



WP(MD)Nos.15686 & 15711 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 12.08.2022

DELIVERED ON : 14.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD)Nos.15686 & 15711 of 2022
and
W.M.P (MD) Nos.11312 & 11314 of 2022

In W.P.(MD)No.15686 of 2022

Murugesan

... Petitioner

Vs.

1.The Secretary to Government,
Government of Tamil Nadu,
Department of Higher Education,
Secretariat, St. George Fort,
Chennai – 600 009.

2.The Member Secretary,
Teachers Recruitment Board,
3rd Floor, Centenary Building,
DPI Campus, College Road,
Chennai – 600 006.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to provide 6 marks for question Nos.27, 41, 76, 78, 89 and 97 in the examination of



WP(MD)Nos.15686 & 15711 of 2022

Notification in No.01/2021 dated 09.09.2021 for the post of Post Graduate Assistants / Physical Education Directors Grade-I / Computer Instructor Grade I in School Education and other Departments for the year 2020-2021 by considering the petitioner's representation dated 07.07.2022.

For Petitioner : Mr.K.Arunraj

For Respondent-1 : Mr.A.Kannan, AGP

For Respondent-2 : Mr.V.R.Shanmuganathan, Standing Counsel

In W.P.(MD)No.15711 of 2022

P.Amutha

... 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. Sampath Maligai,
College Road,
Chennai – 600 006.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Declaration, declaring the final key answer provided for the question paper in Botany pertaining to Question Nos.59, 85, 89 and 109



WP(MD)Nos.15686 & 15711 of 2022

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.TRBPG270291 and consider the name of the petitioner for the appointment to the post of P.G. Assistant Botany under Backward Class Category within the period as stipulated by this Court.

For Petitioner : Mr.Venkatesh Kumar.C
M/s.Ajmal Associates

For Respondent-1 : Mr.A.Kannan, AGP

For Respondent-2 : Mr.V.R.Shanmuganathan, Standing Counsel

COMMON ORDER

The petitioner in both the Writ Petitions herein are aspirants for appointments to the post of Post Graduate Assistants / Physical Education Directors Grade-I / Computer Instructor Grade I in School Education and other Departments for the year 2020-2021. In response to a Notification issued by the Teacher Recruitment Board (TRB), calling for applications for the posts of Post Graduate Assistants / Physical Education Directors Grade-I / Computer Instructor Grade I, both the petitioners had submitted their applications through on-line mode and were permitted to participate in the



WP(MD)Nos.15686 & 15711 of 2022

computer based examinations. Since the candidatures of the petitioners herein were not included in the provisional selection list, the present Writ Petitions have been filed.

2. Heard the learned counsel for the parties.

3. Since the grievances of both the petitioners arise from the common notification issued by the TRB dated 09.09.2021 and the relief they seek for is also one and the same, both the Writ Petitions are disposed through this common order.

4. The grounds raised by both the petitioners herein are predominantly to the effect that some of the Key Answers published by the TRB are demonstrably wrong and that the choice of answers in the English version and the Tamil version, are diametrically opposite. The further grounds tends to suggest that the Key Answers are apparently incorrect, when compared to the academic materials touching upon the relevant subjects and hence, they seek for re-evaluation.



WP(MD)Nos.15686 & 15711 of 2022

WEB COPY

5. The learned Standing Counsel for TRB, on the other hand, would submit that in view of the various representations and objections received by the unsuccessful candidates, they had constituted an Expert Committee to re-evaluate all the questions relating to the Key Answers, which was pointed out by these candidates, out of which some of the Key Answers were revised and the marks were also allotted to the candidates. Hence, he would submit that, another exercise of re-evaluation is not required. It is not in dispute that pursuant to the publication of the final Key Answers, an Expert Committee was constituted to re-evaluate the answers, which were pointed out by some of the unsuccessful candidates and the revised marks were also allotted to the candidates.

6. The core issue involved in both the Writ Petitions, is as to whether this Court, exercising its power under Article 226 of the Constitution of India, would be justified in analyzing the academic materials placed before this Court for the purpose of re-evaluating the final Key Answers?

7. Such an exercise by this Court is neither feasible nor permissible, in view of the various decisions rendered by the Hon'ble Supreme Court, as



WP(MD)Nos.15686 & 15711 of 2022

WEB COPY

well as the High Courts. In the case of **Uttar Pradesh Public Service Commission Vs. Rahul Singh and another** reported in **2018 (7) SCC 254**, this issue was predominantly dealt with in the following manner:

"9. What is the extent and power of the Court to interfere in matters of academic nature has been the subject matter of a number of cases. We shall deal with the two main cases cited before us.

*10. In **Kanpur University, through Vice Chancellor and Others vs. Samir Gupta and Others [(1983) 4 SCC 309]**, this Court was dealing with a case relating to the Combined Pre Medical Test. Admittedly, the examination setter himself had provided the key answers and there were no committees to moderate or verify the correctness of the key answers provided by the examiner. This Court upheld the view of the Allahabad High Court that the students had proved that 3 of the key answers were wrong. Following observations of the Court are pertinent:-*

"16.....We agree 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



WP(MD)Nos.15686 & 15711 of 2022

WEB COPY

or by a process of rationalization. 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....."

