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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Reserved on 05.09.2024
Pronounced on:26.09.2024

1. LPA-727-2023 (O & M)
KIRAN BALA AND OTHERS ...APPELLANTS

VERSUS

STATE OF PUNJAB AND ORS ...RESPONDENTS

2. LPA-765-2023 (O & M)
AMANDEEP KAUR AND OTHERS ...APPELLANTS

VERSUS

STATE OF PUNJAB AND ORS ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr.D.S. Patwalia, Senior Advocate with
Mr. Bikramjit Singh, Advocate for the appellant(s) in
LPA-727-2023.

Mr. Vikas Chatrath, Advocate for the appellant(s) in
LPA-765-2023.

Mr. M.K. Dogra, Advocate for respondent No.4 in
LPA-727-2023.

Mr. Maninder Singh, Sr. DAG, Punjab.

SUDEEPTI SHARMA, J.

1. Since facts of both the appeals are same and the dispute in both
the appeals is with respect to the selection process relating to advertisement

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dated 08.01.2022 of Masters/Mistress cadre posts for different subjects, therefore, we shall decide both the appeals vide this common judgment.

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2. The challenge in the present appeal is to the judgment dated 22.05.2023 passed by the learned Single Judge in CWP-11164-2023 titled as **‘Ramandeep Singh and others versus State of Punjab and others’**.

3. The appellants in the writ petition challenged a notice/order dated 08.05.2023 vide which their selection and appointment on the post of Masters/Mistress in different subjects in pursuance to advertisement dated 08.01.2022 was cancelled. Further prayer in the writ petition was for quashing the revised answer key dated 28.04.2023, the revised result dated 07.04.2023, 28.04.2023 and order dated 15.03.2023.

BRIEF FACTS OF THE CASE

4. The brief facts of the case are that:-

(i) Advertisement dated 08.01.2022 was issued for recruitment of Masters/Mistress cadre posts for different subjects. As per clause III of the advertisement, the recruitment was to be made on the basis of written test.

(ii) The appellants applied for the recruitment to the post of Master/Mistress in subjects of Punjabi, Math, Science and Social Studies.

(iii) The answer key was uploaded seeking objections by the respondents.

(iv) Most of the petitioners along with other persons gave objections to the original answer key and the respondents considered the objections and on the basis of recommendations uploaded revised answer key of different subjects on different dates between 04.10.2022 to 18.11.2022.

(v) On 16.12.2022 provisional select list was issued for the subject of



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(vi) On the basis of revised final answer key, notices were issued for document verification and candidates were called on different dates starting from 06.10.2022.

(vii) On 29.10.2022, CWP-24855-2022 titled as **Buta Singh versus State of Punjab and others** was filed before this Court challenging the revised answer key with respect to the expert opinion and impugning certain questions and for re-looking into the answer key as uploaded by the respondents on the basis of which the final select list was issued.

(viii) The appellants herein were not made party in the said writ petition. On 05.01.2023 appointment letters were issued to all the appellants. On 19.01.2023, all the writ petitions involving the same issue as in CWP-24855-2022 titled as **Buta Singh versus State of Punjab and others** were tagged together being connected matters.

(ix) On 27.01.2023, the Senior Assistant from the Education Department made a statement that answers are going to be rechecked from another expert. However, he did not disclose the said expert and this Court directed the Principal Secretary, Department of Education to examine the matter and file an affidavit.

(x) On 06.02.2023, the learned Advocate General, Punjab made a statement before this Court that the revised answer key has been referred to Guru Nanak Dev University, Amritsar for their independent opinion.

(xi) On 15.02.2023, the writ petitions were disposed of after examining the report of Special Expert from Guru Nanak Dev University, Amritsar in a sealed cover and the State was directed to take decision in accordance with law within a period of 3 weeks from the date of passing of the order dated

15.02.2023. However, none of the appellants were party in the writ petitions



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as referred to above i.e. CWP-24855-2022 and connected matters. Further by 15.02.2023, appointment letters were already issued to all the petitioners which was never disclosed to this Court by the respondent-department at any point of time.

(xii) On 07.04.2023, fresh merit list was issued for all the subjects.

