

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPS No. 839 of 2021**

1. Rakesh Kumar Pradhan S/o Usat Ram Pradhan, Aged About 28 Years R/o Village Nadigaon, Post Nadigaon, District Raigarh Chhattisgarh

---- Petitioner

**Versus**

1. State Of Chhattisgarh Through The Secretary, General Administration Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, New Raipur, District Raipur Chhattisgarh.
2. Chhattisgarh State Public Service Commission, Through Secretary, Office At Shanker Nagar Road, Raipur, District Raipur Chhattisgarh,
3. Controller Of Examination, Chhattisgarh State Public Service Commission, Shanker Nagar Road, Raipur, District Raipur Chhattisgarh.

---- Respondents

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|---------------------------|---|-----------------------------------|
| For Petitioner            | : | Mr. Praveen Dhurandhar, Advocate. |
| For State                 | : | Mr. Rahul Jha, G.A.               |
| For Respondents No. 2 & 3 | : | Mr. Anand Mohan Tiwari, Advocate. |

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**Hon'ble Shri Justice P. Sam Koshy****Order on Board****01/03/2021**

1. The challenge in the present writ petition is to the order Annexure P/1 dated 26.12.2020 whereby in the course of compliance of the order of this Court in WP(S) No. 2526/2020, the case of the petitioner was scrutinized by a team of experts consisting of Five eminent members and have passed an order whereby they have deleted one question and have maintained the answer provided for the other two questions of three questions which were referred to the experts Committee for reconsideration.
2. The sole contention of the petitioner is that the finding of the experts in so far as question 76 in set A is concerned, the same is

bad for the reason that the respondents themselves in the past having very categorically held that the answer provided in the model answer to be wrong whereas now the authorities have reached to the conclusion that it is a correct answer and have maintained the answer that was provided in the earlier model answer in the course of publishing final amended answer-sheet.

3. This Court is of the opinion that the aforesaid ground raised by the petitioner would not be sufficient enough to subject the decision of the experts to judicial review for the reason that once when the matter stands remitted for the authorities to constitute a Committee of experts and the respondents have in compliance to the said direction of this Court appointed a Committee of experts consisting of five eminent members. It is expected that the team of five experts would reach to an independent decision without being in any manner influenced by the stand taken by either the State Government or by the PSC in the past on those questions or else it would amount to interfering with the independence of the team of experts. The team of experts were expected to independently considered the question and the objection raised thereto and the materials available so far as the correct answer is concerned. The Committee having scrutinized the same and found the answer in the model answer to be correct, cannot take a different stand altogether even if the State Government in past have taken a stand of the answer being wrong.
4. This Court further is reluctant to entertain the writ petition for the reason that the issue involved in the present writ petition already

came up for consideration before this Court in WP(S) No. 439/2021 decided by this Court on 21.01.2021 whereby this Court had relied upon a recent decision of the Division Bench of this Court in a bunch of Writ Appeals, the leading of which Writ Appeal No. 165/2020 decided on 10.12.2020 in a very clear term have held that after the matter having been subjected to scrutiny by the experts of five eminent members, the scope of interference to test the veracity of the said finding becomes very minimal.

5. The Division Bench in the said judgment i.e. W.A. No. 165/2020 decided on 10.12.2020, in paragraphs 14,15,16,17 & 21 have held has under:-

“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 reexamined 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.

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.”

This view further stands reiterated by a recent decision of the Supreme Court in the case of **Vikesh Kumar Gupta & Anr. Versus The State of Rajasthan & Ors.**, reported in 2021 2 SSC 309.

6. Based upon the said finding of the Division Bench, this Court had also rejected the said writ petitions underground of the matter having already been entertained by this Court on a previous occasion and directing the authorities to reconsider the same by constituting experts, the respondents have already done so there is no scope for further judicial review of the said decision already taken by this Court and their conclusion arrived by a team of eminent experts in the respective field.
7. For the aforesaid reason, the present writ petition accordingly stands rejected.

Sd/-  
(P. Sam Koshy)  
**Judge**