

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-12918-2017 (O&M)
Date of decision: 11.10.2022

PRABHJOT KAUR AND ANOTHER

...Petitioners

VERSUS

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. D. S. Kahlon, Advocate
for the petitioners.

Mr. Sehajbir Singh Aulakh, AAG, Punjab.

JAISHREE THAKUR, J.

CM-15814-CWP-2022

Prayer in this application is for placing on record true and correct translated copy of Annexures P-4, P-10 and P-11.

The application is allowed. The documents Annexures P-4, P-10 and P-11, are taken on record.

CWP-12918-2017

1. The instant writ petition has been filed under Articles 226/227 of the Constitution of India praying for issuance of a writ in the nature of certiorari for setting aside the result dated 08.05.2017 (Annexure P-7), wherein the respondents have illegally rejected the candidature of the petitioners by holding them not qualified and not awarding them necessary marks for question Nos.29 and 36 in paper booklet set-B and question Nos.18 and 57 in

paper booklet set-A.

2. In brief, the facts as stated are that petitioner No.1 was selected as Constable in the respondents-department in the year 2009 and petitioner No.2 was selected as Constable in the year 2012. The department conducted the Basic Proficiency Test for qualifying the Lower School Course for promotion of Constables to Head Constables in the year 2017. The petitioners herein appeared for the Basic Proficiency Test, which was conducted at PAP Headquarters, Jalandhar on 23.04.2017. Petitioner No.1 was given question paper booklet set-A, whereas petitioner No.2 was given question paper booklet set-B. On conclusion of the examination, the respondents-department issued the answer key on their website on 25.04.2017 and after matching their answers, petitioners found that the respondents had wrongly declared the answer of question No.36 of paper set-B as option C instead of option D and to question No.57 of paper set-A as option D instead of option C. Both the petitioners thereafter, raised their objections to the answer key and requested the respondents-department to correct their answers, but without removing the objections of the petitioners, final result was declared. Petitioner No.1 got 64 marks out of 100 marks and petitioner No.2 got 64.75 marks out of 100 marks and both were kept in the waiting list at serial Nos.335 and 303 respectively.

3. Learned counsel for the petitioners would contend that if the answer key had been corrected, the petitioners herein would have the necessary marks to be selected and would have qualified the Basic Proficiency Test to be sent to the Lower School Course. He would argue that the question that was posed in question paper booklet set-A and B at serial No.57 and 36

respectively, is reproduced as under:-

Tell, which Sikh Guru has written “Anand Karaj”?

A. Guru Arjan Dev Ji

C. Guru Amardass Ji

B. Guru Angand Dev Ji

D. Guru Ramdass Ji

Learned counsel for the petitioners would submit that as per the answer key, option D has been declared as right option, whereas it should be option C to question No.57 of question paper booklet set-A and option C has been declared as right option to question No.36 of question paper booklet-B, whereas it should be option D. It is submitted that the right answer to the aforesaid question would be *Guru Ram Das Ji* i.e. option C to question No.57 of question paper booklet set-A and option D to question No.36 of question paper booklet set-B.

4. He would further argue that it is correct that *Anand Sahib* was written by Guru Amar Das Ji and four *Lavan* was written by Guru Ram Das Ji. *Anand Sahib* is the *Bani* of Guru Amar Das Ji and usually read during all the functions held in Sikh community but *Lavan* was written by Guru Ram Das Ji and read only at the time of marriage ceremony of Sikhs. It is contended that the reading of the aforesaid question itself would reflect that the intent of the examiner was to ask that who has written the *Anand Karaj*, which would pertain to the marriage ceremony and, therefore, the correct answer would be that Guru Ram Das Ji had written the *Anand Karaj*. He would rely upon various publications of reputed authors and historians in support of his arguments. He would also rely upon the communication received from Shri Akal Takht Sahib, Amritsar in this regard apart from a comprehensive book on General

Knowledge of Punjab, wherein the answer to the question that which Sikh Guru started four Lavan system of marriage has been given as Guru Ram Das Ji, in support of his arguments.