(xiii) On 28.04.2023, revised answer key was issued. The expert report vide which all the earlier merit lists were revised and on the basis of which the fresh merit list as well as the revised answer key were issued were never made public nor the appellants were ever associated with the said report. Since the appointment letters were already issued to the appellants, vide notice dated 08.05.2023, therefore, the respondents cancelled the appointment letters issued to all of the appellants and other persons without issuance of show cause notice or prior intimation. On the same day, fresh appointment letters were issued to other candidates who passed as per the revised merit list.

(xiv) On 16.05.2023, the appellants immediately approached this Court by filing **CWP-10643-2023**, titled as '**Ramandeep Singh and others versus State of Punjab and Others**', seeking the quashing of the notice/order dated 08.05.2023, the revised answer key dated 28.04.2023, and the revised result dated 07.04.2023. They also sought to quash the letter dated 09.05.2023, through which the medical examination of the candidates was being arranged, and requested that they be given an opportunity to file their objections after being heard. On 17.05.2023, the respondents for the first time brought the orders of Principal Secretary to Government of Punjab, Department of School Education before this Court dated 15.03.2023 vide

which the appointments of the appellants were cancelled. The writ petition

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was withdrawn by the appellants with liberty to file a fresh one challenging the said order dated 15.03.2023.

5. Speaking orders dated 15.03.2023 were passed in case of all the appellants. It was admitted by the respondents in the speaking order that the first revised answer key after taking into consideration the objections was uploaded on 26.10.2022 and selection list was sent by the Education Recruitment Directorate to the DPI (SE) on 16.12.2022. The appointment letters were issued to the appellants on 05.01.2023, 07.01.2023 and 08.01.2023. It is an admitted fact in the speaking order that despite redressal of the objections through proper procedure, some candidates still opted to file the writ petitions with regard to certain questions of Mathematics subject as per Question Paper Booklet Series 'C'. During the course of hearing, all the writ petitions on the statement made by the learned Advocate General, Punjab, on 02.02.2023 to examine the matter personally, were adjourned.

6. Second committee was constituted for re-examining certain disputed questions and sent to Guru Nanak Dev University vide letter dated 04.02.2023 and their report was submitted. However, no action was taken on the said report and the respondents again requested all experts of NIELT and GNDU to again come to the conclusion since opinion of one set of experts over rides the second set of experts. Accordingly, the third set of independent expert from Punjabi University, Patiala, was called to work out the final answer key and a meeting was held on 06.03.2023. The said report was not made public.

7. The Principal Secretary arrived at the conclusion that the result of all the candidates needs to be revised again. Accordingly, it was directed

to re-revise and in the concluding paragraph stated that notices will be issued



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for cancellation of selected candidates, who do not make their place after the revision of result of their appointment letter. No notices were issued to the appellants.

8. Appellants immediately approached this Court by filing CWP-11164-2023 titled as '**Ramandeep Singh and others versus State of Punjab and others**', which was listed on 22.05.2023 and was dismissed in limini.

9. Learned Single Judge dismissed the writ petition filed by the appellants on the ground that scope of judicial review in such matters is extremely narrow. Hence, the present letters patent appeal.

SUBMISSIONS OF THE COUNSEL FOR THE PARTIES

10. Learned counsel for the appellants contended that learned Single Judge has erred on fact and law by dismissing the writ petition filed by the appellants stating limited judicial review, however, entertaining on the same issue in the earlier round of writ petitions including CWP No.24855 of 2022 titled as "**Buta Singh Vs. State of Punjab and others**".

He further contended that no reasoning has been given by the Education Department as to why the First Subject Expert report on the basis of which the appellants were appointed was made redundant and again and again multiple experts were called, all giving different reports with different answer keys.

He further contended that once an expert gave a report and the appellants were appointed, the matter should have ended and could not be reopened.

He further contended that there was no direction issued by this

Court directing the re-revision of the merit list or constituting any further



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expert committee. Rather the State itself gave its own concession that they are re-looking into the entire issue and would send it to experts again for opinion.

He further contended that at no stage prior to the cancellation of the appointment of the appellants appointments, whether before the learned Single Judge or by the respondents, were the appellants/appointed candidates involved or made a party.

11. Per contra, learned counsel for the respondents argued on the lines of the reply filed by them, by stating therein that number of writ petitions were filed by the aggrieved candidates challenging the answer keys and in its decision dated 15.02.2023 in CWP No.24855 of 2022 titled as **"Buta Singh Vs. State of Punjab and others"** and other connected writs, this Court directed the Principal Secretary, Department of Education, Punjab to consider the expert committee report and take an appropriate decision in accordance with law. He further contended that in compliance of the order dated 15.02.2023 of this Court, speaking order dated 15.03.2023 was passed.

