

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 198 of 2021

[Arising out of order dated 6-7-2021 passed by the learned Single Judge in WPS No.3282 of 2021]

1. Dhuleshwari Sahu W/o Shri Sharad Ganjir Aged About 35 Years R/o Ward No. 17 Dewangan Para Bhatgaon Dhamtari, District Dhamtari Chhattisgarh.

---- Appellant

Versus

1. State Of Chhattisgarh Through its The Department Of General Administration Mahanadi Bhawan New Raipur Chhattisgarh.
2. Chhattisgarh Public Service Commission Through The Secretary, Shankar Nagar Road Bhagat Singh Square Raipur Chhattisgarh.
3. The Examination Controller Chhattisgarh Public Service Commission Shankar Nagar Road, Bhagat Singh Square Raipur Chhattisgarh.

---- Respondent

WA No. 199 of 2021

[Arising out of order dated 22-6-2021 passed by the learned Single Judge in WPS No.2766 of 2021]

1. Gaya Prasad Lilhare S/o Shri Siddu Ram Lilhare Aged About 44 Years R/o 65 Chhipa, Musarakalan, Dongargarh, District - Rajnandgaon, Chhattisgarh.
2. Rajeshwari Naidu D/o Pramod Kumar Naidu Aged About 29 Years R/o Qtr. No. 383, Milan Chowk, Near Post Office Jashpur Nagar, Chhattisgarh.
3. Aajinka Pandey S/o Manoj Kumar Pandey Aged About 28 Years R/o Ram Mandir Road Bramha Para Ambikapur, Sarguja, Chhattisgarh.

4. Pankaj S/o Radhe Govind Aged About 45 Years R/o Behind Ladies Hospital Darripura Ambikapur, Surguja, Chhattisgarh.

---- Appellants

Versus

1. State Of Chhattisgarh Through its The Department Of General Administration Mahanadi Bhawan New Raipur Chhattisgarh.
2. Chhattisgarh Public Service Commission Through The Secretary, Shankar Nagar Road, Bhagat Singh Square Raipur, Chhattisgarh.
3. The Secretary Chhattisgarh State Hindi Granth Academy Pt. Ravishankar Shukla University Premises In Front Of Community Building Raipur, District Raipur, Chhattisgarh.

---- Respondents

For Appellants : Mr. Ravi Maheshwari, Advocate

For Respondent /State : Shri Sudeep Agrawal, Dy. Adv. General

For Respondent/PSC : Shri Anand Mohan Tiwari, Advocate

(Proceedings through Video Conferencing)

Hon'ble Shri Prashant Kumar Mishra, Ag. CJ

Hon'ble Parth Prateem Sahu. J.

Judgment on Board

By

Prashant Kumar Mishra, Ag. CJ.

23-07-2021

1. Since both the writ appeals involve common facts and common question of law, they are being considered and decided by this judgment.
2. Challenge in both the writ appeals is to the orders passed by the learned Single Judge refusing interference to quash the

merit list of preliminary examination conducted by the respondent Chhattisgarh Public Service Commission (for brevity 'the PSC') and to direct the PSC to prepare fresh merit/qualified list by amending correct answers of Question Nos.14, 30, 36, 52, 62, 67 & 97 (in respect of WA No.198 of 2021) and Question Nos.14, 30, 36, 62, 67, 80 & 97 (in respect of WA No.199 of 2021) of Paper-I [General Studies] of Set-'D'.

3. The appellants (henceforth 'the petitioners') in both the writ appeals appeared in the preliminary examination conducted by the PSC for State Services Examination 2020 on 14-2-2021. The model answer was published on 15-2-2021.
4. Learned counsel for the petitioners would argue that the subject questions of set 'D' of Paper-1 was attempted by the petitioners and had given correct answers yet the expert appointed by the PSC for examining the objections putforth by the candidates, have modified/changed the answer to the detriment of the petitioners. Had the answers been not changed the petitioners would have been qualified.
5. While dismissing the writ petition, learned Single Judge has relied upon the decision rendered by the Division Bench of this Court in *Umang Gauraha v State of Chhattisgarh & Others*¹ and quoted paras 17 to 20 of the said judgment.
6. In *Umang Gauraha* (supra) the Division Bench has referred the judgment rendered by the Supreme Court in *Ran Vijay Singh and Others v State of Uttar Pradesh and Others*² particularly paras 30 to 32 thereof to hold that while making correction in the model answer the PSC has followed the

¹ WA No.165 of 2020 [decided on 10-12-2020]

² (2018) 2 SCC 357 : AIR 2018 SC 52

opinion of the experts, therefore, the same cannot be interfered under writ jurisdiction.

7. In ***Ran Vijay Singh*** (supra) the following principles have been laid down by the Supreme Court as to the scope of interference in matters relating to the revaluation or scrutiny of answers :

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 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.

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.

8. In the case at hand, the experts appointed by the PSC were examining the objections put forth by the candidates as to the correctness of the model answer to certain questions, including the questions pointed out by the petitioners. Upon evaluation by the team of experts, the model answers were corrected. Writ Court is not expected to adorn itself the role of expert of experts by re-examining the opinion accorded by the experts. Even otherwise, the occasion for examination by experts arose because the model answers published on 15-2-2021, in respect of the subject questions, were objected by several other candidates. Thus, there are two sets of candidates who have competing claims about correctness of the model answers or the answers suggested by the experts. If the PSC chooses either of them, the matter is bound to be brought to the writ Court and it is precisely for this reason the Supreme Court in ***Ran Vijay Singh*** (supra) has laid down the principles that interference in such matters should be only in rare or exceptional cases where the error in the model answers or the answer suggested by the experts are writ large. If examination of the answer which has been questioned before this Court requires inferential process of reasoning or by a process of rationalization, the same is beyond the jurisdictional domain of this Court.
9. For the foregoing, in our considered view, the learned Single Judge has correctly applied the principles governing the issue by following the law laid down by the Supreme Court in

Ran Vijay Singh (supra) and the Division Bench of this Court in ***Umang Gauraha*** (supra). The orders impugned passed by the learned Single Judge are just and proper, warranting no interference of this Court.

10. As an upshot, both the writ appeals, *sans substratum*, are liable to be and are hereby dismissed at this motion stage itself.

Sd/-

(Prashant Kumar Mishra)
Acting Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge

Gowri