



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr. No.237

CWP No.424 of 2023 (O&M)
Date of Decision: 22.08.2024

Bharti

.... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Rajesh Lamba, Advocate for the petitioner.

Mr. Harish Rathi, Sr. DAG, Haryana.

Mr. Vicky Chauhan, Advocate for
Mr. Deepak Balyan, Advocate for respondent no.2.

Mr. Amit Kumar, Advocate for
Dr. Neha Awasthi, Advocate for respondent no.3.

TRIBHUVAN DAHIYA, J. (ORAL)

The petition has been filed seeking a direction to the respondents to give additional marks to the petitioner in Haryana Teachers Eligibility Test (HTET) 2022, for question no.97 of Question Paper Set-D on the ground that the answer to this question given by her was correct, and declare her successful in the test on that basis which will make her eligible to apply for the post of Post Graduate Teacher (PGT), in response to advertisement 31 and 32 of 2022, published on 20.11.2022.

2. The petitioner appeared in HTET-2022 for Level 3-PGT (Fine Arts) on 03.12.2022. Cut-off marks for clearing the test were ninety, and she could not clear the same as her score was eighty-nine. Final result of the test was declared on 19.12.2022. Thereafter, the instant petition was filed disputing the answer to question no.97 in Set-D, contending that it was



key published by the second respondent/Board, option (ii) was the correct answer. As per literature on the subject, the Board's answer is wrong.

Question no.97 is as follows:

The Standing Bodhistava of Ghandhara Style in collection of:

- (i) Victoria and Albert Museum, London
- (ii) Boston Museum, USA
- (iii) Indian Art Museum, Kolkata
- (iv) National Museum, New Delhi

On that basis, it is claimed in case she is awarded marks for her correct answer to this question, she would be able to clear the test, and entitled to be considered for the post in question as well.

3. Learned counsel for the petitioner has contended that the answer to question no.97, as given in the answer key released by the Board is factually incorrect. The petitioner has given the correct answer which is substantiated by the 'Budha, Buddhism and Buddhist Art' a booklet published by the National Museum, New Delhi, Annexure P-8. There was no justification for the Board in not considering option (iv) as the correct answer, since the fact stands established by this booklet.

4. *Per contra*, learned State counsel contends that the petition itself is not maintainable as it has been filed by concealing material facts. HTET was held on 03.12.2022; the petitioner appeared for Level-3 (PGT Fine Arts) but could not qualify the same. The Board uploaded draft answer keys of all levels, including Level-3, on its website on 04.12.2022, inviting objections/complaints regarding the answers with full facts and supporting documents through online mode by 5.00 p.m. on 07.12.2022. Wide publicity was given to the notice, and it was published in local newspapers as well. About 549 complaints regarding answer key of Level-3 (PGT) were received, which included complaint against question no.97 also. The petitioner did not submit any complaint in response to the notice. All the



objections/complaints were placed before a committee of subject experts, consisting of Heads of Departments, Professors, Associate and Assistant Professors working in universities/colleges in the State of Haryana. After analysing the objections, wherever required, necessary corrections were made in the draft answer key based upon recommendations of the expert committee, and final answer key was notified. The result was declared on 19.12.2022.

4.1. Thereafter, some more complaints were received by the Board regarding different questions from other candidates, which included complaints against question no.97 in Set-D as well. This time also the petitioner did not complain. The Board decided to get a review of the disputed questions second time by the standing committee of subject experts. After considering the objections, the experts did not find any error in the answer key, and the final key uploaded by the Board was found to be correct. As per the final result, the petitioner, however, could not clear the test as she could secure eighty-nine marks against cut-off marks of ninety. It has also been mentioned in the written statement that based on the recommendations of experts committee, benefit of marks for other questions was given to the candidates, and the petitioner also got benefit of five marks in the process for questions no.26, 47, 88,102 and 139.

5. Heard.

6. It is undisputed fact on record that the petitioner did not object to answer key of question no.97, Question Paper Set-D, in response to the Board's notice inviting objections against draft answer key prior to finalising the result. Even thereafter, she failed to raise any objection, like other candidates did, whose complaints were again considered by the Board and placed before the standing committee. Based upon the findings of the

experts' committee, additional marks were given to the candidates, including



the petitioner. After availing the benefit and final result having been declared, she has filed the instant petition, that too without disclosing all these material facts. Accordingly, the petitioner is guilty of suppressing material facts from this Court in invoking extraordinary jurisdiction which renders the petition not maintainable. Besides, she is estopped from filing the petition after availing benefit of additional marks with respect to questions no.26, 47, 88, 102 and 139, and failing to raise any objection with regard to question no.97 despite public notices by the Board for the purpose.

7. Still further, all objections raised by the candidates regarding question no.97 in Set-D, had been examined by the subject experts twice, but no discrepancy could be found and the answer key was declared correct. There are no *mala fides* alleged in the process. As a matter of principle, the unbiased opinion of subject experts should be given due respect. Accordingly, it would not be appropriate for this Court to examine correctness of the answer, so as to substitute its own opinion with that of the experts.

8. Law to this effect is well settled, and a reference can be made to the Supreme Court judgment in *Himachal Pradesh Public Service Commission v. Mukesh Thakur and another*, (2010) 6 SCC 759; relevant paragraph whereof reads as under:

20. In view of the above, it was not permissible for the High Court to examine the question papers and answer sheets itself, particularly, when the Commission had assessed the inter se merit of the candidates. If there was a discrepancy in framing the question or evaluation of the answer, it could be for all the candidates appearing for the examination and not for Respondent 1 only. It is a matter of chance that the High Court was examining the answer sheets relating to Law. Had it been



other subjects like Physics, Chemistry and Mathematics, we are unable to understand as to whether such a course could have been adopted by the High Court. Therefore, we are of the considered opinion that such a course was not permissible to the High Court.

9. Accordingly, finding no merit in the petition, it stands dismissed.
10. Pending miscellaneous application(s), if any, stand(s) disposed of as having been rendered infructuous.

(TRIBHUVAN DAHIYA)
JUDGE

22.08.2024
Maninder

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