12. We have heard learned counsel for the parties and perused the whole record of this case which was called by this Court vide order dated 05.09.2024.

13. In CWP-11164-2023 titled as **'Ramandeep Singh and others versus State of Punjab and others'** filed by the appellants/petitioners whereby the petitioners challenged the speaking order passed by the respondents dated 15.03.2023, learned Single Judge dismissed the writ petition vide order dated 22.05.2023.

14. A perusal of the record shows that advertisement was issued on

08.01.2022. After written examination, notices were uploaded by the



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respondents seeking objections to the answer key. After considering the objections and on the basis of recommendation of experts, revised answer key of different subject on different dates were uploaded. On the basis of revised final answer key, notices were issued to the candidates for document verification and they were called on different dates. Provisional select list was issued on 16.12.2022. CWP No.24855 of 2022 titled as "**Buta Singh Vs. State of Punjab and others**" was filed on 29.10.2022 challenging the revised answer key with respect to the expert opinions and impugning therein certain questions and for re-looking into the answer key as uploaded by the respondents on the basis of which final select list was issued.

It is further observed by this Court that in CWP No.24855 of 2022 titled as "**Buta Singh Vs. State of Punjab and others**" and other connected petitions, the appellants were never impleaded as party since they were necessary party being in the provisional select list.

A perusal of the record shows that in CWP No.24855 of 2022 titled as "**Buta Singh Vs. State of Punjab and others**", the petitioner therein had prayed for issuance of direction to respondent No.2 to consider the case of the petitioner therein for further recruitment process, since the petitioner therein had not been considered for scrutiny of documents as he had secured one mark less than the last candidate called for scrutiny of documents. Therefore, he prayed that the result be revised in the wake of wrong answer key.

15. Sixteen other writ petitions were filed challenging the different questions. Vide order dated 02.02.2023 in the above referred to writ petitions, the learned Advocate General, Punjab, prayed for an adjournment

to personally examine the matter and discuss with the competent authority.



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A perusal of the speaking order shows that in view of the order dated 02.02.2023, D.O. No.3996 dated 02.02.2023 was sent by the office of Deputy Advocate General, Punjab to the department, whereby it was informed that learned Single Judge had adjourned the bunch of cases for 06.02.2023 with the observation that the disputed questions in the writ petitions shall be sent for re-examination and the result was to be submitted before the learned Single Judge on 06.02.2023.

16. In view of the D.O. letter sent by the Advocate General Office, which was never the direction of the learned Single Judge of this Court, the department entrusted the work for re-examining the disputed questions in all the writ petitions which were connected with CWP No.24855 of 2022 titled as "**Buta Singh Vs. State of Punjab and others**" and after re-examination of the disputed questions in all the writ petitions by the experts, report was submitted before the learned Single Judge in a sealed cover on 15.02.2023 and after perusing the same, the learned Single Judge passed the following order:-

*"1. By this order, 37 Civil Writ Petitions
(details whereof are given at the foot of the judgment)
shall stand disposed of.*

*2. In continuation of the previous orders
passed on the earlier dates of hearing, an additional
affidavit of the Assistant Director, Education Recruitment
Directorate, Department of School Education, Mohali,
on behalf of respondent no.1 and 2 (in CWP-24047-
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experts from Guru Nanak Dev University in a sealed cover, which on the directions of the Court, has been opened by the Court Master. The report has been examined and answers to as many as 85 questions of the five different streams have been examined by the subject experts while giving the report. As per the report, necessary steps are required to be taken by the competent authority.

3. Sh.Sunil Kumar Nehra, Advocate has entered appearance on behalf of respondent no.4 (in CWP-24855-2022) and filed his reply, which is taken on record.

4. Let the report submitted by the expert committee be considered by the Principal Secretary, Department of Education, Punjab and thereafter, an appropriate decision, in accordance with law, be taken, within a period of three weeks, from today, positively.

5. Report of the experts, in original, has been returned to the learned State counsel, while placing a photocopy of the same on the record. Learned State counsel has assured the Court that the necessary steps in this regard shall be taken within a period of three weeks, from today.

