

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.84 of 2020

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Satish Kumar Chaudhary, Son of Sri Uday Shankar Choudhary, resident of Mohalla Srimatpur, P.s. Town, District Munger, presently residing at H. 6A/7, Vivekanand Marg, North S.K. Puri, Boring Road, P.S. S.K. Puri, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Science and Technology.
2. The Bihar Public Service Commission through its Chairman, Patna.
3. The Chairman, Bihar Public Service Commission, Patna.
4. The Secretary, Bihar Public Service Commission, Patna.
5. The Joint Secretary cum Controller of Examination, Bihar Public Service Commission, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Harsh Singh, Adv.
For the State	:	Mr. Prem Ranjan Raj, AC to SC 7
For the B.P.S.C.	:	Mr. Sri P.K. Shahi, Sr. Adv. Mr. Vikash Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

15 08-02-2023

1. The petitioner by way of this writ petition prays as
under:

“(a) For issuance of an appropriate writ, order or direction for quashing the decision of the Respondent Commission as contained in Letter No. 1851 dated 12.12.2018 whereby and whereunder the representation of the Petitioner objecting to the wrong answer key with respect to Questions No. 21,42 & 96 of Question



Booklet Series “D” in respect of Advertisement No. 36/14 issued for selection of Lecturers in Government Polytechnic/Women’s Polytechnic Colleges under Science & Technology Department, Government of Bihar has been rejected by a cryptic and non speaking order.

(b) For issuance of an appropriate writ, order or direction in the nature of writ of mandamus commanding the Respondent authorities to re-evaluate the OMR sheet and re-publish the result of the Petitioner, who has missed the cut off by merely 0.09 marks, after assigning the correct options to Questions No. 21, 42 & 96 of Question Booklet Series “D”, which carry 0.5 marks each, in respect of Advertisement No. 36/2014 issued for the appointment of Lecturers in Government Polytechnic/ Women’s Polytechnic Colleges under Science and Technology Department, Government of Bihar on the basis of authorities produced by the Petitioner by an independent/ fresh and competent panel of experts.

(c) For issuance of an appropriate writ, order or direction



commanding the Respondent authorities to bring on record cogent materials/authorities in support of the final answer key published by it in respect of Questions No. 21, 42 & 96 of Question Booklet Series “D” as the answers assigned by the Respondent authorities in the final answer key is patently wrong and erroneous.

(d) For issuance of an appropriate writ, order or direction commanding the Respondent authorities to consider the case of the Petitioner for appointment as Lecturer in Government Polytechnic/ Women’s Polytechnic Colleges under Science & Technology Department, Government of Bihar on the basis of Petitioner’s merit position consequent to such re-evaluation and re-publication of Petitioner’s result in respect of Advertisement No. 36/2014.

(e) For an appropriate writ, order or direction in the nature of mandamus commanding the Respondent authorities to adequately compensate the Petitioner for violation of Petitioner’s fundamental rights under Article 14 and 16 of the Constitution



of India.

*(f) For any other relief or reliefs
to which the Petitioner is found entitled to in
the facts and circumstances of the case.”*

2. The Bihar Public Service Commission issued an advertisement for the selection of candidates for the post of Lecturer in Government Polytechnic/Women's Polytechnic colleges under the Science & Technology Department, Government of Bihar. The petitioner applied and appeared in the examination conducted on 16th July 2016 and was assigned question booklet Series B. He answered the questions and was called for an interview. The final answer key was thereafter published on 25th July 2018. In the final answer key, the petitioner alleges that the options of questions no. 21, 42 & 96 had been changed from the original provisional answer key published earlier, resulting in the lowering down of the petitioner's merit and ousting him. He, therefore, submitted a representation that remained unanswered and the same prompted him to file a writ petition **C.W.J.C. 16552/2018 (Satish Kumar Choudhary Vs. The Bihar Public Service Commission & Ors.)** with a similar prayer as noticed above. The said writ petition was disposed of by this Court and gave directions to the Bihar Public Service Commission to dispose of



the representation filed by the petitioner by a speaking order within a period of 60 days from the date of receipt of the copy of the order. It appears that the representation was not decided within the time and petitioner preferred a contempt petition before this Court. However, the respondents thereafter decided the representation and rejected the same vide order dated 11.12.2018. Considering that the representation stands decided. The High Court disposed/contempt proceedings on 17.07.2019 and observed as under:

“Having regard to the fact that the matter was examined by the expert committee of Professors and thereafter the Bihar Public Service Commission has finally decided the issue, the Court is not inclined to proceed any further in the present matter in view of the limited scope under the contempt jurisdiction.

The petition stands disposed of.”

