
HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

204+215

**CWP-7244-2021
& other connected cases
Date of decision:20.08.2021**

Neeraj Kumar & others

...Petitioners

Versus

State of Haryana & others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: S/Sh. Ravinder Bangar, Jasbir Mor, G.S.Gopera, S.K.Malik,
Advocates for the petitioner(s).

Mr. Baldev Raj Mahajan, Advocate General, Haryana with
Mr. Harish Nain, A.A.G. Haryana, for the respondent(s).

(The proceedings are being conducted through video
conferencing, as per instructions.)

G.S. Sandhawal, J. (Oral)

The present judgment shall dispose of 20 cases bearing CWP-7244, 5013, 6208, 5934, 9179, 8884, 4956, 4958, 5715, 4973, 6145, 5007, 5990, 5111, 5255, 6163, 4984, 6419, 5341 & 5347-2021, involving common questions of facts and law. However, for dictating orders, facts have been taken from CWP-7244-2021 titled *Neeraj Kumar & others Vs. State of Haryana & others*.

Petitioners challenge the action of the respondents in rejecting their OMR sheets, on account of the fact that they had been smudged, cutting and double marking was there, thus, they have been shown not eligible. It is submitted that the petitioners have got more than 50% of the marks according to the answer-key, would make them eligible to appear for the interview against the posts of Art & Crafts Teachers, as per advertisement No.6/2006 under Category No.22. In the other set of cases, the stand of the petitioners is

that the result has not been declared or they have not been called for scrutiny of documents and in response, the stand of the respondent-Commission is that the OMR Sheet has been smudged or altered, on which account, they cannot be called for further participation in the selection process.

The said issue has been conclusively decided by this Court in CWP-4938-2021 titled *Nishant Singh Vs. State of Haryana & others*, on 05.07.2021, while noticing the earlier views taken by this Court, which has been upheld till the Apex Court. The resolution of the respondent-Commission dated 04.01.2018 to adhere to the same principle, was also kept into consideration. Said order read as under:

“By filing present civil writ petition under Articles 226/227 of the Constitution of India, petitioner seeks directions to the respondents for scrutiny of documents afresh including the OMR sheet dated 31.01.2021 (Annexure P-4). The said sheet has not been checked on account of being smudged and double marked by the petitioner at question Nos.15, 78 and 93 in the OMR sheet. In these circumstances, he seeks a direction for consideration for the post of Art and Craft Teacher.

It has not been disputed that in CWP No.4822 of 2021 *Aarti and other Vs. State of Haryana (decided on 03.03.2021)*, the same selection process was under consideration and the same issue arose before the Co-ordinate Bench, which while placing reliance upon an earlier decision in *Anshu and others Vs. State of Haryana and Others (Civil Writ Petition No.22918 of 2016, decided on 21.12.2016)*, dismissed the writ petition. Letter's Patent Appeal against the decision in *Anshu's* case was also dismissed on 20.01.2017 in LPA No.92 of 2017. Special Leave to Appeal (Civil) No.8430 of 2017 filed against the said judgment, was also dismissed by Hon'ble Apex Court on 27.03.2017.

The issue had been raised earlier in CWP No.26745 of 2017 ***Ravinder Vs. State of Haryana and others decided on 18.12.2017*** (Annexure P-9) before another Co-ordinate Bench, wherein certain observations were made by the Bench on account of the fact that Mr. Baldev Raj Mahajan, learned Advocate General, Haryana submitted that the Commission is very much willing to look at its option for the future regarding the checking of the altered/smudged OMR sheets instead of rejecting the entire OMR sheet, relying upon the opinion given by the expert.

In the reply filed by the respondent-Commission, it has been specifically averred that as per the resolution of the Commission dated 04.01.2018, earlier practice as such not to evaluate the smudged answer sheets was being retained to avoid cheating, tampering, manipulation, malpractices etc. The relevant portion of the resolution reads as under:-

“It is also well settled that an examining body can lay its instructions. Thus, in view the position as mentioned above, the Commission unanimously decide and resolve that even though as per the expect the evaluation of smudged answers is technically possible but in view the larger interest and to prevent cheating in the examination hall by the candidate, candidate's interest and tempering, manipulation, malpractices, fraudulent practices by manual intervention at any stage, pre-exam or post-exam, the process already being followed, i.e. not to evaluate the smudged/scratched should be continued for the exam to be held in further and as such reiterates the stand already taken in the matter.”

This aspect has also been noticed by the Co-ordinate bench in ***Aarti's case (supra)***. In similar circumstances,

another Civil Writ Petition No.6952 of 2021 ***Reman Kumari Vs. Haryana Staff Selection Commission, decided on 05.04.2021*** was dismissed against same advertisement No.6 of 2006 and was upheld by the Division Bench in LPA No.463 of 2021 ***Reman Kumari Vs. Haryana Staff Selection Commission***, on 20.05.2021.

Thus, the arguments as such of learned counsel for the petitioner that other Letter Patent Appeals are pending arising out of ***Aarti's case (supra)***, would not detain this Court. It is imperative and important to have settled principles applied for the purpose of selection so that the appointments can be made at the earliest. It is to be noticed that advertisement was of the year 2006 and till date selection process has not been finalised. In such circumstances, this Court is of the opinion that there is no scope for entertaining the writ petition for further relief as claimed. Accordingly, the same is dismissed.”

In view of the above, this Court is of the opinion that there is no scope to deviate from the settled view which has consistently been taken, not only by this Court but by Co-ordinate Benches, on repeated occasions. Resultantly, the writ petitions are dismissed.

August 20, 2021
sailsh

(G.S.Sandhawalia)
Judge

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No