

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No.90 of 2022 (O&M)
Date of Decision: 08.02.2022

Suman

.....Appellant

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI, JUDGE**

Present : Mr. G.S.Gopera, Advocate for the appellant.
Mr. Deepak Balyan, Addl.A.G. Haryana.

(The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court)

ARUN PALLI, J.

This is an *intra Court* appeal, under Clause X of the Letters Patent, against an order and judgment dated 20.08.2021, vide which the writ petition preferred by the appellant has since been dismissed.

Facts that are required to be noticed are limited.

Pursuant to an advertisement No.6/2006, issued by the Haryana Staff Selection Commission (for short 'the Commission'), 816 posts of Art and Crafts Teacher were advertised. The selections were carried out by the Commission, whereafter the names of the selected candidates were recommended in the year 2010. However, the validity of the said selection having been questioned in **Suman Kumari Vs. The State of Haryana and others (CWP No.18482 of 2010, decided on 20.02.2015)**, the same was quashed by a learned Single Judge of this Court and the Commission was directed to carry out the selections afresh.

The said decision was affirmed right up to the Supreme Court. Accordingly, vide public notice dated 28.12.2020, the Commission notified the re-examination. The written exam was held on 31.01.2021. The results were declared on 23.02.2021. But the roll number/result of the appellant was not published. However, upon inquiries from the office of the Commission, she was informed that as her OMR sheet was found to have been scratched/smudged, her candidature was rejected. Resultantly, the appellant approached this Court, praying for a direction to the respondents to evaluate her OMR sheet by ignoring/deleting the options that were purportedly scratched/smudged/double marked and she be awarded marks for the right/correct answers qua rest of the questions. But, as the matter in issue was squarely covered by a decision of this Court in **Anshu and others Vs. State of Haryana and another (CWP No.22918 of 2016, decided on 21.12.2016)**, the learned Single Judge dismissed the petition.

Thus, this appeal.

Learned counsel for the appellant merely reiterates the submissions that were advanced before the learned Single Judge: that even if the options/answers marked by the appellant, in response to question number 34 and 87, were scratched/smudged, the Commission at best could ignore/discard those options/questions but ought to have evaluated the OMR sheet qua rest of the questions. Though, duly dealt with in the impugned order and judgment, he also places reliance upon an order dated 18.12.2017, passed by another Single Bench of this Court in **Ravinder Vs. State of Haryana and others (CWP No.26745 of 2017)**, whereby, in a

similar situation, the Commission was required to examine if only those answers that were altered in the OMR sheet or were erased or double marked etc. were ignored rather than rejecting the entire answer/OMR sheet itself.

We have heard learned counsel for the appellant and perused the records.

Ex facie, the decision in the case of **Anshu (supra)** which forms basis of the impugned judgment, was affirmed in an *intra* Court appeal (LPA No.92 of 2017), decided on 20.01.2017 and a Special Leave to Appeal (Civil) No.8430 of 2017, against the said decision, was dismissed by the Supreme Court on 27.03.2017.

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 in the matter at hand, the appellant had

scratched/smudged the answers/options to question No.34 and 87 on her OMR answer sheet. Thus, in terms of the specific instructions and warnings, 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 Vs. Haryana Staff Selection Commission, CWP No.6952 of 2021**) and involving identical issue, was dismissed by another Single Judge 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/alterd 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 Vs. 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.

At this stage and upon being confronted with the above, learned counsel for the appellant concedes that the matter is squarely covered by the decision in the case of **Anshu (supra)**.

Thus, in the wake of the position, as sketched out above, we are dissuaded to interfere with the impugned order and judgment. The appeal being bereft of merit is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

08.02.2022
Manoj Bhutani/Rajan

Whether speaking/reasoned	Yes
Whether reportable	Yes