhattisgarh.
4. Chhattisgarh Professional Examination Board, Through Its

Controller, Vyapam Bhawan, North Block, Sector 19, Atal Nagar, Naya Raipur, P.O. and P.S. Naya Raipur, District Raipur Chhattisgarh.

5. Dushyant Singh Kachhawaha, S/o Onkar Singh, Aged About 26 Years R/o Near Old Irrigation Colony, Janjgir, P.S. Janjgir, District Janjgir Champa Chhattisgarh.

---- Respondents

Writ Appeal No. 442 of 2020

(Arising out of order dated 09.08.2019 passed in Writ Petition (S) No.5847 of 2019 by the learned Single Judge)

Chhattisgarh Professional Examination Board Through Its Controller Vyapam Bhawan, North Block, Sector 19, Naya Raipur, Chhattisgarh- 492 002

---- Appellant

Versus

1. Avichal Tiwari (The Writ Petitioner in WPS 5847 of 2019) S/o Shri Gopal Narayan Tiwari Aged About 25 Years R/o Near Laxmi Provision Stores, Dubey Colony, Mowa, Raipur, Chhattisgarh- 492 001
2. State of Chhattisgarh (The Respondent No. 1 in WPS 5847 of 2019), Through Secretary, Public Works Department Mahanadi Bhawan, Atal Nagar, Raipur, Chhattisgarh- 492 002
3. Engineer-In-Chief Public Works Department (The Respondent No. 2 in WPS 5847 of 2019) Atal Nagar, Raipur, Chhattisgarh- 492 002

---- Respondents

Writ Appeal No. 443 of 2020

(Arising out of order dated 06.09.2019 passed in Writ Petition (S) No.6918 of 2019 by the learned Single Judge)

Chhattisgarh Professional Examination Board Through Its Controller Vyapam Bhawan, North Block, Sector 19, Naya Raipur, Chhattisgarh- 492002. (The Respondent No.4 In WPS 6918 of 2019).

---- Appellant

Versus

1. Dushyant Singh Kachhawaha S/o Onkar Singh Aged About 26 Years R/o Near Old Irrigation Colony, Janjgir, Police Station Janjgir, District Janjgir-Champa, Chhattisgarh- 495668. (The Writ Petitioner in WPS 6918 Of 2019).
2. State of Chhattisgarh Through Secretary, Public Works Department And Family Welfare Department, Mahanadi Bhawan, Atal Nagar, Raipur, Post Office And Police Station Naya Raipur, District Raipur, Chhattisgarh- 492002. (The Respondent No.1 in WPS 6918 of 2019).

3. Engineer-In-Chief, Public Work Department Nirmal Bhawan, Atal Nagar, Naya Raipur, District Raipur, Chhattisgarh- 492002. (The Respondent No.2 in WPS 6918 Of 2019).
4. Managing Director, Chhattisgarh Medical Service Corporation Limited 3rd Floor, Govind Sarang Vyavsaik Parisar, New Rajendra Nagar, Raipur, District Raipur, Chhattisgarh- 492001. (The Respondent No.3 in WPS 6918 of 2019).

---- Respondents

For Appellants	: Shri Saurabh Sharma and Shri Shailesh Tiwari, Advocates
For Chhattisgarh Professional Examination Board	: Dr. Saurabh Kumar Pande, Advocate
For Chhattisgarh Medical Services Corporation Limited	: Shri Animesh Tiwari, Advocate
For Respondent/State	: Shri Chandresh Shrivastava, Deputy Advocate General
For Respondents/Writ Petitioners	: Shri Anup Majumdar with Shri Shreyankar Nandy and Shri Ali Asgar, Advocates.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

C A V Judgment

P.R. Ramachandra Menon, Chief Justice

1. All the above four writ appeals are connected with a common cause of action, arising from two separate judgments passed on different dates in two different writ petitions. The first two appeals have been preferred by the Appellants who were not parties to the writ petitions, after getting leave of the Court. The other two appeals have been filed by the Chhattisgarh Professional Education Board, Naya Raipur (hereinafter referred to as 'the Board') who happens to be Respondent No.3 in Writ Appeal No.165 of 2020 and Respondent No.4 in Writ Appeal No.236 of 2020.

2. Grievance is mainly with regard to the verdict passed by the learned Single Judge directing to constitute a fresh Expert Committee and

to examine the validity of the disputed questions and final answer keys in connection with the selection to the post of Sub Engineer (Civil) in the Public Works Department; without giving any specific reason for interference but for simply placing reliance on the verdict passed earlier under similar circumstance, ordering such reconsideration.

