



WEB COPY



W.P.No.31355 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2022

CORAM

THE HONOURABLE Mr. JUSTICE ABDUL QUDDHOSE

W.P.No.31355 of 2022
and WMP.Nos.30800 & 30801 of 2022

U.P.Maheswari

.. Petitioner

Vs.

1.The State of Tamil Nadu
Rep by its Secretary
School Education Department
Secretariat, Chennai.

2.The Chairman
Teachers Recruitment Board
4th Floor, E.V.K.Samopath Maligai
College Road, Chennai - 6.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration to declare the final key answer provided for the question paper in History pertaining to Question Nos.27, 69, 102 and 108 provided by the second respondent as incorrect and consequently to direct the second respondent to award marks for the above said questions to the petitioner bearing Registration No.TRBPG862019 and consider the name of the petitioner for the appointment to the post of P.G.Assistant (History) under Backward Class Category within the period that may be stipulated by this Court.



WEB COPY



W.P.No.31355 of 2022

For Petitioner : Mr.Calvin Jones

For Respondents : Mr.R.Neelakandan
Additional Advocate General
Assisted by Mr.K.Sathish Kumar for R2

Mr.D.Ravichander
Special Government Pleader for R1

ORDER

The issue involved in this writ petition is, under what circumstances while exercising powers under Article 226 of the Constitution of India, this Court can interfere with the selection results for public posts.

2. The petitioner had applied for the post of P.G.Assistant (History), pursuant to the recruitment notification issued by the second respondent Board. She was aggrieved by one of the answers given in the preliminary key published by the second respondent Board. She had raised objections to the same, which was rejected by the second respondent. Thereafter, the provisional selection list was published and the petitioner's name did not find a place in the said list. The petitioner has now challenged the final selection list in this writ petition on the



W.P.No.31355 of 2022

ground that some of the answers given by the second respondent Board in the preliminary key as well as in the final key are incorrect.

3. The second respondent has forwarded a communication to the learned Additional Advocate General, denying the allegations of the petitioner. They would categorically contend that only based on expert committee report, the key answers were given by the Board. They have also stated that though the petitioner had raised objection only in respect of the answer given to one question (i.e., Question No.39), but in this writ petition, the petitioner has grievance for the answers in respect of four other questions as well.

4. This Court, while dealing with a similar issue in a batch of writ petitions namely W.P.Nos.21598 & 21881 of 2022, involving selection for the post of Sub Inspector of Police, pursuant to a recruitment notification, wherein also a similar contention was raised with regard to the answers given by the Board with regard to certain questions, and after following the decisions of the Hon'ble Supreme Court in the cases of *Kanpur University through Vice-Chancellor and others vs. Samir Gupta and Others* reported in *[(1983) 4 SCC 309]* and



W.P.No.31355 of 2022

Ran Vijay Singh and others v. State of Uttar Pradesh and others

reported in ***[(2018) 2 SCC 357]*** as well as ***U.P.P.S.C. through its***

Chairman and another v. Rahul Singh & another dated 14.06.2018

rendered in Civil Appeal No.5838 of 2018 and in ***Mahesh Kumar v.***

Staff Selection Commission & another dated 28.02.2022 in

SLP.No.1951 of 2022, has rejected similar contentions which were raised

in those batch of writ petitions. In the decision rendered in ***U.P.P.S.C.***

through its Chairman and another v. Rahul Singh & another cited

supra, the Hon'ble Supreme Court has observed as follows:

"31. On our part we may add that sympathy or compassion does not play any role in the matter of directing or not directing reevaluation of an answer sheet. If an error is committed by the examination authority, the complete body of candidates suffers. 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 an erroneous answer. All candidates suffer equally, though some might suffer more but that cannot be helped since mathematical precision is not always possible. This Court has shown one way out of an impasse - exclude the suspect or offending question.

32. It is rather unfortunate that despite several decisions of this Court, some of which have been discussed above,



WEB COPY



W.P.No.31355 of 2022

there is interference by the courts in the result of examinations. This places the examination authorities in an uneviable position where they are under scrutiny and not the candidates. Additionally, a massive and sometimes prolonged examination exercise concludes with an air of uncertainty. While there is no doubt that candidates put it in a tremendous effort in preparing for an examination, it must not be forgotten that even the examination authorities put in equally great efforts to successfully conduct an examination. The enormity of the task might reveal some lapse at a later stage, but the court must consider the internal checks and balances put in place by the examination authorities before interfering with the efforts put in by the candidates who have successfully participated in the examination and the examination authorities. The present appeals are a classic example of the consequence of such interference where there is no finality to the result of the examinations even after a lapse of eight years. Apart from the examination authorities even the candidates are left wondering about the certainty or otherwise of the result of the examination - whether they have passed or not; whether their result will be approved or disapproved by the court; whether they will get admission in a college or university or not; and whether they will get recruited or not. This unsatisfactory situation does not work to anybody's advantage and such a state of uncertainty results in confusion being worse confounded. The overall and larger impact of all this is that public interest suffers."

5. In the case on hand also, the petitioner has challenged the



W.P.No.31355 of 2022

final selection on the ground that the answers given by the second respondent Board through their preliminary key and final key answers are wrong. This Court is not an expert to decide as to whether the answers given in preliminary key and final key are correct or not. Admittedly, only based on the expert report, the second respondent Board has given its answers in the preliminary key as well as in the final key. Unless and until the petitioner is able to establish before this Court that it is a glaring mistake, this Court while exercising powers under Article 226 of the Constitution of India, cannot interfere with the selection result. In fact, in the instant case, the petitioner has raised objection before the Board, only to one answer (i.e., Question No.39), but only in this writ petition, he has raised objection with regard to four other questions (i.e., Question Nos.27, 69, 102 and 108) also. The Constitutional Courts must exercise great restraint with regard to the issue of this nature and should be reluctant to entertain a plea challenging the correctness of the key answers.

6. It is also brought to the notice of the Court by the learned Additional Advocate General appearing for the second respondent Board that subsequent to declaration of the final selection results, appointment



W.P.No.31355 of 2022

orders have also been issued to the selected candidates. He also drew the attention of this Court to the recent judgment of a Division Bench dated 30.09.2022 passed in a batch of cases in W.A.Nos.598, 600, 602 to 609 of 2022 [*The Director of School Education Vs. N.Mercy Venilla*], wherein also the decision of the Hon'ble Supreme Court in the case of *U.P.P.S.C. through its Chairman and another v. Rahul Singh & another* referred to supra was followed, and has held that Constitutional Courts must exercise great restraint in such matters and should be reluctant to entertain a plea challenging the correctness of the key answers.

7. For the foregoing reasons, this Court does not find merit in the writ petition and accordingly, the writ petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

07.12.2022

Index : Yes / No

Internet : Yes / No

Speaking Order/Non-speaking Orders



WEB COPY



W.P.No.31355 of 2022

ABDUL QUDDHOSE.J.,

ds

To:

- 1.The Secretary
School Education Department
Secretariat, Chennai.
- 2.The Chairman
Teachers Recruitment Board
4th Floor, E.V.K.Sampath Maligai
College Road, Chennai - 6.

W.P.No.31355 of 2022

07.12.2022