3. Without there being any observation of the Court for allowing the petitioner to file a fresh petition, the present writ petition was filed assailing the order dated 11.12.2018 whereby the representation filed by the petitioner earlier stood rejected. Learned counsel for the petitioner submits that the representation has been decided erroneously. In fact, the objections that the petitioner had raised in his representation



ought to have been placed before an expert committee again and could not have been rejected solely on the ground that the said questions had already been evaluated and examined by the expert committee earlier by examining objections of other candidates.

4. Learned counsel for the petitioner further submits that out of questions no. 21, 42, & 96 of Series B which are equivalent to questions no. 27, 48, and 42 of series A. He has no qualms with regard to question 27 of series A as the expert committee has given out its reasons for choosing other options than what was admitted by the petitioner. But since there is no reason given for the other two questions by the expert committee, the same is required to be re-examined. An attempt has also been made before this Court to the concerned question and the relevant answer to show *prima facie* that the answer key is erroneous. Learned counsel for the petitioner has also relied on the judgment passed by the Supreme Court in the case of **Kanpur University & Ors. Vs. Samir Gupta & Ors.** , as reported in 1983(4), SCC 309 and in **Bihar Staff Selection Commission & Ors. Vs. Arun Kumar & Ors.**, as reported in 2020(6) SCC 362 and also in **Ranvijay Singh & Ors. Vs. State of Uttar Pradesh & Ors.**, as reported in 2018(2) SCC 357.



5. Per contra, learned senior counsel appearing for the Bihar Public Service Commission states that on receiving objections relating to the provisional answer key, an expert committee was constituted by the Commission which examined the objections raised by as many as 56 candidates relating to several questions. After having thoroughly examined the various questions and the options as answered in the provisional answer key, the expert committee submitted its report with suggestions to correct certain answers and accordingly amend the answer key. Hence, the said suggestions were accepted by the Commission and the final answer key was published.

6. The petitioner challenged the said answer key before this Court and this Court thought it proper to direct the P.S.C. to examine his representation. There was no direction by the High Court to form a second expert committee. The representation was considered and it was found that the questions to the answers were being challenged by the petitioner in his representation were the same which had been examined by the expert committee and it is based on the opinion of the expert committee that there had been an amendment in the final answer key relating to the said questions. The Commission, therefore, thought it proper not to further accept the representation as the



expert committee report was already accepted by the Commission.

7. Learned senior counsel for the respondent has further pointed out that in a similar matter relating to the Public Service Commission result, which came up before the Division Bench of this Court in **(B.P.S.C. Vs. Ashish Kumar Pathak)** as reported in **2021 (1) P.L.J.R., Page 588**, the entire law with reference to the answer key and amendments made therein and claims for further corrections were considered and the judgments which have been cited at Bar by the learned counsel for the petitioner was also examined and followed by the Division Bench and it reached to the conclusion holding that a report of the expert committee does not warrant any interference. It was further held that prayer for the constitution of a fresh expert committee to examine the answer sheet is outside the rein of the judiciary.

8. I have considered the submission, and this Court finds in **Himachal Pradesh Public Service Commission Vs. Mukesh Thakur & Anr.** as reported in **2010 (6) SCC 759**, the Apex Court has held as under:

“26. Thus, the law on the subject emerges to the effect that in the absence of any provision



under the statute or statutory rules/regulations, the Court should not generally direct revaluation.”

9. The judgment passed in Kanpur University was considered by the Supreme Court again in that case. This Court, therefore, finds itself totally incapacitated to examine the veracity of an answer to a particular question as it does not have any expertise in relation to the questions being set up by an examining body. A particular Judge may have a particular knowledge relating to a particular subject, however, that knowledge would not be sufficient to cast doubt with regard to the answer key published to a particular question. Therefore, this Court refrains from going into the various questions and answers suggested by the learned counsel for the petitioner.

10. This Court further finds that the High Court while examining the contempt petition also observed that the matter had already been examined by the expert committee of professors and therefore, the Court is not inclined to proceed further. The limited scope of contempt proceedings and jurisdiction is one part however, the law is self-settled that this Court would not deal into and re-examine an expert committee's report.

11. In the present case, the petitioner has not challenged



the expert committee's report placed on record in Annexure 11 and 12. There is no allegation of *mala fide* against any members of the expert committee nor it is a case of the petitioner that the members of the expert committee were in any manner incompetent to give their opinion. The expert committee report also does not require to give reason as there is no such necessity in law.

12. Keeping in view above, no case for interference is made out. The writ petition is dismissed. No cost.

(Sanjeev Prakash Sharma, J)

Suraj/-
Item No. 11

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