3. The factual matrix reveals that an advertisement was issued on 19.12.2018 by the Board and the examination for selection was conducted on 03.02.2019, which was participated by both the Petitioners. In fact, 150 questions were set up which were to be answered by the participants and the candidates were alerted that there will be 'negative marking', if any wrong answer was cited by them, without being sure of the correct answer. Answer sheets were to be evaluated using the Optical Mark Reader ('OMR') device. On completion of the examination, model answers were published inviting objections, if any. On receipt of the objections from different corners, disputing the questions and answers, the matter was referred to the Expert Committee constituted in this regard who considered the same in detail. After assessing the merit/demerit of the objections, recommendations were submitted by the Expert Committee to the effect that some of the questions had to be deleted, whereas in respect of the some other questions, the model answers given were to be corrected. Accepting the report of the Expert Committee, necessary changes were made by the Board and final answer key was published, followed by issuance of the select list. The Petitioners contend that some of the questions which were deleted could not have been deleted as the answers given in the model answer key were correct. It was also contended that some of the answers were wrongly corrected, while the answers given by the Petitioners were correct and they ought to have been accepted. Placing reliance on some literature available with

the Petitioners, they moved this Court by filing Writ Petition (S) Nos.5847 of 2019 and 6918 of 2019, respectively.

4. In Writ Petition (S) No.5847 of 2019, non-selection of the Petitioner was sought to be set aside; simultaneously seeking to direct to get the final answer key corrected; for causing re-evaluation of the answer sheet of the Petitioner with reference to the disputed questions by an independent evaluator and to proceed with the selection accordingly. In Writ Petition (S) No.6918 of 2019, the Petitioner sought to set aside the impugned advertisement itself with reference to the selection to the post of Sub Engineer (Civil) and Sub Engineer (Electrical/Mechanical); simultaneously seeking to direct for constitution a Committee of Experts to deal with the disputed questions and publish a fresh merit list based on the opinion of the Committee.

5. Writ Petition (S) No.5847 of 2019 filed by Avichal Tiwari came up for consideration before the learned Single Judge on 09.08.2019, when the Respondent-Board appeared on the basis of advance copy served on them. After referring to the grievance of the Petitioner and also the submissions made on behalf of the Board opposing the relief sought for, contending that the process of selection pursued was strictly in accordance with the relevant norms/rules and on the basis of opinion of the Expert Committee (with reference to the relevant literature/textbooks available), the learned Judge observed in paragraph-7 of the judgment that under similar circumstance, the learned Judge had already decided the issue in **Writ Petition (S) No.4993 of 2019**, parties being “**Vikram Singh Rana and Others v. Chhattisgarh Professional Examination Board and Others**” on **09.07.2019**, giving direction to constitute a “fresh Committee” of Experts and to verify the questions and answers with the

model answers provided and the textbooks available with the Petitioner. The merit of the case with reference to the particular questions was not considered or decided by the learned Single Judge but for disposing of the writ petition in similar terms of the judgment passed earlier in Writ Petition (S) No.4993 of 2019. The reasoning given by the learned Single Judge is discernible from paragraphs-7 to 10, which are reproduced below :

“7. This Court, recently while deciding WPS No. 4993 of 2019 in the case of “Vikram Singh Rana & Ors vs. Chhattisgarh Professional Examination Board & Ors, decided on 09.07.19”. In a similar matter again in respect of appointment to the post of Sub-Engineer (Civil) conducted by the Respondent No. 03 had taken a view that, since there is a dispute in respect of except a few questions where the petitioner also has been provided certain literature and textbooks to substantiate the answers provided in Model Answers to be correct had disposed off a Writ Petition with a direction to the Respondent No. 03 to constitute a Committee consisting of Independent Experts of the field who can verify the question answers with the model answers provided in the text-books made available by the petitioner in this regard.

8. In the instant case also, since the petitioner has clearly contended that he has only dispute in respect of 8 questions which have been either changed or deleted by the Respondent No. 03. The present Writ Petition also can be disposed-off in similar terms as has been passed in WPS No. 4993 of 2019, decided on 09.07.2019.

