

2023:PHHC:126807-DB

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

CWP-18378-2023

Date of Decision: September 28 2023

Malwinder Singh and others

.... Petitioners

Versus**Punjab Public Service Commission and others**

.... Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE RITU TAGORE**

Present: Mr. Animesh Sharma, Advocate for the petitioners.

Mr. Sandeep Jain, Addl.AG, Punjab.

Mr. Gaurav Chopra, Senior Advocate with
Ms. Hemani Sarin, Advocate for respondent No. 3.

LISA GILL, J.

1. Prayer in this writ petition is for setting aside Clause 11 of advertisement dated 06.09.2022 inviting applications from eligible candidates of Punjab Civil Services (Judicial Branch) Examination, 2022 ('PCS(JB) 2022' – for short) for appointment to 159 posts of Civil Judge (Junior Division)-cum-Judicial Magistrate, to the extent that re-checking of answer sheets has been allowed only after thirty (30) days from dispatch of mark sheet or display of marks despite declaration of result of the main written examination by way of release of roll numbers of provisionally qualified candidates and not declaration or display of marks of the selected candidates. There is a further prayer for a direction that provision of re-checking must mean re-examination/revaluation of the subjective answers

and should not be restricted to mere re-totalling of marks. A direction is sought for immediate re-checking of answer sheets of the main written examination as requested by the petitioners by way of complete re-examination.

2. Brief facts necessary for adjudication of the matter are that advertisement dated 06.09.2022 (Annexure P1) was issued inviting Online Application Forms from eligible candidates of PCS(JB) 2022. Applications were invited for appointment to 159 posts of Civil Judge (Junior Division)-cum-Judicial Magistrate. Category-wise breakup of the posts is detailed in the said advertisement.

3. As per **Clause 3** of advertisement dated 06.09.2022 (Annexure P1) examination would be conducted in three stages i.e.

- (i) Preliminary examination
- (ii) Main examination
- (iii) Viva voce

4. Clause 3.4 and 3.5 of advertisement dated 06.09.2022 dealing with the main examination and viva-voce read as under:-

3.4 MAIN EXAMINATION

- i) Only those candidates who are declared successful on the basis of the Preliminary Examination shall be called for the Main Written Examination.
- ii) Main Written Examination shall be of subjective/narrative type of 5 papers, which are as follows:

Paper	Syllabus	Maximum Marks
Paper-I (Civil Law)	Code of Civil Procedure, Punjab Courts Act, Indian Contract Act, Indian Sales of Goods Act, Indian partnership Act, Specific Relief Act, Transfer of Property Act 1882, East Punjab Urban Rent Restriction Act 1949 and Indian	200

	Evidence Act 1872.	
Paper-II (Civil Law)	Hindu Law, Mohammedan Law and Customary Law, Law of Registration and Limitation	200
Paper-III (Criminal Law)	Indian Penal code, Criminal Procedure Code and Indian Evidence Act.	200
Paper-IV (English Language)	English Essay (1000-1100) words, Precis, Words and Phrases (make sentences of the given words and phrases), Comprehension, Corrections.	200
Paper-V (Punjabi Language)	Punjabi in Gurmukhi Script.	150

- iii) Each written paper shall be of three hours duration. Papers I to IV shall carry 200 marks each. Paper V shall carry 150 marks out of which 100 marks shall be for essay writing and 50 marks for language and grammar.
- iv) Only bare copies of Legislative Enactments will be supplied.
- v) The law papers are required to be attempted in English language only.
- vi) The minimum qualifying marks in the language paper Punjabi (Gurmukhi Script) shall be 33%. The standard of the language paper Punjabi (Gurmukhi Script) will be of Matriculation Examination of the Punjab School Education Board or equivalent thereto.
- vii) No candidate shall be credited with any marks in any paper unless he/she obtains at least 33% in it.

