

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8832 OF 2022

Maharashtra Public Service

Commission

.. Petitioner

v/s.

Janakraj Mohan Gund and Ors.

.. Respondents

WITH

INTERIM APPLICATION NO.18695 OF 2022

Pranav Mothabhau Bhamare

.. Applicant

v/s.

The Secretary, Maharashtra Public

Service Commission and Ors.

.. Respondents

WITH

INTERIM APPLICATION NO.16857 OF 2022

Sandesh Jayant More and Ors.

.. Applicants

v/s.

The Secretary, Maharashtra Public

Service Commission and Ors.

.. Respondents

Mr. Ashutosh M. Kulkarni a/w. Mr. Sarthak Diwan, for the petitioner –
MPSC.

Mr. Asim Sarode a/w. Mr. Ajnkya M. Udane, Mr. Trunal Tonape, for the
applicant in IA/18695/22.

Mr. Gunartan Sadawarte a/w. Ms. Jayashree Patil, for the applicant in
IA/16857/22.

Mr. Sandeep Dere, for respondent No.2 .

**CORAM : R.D. DHANUKA &
KAMAL KHATA, JJ.
DATED : 4TH OCTOBER, 2022**

P.C. :

1. By these interim applications, the applicants seek their impleadment in the writ petition. Mr. Kulkarni, learned counsel for the petitioner has no objection if these applications made by the applicants for impleadment are allowed. Statement is accepted.
2. Interim Application No.16857 of 2022 is accordingly allowed in terms of prayer clause (a).
3. Insofar as interim application No. 18695 of 2022 is concerned, learned counsel for the applicants states that though his clients are supporting the petition his clients to be impleaded as respondents and not the co-petitioner. Statement is accepted.
4. Interim application No.18695 of 2022 is accordingly allowed in the aforesaid terms. Amendment to be carried out forthwith. Re-verification is dispensed with. No order as to costs.
5. Rule. Learned counsel for the respondents waives service. Rule is returnable forthwith. By this petition filed under Article 226 of the Constitution of India, petitioner has prayed for a writ of

certiorari for quashing and setting aside the impugned judgment and order dated 1st April, 2022 passed by the Maharashtra Administrative Tribunal in Original Application No.245 of 2022.

6. The present dispute pertains to the post of the Assistant Motor Vehicles Inspector (AMVI) Main Examination-2020 (Group C). On 17th January 2020, in pursuance of the requisition received from the State Government, the petitioner issued an advertisement for a total 240 posts in issue. On 15th March 2020 preliminary examination was conducted by the petitioner. The result of the preliminary examination was declared by the petitioner on 24th August, 2021. On 2nd September, 2021 the petitioner published an advertisement for the main examination. The main examination was held on 20th November, 2021.
7. On 29th November 2021, the petitioner prepared and published the first answer key on its website. The petitioner thereafter received certain objections from various candidates of the answer keys. All the objections received from the candidates alongwith the references cited by them were referred to the subject experts for their opinion. After receipt of the opinion from the subject experts, the same was submitted for the approval of the appropriate authority.

8. On 22nd February 2022, on the basis of the opinions received from the experts, the final answer key of the examination was published by the petitioners.
9. Being aggrieved by the said decision on the part of the petitioner, respondent Nos.1 and 2 filed an original application before the Maharashtra Administrative Tribunal. On 11th April, 2022 Maharashtra Administrative Tribunal allowed the said original application filed by respondent Nos.1 and 2. Being aggrieved by the said judgment, the petitioner filed this petition.
10. Mr. Kulkarni, learned counsel for the petitioner invited our attention to the impugned judgment rendered by the Maharashtra Administrative Tribunal, more particularly in paragraph Nos.7, 10 to 12. He submitted that in view of the objections received from some of candidates alleging the incorrectness of the first answer key published by the petitioner, the issue was referred to the experts. After considering the objections raised by some of the students, the experts corrected the answer key in respect of the six questions. He submitted that the Tribunal though recorded the findings that no objections were raised by the respondent Nos.1 and 2 herein about the transparency in the procedure conducted by the petitioner, contrary to such finding petitioner had referred

those answer keys with the Tribunal held that experts on the panel of the petitioner contrary to the principles laid down by Supreme Court in case of *Ran Vijay Singh and Others Versus State of Uttar Pradesh and Others*¹. He vehemently relied upon paragraph Nos.14, 15, 30, 31, 32 and 37 of the said judgment. He submitted that the power of the Tribunal to interfere with the decision taken by the experts is limited and could not have been exercised by the Tribunal by questioning the decision taken by the experts and by directing the petitioner to appoint another experts with a direction to refer those key answers for re-examination of the correctness of the key answers by appointing other experts.