9. Accordingly, the present Writ Petition stands disposed with a direction to the Respondent No. 03 to constitute a Committee of Independent Expert on the subject question to which the petitioner has raised his objections, those are Question. Nos. 04,27,48, 57, 88, 89, 90, 147 in Set-C and on due verification of the same, let the Independent Expert Committee provide their opinion to the Respondent No. 03 on the basis of which, the appropriate fresh result be declared. In case, if the committee finds that the answers provided in the model answers were correct, then the petitioner and other similarly placed candidates would be entitled for the appropriate marking as per the answer they have attempted and in case, if the committee gives an opinion that the answers have been rightly changed or deleted, then the Respondent No. 03 as well as the State would be at liberty to proceed further.

10. It is made clear that, the petitioner in addition to whatever documents that he as supplied would also be at liberty to provide the relevant literature and text ie., in his possession to the Respondent No. 3, who in turn shall place it before the Independent Committee which would be constituted pursuant to this Order and the authority is expected to give their opinion after taking into consideration the literature that has been provided by the petitioner also in this regard.”

Correctness of the said verdict is challenged by the affected parties after seeking leave of this Court in Writ Appeal No.165 of 2020.

6. Writ Petition (S) No.6918 of 2020 filed by Dushyant Singh Kachhawaha also raised almost similar grounds and prayers as

mentioned above. The said writ petition came up for consideration before the learned Single Judge on 06.09.2019. The Respondent-Board also entered appearance on advance copy. The said writ petition was disposed of on the day of admission itself (as in the other case) merely with reference to disposal of Writ Petition (S) No.5847 of 2019 giving direction in similar terms, for causing the disputed questions to be considered by the independent Committee stated as constituted pursuant to the direction given in Writ Petition (S) No.5847 of 2019. Here again, there was no discussion as to the merit of the questions or answers and no finding was rendered whether the Expert Committee had gone wrong or whether the version of the Petitioner was correct and liable to be entertained, warranting interference invoking the power of judicial scrutiny. This is sought to be challenged by the aggrieved person in Writ Appeal No.236 of 2020.

7. Similar challenge has been raised by the Respondent-Board as well, by filing Writ Appeal Nos.442 of 2020 and 443 of 2020, with a petition to condone the delay in filing the appeals.

8. The petitions to condone the delay in filing the appeals by the Board are vehemently opposed by the learned counsel for the contesting Respondents (Respondent No.4 in Writ Appeal No.165 of 2020 and Respondent No.5 in Writ Appeal No.236 of 2020). It is pointed out that there is inordinate delay in filing the appeals from the part of the Board and it has not been properly explained.

9. We have gone through the petition to condone the delay which refers to the sequence of events, right from the necessity felt to file appeals by the Board, the time taken to get opinion from different Experts and to procure the supporting literatures, various adverse circumstances

which came on the way including the 'lock-down' followed by such other restrictions because of the COVID-19 pandemic affecting movement of files and persons and such other relevant aspects. We have also gone through the contents of the return filed by the contesting Respondent in Writ Appeal No.442 of 2020 pointing out that, the delay has not been properly explained. No return has been filed in respect of the petition to condone the delay in Writ Appeal No.443 of 2020.

10. From the part of the Board, reliance is sought to be placed on the verdict passed by the Hon'ble Supreme Court in **Kanpur University and Others v. Samir Gupta and Others** reported in **AIR 1983 SC 1270** to the effect that the delay on the part of the Government/Departmental Bodies has to be considered leniently in view of the larger public interest involved. It is further pointed out that the Respondent-Board is a party to the other two writ appeals filed by the aggrieved candidates whose selection has been stalled because of the verdict passed by the learned Single Judge and that the Board has already filed detailed reply along with relevant testimonials in the said case with regard to the merits involved. It has only been reiterated in the formal appeals preferred by them. The Board virtually supports the cause projected in the appeals preferred by the aggrieved candidates on the basis of pleadings already raised by them and the matter anyhow requires to be heard 'on merits'. No prejudice will be caused to the Writ Petitioners who object condoning the delay in the appeals filed by the Board and the merit of the case has to be decided one way or the other.

11. It is also settled law that it is not the extent of delay that matters, but the explanation as declared by the Apex Court in Hon'ble Supreme Court in **N. Balakrishnan v. M. Krishnamurthy** reported in **(1998) 7 SCC**

123. In the said circumstance, we find it appropriate to condone the delay in Writ Appeal Nos.442 of 2020 and 443 of 2020 filed by the Board and it is ordered accordingly. Since notice has already been taken by the Respondents concerned, as agreed by the learned Lawyers appearing on behalf of the parties on both the sides, we heard the merits involved in all these appeals in detail.