3.5 VIVA VOCE

- (i) The Viva-Voce shall carry 100 marks and final result shall be prepared on the basis of the Grand Total of the marks obtained by the candidates in the Main Written Examination and the Viva-Voce.
- (ii) No candidate shall be called for the Viva-Voce unless he obtains at least 50% qualifying marks in the aggregate of all the written papers and qualifies in

language paper Punjabi (Gurmukhi Script). The candidates belonging to Scheduled Castes of Punjab, Backward Classes of Punjab and Physically Handicapped, Punjab shall be called for the Viva-Voce test 4 if they obtain 45% qualifying marks in the aggregate of all written papers and qualify in Language Paper Punjabi (Gurmukhi Script).

- (iii) No candidate shall be considered to have qualified unless he/she obtains 50% marks (read 45% marks for the SC/BC/Physically Handicapped, Pb. category candidates) in aggregate out of the total marks of the written examination and viva-voce.
- (iv) The Viva-Voce shall relate to matters of general interest and is intended to test the candidate's alertness intelligence and general outlook. It shall be conducted in English.
- (v) **No candidate shall be considered to have qualified for appointment on the basis of marks secured only in the Main Written Examination unless he/she appears for viva-voce.**

5. Clause 11 of advertisement dated 06.09.2022 in respect to re-checking of answer sheets reads as under:-

11.0 FOR MAIN EXAMINATION

Re-evaluation of answer sheets is not allowed. Only rechecking of answer sheets on a written request from a candidate addressed to the Secretary, Punjab Public Service Commission, Patiala, can be allowed on payment of fee of Rs. 500/- (in the shape of Indian Postal Orders) per answer sheet within thirty days from the date of dispatch of marks sheet or display of marks on the website of High Court/ Commission. Since the candidates are being permitted to seek rechecking on payment of fee prescribed by Recruitment to Subordinate Judicial Service Committee, no separate request in this regard by any

candidate or any other person on their behalf shall be entertained under the RTI Act for rechecking.

6. Petitioners herein being eligible applied pursuant to the said advertisement. They took the Preliminary examination held on 22.01.2023. Result thereof was declared on 22.02.2023. Petitioners on successfully clearing the Preliminary Examination of PCS(JB) 2022 were shortlisted for the main examination.

7. Petitioners thereafter took the main written examination consisting of five papers, which was held between 02.06.2023 to 04.06.2023. Result of the main written examination was declared on 26.07.2023, while displaying category-wise roll numbers of candidates who were provisionally declared qualified for the viva-voce (Annexure P3). Roll numbers of the present petitioners did not figure in the said result so declared on 26.07.2023.

8. Petitioner No. 1 submitted representation dated 01.08.2023 (Annexure P5) with the averments that after analyzing the result as declared he came to the conclusion that in the initial series of roll numbers, short listed candidates are very less as compared to the latter sequence of series. It is stated that a pattern emerged, showing rapid increase in the short listing of candidates towards latter part of the series, which may be due to strict standards being maintained in the beginning and thereafter leniency being shown. It was, thus, requested that answer scripts of petitioner No. 1 should be re-checked/re-evaluated from a third examiner.

9. It is submitted that no response to this representation was received. Information was also sought from respondent No. 3 under Right To Information Act on 01.08.2023 as to whether marking of the examination sheets of main written examination was carried out by the same set of

Examiners or was done in a sequential manner (Annexure P6). This information, it is stated, was not supplied on the pretext of recruitment of PCS (JB) 2022 being under process, therefore, no information could be supplied in view of Rule 4 (2) of High Court of Punjab and Haryana (Right to Information) Rules, 2007. It is stated that representations dated 16.08.2023 attached collectively as Annexure P8 were submitted by some of the petitioners for re-checking of their answer sheets as per Clause 11 of advertisement dated 06.09.2022. As necessary steps, it is submitted, were not taken, present writ petition has been filed.

10. Learned counsel for the petitioners vehemently argued that action of respondent – authorities is totally unjustified and arbitrary in the given circumstances. It was urged that result of main written examination has been declared merely by reflecting roll numbers of the candidates who have cleared the said examination. Marks obtained by the candidates have not been displayed. Re-checking of answer sheets is not being carried out on the pretext that this exercise can be allowed within thirty days from the date of dispatch of mark sheet or display of marks on the website of High Court/Commission. Advertisement in question does not reveal as to when marks of the candidates would be displayed. It was contended that this works extreme prejudice and is of great detriment to the candidates, who are unable to have their papers re-checked at the relevant time i.e. before the conduct of viva-voce. In the event of petitioners' answer sheets not being re-checked at this stage, they would be deprived of an opportunity to appear for the viva voce, if eligible.

