

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.11614 of 2022

Abhishek Mahapatra *Petitioner*
Mr. Kousik Ananda Guru, Adv.
-versus-
Board of Secondary Education, *Opposite Party*
Odisha, Cuttack
Mr. S.S. Rao, Adv.

CORAM:

DR. JUSTICE S.K. PANIGRAHI

Order

No.

08.

ORDER

27.10.2022

1. This matter is taken up through hybrid mode.
2. The present petition has been filed challenging the action of the Opposite Party in not awarding the Petitioner with proper marks in the answer script for OSSTET Examination, 2022 with regard to Question No. 13 in Section-1 i.e., Odia.
3. Shorn of unnecessary details, the substratum of matter presented before this Court remains that the Petitioner is Post Graduate Degree holder in Chemistry from Berhampur University and has also completed his B.Ed Course from Nagarjuna University, Andhra Pradesh. After completion of the B.Ed Degree, the petitioner joined DAV School Organization and is now posted at

GMR Township in the District of Dhenkanal. The Petitioner appeared for the Odisha Secondary School Teacher Eligibility Test (OSSTET) on 09.02.2022 at the Examination Centre i.e. Saraswati Bidyamandir, Nalco Nagar, Angul and was assigned the role number – 12120107041.

4. In the concerned examination, the candidates were required to answer 150 number of questions out of 510 questions within 2 hours 30 minutes. The booklet containing the questions had four sections. Section-1 was Odia and Section-2 was English and both of these subjects were compulsory for all the streams. The candidates had to answer 20 number of questions each in both the sections. Each question carried 1 mark. Since, Section-3 was optional, a candidate had to choose any one group out of seven groups. In this section, a candidate was required to answer 60 number of questions which carried one mark each. Section-4 was compulsory for all the streams. In Section-4, a candidate was required to answer 50 number of questions with each question carrying one mark. The petitioner appeared for the optional subject PCM i.e. Physics, Chemistry & Mathematics and was supplied with Set-A question booklet.

5. After the completion of the examination on 09.02.2022, the Opposite Party published the Answer Key and subsequently, the results were announced on 12.04.2022 whereby, the Petitioner was declared as unsuccessful as he had obtained 67 marks whereas the qualifying mark for the examination was 68.
6. It is submitted by Learned Counsel for the Petitioner that the correct answer to the Question No. 13 in Section-1 is Option D as opposed to Option C that has been provided in the Answer Key released by the Opposite Party. Furthermore, it is also contended by Learned Counsel for the Petitioner that the answer was found to be correct as per Odia "Purnachandra Bhasakosha".
7. Per Contra, it is submitted by Learned Counsel for the Opposite Party that the Court cannot be called upon to assess the correctness of the answers given to the questions nor can it recall upon to compare and decide which of the answer is correct and the scope of jurisdiction cannot be extended to such prayers of the Petitioners.
8. In compliance of directions issued by this Court on 29.08.2022, immediate steps were taken to form a special expert committee under the Chairmanship of the Vice

President of the Board of Secondary Education, Academic Officer of the Board of Secondary Education, two retired Professors in Odia and Retired Associate Professor in Odia. The Committee met on 07.09.2022 and on a thread bear analysis of the question and upon considering all the materials, it arrived at a conclusion that the answer suggested by the Board in the Answer Key was correct.

9. Indisputably, in the case at hand, the answer key prepared by the Opposite Party is presumed to have been prepared after due deliberations. Moreover, the discrepancies assailed in relation to the question at issue, has been categorically redressed by the Opposite Party through opinion of the Expert Committee.
10. In the present case, this court needs to see what is legally possible and not what possibly dehors the legal process. A thing that may seem plausible on the grounds of natural justice, may not be possible legally. As succinctly put by Mathew, J in his judgment in ***Union of India v. M.L. Kapur***¹,

"It is not expedient to extend the horizon of natural justice involved in the Audi alteram partem rule to the twilight zone of mere expectations, however great they might be".