6. With these observations, the writ petitions are disposed of.



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7. *All the pending miscellaneous applications, if any, are also disposed of.*"

17. The bunch of writ petitions were disposed of as mentioned above by the learned Single Judge with the direction to the Principal Secretary, Department of Education, Punjab to consider the report submitted by the Expert Committee in accordance with law. It would be appropriate to mention here that the appointment letters were issued to the appellants on 05.01.2023. Neither the appellants were impleaded as party in CWP No.24855 of 2022 titled as **"Buta Singh Vs. State of Punjab and others"** and other connected matters nor it was brought to the notice of learned Single Judge that the appointment letters were already issued to the appellants on 05.01.2023. When the petitioners challenged the speaking order, learned Single Judge, dismissed the same on the ground that scope of judicial review in such matters is extremely narrow. Whereas when CWP No.24855 of 2022 titled as **"Buta Singh Vs. State of Punjab and others"** were filed challenging the wrong answer key, the learned Single Judge entertained the same. On the basis of wrong information given by the office of learned Advocate General, Punjab, that the learned Single Judge had adjourned the bunch of cases with the observation that the disputed questions in the writ petitions shall be sent for re-examination and the result will be submitted before the learned Single Judge on 06.02.2023 the expert committee was constituted and the report was submitted before learned Single Judge.

18. Learned Single Judge did not even appreciate that the appellants were never impleaded as party in CWP No.24855 of 2022 titled

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petitions. They were in the provisional select list dated 16.12.2022 and the writ petitions were filed on 29.10.2022 and the appellants were appointed on 05.01.2023, learned Single Judge has dismissed the writ petition without appreciating any factual position as mentioned above.

19. Now coming to the speaking order dated 15.03.2023 which is vague and unreasonable and is passed without application of mind. There is no justification of rejecting the first expert committee report, according to which the revised answer key was uploaded on 26.10.2022 and select list was sent on 16.12.2022. The only reasoning given for re-examination of the disputed questions by the experts is D.O. letter dated 02.02.2023 sent from the Office of Advocate General, Punjab to the Department by stating therein that learned Single Judge had directed that the disputed questions be sent for re-examination of the expert committee and the result be placed, whereas there is no such direction by learned Single Judge of this Court. Further in the speaking order, the details of questions have been discussed and it has been stated therein that the subsequent to the revision of result, a public notice shall be published in the newspapers along with the uploading of the revised result on the website of the Department. Candidates selected based on the revised results may be considered for appointment, while those who, after the revision, no longer qualify for selection, despite having received appointment letters, would be issued notices for the cancellation of their appointment letters. The speaking order is totally against the law since appointments given to the candidates could not be cancelled by passing speaking order, since there is no such condition in the appointment letters which were issued to the appellants. Further the factum of issuance of

appointment letters dated 05.01.2023 to the appellants was never brought to



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the notice of the learned Single Judge at any point of time during the pendency of CWP No.24855 of 2022 titled as "**Buta Singh Vs. State of Punjab and others**" and other connected matters. The appointment letters were issued to the appellants in January, 2023 and they had undergone medical examination as well and without giving them opportunity of being heard, their appointment letters have been cancelled in a clandestine manner. This is an error apparent on face of record and the action of the respondents in cancelling their appointment letters without any reasoning is illegal and against the law. The respondents passed the speaking order with respect to the recruitment by way of advertisement dated 08.01.2022, which was finalized in the first round by following the procedure by calling of objections and after constituting an expert Committee, as per the final report of the expert committee, uploading the answer key and the result.

20. A perusal of the record shows that there is no explanation with regard to the cancellation of the first revised merit list which was prepared after calling of objections and as per the decision of the expert committee, the answer key was uploaded and after the declaration of the revised merit list, the appointment letters were issued. Rather the record shows that it is on the basis of D.O. sent by the Office of Advocate General because of which one after the other 3 expert committees were constituted and that too without any explanation.

21. Learned Single Judge has relied upon the two judgments of the Hon'ble Supreme Court i.e. **Ran Vijay Singh and others versus State of Uttar Pradesh and others, (2018) 2 Supreme Court cases 357** and **Vikesh Kumar Gupta and another versus State of Rajasthan and others, (2021)**

2 Supreme Court cases 309 while dismissing the writ petition filed by the



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appellants but without appreciating the fact that the writ petition filed by the appellants challenging the speaking order is the result of interference of this Court in the first expert committee report, as a result of which, the appellants were appointed. If the revision of the result and the re-examination by the expert committee is allowed by the Courts then there would be no end to the litigation as well as opinion given by the expert committee. In the speaking order, there is not even a single reasoning regarding finding any fault in the very first expert committee report in view of which the appellants were given appointment letters.