11. It was submitted that analysis of the result by petitioners clearly establishes a skewed pattern of marking which indicates that stricter marking

was done for the first 400 roll numbers wherein only 35 candidates have been selected and much more lenient marking was carried out for the remaining candidates. Reference was made to a chart attached alongwith the writ petition as Annexure P4 in this regard.

12. Learned counsel for the petitioners also argued that the term 're-checking' is synonymous with 'reevaluation' notwithstanding the first line of clause 11 of the advertisement. In case, object was not re-evaluation, the word 're-totalling' would have been used and in any case, if there is any ambiguity in the language used, benefit thereof should enure only in favour of the candidates. Reliance has been placed by learned counsel for the petitioners on the judgment of Hon'ble the Supreme Court in **Sanjay Singh and another versus U.P. Public Service Commission, Allahabad and another (2007) 3 Supreme Court Cases 720** and **Pranav Verma and others vs. The Registrar General of the High Court of Punjab and Haryana at Chandigarh and others (WP(Civil) No. 565 of 2019) decided on 13.12.2019.**

13. It was further submitted by learned counsel for the petitioners that even if this Court is inclined to accept a restricted meaning of the word 're-checking' being equivalent to re-totalling, direction should be issued to the respondents to carry out the exercise of re-checking after declaration of result of main written examination but before the conduct of viva-voce as otherwise a valuable right of petitioners would be lost. It is, thus, prayed that this writ petition be allowed and petitioners be permitted to participate in the interviews which are to be held from 29.09.2023 to 08.10.2023.

14. Per contra learned counsel for respondent No. 3 argued that there is absolutely no merit in the arguments as raised on behalf of the

petitioners. First and foremost, principal of estoppel kicks in as petitioners have duly taken the exam pursuant to advertisement dated 06.09.2022 which is clear and unequivocal. Thus, at this stage it is not open to the petitioners to turn around and challenge the clauses thereof. Clause 11 of the advertisement, it was argued, is absolutely clear as it starts with the declaration that revaluation of answer sheets is not allowed. It is then followed by the assertion that 'Only rechecking of answer sheets on a written request from a candidate addressed to the Secretary, Punjab Public Service Commission, Patiala, can be allowed'. While referring to the prayer clause and averments in the writ petition, it was submitted that petitioners have nowhere challenged the said clause. Entire stress of the petitioners as apparent from reading of the writ petition and prayer clause is their insistence that re-checking is synonymous with revaluation and not recount. It was submitted that petitioners clearly seek complete re-examination of their answers. As per representation (Annexure P5), re-examination from a third Examiner has been sought, therefore, once they have not challenged the prohibitory clause contained in clause 11 of the advertisement, it is not open to the petitioners to even argue that re-checking is equivalent to revaluation.

15. Learned senior counsel for the respondent while referring to clause 3.5(i) of the advertisement submits that selection is not on the basis of written examination alone but on the collective marks obtained in the written examination and viva voce. Learned counsel for the respondent also pointed out that there is no applicable rule which mandates revaluation of the answer scripts. It was contended that it is not open to the petitioners to impose their own interpretation of the advertisement as it stands merely because it is inconvenient to them. Furthermore, at least 23 out of 35 petitioners in this

writ petition, it is submitted have earlier participated in PCS (JB) or HCS (JB) examinations, therefore, they were very well aware of the applicable provisions and rules right from the inception of selection process. Reference has been made to the chart as reproduced in para 3 of the written statement filed on behalf of respondent no.3. It is to be noted that there is no denial of participation of such petitioners in earlier selections.

