



WEB COPY



W.A.No.1783 of 2021

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

Reserved on : 15.02.2023

Pronounced on : 31.03.2023

CORAM

**THE HONOURABLE MR. JUSTICE R.MAHADEVAN  
AND  
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ**

**W.A.No.1783 of 2021  
and  
C.M.P. No.11130 of 2021**

1.The State of Tamil Nadu

Rep. By its Secretary to Government,  
School Education Department,  
Secreatariat, Fort St.George,  
Chennai 600 009.

2.The Director of School Education,  
DPI Campus, College Road,  
Chennai 600 006.

3. The Member Secretary,  
Teachers Recruitment Board,  
4<sup>th</sup> Floor, E.V.K. Sampath Maligai,  
DPI Campus, College Road,  
Chennai 600 0064

... Appellants/Respondents

Vs.

V.Saravanan

... Respondent/Petitioner

**Prayer:** Writ Appeal filed under Clause 15 of Letters Patent, praying to allow the writ appeal by setting aside the order passed by this Court in W.P.No.30838 of 2019 dated 10.12.2019.



W.A.No.1783 of 2021

For Appellants : Mr.R.Neelakandan, AAG  
Assisted by Mr.Sathish Kumar  
(for TRB)

For Respondent : Mr.G.Sankaran

## **JUDGMENT**

### **MOHAMMED SHAFFIQ, J.**

The short question that arises for consideration in this writ appeal relates to the scope of interference of the writ Court in exercise of its jurisdiction under Article 226 of the Constitution of India with the report of an Expert Committee/ Body in relation to question/ answer keys in a Competitive Examination.

#### **2. Brief facts:**

2.1. The Teachers Recruitment Board / 3rd Appellant (hereinafter referred to as the "Appellant Board") issued a Notification/Advertisement No.03/2017 on 09.05.2017 for filling up vacancies for the year 2016 – 2017 through direct recruitment to the post of Post Graduate Assistants /Physical Education Directors Grade-I in School Education and other Departments including 387 posts of P.G. Assistant (Physics).

2.2. The Respondent herein belongs to Most Backward Community (MBC), holding a Post Graduation Degree (M.Sc., in Physics and B.Ed.,) and



W.A.No.1783 of 2021

applied for the above post of P.G.Assistant (Physics). The Respondent appeared for the Written Examination conducted by the Appellant Board on 02.07.2017.

2.3. The Appellant Board published a tentative answer key on 19.07.2017 leaving it open to the candidates to submit their objections, if any, in relation to tentative answer key with relevant material/ authority on or before 23.07.2017.

2.4. The Respondent submitted his objection to the tentative answer key published in relation to Question Nos.27 and 82 in "C series" question booklet for Physics subject, claiming/ stating that the answers to the aforesaid questions were wrong as per the approved textbooks.

2.5. On consideration of the objections received from various stakeholders, the answer keys were finalised by the Expert Committee and the final answer key was published on the Official Website of the Appellant Board on 11.08.2017. Importantly, there was no change in answers for Question Nos.27 and 82.

2.6. As per the above-published result, the Respondent secured 76 marks in the written examination. The cut-off mark for selection to the post of PG Assistant (Physics) in MBC Category was fixed at 78.



W.A.No.1783 of 2021

3. Aggrieved, the Respondent approached this Court by way of writ petition in W.P. No.22951 of 2017 with a prayer to direct the Appellants to award two marks for the Respondent for Question Nos.27 and 82 in “C” Series Question Paper and allow the Respondent to participate in Certificate Verification with regard to the appointment to the post of P.G.Assistant (Physics).

4.1. It is stated that pursuant to filing of the above writ petition, the Appellant Board appointed an Expert Committee consisting of four members, for considering all the issues raised with regard to answer keys including the objections raised by the Respondent herein.

4.2. It was submitted in the above writ petition by the learned counsel for the Respondent herein that even after the Expert Committee Report, the discrepancies pointed out were not sorted out. After recording the above submission, this Court directed that the examination papers of the writ petitioner can be rechecked by the competent authorities to find out discrepancy, if any, and to rectify the same.