¹ W.P. No. 20894 (W) of 2013

11. This Court having gone through the counter affidavit is of the considered view that adequate steps and precautions have been taken by the Opposite Party with respect to the Redressal Mechanism and preparation of Answer Key and when the expert committee has already taken the decision, this court will be at loath to substitute its own view. If the view taken by the technical expert can evaluate the answer when there is mistake in question-and-answer scripts, it is for all the candidates and there can be no discrimination. It would be profitable to refer to the decision in the case of *Maharashtra State Board of Secondary and Higher Secondary Education and another vrs. Paritosh Bhupash Kumarsheth*². The paragraph 29 is extracted hereunder for ready reference:-

“Far from advancing public interest and fair play to the other candidates in general, any such interpretation of the legal position would be wholly defeasive of the same. As has been repeatedly pointed out by this court, the Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day-to-day working of educational institutions and the departments

² AIR 1984 S.C. 1543

controlling them. It will be wholly wrong for the court to make a pedantic and purely idealistic approach to the problems of this nature, isolated from the actual realities and grass root problems involved in the working of the system and unmindful of the consequences which would emanate if a purely idealistic view as opposed to a pragmatic one was to be propounded. It is equally important that the Court should also, as far as possible, avoid any decision or interpretation of a statutory provision, rule or bye-law which would bring about the result of rendering the system unworkable in practice. It is unfortunate that this principle has not been adequately kept in mind by the High Court while deciding the instant case."

12. In *Kanpur University v. Samir Gupta*³, the Supreme Court observed that:

".... the key answer should be assumed to be correct unless it is proved to be wrong and that it should not be held to be wrong by an inferential process of reasoning or by a process of rationalisation. It must be clearly demonstrated to be wrong, that is to say, it must be such as no reasonable body of men well-versed in the particular subject would regard as correct." In other words, the onus is on the candidate to clearly demonstrate that the key answer is incorrect and that too without any inferential process or reasoning. The burden on the candidate is therefore rather

³ 1983 AIR 1230

heavy and the constitutional courts must be extremely cautious in entertaining a plea challenging the correctness of a key answer.

13. In a similar situation where the discrepancies in relation to answer key published and grievances were considered, the Supreme Court in the case of ***Richal and Ors vs. Rajasthan Public Service Commission and Ors***⁴ observed that

“The key answers prepared by the paper setter or the examining body is presumed to have been prepared after due deliberations. To err is human. There are various factors which may lead to framing of the incorrect key answers. The publication of key answers is a step to achieve transparency and to give an opportunity to candidates to assess the correctness of their answers. An opportunity to file objections against the key answers uploaded by examining body is a step to achieve fairness and perfection in the process.”

14. The procedure followed by the Supreme Court in the case of ***Richal & Ors*** (supra) have, in fact, been followed by the Board in this case. After the publication of the Answer Key, the objections pertaining to various questions-and-answers were placed before the Expert Committee and the same was redressed effectively on the basis of suggestions made by the Committee. It is

⁴ (2018) 8 SCC 81

not the case of the Petitioner that his objections were not evaluated afresh by an Expert Committee. Therefore, this court is not inclined to interfere with the matters.

15. From the conspectus of factual matrix, this Court is of the opinion that the decision rendered by the Expert Committee doesn't suffer from any infirmities. It would suffice to state that the procedure evolved by the Board for ensuring fairness and accuracy in evaluation of the answer books has made the system as fool proof as can be possible and it meets the satisfaction and approval of this Court.

16. After giving anxious consideration to the rivalized submissions of the respective parties and on perusal of the decisions cited at the Bar, this Court is not persuaded to accede to the prayer of the Petitioner.

17. Accordingly, the Writ Petition sans merit is dismissed. There shall be no order as to costs.

(Dr. S.K. Panigrahi)
Judge

B.Jhankar