12. At the very outset, it is brought to the notice of this Court by the learned counsel for the Appellants that no adjudication of the merit has been done by the learned Single Judge in the judgments under challenge, but for following the course pursued as ordered in the judgment dated 09.07.2019 passed in **Vikram Singh Rana** (supra). There was no discussion on merits, particularly with regard to correctness of the challenge raised by the Petitioners with reference to the disputed questions/answers. The proceedings finalized by the Board based on the final answer key prepared on the basis of the opinion of the Experts (either by deleting some questions or by correcting the same) were simply interdicted, directing to constitute a “fresh Committee” of Experts and to have the matter analyzed and reconsidered, after considering the objections raised by the Writ Petitioners in respect of not only the disputed questions but also questions No.4, 27, 48, 57, 88, 89, 90 and 147 in Set-C and question Nos.8, 38, 145 etc. in Set-B, besides granting opportunity to others as well to raise objections, who actually did not have any claim before this Court.

13. The learned counsel for the Appellants points out that the said judgment i.e. Writ Petition (S) No.4993 of 2019 was sought to be challenged by the Board by filing Writ Appeal No.108 of 2020. After hearing both the sides, final verdict was passed by this Court on

06.03.2020 whereby a categoric finding was rendered that the proper course to be pursued was to be in conformity with the law declared by the Apex Court in **Uttar Pradesh Public Service Commission and Another v. Rahul Singh and Another** reported in **(2018) 7 SCC 254** and such other judgments referred to therein. It was accordingly, that the judgment passed by the learned Single Judge in Writ Petition (S) No.4993 of 2019 was set aside; allowing the writ appeal and dismissing the writ petition. Since the judgments under challenge passed by the learned Single Judge are merely on the basis of the verdict passed by the learned Judge in Writ Petition (S) No.4993 of 2019, which stands already set aside in Writ Appeal No.108 of 2020, the judgments under challenge are also liable to be interdicted, submits the learned counsel. We find considerable force in the said submission.

14. The observation made by this Court in paragraphs-11 and 12 of the judgment passed in **Writ Appeal No.108 of 2020** are relevant and we extract the same for easy reference :

“11. The first point to be considered is whether there is any discussion as to the merit involved and any finding has been rendered with reference to the genuineness of the objections raised by the writ petitioners. As mentioned already, the analysis in 'paragraph 15' begins with the inference drawn that 'justice would be met', if the writ petition is disposed of with a direction to the Respondents to re-examine the objections raised by the Petitioners as mentioned therein and that it would be more proper, if the 1st Respondent re-examined all the 18 deleted questions so as to avoid complications. It is with the presumption that no much prejudice would be caused to

anybody, if such a course was ordered, virtually reflecting a 'problem solving approach'. However, no satisfaction is recorded as to the genuineness of the objections raised by the writ petitioners with reference to the questions, which was quite necessary, by virtue of the law declared by the Apex Court in **Uttar Pradesh Public Service Commission's case** (supra). Similarly, no finding is rendered in the judgment to the effect that the opinion expressed by the Experts (after considering the objections, leading to finalization of the answer-sheets vide Annexure-A3) was wrong, arbitrary, illegal or unsustainable in any manner.

12. It is true that the learned Single Judge has not ventured into scrutiny of the questions on the technical subjects and has only ordered it to be re-examined by the Expert Committee. But, before ordering re-examination by the Expert Committee, it is necessary to consider and arrive at a finding whether the course pursued by the Appellant, based on the opinion of the Expert Committee, was wrong or unsustainable for some or other reason. This is more so, when the scrutiny has been ordered to be made by another Committee to be constituted by the Appellant-Board, which otherwise will affect the morale of the Expert Committee members, who had done the exercise already. That apart, the learned Single Judge has permitted the writ petitioners to supplement the objections and the scrutiny has been ordered to be made also considering the objections to be preferred by any other candidates as well. When no other candidate was having any objection at all, it was not

proper or necessary for this Court to have directed consideration of such objections under any circumstance. The learned Single Judge has observed in paragraphs 15 and 17 of the judgment under challenge that, it is with an intention 'to avoid multiplicity of litigations and further complications', if any. But, once the said direction is given effect to, there is every chance for getting the matter protracted further, as any change in the position will give a chance to the other candidates, who have not raised any objection so far, to raise their objections in respect of such changes and to approach this Court by filing writ petitions, thus opening Pandora's box."