5.1. Pursuant to the above order of this Court, the impugned order dated 10.12.2019 was passed, wherein after recording the directions of this



W.A.No.1783 of 2021

Court in W.P.No.22951 of 2017 dated 10.09.2018, it was stated that the Board had called the subject experts to examine the disputed questions raised by the writ petitioner in Physics subject and to give their report. The Committee comprised of two faculty members.

5.2. The Respondent's claim was rejected by the Expert Committee and it was stated that there is no change in the final answer key thereby the request/ representation of the Respondent to award marks for the two disputed questions was rejected by the Appellant Board.

6. Aggrieved by the proceedings dated 17.10.2019, the Respondent preferred a writ petition in W.P.No.30838 of 2019. The learned Single Judge found that with regard to Question no.27 there was certain discrepancy with the question itself, more particularly with the constant value of “Bohr Magnet” and insofar as Question No.82 is concerned, the learned Single Judge found that while the First Expert Committee was of the view that options B and C were correct, the two member Committee has however concluded that the correct answer was Option B. In view of the above reasons/finding, the learned Single Judge directed the 3<sup>rd</sup> appellant to award marks to the Respondent for Question Nos.27 and 82 and proceed with the selection and appointment of the writ petitioner to the post of P.G. Assistant



W.A.No.1783 of 2021

(Physics), if he satisfied the other requirements.

WEB COPY

7. It is this order of the learned Single Judge which is the subject matter of challenge in the present writ appeal.

8. Heard both sides and perused the materials available on record.

9. The order of the learned Single Judge is challenged by the appellants primarily on the ground that while exercising the jurisdiction under Article 226 of the Constitution of India, the Courts must exercise restraint and ought not to have assumed the role of an Expert or that of an Examiner. Secondly, in any view, the highest, which the learned Single Judge has found is that there is some doubt as to the correctness of the answer keys. After finding so, the learned Single Judge has erred in concluding that the benefit must be given to the Respondent/ writ petitioner therein, which is contrary to the settled position that the benefit of doubt must be given to the examination authority.

10. On the other hand, the Respondent would support the order of the learned Judge by stating that inasmuch as the Question itself suffers from



W.A.No.1783 of 2021

discrepancy insofar as Question.No.27 and insofar as Question.No.82, the previous Expert Committee having found that both options B and C were correct, there is no reason for the two member committee to depart and hold that Option B alone is the right answer as held by the learned Single Judge and hence, the order of the learned Single Judge does not warrant any interference.

11. Before proceeding any further, we find that in respect of the examination conducted under the very same notification, similar issue had been raised and it stood resolved by a Division Bench of this Court in W.A.No.598 of 2022 and etc., batch, dated 30.09.2022. It may be relevant to refer to the following passages from the said order of the Division Bench, wherein identical questions were raised, though with reference to different question, the Division Bench recorded the grounds of challenge as under :

*“Even in respect of the said questions, the learned Single Judge did not go into the merits on his own. However, two professors, being experts, were constituted to go into the issue. Even in respect of the expert opinion, the learned Single Judge went by the expert opinion in respect of the other questions. She would submit that as far as the question No.34 is concerned, the learned Judge found that the question itself is wrong even as per the opinion of the expert. Therefore, the learned Judge has reasoned that once the experts themselves found that the question itself is wrong, their further opinion that the candidates should guess the correct question and answer to the same was unreasonable and therefore, interfered with in respect of that question. Secondly, as far as the question No.93 is concerned, even as per the expert, the question was out of syllabus and only on that ground, the learned Judge did not agree with the opinion of the experts that the candidates must answer the questions which are out of the syllabus also*



W.A.No.1783 of 2021

*and therefore, interfered in respect of that question."*

*(emphasis supplied)*

WEB COPY

The Division Bench rejected the same by holding as under:

*"16. Even otherwise, as rightly pointed out by the learned Additional Advocate General, the law on the subject has been categorically laid down by the Hon'ble Supreme Court of India in the Uttarpradesh Public Service Commission Vs. Rahul Singh and Anr. (cited supra) that the Constitutional Courts must exercise great restraint in such matters and should be reluctant to entertain a plea challenging the correctness of the key answers. Therefore, in the first place, when as per the notification draft key answers were published, the objections were invited and duly considered by an expert committee, appointing another expert committee itself is stretching the discretion, a little far. In any event, when the said experts, constituted by this Court, have opined that even in respect of the said questions, the questions are answerable and the key answers for the same are found to be correct and when the other candidates have answered the questions, the exercise undertaken by the learned Judge, to go into the merits of the said opinion and to form a contrary opinion certainly is not in order as per the dictum laid down by the Hon'ble Supreme Court of India and therefore, we have no other option than to interfere with the order of the learned Judge and thus, we find that the order of the learned Judge is unsustainable. "*