16. It was argued by learned counsel for respondent No. 3 that in respect to the prayer on behalf of petitioners that even if the marks are not to be revealed, exercise of re-checking i.e. revaluation should be carried out after declaration of result of main written examination but before the viva-voce, does not emanate from the writ petition but has been modulated after filing of the written statement on behalf of respondent No. 3. Selection process, it is submitted, is being carried out with strict adherence to the Rules and Regulations while maintaining pristine sanctity of the entire process. Marks of the written examination, it is stated, are to be declared only at the stage of declaration of final result, as declaration of marks at any earlier stage may effect impartial evaluation of the candidates during viva-voce. As a matter of practice and procedure, re-checking is not permitted prior to declaration of final result. Allegation of skewed pattern of marking was denied while submitting that one question is assigned to one Subject Expert for checking across all answer scripts, by table marking so as to maintain uniformity. Furthermore, as per standard protocol, roll numbers and serial numbers of attempted answer sheets are first concealed by folding, stapling and applying adhesive tape under orders of the authorities. Thereafter, answer sheets are jumbled and packets of 25/50 answer sheets each are made under surveillance of CCTV cameras. Answer sheets are then

put in iron trunks which are sealed and shifted to the venue decided for evaluation under tight security. Evaluators/examiners are generally called from other regions of the country. This method of evaluation, it was submitted, had been upheld by Hon'ble the Supreme Court in **Pranav Verma's** case (supra). It was also submitted that no ground whatsoever was made out for interference in this writ petition as it is only unsubstantiated apprehensions which have been raised by the petitioners. Further, learned counsel for respondent No. 3 while referring to para 19 of the reply to the writ petition submitted that Recruitment Committee reserves its right to rectify any error found at any subsequent stage and that if at an appropriate stage request for re-checking is made by any candidate, needful would be done and if it is found that candidate was in the zone of consideration, necessary steps would be taken. Reference was made by learned counsel for respondent No. 3 to judgments of Hon'ble the Supreme Court in the cases of **Pranav Verma's** case (supra); **Harkirat Singh Ghuman versus Punjab and Haryana High Court and others** in Civil Appeal No. 5874 of 2020 decided on 29.08.2022 and Division Bench judgment of this High Court in **Ishita Chadha versus The Hon'ble High Court of Punjab and Haryana and another** in CWP-681-2021 decided on 13.01.2021 of this Court to substantiate his arguments. It was, thus, prayed that this writ petition be dismissed.

17. We heard learned counsel for the parties and carefully perused the file with their able assistance.

18. Following questions have been raised for consideration in the present writ petition:-

- (i) As to whether the term 're-checking' is synonymous with revaluation and as per Clause 11 of the advertisement, it is 'revaluation' of the answer sheets, which should be carried out and not mere re-totalling of the marks obtained by the candidates.
- (ii) As to when the exercise of re-checking of answer sheets should be carried out by the authorities i.e. after the main written examination and before viva-voce or on application by candidates thirty days from the date of dispatch of marks sheet or display of marks on the website of High Court/Commission i.e. Punjab Public Service Commission after declaration of the final result;

19. Issuance of advertisement dated 06.09.2022 for inviting online applications from eligible candidates for PCS (JB) 2022 for 159 posts of Civil Judge (Junior Division)-cum-Judicial Magistrate (Annexure P1) is a matter of record. It was informed that 8935 applications were received pursuant to the said advertisement. 6497 candidates took preliminary examination and 1353 candidates including the petitioners were shortlisted for the main written examination which was conducted from 02.06.2023 to 04.06.2023. As per Clause 3.4 of the advertisement, main written examination comprised of five papers of subjective/narrative type. Clause 3.4 has been reproduced in para 4 above.

20. At this stage, it is pertinent to refer to Clause 11 of the advertisement which reads as under:-

“11.0 FOR MAIN EXAMINATION

Re-evaluation of answer sheets is not allowed. Only rechecking of answer sheets on a written request from a candidate addressed to the Secretary, Punjab Public Service Commission, Patiala, can be allowed on payment of fee of Rs. 500/- (in the shape of Indian Postal Orders) per answer sheet within thirty

days from the date of dispatch of marks sheet or display of marks on the website of High Court/ Commission. Since the candidates are being permitted to seek rechecking on payment of fee prescribed by Recruitment to Subordinate Judicial Service Committee, no separate request in this regard by any candidate or any other person on their behalf shall be entertained under the RTI Act for rechecking.”