22. It is because of the transparency in the recruitment process that the answer key is uploaded these days and objections are called for and the specific date is given by which the objections are to be submitted and thereafter the committee of the experts is constituted and the final answer key is uploaded and the result as per the same is declared. If the disputed questions are entertained every time then it would be an endless process and no recruitment would be finalized.

23. In **Ran Vijay Singh and others versus State of Uttar Pradesh and others**, (2018) 2 Supreme Court cases 357, the Hon'ble Supreme Court has held 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



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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 re-evaluation 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.

31. On our part we may add that sympathy or compassion does not play any role in the matter of directing or not directing re-evaluation of an answer sheet. If an error is committed by the examination authority, the complete body of candidates suffers. The entire examination process does not deserve to be derailed only because some candidates are disappointed or dissatisfied or perceive some injustice having been caused to them by an erroneous question or an erroneous answer. All candidates suffer equally, though some might



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suffer more but that cannot be helped since mathematical precision is not always possible. This Court has shown one way out of an impasse – exclude the suspect or offending question.

32. It is rather unfortunate that despite several decisions of this Court, some of which have been discussed above, there is interference by the Courts in the result of examinations. This places the examination authorities in an unenviable position where they are under scrutiny and not the candidates. Additionally, a massive and sometimes prolonged examination exercise concludes with an air of uncertainty. While there is no doubt that candidates put in a tremendous effort in preparing for an examination, it must not be forgotten that even the examination authorities put in equally great efforts to successfully conduct an examination. The enormity of the task might reveal some lapse at a later stage, but the Court must consider the internal checks and balances put in place by the examination authorities before interfering with the efforts put in by the candidates who have successfully participated in the examination and the examination authorities. The present appeals are a classic example of the consequence of such interference where there is no finality to the result of the examinations even after a lapse of eight years. Apart from the



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examination authorities even the candidates are left wondering about the certainty or otherwise of the result of the examination – whether they have passed or not; whether their result will be approved or disapproved by the Court; whether they will get admission in a college or University or not; and whether they will get recruited or not. This unsatisfactory situation does not work to anybody's advantage and such a state of uncertainty results in confusion being worse confounded. The overall and larger impact of all this is that public interest suffers.”

24. In Vikesh Kumar Gupta and another versus State of Rajasthan and others, (2021) 2 Supreme Court cases 309, the Hon'ble Supreme Court held as under:-

“17. A perusal of the above judgments would make it clear that courts should be very slow in interfering with expert opinion in academic matters. In any event, assessment of the questions by the courts itself to arrive at correct answers is not permissible. The delay in finalization of appointments to public posts is mainly caused due to pendency of cases challenging selections pending in courts for a long period of time. The cascading effect of delay in appointments is the continuance of those appointed on temporary basis and their claims for regularization. The other consequence



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resulting from delayed appointments to public posts is the serious damage caused to administration due to lack of sufficient personnel.”

25. In view of the above referred to two judgments of the Hon’ble Supreme Court, the learned Single Judge could not interfere in the very first selection list which was uploaded after taking into consideration the objections to the answer key raised by the candidates. Further the objections were dealt with by the expert committees. By directing the respondents to re-examine the answer keys by another experts at the first instance when CWP No.24855 of 2022 titled as **"Buta Singh Vs. State of Punjab and others"** was filed, was an error on the part of the learned Single Judge. Due to this one after the other, three expert committees were constituted which is against the law laid down by the Hon’ble Supreme Court in the above referred to two judgments, wherein, it has been specifically held that there must be finality to the result of public examination and litigation cannot go for years.

26. CWP-11164-2023 titled as **‘Ramandeep Singh and others versus State of Punjab and others’** was filed by the appellants challenging the speaking order dated 08.05.2023 vide which the services of the appellants were terminated. There is no reference or whisper regarding the speaking order and without even considering the same, learned Single Judge has dismissed the writ petition filed by the appellants only on the ground that the scope of judicial review in such matters is extremely narrow. Rather a perusal of the record shows that the speaking order is the result of interference of the learned Single Judge in CWP No.24855 of 2022 titled as



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"**Buta Singh Vs. State of Punjab and others**" and other connected matters, which was filed after the declaration of the revised merit list as per the decision of expert committee on the objections called for, by the department as per the advertisement dated 08.01.2022 of the present recruitment.