5. Learned State counsel would submit that there is no infirmity in the marking of the OMR sheets of the petitioners herein on the objections raised to the correct answer to question No.57 of question paper booklet set-A and question No.36 of the question paper booklet set-B. The OMR sheets were re-evaluated and it had been found that the answer key was correct and, therefore, the petitioners herein are not entitled to any additional marks. It is argued that right answer to the aforesaid question is Guru Amar Das Ji as he initiated Anand Viah-Anand Marriage. He had composed Anand (Sri Guru Granth Sahib Ji, at 'Angg' 917), a composition having forty steps or stanzas. The marriage was solemnized by reciting Anand (Anand Sahib) and Ardas (Invocation-Supplication), and this ceremony got the name of Anand Viah, or Anand Karaj. Perhaps, his daughter Bibi Bhani was married to Bhai Jetha Ji (Sri Guru Ram Das Ji) by reciting Anand. Sri Guru Ram Das Ji promoted Anand Viah. He composed 'Lavan' (Sri Guru Granth Sahib Ji, at 'Angg' 733-Line 16), (means circumambulating going around). It has four stanzas, each pointing to the responsibilities, and orientation to God. As such, the correct answer of this question was Guru Amar Das Ji i.e. option D to question No.57 in question paper series-A and option C to question No.36 in question paper series-B.

6. I have heard learned counsel for the parties and have perused the pleadings of the case along with the documents as relied upon by learned

counsel for the petitioners as well as the reply filed on behalf of the respondents-State.

7. In the present case, the dispute has been raised regarding the answer to the question No.57 in question paper booklet set-A and question No.36 in question paper booklet set-B. The question is the same in both the booklets. Learned counsel for the petitioners herein has vehemently argued that the answer key is wrong while relying upon various documents annexed as Annexures P-9, P-10 and P-11, whereas learned State counsel is at direct variance. This Court is not an expert on the subject to give a definitive opinion on the correctness of the answer raised to the aforesaid question or even whether the question had been framed correctly or not. It is a well settled principle that the Courts cannot take upon itself the task to examine discrepancies and inconsistency in question paper and evaluation thereof, which is a task assigned to the examiner - Selection Board. It is best left to the experts in the field to decide what would be the correct answer to the disputed question. In a judgment reported as **Central Board of Secondary Education through Secretary, All India Pre-Medical/Pre-Dental Entrance Examination and others versus Khushboo Shrivastava and others, (2014) 14 SCC 523**, the Supreme Court has held that the High Court in exercise of power under Article 226 of the Constitution of India could not have substituted its own views of the answers of the candidates as against that of the examiners. The Court held as under:-

"11. In our considered opinion, neither the learned Single Judge nor the Division Bench of the High Court could have substituted his/its own views for that of the examiners and awarded two additional marks to Respondent 1 for the two answers in exercise

of powers of judicial review under Article 226 of the Constitution as these are purely academic matters. This Court in Maharashtra State Board of Secondary and Higher Secondary Education versus Paritosh Bhupesh Kumar Sheth (1984) 4 SCC 27 has observed: (SCC pp. 56-57, para 29)

"29. As has been repeatedly pointed out by this Court, the court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day-to-day working of educational institutions and the departments controlling them. It will be wholly wrong for the court to make a pedantic and purely idealistic approach to the problems of this nature, isolated from the actual realities and grassroots problems involved in the working of the system and unmindful of the consequences which would emanate if a purely idealistic view as opposed to a pragmatic one were to be propounded."

8. Therefore, keeping in mind the complexity of the question and the answer to the question *Tell, which Sikh Guru has written "Anand Karaj" ?*, this Court deems it appropriate to dispose of the instant writ petition directing the respondents-State to refer the matter to the Expert Committee so appointed by it. The Expert Committee must be constituted within a period of four weeks from receipt of a certified copy of the order and the result to the posed question be furnished to the authorities so concerned, within a period of four weeks thereafter. The authorities would then take appropriate action as called for. In case the petitioners are entitled to any relief, the same be accorded to them.

9. Consequently, the instant writ petition stands disposed of with the aforesaid direction.

(JAISHREE THAKUR)
JUDGE

11.10.2022
Chetan Thakur

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No