

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

CWP No. 5986 of 2017 (O&M)

Date of Decision:04.07.2022

Rani Manderna

.....Petitioner

Versus

Haryana Staff Selection Commission

..... Respondent

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Sanjeev Kumar Birla, Advocate
for Mr. M.S.Chahal, Advocate
for the petitioner.

Dr. Kiran Pal Singh, AAG., Haryana.

LISA GILL, J(Oral).

Prayer in this writ petition is for quashing the impugned action of the respondent, whereby the OMR answer sheet of the petitioner has been considered as defective and her candidature has been rejected.

Petitioner, it is submitted applied for the post of PGT Hindi (Cat., No. 7) under the General Category pursuant to advertisement no. 4/2015. She took the written test, but when the result was declared, petitioner's roll number was not reflected in the select list. It is stated that petitioner was verbally informed that her candidature has been rejected as there is scratching/smudging against Question no.11, which is not permissible, therefore her candidature has been rejected.

Aggrieved therefrom, present writ petition has been filed seeking quashing of action of the respondent in rejecting her candidature on account of her OMR sheet being defective and directing the respondent-Commission to award marks to the petitioner after evaluating her OMR sheet as per the answer key provided in set D and consider the petitioner

eligible for the post of PGT Hindi.

As per short reply filed on behalf of the respondent, it is specifically stated that the petitioner has scratched/ smudged her answer sheet against Question no.11, therefore her OMR sheet was not evaluated as per the specific terms and conditions, which were made well known to the petitioner. Reference is made to Instruction no.6 on the Admit Card which reads as under:-

“6. Candidates are warned not to fold, tear, destroy or make any stray marks on the OMR Answer Sheet. Use of eraser, nail, blade, while fluid/whitener etc., to smudge, scratch or damage in any manner on the OMR sheet during examination is strictly prohibited. Candidature/ OMR sheet of candidates using eraser, blade, nail or white fluids/whitener to smudge, scratch or damage in any manner the answer sheets shall be cancelled.”

It is further stated that candidates were given the question paper with printed instructions on the front reverse side besides instructions on the OMR sheet. Categorical instructions are stated to be printed on the question paper as well as with candidates having sufficient proper time to go through the same. Instruction no.8 and relevant portion of instruction no.9, read as under:-

“8. Candidates are warned not to fold or make any stray marks on the OMR Answer Sheet. Use of eraser, nail, blade, while fluid/whitener etc., to smudge, scratch or damage in any manner on the OMR sheet during examination is strictly prohibited. Candidature/ OMR sheet of candidates using eraser, blade, nail or white fluids/whitener to smudge, scratch or damage in any manner the answer sheets shall be cancelled.”

9. xxxxx. Use of Eraser, nail, blade, white fluid/whitener etc., smudging, scratching or damaging in any manner the OMR answer sheet shall lead to cancellation of

candidature and such OMR answer sheet shall not be evaluated.”

It is further stated that the OMR sheet has instructions on its back and relevant portion of condition no.7, is reproduced as under:-

“Candidates have to answer questions from the multiple choice of Answer A, B, C or D. Select the right answer of each question and darken the correct bubble on the OMR answer sheet. Once darkened changes are not permitted. Use of eraser, nail, blade, white fluid/ whitener etc., to smudge, scratch, damage in any manner on the OMR sheet during examination is strictly prohibited & it's use anywhere shall lead to cancellation & such OMR sheet shall not be evaluated.”

It is further stated that a categorical undertaking is submitted by the candidate as reflected in the OMR sheet itself to the effect that all instructions have been read and understood by the said candidate and that in case, candidate darkens the wrong circles, his or her candidature is liable to be rejected in case of incorrect filling of the OMR sheet.

Original OMR sheet of the petitioner produced in Court today pursuant to order dated 14.11.2018 has been perused. Same has also been examined by learned counsel for the petitioner, who is unable to deny that there is clear cut scratching/ smudging against Question no.11.

In this view of the matter, learned counsel for the petitioner is unable to deny that the matter is squarely covered against the petitioner in view of judgment of this High Court in **CWP-4938-2021 titled Nishant Singh Vs. State of Haryana & others, decided on 05.07.2021**, which has been upheld by the Hon'ble Supreme Court of India.

Question of a statement being made in some earlier writ petition to the extent that the commission is very much willing to look at its option for the future regarding checking of some of the altered/smudged OMR

sheet instead of rejecting the entire OMR sheet also stands settled and has been taken note of by a Coordinate Bench of this High Court in **Neeraj Kumar and others Vs. State of Haryana and others, CWP no. 7244 of 2021, decided on 20.08.2021** observing as under:-

“The issue had been raised earlier in CWP No.26745 of 2017 ***Ravinder Vs. State of Haryana and others decided on 18.12.2017*** (Annexure P-9) before another Co-ordinate Bench, wherein certain observations were made by the Bench on account of the fact that Mr. Baldev Raj Mahajan, learned Advocate General, Haryana submitted that the Commission is very much willing to look at its option for the future regarding the checking of the altered/smudged OMR sheets instead of rejecting the entire OMR sheet, relying upon the opinion given by the expert.

In the reply filed by the respondent-Commission, it has been specifically averred that as per the resolution of the Commission dated 04.01.2018, earlier practice as such not to evaluate the smudged answer sheets was being retained to avoid cheating, tampering, manipulation, malpractices etc. The relevant portion of the resolution reads as under:-

“It is also well settled that an examining body can lay its instructions. Thus, in view the position as mentioned above, the Commission unanimously decide and resolve that even though as per the expert the evaluation of smudged answers is technically possible but in view the larger interest and to prevent cheating in the examination hall by the candidate, candidate's interest and tempering, manipulation, malpractices, 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/scratched should be continued for the exam to be held in further and as such reiterates the stand already taken in the matter.”

This aspect has also been noticed by the Coordinate bench in *Aarti's case (supra)*. In similar circumstances, another Civil Writ Petition No.6952 of 2021 *Reman Kumari Vs. Haryana Staff Selection Commission, decided on 05.04.2021* was dismissed against same advertisement No.6 of 2006 and was upheld by the Division Bench in LPA No.463 of 2021 *Reman Kumari Vs. Haryana Staff Selection Commission*, on 20.05.2021.”

Taking into consideration the consistent view on this matter, no ground whatsoever is pointed out for any interference in this writ petition.

No other argument has been raised.

Writ petition is accordingly dismissed with no order as to costs.

[LISA GILL]

Judge

04.07.2022

s.khan

Whether speaking/reasoned : Yes/No.
Whether reportable : Yes/No.