

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

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LPA-1057-2023 (O&M)

Date of Decision: 10.08.2023

Kavita Rani & Others

...Appellants

Versus

Haryana Staff Selection Commission and Others

...Respondents

**CORAM: HON'BLE MR. JUSTICE ARUN PALLI
HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Mr. Anshul Gupta, Advocate for the appellants

Mr. Deepak Balyan, Addl. A.G, Haryana

JAGMOHAN BANSAL, J. (Oral)

1. The appellants through instant intra court appeal under Clause X of Letters Patent are seeking setting aside of judgment dated 06.07.2023 whereby learned Single Judge has dismissed CWP No.14159 of 2023 filed by the appellants herein.

2. Brief facts of the case which are necessary for the adjudication of the present appeal are that respondent No.1- Haryana Staff Selection Commission (for short the '**Commission**') issued an Advertisement No.2/2023 dated 21.02.2023 (Annexure P-1) inviting applications for direct recruitment of Trained Graduate Teachers (for short '**TGT**') in various subjects. The appellants submitted their online applications for the post of TGT (Sanskrit). The appellants appeared in the written examination held on 30.04.2023. In the result declared on 21.06.2023 (Annexure P-19), the appellants did not find their roll

smudging/scratching/erasing in their Optical Mark Recognition ('OMR') Answer Sheets. The appellants preferred CWP No.14159 of 2023 before this Court assailing cancellation of appellants' candidature. The appellants sought direction to the Commission to consider their candidature and revise the final result dated 21.06.2023. Further, quashing of impugned Condition No.16.4 in Advertisement No.2/2023 dated 21.02.2023 (Annexure P-1) and impugned Declaration No.2 in the OMR Sheets were sought by the appellants.

3. The matter came up for consideration before learned Single Judge of this Court, who vide order dated 06.07.2023 dismissed the writ petition of the appellants.

4. Mr. Anshul Gupta, learned counsel for the appellants *inter alia* contends that candidature of the appellants could not be cancelled on the ground of smudging/scratching in OMR Answer Sheets because no human being can be expected to not commit error. The respondent No.1-Commission could ignore questions involving smudging, however, candidature could not be cancelled on the ground of smudging/scratching of one or more questions. The appellants are well qualified teachers and they have been ousted from the zone of selection just because of smudging/scratching of few questions.

5. We have heard the arguments of learned counsel for the appellants and perused the record.

6. From the perusal of record and arguments of learned counsel for the appellants, it comes out that there is no dispute that there was

smudging/scratching/erasing in the OMR Answer Sheets of the appellants. It is further undisputed fact that Condition No.16.4 of the advertisement and Declaration No.2 of OMR Answer Sheet clearly provide that if a candidate darkens more than one circle and smudge/scratch any place in any manner with eraser, nail, blade, white fluid, whitener etc., the candidate of the candidate shall be cancelled. Condition No.16.4 of the advertisement and Declaration No.2 of OMR sheet read as under:-

“Advertisement

16.4 OMR sheets will have three folios- Original OMR, Commission copy and candidate copy. The candidate shall not mark anything on Commission copy. The impression of Original OMR sheet will automatically be marked on Commission’s copy and Candidate copy of OMR answer sheet. Pencil should not be used for darkening the circle. If, more than one circle is found darkened, that answer will not be evaluated. Further, if a candidate darkens more than one circle and smudge/scratch any place in any manner with Eraser, Nail, Blade, White Fluid/Whitener etc. then in such circumstances OMR Sheet/Answer Sheet and candidature of the candidate shall be cancelled. The candidate himself/herself will be solely responsible for this.

OMR Answer sheet

2. I do hereby declare that I have filled in my Name and Roll No. as it appears on the admit card, I fully understand and agree that in case I use Whitener/Eraser/White Fluid etc. on OMR Answer

Sheet and scratch/smudge OMR Answer Sheet, my candidature will be liable to be rejected.”

7. From the perusal of above-cited paragraph of the advertisement and declaration of OMR Answer Sheet, it is quite evident that appellants were well informed that their candidature would be liable to be cancelled if there is smudging/scratching/erasing in the OMR Answer Sheet.

8. A Division Bench of this Court vide order dated 08.02.2022 passed in ***Suman Versus State of Haryana and Others; LPA No.90 of 2022*** has already upheld action of the Commission i.e. cancellation of candidature of a candidate who had smudged/scratched in the OMR Answer Sheet.

9. Learned counsel for the appellants on being confronted with aforesaid judgment expressed his inability to distinguish his case.

10. In view of the above facts and findings, this Court is of the considered opinion that there is no infirmity in the impugned judgment passed by learned Single Judge, thus, present appeal deserves to be dismissed and is accordingly dismissed.

Pending application(s), if any, also stand(s) dismissed.

(ARUN PALLI)
JUDGE

10.08.2023

Mohit Kumar

(JAGMOHAN BANSAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No