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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 181/2021**

MAHESH KUMAR Petitioner

Through: **Mr. Ranjit Sharma, Advocate.**

Versus

GOVERNMENT OF N.C.T., DELHI & ORS. Respondents

Through: **Ms. Avnish Ahlawat, Standing
Counsel for GNCTD (services) with
Mr. Nitesh Kumar Singh, Mrs. Tania
Ahlawat, Ms. Palak Rohmetra,
Advocates.**

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

% 28.04.2021

[VIA VIDEO CONFERENCING]

C.M. No. 528/2021 (for exemption)

1. Allowed, subject to just exceptions and as per extant rules.
2. The application is disposed of.

W.P.(C) 181/2021 & C.M. No. 527/2021 (for interim relief)

3. This petition impugns the order dated 29th January, 2020 of Central Administrative Tribunal (CAT), Principal Bench, New Delhi, of dismissal of OA No.1157/2019 preferred by the petitioner.
4. The petitioner, in pursuance to an advertisement dated 20th December, 2017, applied for the post of Post-Graduate Teacher (Sociology), as a candidate belonging to the Scheduled Castes and took the selection test held on 5th August, 2018 and in the result declared whereof, the petitioner

obtained 152.50 marks. The petitioner challenged the answer key with respect to 12 questions and the respondents, after considering the objection/challenge, accepted the challenge with respect to 8 of the questions but rejected the challenge made by the petitioner with respect to the remaining 4 questions. Aggrieved therefrom, the OA, from which this petition arises, was preferred.

5. CAT, in the impugned order, referring to *Ran Vijay Singh Vs. State of Uttar Pradesh* (2018) 2 SCC 357 and *Union Public Service Commission Vs. Angesh Kumar* (2018) 4 SCC 530, has held that 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 better left to academics and the Court should presume the correctness of the key answers and proceed on that assumption.

6. The counsel for the petitioner, before us also, has sought to contend that the answer key with respect to the remaining 4 questions also was/is faulty. Though we have given an opportunity to the counsel for the petitioner, to demonstrate to us how and on what basis it is stated that the answer key with respect to the remaining 4 questions was faulty, but we find the counsel for the petitioner to be unable to justify the same and the counsel for the petitioner generally refers to the provisions of the Constitution of India and to judgments, without citing any and without being able to point out authoritatively as to how the answer key with respect to the said 4 questions is faulty. The conduct of the counsel for the petitioner demonstrates the reasoning adopted by Supreme Court in a catena of judgments. Neither the members of the Bar nor the Court has expertise in the various subjects/streams in which selection/admissions/examinations are

held and the Court cannot rule on, whether the particular answer, which according to the academic authorities is correct, is wrong. What to talk of any other subject, even in the matter of judicial examinations, the Court, in ***Pranav Verma Vs. Registrar General of the High Court of Punjab and Haryana*** (2020) 15 SCC 377, relying on ***H.P. Public Service Commission Vs. Mukesh Thakur*** (2010) 6 SCC 759 and ***Pramod Kumar Srivastava Vs. Bihar Public Service Commission*** (2004) 6 SCC 714, has held that the Court cannot take upon itself the evaluation of the answers given by a participant or direct re-evaluation by an independent committee.

7. Furthermore, Supreme Court has repeatedly, in ***Central Board of Secondary Education Vs. Khushboo Shrivastava*** (2014) 14 SCC 523, ***Ran Vijay Singh supra, High Court of Tripura Vs. Tirtha Sarathi Mukherjee*** (2019) 16 SCC 663, ***Bihar Staff Selection Commission Vs. Arun Kumar*** (2020) 6 SCC 362 and ***Vikesh Kumar Gupta Vs. State of Rajasthan*** (2021) 2 SCC 309 held that 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, on commission of material error. It was further held that the Courts should not re-evaluate or scrutinize the answer sheets of a candidate as the Court has no expertise in the matter and academic matters are best left to the academics. It was yet further held that the Courts should presume the correctness of the evaluation and proceed on that assumption and in the event of a doubt, the benefit should go to the examination authority rather than to the candidate. Sympathy or compassion have been held to be not having any role in the matter of directing or not directing re-evaluation of an answer sheet, reasoning that if an error is committed by the examining authority, the

complete body of candidates suffers and the entire examination process does not deserve to be derailed only because some candidates are disappointed or dissatisfied or perceive some injustice has 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 held since mathematical precision is not always possible. It has also been held that examination authorities, instead of the candidates, should not be under scrutiny and that a massive and prolonged examination exercise should not be permitted to be derailed, often leading to a number of public posts remaining vacant. Reference in this regard may be made to the decisions of this Court in *The District & Sessions Judge (HQS) Vs. Narender Kumar* MANU/DE/0403/2021 and *Mahesh Kumar Vs. Staff Service Commission* MANU/DE/0452/2021.

8. No perversity is found in the impugned order of CAT.
Dismissed.

RAJIV SAHAI ENDLAW, J

AMIT BANSAL, J

APRIL 28, 2021

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