

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

WRIT PETITION NO. 9021 OF 2022

Shrikrishna Namdevrao Wankhede	}	
	}	
versus		
The State of Maharashtra and Anr.	}	Petitioner
	}	
		Respondents

Mr. Saumitra Salunke i/b. Mr. P. R. Yadav for the petitioner.

Mr. M. M. Pabale, AGP for respondent no. 1 (State).

Ms. Manisha Jagtap with Mr. Mayuresh Ingale i/b. J. Shekhar and Co. for respondent no.2.

**CORAM: DIPANKAR DATTA, CJ. &
M. S. KARNIK, J.**

DATE: JULY 27, 2022

P.C.:

1. The challenge in this writ petition is to an order dated 29th June 2022 passed by the Maharashtra Administrative Tribunal, Mumbai rejecting the petitioner's original application being Original Application No. 582 of 2022.
2. The petitioner was an aspirant for the post of Police Sub-Inspector (PSI) and had participated in the Limited Departmental Examination conducted by the Maharashtra Public Service Commission (hereafter "MPSC", for short).
3. According to the petitioner, the key answer provided by the MPSC in respect of Question No. 42 of the C-set question paper was incorrect and had the petitioner been assessed on

the basis of the correct answer selected and written by him, he would have qualified.

4. The Tribunal has accepted that what the petitioner says is correct, but has declined relief to the petitioner on the ground that he did not raise an objection in regard to such question within the time stipulated therefor by the MPSC.

5. We have heard Mr. Salunke, learned advocate for the petitioner. We have also perused Question No.42 of the C-set of question paper.

6. Four options of a sentence in active voice converted to passive voice were given with differing tenses and the candidates were required to select the correct option. According to the Tribunal, the 4th option was incorrect and the 3rd option correct. Based on such finding of the Tribunal, Mr. Salunke contends that the Tribunal should have directed the MPSC to award full marks to the petitioner for correctly answering Question No.42, instead of dismissing the original application on the ground that the petitioner did not raise an objection at the appropriate time.

7. In its decision reported in (2018) 2 SCC 357 (**Ran Vijay Singh and Ors. vs. State of Uttar Pradesh and Ors.**), the Supreme Court has laid down the law as follows: -

"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."

8. Whether what the petitioner has answered is correct and whether the MPSC was incorrect in selecting the 4th option as the correct answer has to be ascertained by an inferential process of reasoning. The Supreme Court has cautioned that such a course of action is not permissible for the Courts exercising powers of judicial review under Article 226 of the Constitution of India to embark upon. Selection of the 4th option by the MPSC as the correct answer is presumed to be correct and the Court has to proceed on such assumption; and, even if there is any doubt, the benefit must go to the examination authority rather than to the candidate.

9. This being the legal position, we are left with no other alternative but to decline interference.

10. The order under challenge is also unexceptionable in that the petitioner did not object within the time stipulated

therefor. In the circumstances, the petitioner must be held to have given up his right to object. At a late stage of approach, the Tribunal was right in not derailing the recruitment process. We, therefore, uphold the order under challenge.

11. The writ petition stands dismissed. No costs.

SALUNKE
J V

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(M. S. KARNIK, J.)

(CHIEF JUSTICE)