15. This Court also considered whether the '**decision making process**' pursued by the Board was correct or not and whether there was any scope for interference. The specific observations made in paragraphs-14 and 15 are having relevance in the context and the same is extracted below :

"14. The above questions and answers, as considered and opined by the Expert Committee, have been referred to by this Court only to point out that the Petitioners have miserably failed to demonstrate the genuineness of their objections before the writ Court, which was essential, in view of the ruling rendered by the Apex Court in **Uttar Pradesh Public Service Commission** (supra), before any relief was granted. There is absolutely no challenge as to the competence of the Expert Committee, constituted by the Appellant-Board or as to any instance of *mala fides*. This being the position, the idea of the writ petitioners with

reference to the way in which it has been painted in some of the textbooks and sought to be relied on by them to suit to their stand cannot be a ground to tilt the balance in respect of the opinion given by the Expert Committee, for the reasons as given in Annexure-A/5. The course of action pursued by the Appellant-Board is demonstrated as transparent in all respects. The questions were framed by the Experts and after completion of the Examination, the Model Answers were published as per Annexure-A/3, giving a chance to the candidates to submit the objections, if any. It was after considering all the objections, that the opinion was formed by the Expert Committee, leading to finalization of the answers as per Annexure-A/4 and the publication of merit list. This being the position, the 'decision making process' pursued by the Appellant-Board is quite in order and there is no scope for interference in this regard.

15. As mentioned already, though the writ petition was filed by 'five' candidates, who are arrayed in the appeal as Respondents No.1 to 5, even after completion of service of notice, only Respondents No.1 and 2 have turned up. The learned counsel for Respondents No.1 and 2 submits that the verdict passed by the learned Single Judge is in the best interest for all concerned and no harm will be caused to anybody by causing the disputed questions to be examined by a fresh Committee. This Court finds it difficult to accept the said proposition for the reasons (already stated); **firstly**, since the writ petitioners have failed in demonstrating the genuineness of their

objections; **secondly**, since competence/ authority of the Expert Committee is not questioned and in the absence of any finding as to any lapse in this regard, no further scrutiny; that too by constituting another Expert Committee can be ordered and **thirdly**, since the writ petition was filed by only 'five' writ petitioners and their objections were only in respect of few specific questions, no direction can be given to conduct scrutiny of all the 18 deleted questions and also to consider other objections, if any, filed by any other candidates as well."

It was thus analyzing the actual facts and figures in the light of the law laid down by Hon'ble Apex Court in **Uttar Pradesh Public Service Commission** (supra) and such other judgments referred therein, that the verdict passed by the learned Single Judge was set aside. Since the judgments impugned in these appeals are simply consequential to the judgment passed in Writ Petition (S) No.4993 of 2019, without any discussion on merit and since the judgment in Writ Petition (S) No.4993 of 2019 has been set aside in Writ Appeal No.108 of 2020, the judgments under challenge in these writ appeals are also liable to be interdicted.

16. Shri Anup Majumdar, the learned counsel appearing for Respondent No.4 in Writ Appeal No.165 of 2020 and Respondent No.1 in Writ Appeal No.442 of 2020 filed by the Board made submissions with reference to the disputed questions No.4, 27, 48, 57, 88, 89, 90 and 147 in Set-C, which were sought to be analyzed in the light of the literature/Expert opinion produced from the part of the Petitioner. Similarly, Shri Ali Asgar, the learned counsel appearing for Respondent No.5 in Writ Appeal No.236 of 2020 and Respondent No.1 in Writ Appeal No.443 of 2020 filed by the Board made submissions with reference to

the disputed question Nos.8, 38, 145 etc. in Set-B. The learned counsel points out that the final answer key is sought to be sustained by the Respondent-Board with reference to the Expert opinion given; simultaneously commenting that, the so-called Experts have also placed reliance on the “Wikipedia” to identify the correct answers, despite the fact that Wikipedia is a platform where anybody could enter and edit/update the data, which has gone wrong as well. The sum and substance of the submissions is that, the literature produced by the Writ Petitioners is enough to hold that the final answer key prepared by the Board (based on the Expert opinion obtained by them) is not correct and that the expertise of the so-called Experts is rather poor.

17. It is settled law that the Constitutional Courts must exercise great restraint in such matters and should be reluctant to entertain a plea challenging the correctness of the key answer, as the Judges are not Experts in every field to decide the issue either one way or the other. The matter can be dealt with only by the Experts in the field and judicial scrutiny can only be to the limited extent, to see whether proper course of action has been pursued by the agency conducting the selection or whether the final answers given are palpably wrong as discernible from the face of it, without going for any research.