21. Apparently, Clause 11 starts with the declaration that ‘Re-evaluation of answer sheets is not allowed’ followed by the words that ‘Only rechecking of answer sheets on a written request from a candidate addressed to the Secretary, Punjab Public Service Commission, Patiala, can be allowed’. This in itself shows and makes it amply clear that revaluation of answer sheets is not permissible and provision is only for re-checking i.e. re-totalling of the marks in question. At this stage, it is useful to refer to the judgment of Hon’ble the Supreme Court in **Pranav Verma**’s case (supra) wherein unsuccessful candidates had challenged the selection process and evaluation method adopted in the main (written examination) of Haryana Civil Services (Judicial Branch) Examination, 2017 (for short – ‘HCS(JB) 2017). Questions for consideration before Hon’ble the Supreme Court were culled out as under:-

- (i) Whether selection process and evaluation method is unjust, arbitrary and in violation of Article 14 of the Constitution?
- (ii) Whether moderation of marks (grace marks) is needed in the facts and circumstances of the present case?
- (iii) Whether re-valuation of Civil Law-I and Civil Law-II papers is required by an Independent Expert Committee?

- (iv) Whether the marks obtained in the Main Exam be disclosed before the viva-voce is conducted?

22. Hon'ble the Supreme Court took note of the fact that in the absence of any provision under the statute or statutory Regulations/Rules, Courts should generally not direct revaluation. It was held as under:-

“24. The alternative prayer of the petitioners for revaluation by an Independent Expert Committee is not worth acceptance. Firstly, for the reason that these 107 posts are already lying vacant for a considerable long period and the re-evaluation would further delay it. Secondly, Justice Sikri has thoroughly examined the fact situation before recommending the award of grace marks. Thirdly, there is no provision for re-evaluation in the Recruitment Rules and any such direction would run counter to the mandate of this Court in H.P. Public Service Commission v. Mukesh Thakur (2010) 6 SCC 759, laying down that in the absence of any provision under the statute or statutory rules/regulations, the Courts should not generally direct re-evaluation.

25. The above-cited view has been reiterated by this Court in **Pramod Kumar Srivastava v. Bihar Public Service Commission** observing as under:

“7. ... Under the relevant rules of the Commission, there is no provision wherein a candidate may be entitled to ask for revaluation of his answer book. There is a provision for scrutiny only wherein the answer books are seen for the purpose of checking whether all the answers given by a candidate have been examined and whether there has been any mistake in the totalling of marks of each question and noting them correctly on the first cover page of the answer book. There is no dispute that after scrutiny no mistake was found in the marks awarded to the appellant in the General Science paper. **In the**

absence of any provision for revaluation of answer books in the relevant rules, no candidate in an examination has got any right whatsoever to claim or ask for revaluation of his marks. [Emphasis added]”

23. Similar question also arose for consideration in CWP-681-2021 titled **Ishita Chadha versus High Court of Punjab and Haryana**, which was dismissed on 13.01.2021 by the Division Bench of this High Court. Provision for re-checking of the answer sheets was also under consideration of the Division Bench in the case of **Ishita Chadha’s** case (supra). Clause 11 of advertisement dated 06.09.2022 (Annexure P1) is identical to the clause under consideration in **Ishita Chadha’s** case (supra) in respect to advertisement dated 05.04.2019 inviting applications from eligible candidates for PCS(JB) 2019 for the post of Civil Judge (Junior Division)-cum-Judicial Magistrate. While negating the contentions raised by the said petitioner, it was held in **Ishita Chadha’s** case (supra) as under:-

“14. The sole question which requires to be answered in the present writ petition, when the facts as narrated above are not in dispute, is that whether the prayer as made by the petitioner for re-evaluation of her answer sheets of English language paper and Criminal Law examination of mains written examination PCS (JB) 2019 can be permitted because on going through the pleadings, we do not find the present case to be one where it would be rechecking of the answer sheets as rechecking is confined to the examination of the answer sheet to find out whether any question has remained unmarked or whether the marks awarded for questions have been compiled and totaled, whereas re-evaluation inter alia requires reassessment and revaluation of the answers and consequently the marks awarded by the examiner.

