

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14765 of 2023

Adv. Dhiraj Kumar, Son of Shri Prahlad Mehta, resident of Nasariganj,
Danapur, P.S. Danapur, District - Patna, Bihar - 800012.

... .. Petitioner/s

Versus

1. The Bihar Public Service Commission through its Chairman, Jawaharlal Nehru Marg, Bailey Road, Patna.
2. The Chief Secretary, Government of Bihar, Patna.
3. The State of Bihar through the Chief Secretary, Government of Bihar.
4. The Secretary, Bihar Public Service Commission, Bihar, Patna.
5. The Joint Secretary-cum-Examination Controller, Bihar Public Service Commission, Bihar, Patna.
6. The Secretary Law Department Government of Bihar, Patna.
7. The Hon'ble High Court of Judicature at Patna through its Registrar-General, Hon'ble Patna High Court, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Dhiraj Kumar (In Person)

For the Respondent/s : Mr. Gyan Prakash Ojha (GA 7)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 19-10-2023

The petitioner herein is an advocate and an aspirant to the judicial service, challenging the final answer-key of Law Paper published on 14.08.2023 with respect to the 32nd Bihar Judicial Service (Preliminary) Competitive Examination held on 04.06.2023.

2. The petitioner appeared in person. The main points arising for consideration, as appearing from the memorandum of writ petition, are the questions in the exam, the



answers to which were finalised by the answer-key issued by the Commission after expert evaluation of the objections raised against the provisional answer-key published.

3. We would, however, desist from looking into such questions of law raised, since it would effectively result in a re-evaluation conducted by us; which is not proper. The question arising would be as to whether there could be an interference caused at this stage to the evaluation conducted.

4. The petitioner admittedly obtained only 147 marks and cut off marks for the last candidate, who has qualified from his category is 150. The petitioner in the writ petition has challenged the answers with respect to six questions, the numbers of which are specified from the Booklet Series-A, which he is said to have received, at the time of the preliminary examination. The question numbers are 32, 37, 96, 98, 114 and 139.

5. The petitioner had, in fact, objected to the provisional answer key published, as is seen from Annexure-G-1 at page 62. The petitioner admits that he had not questioned the answer to question No. 96 and now is satisfied with the answer to question nos. 59 and 141, against which objections were raised. The objections were considered by an expert committee and a detailed key is produced with reasons assigned,



as seen from Annexure-P/2. We would not venture to look into the questions and answers, as this Court cannot sit in re-evaluation of the answer papers.

6. As far as Question No. 96 is concerned, the petitioner did not raise it before the Commission when he had the opportunity so to do. The petitioner asserts that this does not efface the illegality. However, in considering the challenge to such selection process, when an opportunity has been given to raise objections, it has to be raised at the first instance. Having not raised it for consideration of the expert committee constituted by the Commission, the petitioner cannot, at every stage, challenge one answer or another, thus putting to peril the very selection conducted. A re-evaluation cannot also be confined to the petitioner and the candidate, in the very same category, selected last and impleaded herein. It will have to be of the entire candidates.

7. There is no scope for re-evaluation since no such measure is mandated in the selection procedure. The only question arising in the above case is as to whether there is any valid cause for interference in the selection process and we are not, and should not attempt to re-evaluate the answers, though the questions in the examination are purely in law.

Maharashtra State Board of Secondary & Higher Secondary



Education Vs. Paritosh Bhupeshkumar Sheth; (1984) 4 SCC 27, deprecated the tendency of the Courts to strike down an otherwise reasonable policy merely on the ground of it not having the court’s approval with regard to the efficaciousness for implementation of the objects & purposes. If there is no provision for re-evaluation, it cannot be directed by Courts.

8. ***Vikesh Kumar Gupta Vs. State of Rajasthan; (2021) 2 SCC 309*** also held against re-evaluation if it was not provided and cautioned the High Court from examining the question papers and answer sheets. The Courts were cautioned to show deference and due regard to the recommendations of an expert committee. We also find no reason to interdict the selection so as to revise the final answer key, as has been brought out by the expert committee.

9. We find no reason to interfere with the proceeding and reject the writ petition *in limine*.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	06.11.2023
Transmission Date	