The Court gave further directions but we are concerned mainly with one that the State Government should devise a system for moderating the key answers furnished by the paper setters.

11. In *Ran Vijay Singh and Others vs. State of Uttar Pradesh and Others [(2018) 2 SCC 357]*, this Court after referring to a catena of judicial pronouncements summarized the legal position in the following terms:-

"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-



WP(MD)Nos.15686 & 15711 of 2022

WEB COPY

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 scrutinise 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."

We may also refer to the following observations in Paras 31 and 32 which show why the Constitutional Courts must exercise restraint in such matters:-

"31. On our part we may add that sympathy or compassion does not play any role in the matter of directing or not directing re-evaluation of an answer sheet. If an error is committed by the examination authority, the complete body of



WP(MD)Nos.15686 & 15711 of 2022

WEB COPY

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, there is interference by the courts in the result of examinations. This places the examination authorities in an unenviable 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 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



WP(MD)Nos.15686 & 15711 of 2022

WEB COPY

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.”

12. The law is well settled that the onus is on the candidate to not only demonstrate that the key answer is incorrect but also that it is a glaring mistake which is totally apparent and no



WP(MD)Nos.15686 & 15711 of 2022

WEB COPY

inferential process or reasoning is required to show that the key answer is wrong. The Constitutional Courts must exercise great restraint in such matters and should be reluctant to entertain a plea challenging the correctness of the key answers. In Kanpur University case (supra), the Court recommended a system of - (1) moderation; (2) avoiding ambiguity in the questions; (3) prompt decisions be taken to exclude suspected questions and no marks be assigned to such questions.

13. As far as the present case is concerned even before publishing the first list of key answers the Commission had got the key answers moderated by two expert committees. Thereafter, objections were invited and a 26 member committee was constituted to verify the objections and after this exercise the Committee recommended that 5 questions be deleted and in 2 questions, key answers be changed. It can be presumed that these committees consisted of experts in various subjects for which the examinees were tested. Judges cannot take on the role of experts in academic matters. Unless, the candidate demonstrates that the key answers are patently wrong on the face of it, the courts



WP(MD)Nos.15686 & 15711 of 2022

WEB COPY

cannot enter into the academic field, weigh the pros and cons of the arguments given by both sides and then come to the conclusion as to which of the answer is better or more correct.

14. In the present case we find that all the 3 questions needed a long process of reasoning and the High Court itself has noticed that the stand of the Commission is also supported by certain text books. When there are conflicting views, then the court must bow down to the opinion of the experts. Judges are not and cannot be experts in all fields and, therefore, they must exercise great restraint and should not overstep their jurisdiction to upset the opinion of the experts.

15. In view of the above discussion we are clearly of the view that the High Court over stepped its jurisdiction by giving the directions which amounted to setting aside the decision of experts in the field. As far as the objection of the appellant - Rahul Singh is concerned, after going through the question on which he raised an objection, we ourselves are of the prima facie view that the answer given by the Commission is correct."



WP(MD)Nos.15686 & 15711 of 2022

WEB COPY

8. The aforesaid extract is self-explanatory. The ratio that when the Experts have evaluated certain questions and derived answers to it, the High Court, in exercise of its powers under Article 226 of the Constitution of India, cannot revisit such an opinion of the experts and array at its own conclusion, has been adopted consistently in various other decisions also, including this Court. When such powers have divested under a line of decisions rendered by the Hon'ble Supreme Court, including **Rahul Singh's case** (supra), this Court is unable to appreciate the grounds raised by the petitioners herein for the purpose of re-evaluating the questions to which the Experts in the concerned subjects have already rendered their opinion.

9. Above all, this Court, not being an expert in the subjects, would not venture into the exercise of elucidating the correct answers from the subject materials supplied by the petitioners herein. Furthermore, this Court finds no other reason as to why these disputed questions require re-evaluation by another Expert Committee, when there are no sufficient materials questioning the competence of the earlier Expert Committee.



WP(MD)Nos.15686 & 15711 of 2022

WEB COPY

10. In this background, I do not intend to interfere with the recruitment that was already completed and the successful candidates have also been appointed and are now working in the respective posts. Hence, I do not find any merits in both the Writ Petitions. Accordingly, both the Writ Petitions stand dismissed. Consequently, connected Miscellaneous Petitions are closed. There shall be no order as to costs.

14.10.2022

Index : Yes
Order : Speaking

DP



WEB COPY



WP(MD)Nos.15686 & 15711 of 2022

To

- 1.The Secretary to Government,
Government of Tamil Nadu,
Department of Higher Education,
Secretariat, St. George Fort,
Chennai – 600 009.
- 2.The Chairman,
Teachers Recruitment Board,
4th Floor, E.V.K. Sampath Maligai,
College Road,
Chennai – 600 006.
- 3.The Member Secretary,
Teachers Recruitment Board,
3rd Floor, Centenary Building,
DPI Campus, College Road,
Chennai – 600 006.



WEB COPY



WP(MD)Nos.15686 & 15711 of 2022

M.S.RAMESH, J.

DP

**Pre-Delivery Order made in
W.P.(MD)Nos.15686 & 15711 of 2022
and
W.M.P (MD) Nos.11312 & 11314 of 2022**

14.10.2022