



WEB COPY



W.P.No.30953 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.30953 of 2022 and
W.M.P. Nos.30341, 30343 and 30345 of 2022

S.Parimala

... Petitioner

Vs

The Member (TET),
Teachers Recruitment Board,
4th Floor, E.V.K.Sampath Maligai,
D.P.I. Campus, College Road,
Chennai.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the respondent in R.C.No.4089/E3/2020 dated 23.09.2022 and quash the same and consequently direct the respondent to grant of 7 marks for the question numbers 12, 27, 36, 39, 69, 100, 102 and 108 and keep the petitioner's name in the provisional selection list in Notification No.01/2021 revised dated 09.09.2021.



W.P.No.30953 of 2022

For Petitioner : Mr.A.S.Vijayaragavan
for Mr.K.Murugesan

For Respondent : Mr.R.Neelakandan,
Additional Advocate General-8,
assisted by
Mr.C.Kathiravan,
Special Government Pleader

ORDER

Heard Mr.A.S.Vijayaragavan, representing for Mr.K.Murugesan, learned counsel for the petitioner and Mr.R.Neelakandan, learned Additional Advocate General-8, assisted by Mr.C.Kathiravan, learned Special Government Pleader for the respondent.

2.The writ petition has been filed, challenging the impugned order dated 23.09.2022, passed by the respondent in R.C.No.4089/E3/2020 and seeking for a direction to the respondent to grant of 7 marks for the question numbers 12, 27, 36, 39, 69, 100, 102 and 108 and keep the petitioner's name in the provisional selection list in Notification No.01/2021 revised dated 09.09.2021.



W.P.No.30953 of 2022

WEB COPY

3.The Teachers Recruitment Board, the respondent herein had conducted a Computer Based Examination for direct recruitment for the posts of Post Graduate Assistants/Physical Education Directors Grade-I and Computer Instructors Grade-I between 12.02.2022 and 20.02.2022. The petitioner had participated in the written examination. The respondent has released the tentative key answers for all the subjects with the Master Question Paper and called for objections from the candidates between 09.04.2022 to 13.04.2022.

4.Through the impugned order dated 23.09.2022, the respondent had stated that the petitioner had given her objections only on 14.09.2022 and since it was beyond the time prescribed by them, her belated claim cannot be considered. Challenging the same, the present writ petition has been filed.

5.Learned counsel for the petitioner predominantly raised two grounds. Firstly, he would submit that owing to comparison of the key answers with the Master Question Paper from the relevant text books and other study materials, the key answers to question Nos. 12, 27, 36, 39,



W.P.No.30953 of 2022

69, 100, 102 and 108 are erroneous and therefore, seeks for marks for those questions. Secondly, he would submit that even from the Website, which has been downloaded by her, it is established that the petitioner had given her objections, within the time limit prescribed by the respondent and therefore, the impugned order cannot be sustained.

6.Per contra, learned Additional Advocate General submitted that though the impugned order states that the petitioner had not given her objections in time, the real fact remains that she had indeed submitted her objections in time in connection with question Nos. 12, 27, 36, 39, 69, 100, 102 and 108. Based on the objections, an Expert Committee was constituted and all her objections were rejected.

7.Insofar as the first ground is concerned, I have earlier passed final orders in a batch of Writ Petitions in W.P. (MD) Nos.16071 of 2022 etc. dated 14.10.2022, wherein the subject matter of challenge was the same Notification in Advertisement No.1/2021 dated 09.09.2021 issued by the Teachers Recruitment Board therein. When the key answers comparison with the Master Question Papers was put to challenge, I had relied



W.P.No.30953 of 2022

WEB COPY

upon four decisions of the Hon'ble Supreme Court and held that when the experts had evaluated certain questions and derived answers to it, the High Court, in exercise of its powers under Article 226 of the Constitution of India, cannot revisit such an opinion. When such powers have been divested under a line of decisions rendered by the Hon'ble Supreme Court, the High Court, exercising its powers under Article 226 of the Constitution of India, cannot supersede or render a different view than that of the Expert Committee's Report.

8.The learned Additional Advocate General placed reliance on the decisions of the order passed by me in the case of T.Meenakshisundari vs. The Chairman, Teachers Recruitment Board, passed in W.P. Nos.16071 of 2022 etc., decided on 14.10.2022 as well as the two Division Bench orders in the case of the Chairman, Teachers Recruitment Board and another vs. S.Malini, passed in W.A. No.963 of 2019 dated 17.07.2019 and the Director of School Education and another vs. N.Mercy Vennila, passed in W.A. Nos.598 of 2022 etc., decided on 30.09.2022 and submitted that when the Expert Committee has rendered



W.P.No.30953 of 2022

its views, it may not be proper for the High Court to revisit the same. The relevant portion of my order reads as follows:

*'10. Such an exercise by this Court is neither feasible nor permissible, in view of the various decisions rendered by the Hon'ble Supreme Court, as well as the High Courts. In the case of **Uttar Pradesh Public Service Commission Vs. Rahul Singh and another** reported in **2018 (7) SCC 254**, this issue was predominantly dealt with in the following manner:*

“9. What is the extent and power of the Court to interfere in matters of academic nature has been the subject matter of a number of cases. We shall deal with the two main cases cited before us.

10. In Kanpur University, through Vice Chancellor and Others vs. Samir Gupta and Others [(1983) 4 SCC 309], this Court was dealing with a case relating to the Combined Pre Medical Test. Admittedly, the examination setter himself had provided the key answers and there were no committees to moderate or verify the correctness of the key answers provided by the



W.P.No.30953 of 2022

examiner. This Court upheld the view of the Allahabad High Court that the students had proved that 3 of the key answers were wrong.

Following observations of the Court are pertinent:-

“16.....We agree that 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 rationalization. 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.....”

The Court gave further directions but we are concerned mainly with one that the State Government should devise a system for moderating the key answers furnished by the paper setters.

11. In *Ran Vijay Singh and Others vs. State of Uttar Pradesh and Others* [(2018) 2 SCC 357], this Court after referring to a catena of judicial pronouncements summarized the legal position in the following terms:-



W.P.No.30953 of 2022

WEB COPY

“30. The law on the subject is therefore, quite clear and we only propose to highlight a few significant conclusions. They are:

30.1. If a statute, Rule or Regulation governing an examination permits the reevaluation of an answer sheet or scrutiny of an answer sheet as a matter of right, then the authority conducting the examination may permit it;

30.2. If a statute, Rule or Regulation governing an examination does not permit reevaluation or scrutiny of an answer sheet (as distinct from prohibiting it) then the court may permit re-evaluation or scrutiny only if it is demonstrated very clearly, without any “inferential process of reasoning or by a process of rationalisation” and only in rare or exceptional cases that a material error has been committed;

30.3. The court should not at all re-evaluate or scrutinise the answer sheets of a candidate—it has no expertise in the matter and academic matters are best left to academics;



W.P.No.30953 of 2022

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.”

We may also refer to the following observations in Paras 31 and 32 which show why the Constitutional Courts must exercise restraint in such matters:-

“31. On our part we may add that sympathy or compassion does not play any role in the matter of directing or not directing re-evaluation of an answer sheet. If an error is committed by the examination authority, the complete body of candidates suffers. The entire examination process does not deserve to be derailed only because some candidates are disappointed or dissatisfied or perceive some injustice having been caused to them by an erroneous question or an erroneous answer. All candidates suffer equally, though some might suffer more but that cannot be helped since mathematical precision is not always possible.



WEB COPY



W.P.No.30953 of 2022

This Court has shown one way out of an impasse — exclude the suspect or offending question.

32. It is rather unfortunate that despite several decisions of this Court, some of which have been discussed above, there is interference by the courts in the result of examinations. This places the examination authorities in an unenviable position where they are under scrutiny and not the candidates. Additionally, a massive and sometimes prolonged examination exercise concludes with an air of uncertainty. While there is no doubt that candidates put in a tremendous effort in preparing for an examination, it must not be forgotten that even the examination authorities put in equally great efforts to successfully conduct an examination. The enormity of the task might reveal some lapse at a later stage, but the court must consider the internal checks and balances put in place by the examination authorities before interfering with the efforts put in by the candidates who have successfully participated in the examination and the examination authorities. The present appeals are a classic example of the consequence of such interference where there is



WEB COPY



W.P.No.30953 of 2022

no finality to the result of the examinations even after a lapse of eight years. Apart from the examination authorities even the candidates are left wondering about the certainty or otherwise of the result of the examination — whether they have passed or not; whether their result will be approved or disapproved by the court; whether they will get admission in a college or university or not; and whether they will get recruited or not. This unsatisfactory situation does not work to anybody's advantage and such a state of uncertainty results in confusion being worse confounded. The overall and larger impact of all this is that public interest suffers.”

12. The law is well settled that the onus is on the candidate to not only demonstrate that the key answer is incorrect but also that it is a glaring mistake which is totally apparent and no inferential process or reasoning is required to show that the key answer is wrong. 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. In Kanpur University case (supra), the Court recommended a system of -



W.P.No.30953 of 2022

(1) moderation; (2) avoiding ambiguity in the questions; (3) prompt decisions be taken to exclude suspected questions and no marks be assigned to such questions.

13. As far as the present case is concerned even before publishing the first list of key answers the Commission had got the key answers moderated by two expert committees. Thereafter, objections were invited and a 26 member committee was constituted to verify the objections and after this exercise the Committee recommended that 5 questions be deleted and in 2 questions, key answers be changed. It can be presumed that these committees consisted of experts in various subjects for which the examinees were tested. Judges cannot take on the role of experts in academic matters. Unless, the candidate demonstrates that the key answers are patently wrong on the face of it, the courts cannot enter into the academic field, weigh the pros and cons of the arguments given by both sides and then come to the conclusion as to which of the answer is better or more correct.

14. In the present case we find that all the 3 questions needed a long process of reasoning



WEB COPY



W.P.No.30953 of 2022

and the High Court itself has noticed that the stand of the Commission is also supported by certain text books. When there are conflicting views, then the court 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.

15. In view of the above discussion we are clearly of the view that the High Court overstepped its jurisdiction by giving the directions which amounted to setting aside the decision of experts in the field. As far as the objection of the appellant - Rahul Singh is concerned, after going through the question on which he raised an objection, we ourselves are of the prima facie view that the answer given by the Commission is correct.”

11. The aforesaid extract is self-explanatory. The ratio that when the Experts have evaluated certain questions and derived answers to it, the High Court, in exercise of its powers under Article 226 of the Constitution of India, cannot revisit such an opinion of the experts and array at its own conclusion, has been adopted consistently in various



W.P.No.30953 of 2022

*other decisions also, including this Court. When such powers have divested under a line of decisions rendered by the Hon'ble Supreme Court, including **Rahul Singh's case** (supra), this Court is unable to appreciate the grounds raised by the petitioners herein for the purpose of re-evaluating the questions to which the Experts in the concerned subjects have already rendered their opinion.*

12. Above all, this Court, not being an expert in the subjects, would not venture into the exercise of elucidating the correct answers from the subject materials supplied by the petitioners herein. Furthermore, this Court finds no other reason as to why these disputed questions require reevaluation by an another Expert Committee, when there are no sufficient materials questioning the competence of the earlier Expert Committee.'

9. Similar decisions were also taken in the case of S.Malini supra by the Hon'ble Division Bench in the following manner:

'8. The learned single Judge was of the view that the appellants were not justified in preparing the question and formulating the key answers by taking support from the Book, Ancient Indian History and Civilization, which was recommended for post Graduate students. The contention taken by the respondent to the effect that the key answer



WEB COPY



W.P.No.30953 of 2022

should have been prepared by taking the textbooks for 6th standard and 12th standard, was accepted by the learned single judge. However, the fact remains that the appointment was to the post of Post Graduate Assistant. The appellants were justified in their contention that in view of the nature of post sought to be filled up they were expected to prepare the questions and key answers, taking into account, the Post Graduate syllabus.

9.The jurisdiction of the writ court in a matter of this nature is very limited. It is not for the Court to sit in the arm Chair of the examining body and to observe that a particular key answer should have been given for a particular question. The syllabus for the question can be set only by the examining body. The Court is not an expert in such cases. We are therefore of the view that the learned single Judge was not justified in directing the appellant to award one mark to the respondent in respect of Question No.66.'

10.So also in the case of N.Mercy Vennila supra, the Hon'ble Division Bench has held in the following manner:

'16.Even otherwise, as rightly pointed out by the learned Additional Advocate General, the law on the



WEB COPY



W.P.No.30953 of 2022

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.'



W.P.No.30953 of 2022

WEB COPY

11.Thus, re-proposal or re-evaluation of the questions, which are the subject matter of the writ petition, may not deserve consideration in view of the aforesaid decisions of the Hon'ble Supreme Court as well as the Hon'ble Divison Bench.

12.Insofar as the second objection raised that the petitioner had submitted her objections in time is concerned, the learned Additional Advocate General had fairly conceded that the impugned order may not be factually correct.

13.In this context, he places reliance on the counter affidavit filed by the Teachers Recruitment Board, in which, it is admitted that the petitioner though raised her Objection Tracker for 11 questions, the Expert Committee constituted thereafter had rejected the petitioner's objections.

14.At this juncture, the learned counsel for the petitioner would submit that he did not have the benefit of going through the Expert Committee's Report. Since the Teachers Recruitment Board had



W.P.No.30953 of 2022

WEB COPY

committed an error in rejecting the petitioner's objections through the impugned order by making a factual mistake, the petitioner may be given a copy of the Expert Committee's Report. In case the petitioner is aggrieved against the Report of Expert Committee, it would be opened to her to work out her remedies in accordance with law

15. In the light of the above findings, the writ petition stands dismissed. Consequently, connected W.M.Ps stand closed. Accordingly, there shall be a direction to the respondent herein to submit a copy of the Expert Committee's Report made pursuant to the objections raised by the petitioner, which is the subject matter of the writ petition, within a period of four weeks from the date of receipt of a copy of this order. No costs.

20.06.2023

Index: Yes/No
Speaking order/Non-speaking order
vga



W.P.No.30953 of 2022

To
WEB COPY

The Member (TET),
Teachers Recruitment Board,
4th Floor, E.V.K.Sampath Maligai,
D.P.I. Campus, College Road,
Chennai-6,
Pincode – 600 006.



WEB COPY



W.P.No.30953 of 2022

M.S.RAMESH,J.

vga

W.P.No.30953 of 2022 and
W.M.P. Nos.30341, 30343 and 30345 of 2022

20.06.2023