

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

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**CWP-3697-2023 (O&M)
Date of decision: 23.02.2023**

Naveen Kumar

...Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. G.S. Gopera, Advocate for the petitioner.

Mr. R.S. Budhwar, Addl. AG Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Prayer in the present petition is for issuance of a writ in the nature of mandamus directing respondent No.3-Haryana Staff Selection Commission (HSSC) to hold the scrutiny of documents-interview of the petitioner to the post of Physical Training Instructor (PTI) in BCB category against the vacant 96 posts and issue appointment letter to the petitioner.

Learned counsel for the petitioner submits that the petitioner had applied for the post of PTI (Cat. No. 23) in BCB category, being eligible, in terms of advt. No. 06/2006 dated 20.07.2006 issued by the respondents. The petitioner appeared in the written examination on 23.08.2020 and secured 76 marks i.e. 38 %, whereas the cutoff marks for candidates of BCB category was 45%, therefore, he was not called for interview. After scrutiny of documents and interview, respondent No.3-HSSC uploaded the detailed result of the candidates on 28.09.2022, in which the petitioner has secured 88

marks, thereafter, the answer key was again revised and uploaded on the Commission's website on 28.11.2022. After matching the final revised answer key and OMR sheet, the petitioner came to know that he has secured 90 marks i.e. 45%, which is sufficient to call him for the interview, but he was not called for interview by respondent No.3. The petitioner made a representation on 05.12.2022 to HSSC, but the final result was declared on 13.12.2022, without considering his representation and his grievance remained un-addressed. Thereafter, the petitioner moved another representation dated 03.02.2023 to respondent No.3-HSSC but the same has also not been considered as yet.

I have heard the learned counsel for the petitioner at length and have also gone through the case file.

It is case, wherein the answer keys were uploaded by respondent No.3 and thereafter, on receiving the objections same were sent to the experts and final revised answer keys were uploaded on 28.11.2022 (Annexure P-15) and after revising the same, the final result was declared on 13.12.2022 (Annexure P-17).

As per the law settled by the Hon'ble Supreme Court of India in Civil Appeal No.367 of 2017 titled as '**Ran Vijay Singh and others vs. State of Uttar Pradesh and others**', the candidates only have a right to raise objections qua the answer key and the grievance can be put to the subject experts for their opinion and after report of the subject expert, Court does not have jurisdiction to entertain any further grievance qua the answer key. As per the *Ran Vijay Singh* (supra) even if, there exists a grey area after the report of the subject expert qua any of the question in the written examination, the benefit has to go to the recruiting agency and not to the

candidates. Relevant paragraph of the judgment is as under:-

“30. The law on the subject is therefore, quite clear and we only propose to highlight a few significant conclusions. They are: (i) If a statute, Rule or Regulation governing an examination permits the re-evaluation of an answer sheet or scrutiny of an answer sheet as a matter of right, then the authority conducting the examination may permit it; (ii) If a statute, Rule or Regulation governing an examination does not permit re-evaluation or scrutiny of an answer sheet (as distinct from prohibiting it) then the Court may permit reevaluation 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; (iii) The Court should not at all re-evaluate or scrutinize the answer sheets of a candidate – it has no expertise in the matter and academic matters are best left to academics; (iv) The Court should presume the correctness of the key answers and proceed on that assumption; and (v) In the event of a doubt, the benefit should go to the examination authority rather than to the candidate.”

In view of the above, this Court restrains itself from re-evaluating or scrutinizing the answer key as the same has already been looked into by the academicians. As the Haryana Staff Selection Commission has already declared the final revised result after considering the objections, this Court finds no ground to grant the relief to the petitioner as prayed for.

Finding no merits present petition, the same is dismissed.

(HARNARESH SINGH GILL)
JUDGE

23.02.2023
Mangal Singh

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No