18. The issue had come up for consideration before the Apex Court in **Ran Vijay Singh** (supra) where the fundamental principles were laid down in crystal clear terms as discernible from paragraphs-30 to 32, which are extracted below for easy reference :

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

30.1. If a statute, Rule or Regulation governing

an examination permits the re-evaluation of an answer sheet or scrutiny of an answer sheet as a matter of right, then the authority conducting the examination may permit it;

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

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

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

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

31. On our part we may add that sympathy or compassion does not play any role in the matter of directing or not directing re-evaluation of an answer sheet. If an error is committed by the examination authority, the complete body of candidates suffers. The entire examination process does not deserve to be derailed only because some candidates are disappointed or dissatisfied or perceive some injustice having been caused to them by an erroneous question or an erroneous answer. All candidates suffer equally, though

some might suffer more but that cannot be helped since mathematical precision is not always possible. This Court has shown one way out of an impasse – exclude the suspect or offending question.

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."

19. As observed in paragraph-30.5, the Apex Court alerted all concerned that in the event of a doubt, the benefit should go to the examination authority rather than to the candidate. This being the position, even if it is to be held that the Writ Petitioners have referred to some literature in their hand to support their answers, that by itself is not sufficient to hold that the Expert opinion relied on by the Respondent-Board is bad in all respects or to be ignored. The observations made by the Apex Court in **Ran Vijay Singh** (supra) were adverted to in the subsequent decision in **Uttar Pradesh Public Service Commission** (supra). It was reiterated in the said judgment (paragraph-12) that 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. It was simultaneously observed that the Constitutional Courts must exercise great restraint in such matters and should be reluctant to entertain a plea challenging the correctness of the key answer. The Apex Court then held in paragraph-14 that if there are conflicting views, then the Court must bow down to the opinion of the Experts, Judges are not and cannot be Experts in all fields and, therefore, they must exercise great restraint and should not overstep their jurisdiction to upset the opinion of the Experts.

20. When the Writ Petitioners seek to rely on the decision rendered by the Apex Court in **Guru Nanak Dev University v. Saumil Garg and Others** reported in **(2005) 13 SCC 749** (paragraph-12) seeking to revisit the final answer key, it is discernible from the declaration made by the Apex Court in 'paragraph-9' of the same verdict that, insofar as the key answers are concerned, the benefit of doubt, as per the law well settled by the Apex Court, has to go in favour of the examining body. Similarly, we are of the view that the verdict passed by the Apex Court in **Richal and Others v. Rajasthan Public Service Commission and Others** reported in **(2018) 8 SCC 81** (paragraph-20) sought to be relied on by the Petitioners to cause reappraisal of the key answer by another Expert Committee does not come to their rescue, as the inference made therein is for the reasons as discussed on specific facts; simultaneously alerting that the scope of judicial review in such matters is very limited.

21. As mentioned already, there is no dispute with regard to the course and events insofar as after conducting the examination, the model answers were published by the Board inviting objections from the interested participants. The objections obtained were forwarded and subjected to scrutiny by the Expert Committee. Considering the objections, the Expert Committee found that some questions were liable to be deleted because of the defects either in the questions or the answers and in respect of some other questions, the model answers were noted as required to be corrected. It was on the basis of the said opinion of the Experts that the final answer key was published by the Board, followed by further steps. This clearly shows that the course pursued by the Respondent-Board was quite transparent in all respects and it cannot be held as arbitrary, malafide or unreasonable in any manner.

22. As pointed out earlier, judgment dated 06.09.2019 in Writ Petition (S) No.6918 of 2019 has been rendered without any discussion on merits, but for following the course to be pursued as ordered in judgment dated 09.08.2019 in Writ Petition (S) No.5847 of 2019. There again, no discussion on merit was made, but for disposing the matter in the light of the similar direction given for re-examination of the disputed questions/answers by another/independent Expert Committee as ordered in Writ Petition (S) No.4993 of 2019. In Writ Petition (S) No.4993 of 2019 also, there was no proper analysis or discussion with regard to the merits involved, but for disposing the matter directing to cause re-examination by another independent Expert Committee based on the disputes raised by the Writ Petitioners, throwing the door open for more litigations absolutely without any basis, which hence was set aside in Writ Appeal No.108 of 2020. Thus, the basic judgment in Writ Petition (S) No.4993 of 2019 is no more in existence. As it stands so, the consequential directions, ordering similar course of action to be pursued as per the judgments impugned in these writ appeals cannot be sustained, there being no independent consideration of the merits.

23. In the said circumstance, the judgments under challenge are set aside. The appeals are allowed and the writ petitions stand dismissed.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge