

134

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 12402 of 2022

Date of Decision: 01.06.2022

Pritam Yadav

...Petitioner

Versus

Haryana Staff Selection Commission

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Kanwar Yuvraj Singh, Advocate,
for the petitioner.

Mr. Pankaj Middha, Addl. AG, Haryana.

ARUN MONGA, J. (ORAL)

Petitioner herein, *inter alia*, seeks issuance of a writ in the nature of certiorari for quashing impugned resolution dated 04.01.2018 (Annexure P-17) and order dated 19.03.2021 (Annexure P-14), whereby candidature of the petitioner has been cancelled on the ground "OMR sheet scratched". He further submits that the impugned order Annexure P-17 is against the directions issued by this Court in CWP No. 26745 of 2017.

2. Posts of Junior Engineer (Electrical) for various boards/corporations/departments of Haryana under Backward Class B category were advertised. Petitioner applied for the same under Categories No.3, 13, 17, 19, 27 and 33. Written examination was scheduled for 01.09.2019. The examination was conducted on MCQ basis and all the candidates were supposed to attempt answers on Optical Marks Recognition (hereinafter referred to as "OMR") answer sheet having two carbon copies out of which one copy was allowed to be retained by the candidate for his record. The respondent-Commission uploaded the answer key on the website on 04.09.2019. Petitioner asserts that his answers to 68 questions out of 90 questions are absolutely correct, meaning thereby that he had secured 68 marks out of 90 marks but his roll number did not find

mention in list of successful candidates. Notice to the successful candidates were issued for scrutiny of documents. Later on he came to know that one candidate namely, Amit Kumar scored 60 marks and yet was shown in the list of successful candidates. Petitioner approached the Commission but to no avail. Thereafter he moved complaint on Haryana CM Window vide complaint No. CMOFF/N/2020/024707 dated 02.03.2020 regarding non-declaration of his result pertaining to examination of Junior Engineer (Electrical). In response to same, he received impugned order/letter dated 19.03.2021 whereby he was informed that his candidature was cancelled for reason of “OMR Sheet Scratched”. Hence, the petition.

3. On advance service of copy of the petition, learned State counsel appears and relies on Division Bench judgment passed by this Court in LPA No.90 of 2022 decided on 08.02.2022 titled “***Suman v. State of Haryana and others***”, relevant thereof is reproduced herein below ;

*“ We had the benefit of having gone through the judgment in the case of **Anshu (supra)**, wherein the learned Single Judge upon a detailed analysis of Clause-6 of the admit card, warning (worded similarly as clause 6) at serial Nos.8 and 9, in the question paper and Clause 7 of the OMR sheet, concluded that candidates were duly cautioned that usage of eraser, blade, nail or white fluids/whitener to smudge, scratch or damage the OMR answer sheet would lead to rejection of the candidature/OMR sheet of the candidates. And, since scrutiny of OMR sheets by the Court revealed that various options that were initially marked by the petitioners were smudged by using the fluid or tampered with the nail or blade, the appellant had violated the specific instructions as also the undertaking they had furnished in this regard. Thus, the decision of the authorities to cancel the candidature of the petitioners could not be interfered with.*

Concededly, even the matter at hand, the appellant had scratched/smudged the answers/options to question 34 and 87 on her OMR answer sheet. Thus, in terms of the specific instructions and warning, referred to above, rejection of the OMR sheet of the appellant and cancellation of her candidature was the only and inevitable option.

*Further, as can be discerned from the impugned judgment itself, yet another matter, arising out of the same selection (**Reman Kumari v. Haryana Staff Selection Commission, CWP No. 6952 of 2021**) and involving identical issue, was dismissed by another Single Bench on 05.04.2021. And, even an appeal (**LPA No. 463 of 2021**),*

against the said decision, has since been dismissed on 20.05.2021 by a Coordinate Bench.

*As for the reliance placed upon an order dated 18.12.2017, in the case of **Ravinder (supra)**, whereby the Commission was required to explore if only those options/ answers that were found to be smudged/scratched/erased/ altered were deleted rather than rejecting the entire OMR sheet itself: suffice it to say that would not advance the case of the appellant either. The learned Single Judge, in reference to the stand set out by the “Commission in another matter (**Nishant Singh vs. State of Haryana and others, CWP No.4938 of 2021, decided on 05.07.2021**), again arising out of the same selection, observed: that in compliance to the order dated 18.12.2017 (ibid), the matter was duly examined by the Commission. And, vide resolution dated 04.01.2018, it was resolved that to prevent cheating by the candidates, tampering, manipulation, fraudulent practices by manual intervention, at any stage, pre-exam or post-exam, the process already being followed i.e not to evaluate the smudged or scratched OMR sheet should be continued for the exam to be held in future. Further, and as is made out from the impugned judgment, an identical question, post resolution (ibid) of the Commission, was dealt with by another Single Bench (**Aarti and others v. State of Haryana and others, CWP No. 4822 of 2021, decided on 03.03.2021**), and was answered against the candidates who were identically placed and circumstanced.”*

4. Perusal of the above leaves no room for ambiguity, it is clear that the case of petitioner is hit by the judgment *ibid*.

5. In the premise, no ground for interference by this Court is made out.

6. Dismissed.

JUNE 01, 2022

Shalini

(ARUN MONGA)

JUDGE

Whether speaking/reasoned :

Yes/No

Whether reportable :

Yes/No