15. Present being a case where the petitioner is seeking re-evaluation of the answer sheets, the same cannot be allowed as Clause 11 of the advertisement dated 05.04.2019 does not permit the same. The relevant Clause 11.0 reads as follows:-

“11.0 FOR MAIN EXAMINATION

Revaluation of answer sheets is not allowed. Only rechecking of answer sheets on a written request from a candidate addressed to the Secretary, Punjab Public Service Commission, Patiala, can be allowed on payment of fee of Rs. 500/- (in the shape of Indian Postal Orders) per answer sheet within thirty days from the date of dispatch of marks sheet or display of marks on the website of High Court/Commission. Since the candidates are being permitted to seek rechecking on payment of fee prescribed by Recruitment to Subordinate Judicial Service Committee, no separate request in this regard by any candidate or any other person on their behalf shall be entertained under the RTI Act for rechecking.”

16. In the light of the above provisions as also the judgments passed by the Supreme Court on which reliance has been placed by counsel for respondent No.1 i.e. Pramod Kumar Srivastva's case (supra), Secretary, All India Pre-Medical/pre-Dental Entrance Examination Versus Khushboo Srivastva's case (supra) and H.P. Public Service Commission Versus Mukesh Thakur's case (supra), where it has been specifically held that in the absence of the relevant rules/instructions, where there is no provision, a candidate is not entitled to nor can it be claimed or asked for re-evaluation of answer sheets. Hon'ble Supreme Court in Pranav Verma's case (supra) following the above said judgments have reiterated the same position.”

24. Decision dated 13.01.2021 in CWP-681-2021 was upheld by Hon'ble the Supreme Court with dismissal of SLP-1500-2021 filed by the petitioner therein on 25.01.2021.

25. There is indeed no merit in the vehement arguments raised by learned counsel for the petitioners that re-checking is synonymous and equivalent to revaluation. The very fact that clause 11 of the advertisement dated 06.09.2022 starts with a prohibitory clause followed by the assertion that re-checking is allowed, makes it amply apparent and leaves no scope of ambiguity. There is indeed no room for any other interpretation.

26. Learned counsel for the petitioners had initially argued that answer sheets of the written examination or marks obtained by candidates in the written examination are not revealed to them at the time of declaration of result of the main examination. Declaration thereof is by way of merely reflecting roll numbers of candidates who have cleared the said examination and are found eligible for viva-voce. It was urged that in such eventuality, candidates are deprived of a valuable right inasmuch as they are unable to seek revaluation of their mark sheets till the declaration of final result as marks obtained by the candidates would be revealed to them only after declaration of final result. At this juncture, it is apposite to refer to the consistent view held by Hon'ble the Supreme Court that in the case where written examination is followed by viva voce and selection is not on the basis of written examination alone but is dependent on the result of written examination plus viva voce, marks of candidates in the written examination should not be revealed prior to viva voce in order to obviate any kind of bias forming in the mind(s) of members of the Interview Boards. This particular aspect was duly considered by Hon'ble the Supreme Court in **Parnav Verma's** case (supra) and it was held as under:-

“27. As regards the petitioners' plea that marks of the Main Exam should be disclosed before conducting viva-voce, we are of the considered opinion that such a practice may not insulate

the desired transparency, rather will invite criticism of likelihood of bias or favouritism. The broad principles to be laid down in this regard must be viewed keeping in view the selections for various categories of posts by different Selecting Authorities, for such a self-evolved criteria cannot be restricted to Judicial Services only. If the Members of the Interviewing Boards are already aware of the marks of a candidate secured in the Written Examination, they can individually or jointly tilt the final result in favour or against such candidate. The suggested recourse, thus, is likely to form bias affecting the impartial evaluation of a candidate in viva-voce. The acceptance of the plea of the petitioners in this regard will also run contrary to the authoritative pronouncement of this Court in **Ashok Kumar Yadav and Others v. State of Haryana (1985) 4 SCC 417**. As the written examination assesses knowledge and intellectual abilities of a candidate, the interview is aimed at assessing their overall intellectual and personal qualities which are imperative to hold a judicial post. Any measure which fosters bias in the minds of the interviewers, therefore, must be done away with.”