To arrive at the above conclusion, reliance was placed on the following judgments:

*"8. ....Uttar Pradesh Public Service Commission Vs. Rahul Singh and Anr morefully relying upon the paragraph Nos.12 and 14, which read as follows:*

*"12. The Constitutional Courts must exercise great restraint in such matters and should be reluctant to entertain a plea challenging the correctness of the key answers. 14. When there are conflicting views, then the courts must bow down to the opinion of the experts. Judges are not and cannot be experts in all fields and therefore, they must exercise great restraint and should not overstep their jurisdiction to upset the opinion of the experts."*

*9.....B.Florance Mary Vs. The Chairman, Teachers Recruitment Board 2: which reads as follows:-*



W.A.No.1783 of 2021

*"6. It is settled law that while exercising the discretionary and extraordinary power under Article 226 of the Constitution of India, this Court cannot act like an expert body, by replacing the assessment made by experts."*

We find that the issue stands covered by the above Division Bench judgment, and we see no reason to take a different view.

12. We also find that the learned Judge has proceeded on the basis that the benefit of doubt must be given to the candidate. In this context, the following extract from the order of the learned Single Judge is relevant:

*"14. This Court cannot continue with this exercise any longer and keep the petitioner anxiously waiting for ever. It looks like the dispute between the Experts will have to be resolved. This Court is not inclined to do the same at this length of time. In the considered view of this Court, the benefit of doubt will have to be given to the petitioner. Therefore, the petitioner who has given the answer for Question No.82 as Option "C" must be awarded a mark for this question also."*

*(emphasis supplied)*

The above reasoning of the learned Single Judge is contrary to the settled position that the benefit of doubt must be resolved in favour of the examination authority. In this regard, it may be useful to refer to the following portion of the Hon'ble Supreme Court decision in Uttar Pradesh Public Service Commission vs. Rahul Singh reported in (2018) 7 SCC 254:

*"10. In Ran Vijay Singh v. State of U.P., this Court after referring to a catena of judicial pronouncements summarised the legal position in the following terms: (SCC pp. 368-69, para 30)*



W.A.No.1783 of 2021

“30. ....

30.4. The court should presume the correctness of the key answers and proceed on that assumption; and

30.5. In the event of a doubt, the benefit should go to the examination authority rather than to the candidate.”

(emphasis supplied)

In the case of *Kanpur University v. Samir Gupta*, reported in (1983) 4 SCC 309

the Apex Court held as under:

*“16. ...the key answer should be assumed to be correct unless it is proved to be wrong and that it should not be held to be wrong by an inferential process of reasoning or by a process of rationalisation. It must be clearly demonstrated to be wrong, that is to say, it must be such as no reasonable body of men well-versed in the particular subject would regard as correct.”*

13. For the above reasons, we find that the order of the learned Single Judge cannot be sustained and is thus set-aside. Accordingly, the writ appeal stands allowed. No costs. Consequently, connected civil miscellaneous petition stands closed.

**[R.M.D., J.] [M.S.Q., J.]**

**31.03.2023**

Index: Yes/No

Speaking Order (or) Non-Speaking Order

Neutral Citation: Yes/No

mka/shk



W.A.No.1783 of 2021

To:

- 1.The Secretary to Government,  
School Education Department,  
Secreatariat, Fort St.George,  
Chennai 600 009.
- 2.The Director of School Education,  
DPI Campus, College Road,  
Chennai 600 006.
3. The Member Secretary,  
Teachers Recruitment Board,  
4<sup>th</sup> Floor, E.V.K. Sampath Maligai,  
DPI Campus, College Road, Chennai 600 064.



WEB COPY



W.A.No.1783 of 2021

**R.MAHADEVAN, J.**  
**AND**  
**MOHAMMED SHAFFIQ, J.**

mka/ shk

**Pre-delivery order made in**  
**W.A. No.1783 of 2021**  
**and**  
**C.M.P. No.11130 of 2021**

**31.03.2023**