

CWP-31227-2018

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

**CWP-31227-2018 (O & M)
Date of decision: 08.02.2023**

Renu Rani

...Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. B.S.Rathee, Advocate for
Mr. Raj Kapoor Malik, Advocate,
for the petitioner.

Ms. Tanushree Gupta, DAG Haryana.

HARNARESH SINGH GILL, J. (ORAL)

The present petition has been filed for issuance of a writ in the nature of certiorari to quash the inaction of the respondents for not allowing the petitioner to participate in the selection process for the post of Post Graduate Teacher (PGT) English.

Learned counsel for the petitioner contends that in pursuance of the advertisement dated 28.06.2015, the petitioner had applied for the aforesaid post in the General Category; that the petitioner participated in the written examination conducted on 27.03.2016; that on 13.11.2018, the petitioner also appeared before the Commission for scrutiny of documents, including experience certificate, and that the last candidate called for interview, vide notice dated 04.12.2018 (Annexure P-5), had secured 98 marks in the written examination whereas the petitioner had secured 94 marks in the aforesaid category.

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Vide order dated 10.12.2018 passed by a Coordinate Bench, the petitioner was allowed to be interviewed provisionally, but her result was to be kept in a sealed cover.

Learned counsel for the petitioner further contends that the petitioner despite having eight years experience, has not been awarded any mark for the same and had the same been looked into, she would have secured more marks than the last candidate called for the interview. Learned counsel further submits that marks of experience ought to have been added to the written marks secured by the petitioner.

On the other hand, learned State counsel submits that in the written examination, the petitioner bearing Roll No.28502189 had scratched/smudged the answers to question Nos.8, 58, 59 and 61 on the OMR sheet and accordingly, her OMR sheet had not been evaluated in view of the terms and conditions of the admit card/instructions. As such, candidature of the petitioner had been rejected. In support of her contentions, learned State counsel relies upon the judgment rendered by a Division Bench of this Court in Reman Kumari Vs. Haryana Staff Selection Commission 2022 (1) PLR 210.

I have heard the learned counsel for the parties.

There were specific guidelines provided to the candidates to adopt the manner in which the answer-sheet had to be marked and similarly, they were cautioned not to scratch/smudge the OMR sheet.

The issue involved in the present writ petition is no longer res integra. It is the bounden duty of the Court to ensure that the controversy once settled by an authoritative judgment should not be

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reopened unless there are extraordinary reasons for doing so.

A Division Bench of this Court in Anshu Vs. State of Haryana, 2018 (2) SCT 66, held as under:

“It is evident that the specific guidelines were provided to the candidates to adopt the manner in which answers were to be marked and similarly they were cautioned not to use fluid or scratch the OMR sheet, but in complete violation of the instructions the answer books were found to be smudged with double marking and even erasing fluid was used as also tampering with the nail/blade.

Having done so the appellants cannot claim any prejudice if strict action has been taken by cancellation of their OMR sheets altogether. Such guidelines are issued as OMR sheets have to be evaluated by a computer which may not respond appropriately in view of abrasions and tampering. The learned Single Judge has rightly discarded the plea of the appellants in the impugned order and we, finding no infirmity therein, would also decline interference, particularly when it is expected of the candidates to be conscious of the guidelines and instructions issued by the examiner in the selection process which has to be thoroughly respected.”

It is also pertinent to mention here that Special Leave to Appeal (Civil) No.8430-2017 as filed to assail the judgment passed in Anshu's case (supra), was also dismissed by the Hon'ble Supreme Court on 27.03.2017.

A Division Bench of this Court in Reman Kumari's case (supra), while relying upon the observations made in Anshu's case (supra), held as under:

“5. *Before advertng to the matter in hand, it is noted that Letters Patent Appeal (LPA) is an appeal by the petitioner against the decision of a Single Judge to another Bench of the same Court. It is an intra-court appeal in High Court. The scope of the LPA is limited to the extent whether the judgment under appeal is permissible in law and is in consonance with the settled canons of law. Reference in this regard can gainfully be made to the judgment of the Hon'ble Supreme Court in Management of Narendra and Company Vs Workmen 216 (3) SCC 340, wherein it has been held that unless the Appellate Bench reaches to a conclusion that the finding of the learned Single Bench is perverse, it shall not disturb the same and there should be no interference with the order passed by the learned Single Judge merely because another view or a better view is possible.*

6. *The learned Single Judge, while personally looking into the OMR answer sheet of the appellant, found that it has been scratched in violation of the instructions (Annexure P-2), cautioning the candidates appearing in the said written examination that in case their OMR answer-sheets were found to be smudged, damaged or scratched by using eraser, nail, blade, white fluid/whitener etc., the same would be liable to be rejected/cancelled. Such a situation has been dealt with by the Single Bench of this Court in Anshu and others vs. State of Haryana and others,. 2018(2) SCT 66, wherein it has been observed that in such an eventuality, the OMR Answer-Sheet would be liable to be rejected for evaluation and the candidature would stand cancelled. Letter Patent Appeal No.92 of 2017, preferred against the said judgment of Learned Single Judge, was dismissed on 20.01.2017 and the Special Leave to Appeal (Civil) No.8430 of 2017 as filed to assail the judgment passed in*

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the said LPA, had also been dismissed by the Apex Court on 27.03.2017. It being so, it is explicit that the OMR Answer-sheet of the petitioner has rightly been rejected for its evaluation. Moreover, the learned Single Judge has rightly observed that the instant petition is sans any merit and therefore, it deserves dismissal.”

In view of the law laid down in the aforesaid judgments (supra), this Court does not find any merit in the present petition.

Dismissed.

08.02.2023

parveen kumar

**(HARNARESH SINGH GILL)
JUDGE**

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No