11. Learned counsel for respondent No.2 (one of the original applicant) before the Tribunal vehemently relied upon paragraph No.13.2 of the said judgment of the Supreme Court and submitted that the tribunal in this case has rightly passed the order directing the petitioner to appoint another expert to examine the correctness of this answer key in respect of six questions without any preferential process of reasoning, having found respondent No.2 made out a case for appointment of fresh expert with the direction to re-assess the correctness of the key answers to the six questions. He submitted that this Court thus shall not interfere

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with the powers exercised by the Tribunal in view of the principles laid down in paragraph No.30.2 of the judgment referred in the case of *Ran Vijay Singh (supra)*.

12. Learned counsel for the applicants in the interim application that have been allowed by this Court today supported the case of the petitioner and submitted that the experts had rightly considered the objections raised by some of the students on the correctness of the answer key of six questions and having changed those answer keys, the Tribunal could not have called upon the petitioner to appoint another expert. They submitted that the view taken by the tribunal is ex-facie contrary to the principles laid down by the Supreme Court in the case of ***Ran Vijay Singh (supra)***.

13. We have heard the learned counsel for the parties and given our anxious consideration to the rival submissions made.

14. It is not in dispute that there were objections received by the petitioner in respect of the six answer keys prepared by the earlier experts. In view of such objections received by the petitioner, the issue was referred to the same experts for reconsideration. After re-considering the objections raised by the students, the experts corrected the answer keys in respect of those six questions. Out of

the large number of students who had appeared in the examination, only two of them filed an application before the Maharashtra Administrative Tribunal for interference with the publication of the results by the petitioner.

15. A perusal of the order passed by the Maharashtra Administrative Tribunal indicates that though the Tribunal had rendered a finding that the procedure followed by the MPSC was as per the rules and also on the basis of the standing order and though held that no objections were raised by the original applicants in respect of the transparency in the procedure conducted by the MPSC, the tribunal had taken a task upon itself and came to a conclusion that the same experts who had suggested the answer keys in respect of those six questions could not have sat in the appeal against their own decisions. The Tribunal only considered the fact that the experts who had earlier suggested the answer keys to the six questions could not have taken a different view in the matter while directing the petitioner to appoint another expert on the panel of the petitioner who had not renewed these questions earlier.

16. In our view, we have perused the judgment of the Supreme Court in the case of *Ran Vijay Singh and others (supra)*. It is

clearly held by the Supreme Court that the Court cannot at all re-evaluate or scrutinize the answer sheet of a candidate. It has no expertise in the matter and such academic matters are best left to the academic experts. The Court should presume the correctness of the answer keys and proceed on that assumption. In the event of doubt, the benefit should go to the examination authority rather than to the candidate. The Supreme Court further held in the judgment that, while there is no doubt that the candidates put in tremendous effort in preparing for the examination, it must not be forgotten that even the examination authorities put in equal efforts to successfully conduct the examination. 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 by some erroneous answers. All candidates suffer equally, though some might suffer more but that cannot be helped since mathematical precision is not always possible.

17. In our view, principles laid down by the Supreme Court in the case of *Ran Vijay Singh and Others (supra)* clearly apply to the facts of this case though, the Tribunal has recorded various findings in favour of the petitioner and has chosen to doubt the

correctness of the answer keys given by the experts and has interfered with the decisions taken by the experts by directing the petitioner to appoint another expert who has earlier not seen those questions with the direction to give the correct answers of the said six questions. In our view, the Tribunal could not have gone into the correctness of the answer keys suggested by the experts in their field.

18. In our view, since the view taken by the Maharashtra Administrative Tribunal is contrary to the principles laid down by Supreme Court in case of *Ran Vijay Singh and Others (supra)*, the same deserves to be quashed and set aside.

19. We have accordingly pass the following order:

ORDER

- (a) Writ petition is made absolute in terms of prayer clause (b).
Rule is made absolute in aforesaid terms. No order as to costs.
- (b) The petitioner is directed to take all the consequential steps expeditiously.

(KAMAL KHATA, J.)

(R.D.DHANUKA, J.)