27. Subsequently, in the case of **Harkirat Singh Ghuman** (supra), which is a case arising out of selections for direct recruitment for Punjab Superior Judge Service/Haryana Judicial Service same position was yet again reiterated by Hon’ble the Supreme Court while holding as under:-

“28. So far as the marks of the written examination not being supplied to the appellant under the Right to Information Act, 2005 by communication dated 6th January, 2020, are concerned, this position has been settled by a catena of judgments of this Court that as long as the process is not complete, the marks of the written examination are not to be uploaded or made available to the candidates and if it is being permitted, that will not be in the interest of the applicants. The disclosure of the marks in the main examination before it is finalised and the viva voce is conducted, would be against the

principles of transparency, rather it will invite criticism of bias or favouritism.

29. To clarify further, in such cases, where the written examination is followed with viva voce, declaration of result of the written examination before conducting viva voce may not be valid and justified but in cases where determination of merit is based on written examination, it must be declared and made available to candidates without any loss of time and this Court can take a judicial notice of the fact that in such cases where the written examination is followed with interview/viva voce and the members in the interview board are made aware of the marks secured by the candidates in the written examination that may likely to form bias affecting the impartial evaluation of the candidates in viva voce and in our considered view, it may always be avoided.”

28. At the time of final arguments, learned counsel for the petitioners argued that in view of judgments of Hon’ble the Supreme Court in **Pranav Verma’s** case (supra) and **Harkirat Singh Ghuman’s** case (supra) even if there be no insistence on revealing the marks of candidates, re-checking of the papers i.e. revaluation should be carried out at request of the candidate immediately after declaration of result of the main written examination and before conducting interview/viva voce.

29. Though attractive at first flush, we do not find any merit in this argument on deeper consideration. This is so for the reason that pristine sanctity of the selection process indeed has to be maintained in order to rule out any kind of bias. As per the written statement and arguments addressed by learned counsel for respondent No. 3, all necessary steps are taken to maintain complete secrecy right from the beginning uptill declaration of the final results. Practice and procedure as followed in the process as described

is that immediately after conduct of written examination, roll numbers and serial numbers of attempted answer sheets are concealed by folding, stappling and applying adhesive tape under orders of the authorities. Thereafter, answer sheets are jumbled and packets of 25/50 answer sheets each are made under the surveillance of CCTV cameras. Answer sheets are then kept in iron trunks, duly sealed and shifted to the venue decided for evaluation thereof under tight security. Evaluators are called generally from other regions of the country. Answer sheets are kept and maintained in sealed iron trunks and in case, re-checking is to be permitted prior to the viva voce, there is likelihood of candidates alleging favouritism as well, therefore, requirement of maintenance of complete secrecy demands that uptill declaration of the final result, answer sheets are not opened. Furthermore, as stated in the reply by respondent No. 3, the Recruitment Committee reserves its right to rectify any error found at any subsequent stage and that if at an appropriate stage request for re-checking is made by any candidate, needful would be done and if it is found that candidate was in the zone of consideration, necessary steps would be taken. Therefore, in order to maintain purity, impartiality and sanctity of the selection process, we do not find any basis for directing respondent No. 3 to carry out the process of re-checking at the stage before conduct of viva voce even without disclosure of marks obtained by the candidates, as was later suggested by learned counsel for the petitioners. It bears reiteration at this stage that petitioners do not seek mere re-totalling/re-checking but revaluation of their papers and preferably by a third Examiner. Apart from the fact that revaluation is not permissible and neither provided for in the

Rules, we also do not find any ground or justification for directing re-checking or re-totalling of the marks at the stage as sought by the petitioners.

30. No other argument was addressed.

31. Keeping in view the facts and circumstances as above, in our considered opinion, there is no ground whatsoever which calls for interference by this Court.

32. Accordingly, this writ petition is dismissed.

(LISA GILL)
JUDGE

September 28, 2023
rts

(RITU TAGORE)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No