

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

**CWP-35846-2019 (O&M)**

**Date of decision: September 19, 2022**

Ankit Malik

....Petitioner

versus

State of Haryana and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE ARUN MONGA**

**Present:** Mr. Inder Pal Goyat, Advocate for the petitioner.

Mr. Pankaj Middha, Additional AG Haryana.

Ms. Harpriya Khaneka, Advocate  
for the respondent-Commission.

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**ARUN MONGA, J. (ORAL)**

Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari for quashing impugned selection and appointment to the post of Naib Tehsildar pursuant to advertisement dated 23.07.2015 (Annexure P-1) to the extent candidates lower in merit to the petitioner in General category have been selected and appointed and for a direction to consider the petitioner for appointment.

2. Plead case is that pursuant to advertisement No.1 dated 23.07.2015 (Annexure P-1), petitioner applied for the post of Naib Tehsildar under General Category. Written examination was conducted and he was provided Set 'D' of the Question Paper of 'Paper Code No.901'. Answer Key was uploaded on 28.05.2019 and objections were invited. Thereafter on 13.06.2019, result of the written examination was declared and roll number of the petitioner was found mentioned therein. After interview, final result of

selection was declared on 16.08.2019 (Annexure P-6). Petitioner was not selected for the post in question. Last selected candidate scored 78.46 marks and the petitioner scored 77.55 marks. Criteria of selection to the post in question was uploaded by respondent No.2. Final answer key was supplied to the petitioner under RTI, which reveals that as many as 7 questions were completely deleted. On account of deletion of question Nos.22, 34 and 47 and preparation of wrong 'Final Answer Key' for question Nos.51 and 63, petitioner has been given 5 marks less than what he should have been awarded.

3. I have heard rival contentions of learned counsel for the parties and perused the record.

4. Having remained unsuccessful in the selection for post of Naib Tehsildar, petitioner is before this Court challenging the entire selection process as well as the appointment of private-respondents, who were declared successful.

5. Challenge to the selection *inter alia* is premised on the ground that the answers uploaded on the website as per 'Final Answer Key' in respect of Question Nos.22, 34, 47, 51 and 63 of Set 'D' of the question paper, are incorrect as against the purported correct answers by the petitioner. To be noted that selection took place in the year 2019 and the petitioner had though filed the writ petition immediately challenging the same, but only after being unsuccessful ostensibly on the ground that cause of action arose only when the 'Final Answer Key' were uploaded. Somehow, petition remained pending and in the meanwhile, successful candidates were offered appointment and have been working ever since.

6. Be that as it may, let us advert to the merits of the claim that the answers of the questions by the petitioner despite being correct answers, he has

not been given the benefit of marks *qua* the same. Contention is that had he been awarded marks for those 5 questions, his position in merit would have been higher than ones, who have been declared successful.

7. First and foremost *qua* question Nos.22, 34 and 47, the claim of the petitioner even if accepted that he had answered correctly, does not survive in view of the said questions having been deleted from the question papers by the HPSC. The stand of the petitioner flies in the face of the aforesaid deletion since all the candidates across board have been meted out with the uniform treatment of not being adjudged on their performance as no one was evaluated *qua* the said questions. To accord the benefit of the evaluation of those three questions only to the petitioner by denying the same to other candidates would, no doubt, certainly amount to discrimination by way of judicial process as well as giving the petitioner an undue advantage. Needless to say, it is only in the experts' domain to adjudge the questions framed by them vis-à-vis the answers whether or not the same are to be evaluated in case they find any discrepancy or if there are two possible answers *qua* the same after entertaining the objections from the candidates, as has been done in the present case. Adverting to the other two question Nos.51 and 63, the same too were referred to the expert committee constituted at the relevant time in the year 2019 and after having obtained their opinion, the answers as per the final answer-key, which were uploaded by the HPSC, were sustained and it was on that basis that all the candidates have been evaluated across board. To sit in appeal over the report of the Committee would amount to assuming the powers of being an expert of an expert, which no doubt, in certain cases this Court may venture into, but instant is not the case deserving any such indulgence. Trite it is to say, it is not for this Court to superimpose its own views as against those of the experts. Speaking of the expert report, the

same has also been appended as Annexure R-2/A1 and *qua* question Nos.51 and 63, a specific stand has been taken along with proof of the source, based on which the answers were uploaded to be correct as found by the experts. In the overall premise, it emerges that wherever the expert committee found that corresponding answers of certain questions were either ambiguous or there were two possible options, corrective measures have already been taken and as many as 7 questions have been deleted from the question paper. It is rather contradictory stand taken by the petitioner that while questions *qua* which he claim that he answered correctly, he wants himself to be evaluated which are only three and as regards other four, which have been deleted, as per the question paper, he want to take advantage.

8. As an upshot of the above discussion, petitioner has since secured lesser marks than the last selected candidate and there being no irregularity in the procedure adopted by the HPSC as noted hereinabove, I do not find any grounds for interference.

9. Dismissed.

10. Pending application(s), if any, shall also stand disposed of.

**(ARUN MONGA)**  
**JUDGE**

**September 19, 2022**

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No