CONCLUSION:

27. The speaking orders dated 08.05.2023 and 15.03.2023 and speaking orders in case of all the appellants are without application of mind and without considering the law laid down by the Hon'ble Supreme Court as referred to above. Further, the appointments issued to the candidates cannot be cancelled by passing the speaking orders when there is no fault of the candidates, that too without giving them opportunity of hearing. Further there is no valid justification of constituting 3 expert committees one after the other. Firstly, injustice has been caused to the appellants by not impleading them as a party in CWP-24855-2022 titled as **Buta Singh versus State of Punjab and others** and other connected matters.

Secondly, when the learned Single Judge was hearing the writ petitions, which though as per the judgments of Hon'ble Supreme Court referred to above, the learned Single Judge could not interfere since the scope of judicial review is narrow in such kind of cases, the appointment letters were already issued to the appellants.

Thirdly, the respondents did not bring to the notice of learned Single Judge regarding issuance of appointment letters to the appellants when final directions in CWP-24855-2022 titled as **Buta Singh versus State of Punjab and others** and other connected matters were issued by the learned Single Judge on 15.02.2023.



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Therefore, the speaking orders impugned in the writ petition are bad in the eyes of law and are hereby set aside.

28. This Court while issuing notice of motion in the present LPA clarified that if the appointments are already made, the same shall be subject to the final outcome of the present appeal.

29. In view of the above, the present appeal is allowed and the judgment dated 22.05.2023 passed by the learned Single Judge as well as the speaking orders dated 08.05.2023 and 15.03.2023 passed by the authorities below are set aside.

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30. The challenge in the present appeal is to the judgment dated 11.05.2023 passed by the learned Single Judge vide which the writ petition i.e. CWP-10296-2023 titled as '**Amandeep Kaur and others versus State of Punjab and others**' filed by the appellants was dismissed.

31. The appellants in the writ petition prayed for quashing of the revised result dated 23.03.2023 and directing respondent No.2 to re-conduct the examination for 534 posts of Punjabi Masters/Mistress pursuant to advertisement dated 08.01.2022, since major discrepancies in question papers and answer key on various occasions are at variance.

SUBMISSION OF THE COUNSELS FOR THE PARTIES

32. Learned counsel for the appellants contended that facts and well settled legal principles have not been appreciated in the right perspective by the learned Single Judge.

He further contended that there were major discrepancies in numerous question papers and answer key on various occasions. Therefore,

he prays that the present appeal be allowed and the revised result dated



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23.03.2023 be quashed and the State be directed to re-conduct the examination or to re-examine the answer key.

33. Per contra, learned State counsel contended that the learned Single Judge has rightly dismissed the writ petition filed by the appellants by taking into consideration each and every fact of the recruitment.

34. We have heard learned counsel for the parties and perused the whole record of this case.

35. Relevant portion of the judgment dated 11.05.2023 passed by the learned Single Judge is reproduced as under:-

“1. Once again a dispute with regard to the correctness of the revised answer key has been assailed. Initially, pursuant to the recruitment examination, a provisional answer key was uploaded, while inviting the objections from the candidates who participated in the said test. The candidates filed their objections which were referred to the National Institute of Electronics and Information Technology. After the examination of the objections, a revised answer key was uploaded, which led to the filing of the various writ petitions after noticing that the aforesaid institute has been assigned the work of holding the competitive examination. Hence, on the intervention of the Court, the State Government agreed to refer the matter to the subject matter experts. Thereafter, the writ petitions filed were disposed of on 15.02.2023 with the following order:-



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“1. By this order, 37 Civil Writ Petitions (details whereof are given at the foot of the judgment) shall stand disposed of.

2. In continuation of the previous orders passed on the earlier dates of hearing, an additional affidavit of the Assistant Director, Education Recruitment Directorate, Department of School Education, Mohali, on behalf of respondent no.1 and 2 (in CWP-24047-2022) has been filed alongwith report of the subject experts from Guru Nanak Dev University in a sealed cover, which on the directions of the Court, has been opened by the Court Master. The report has been examined and answers to as many as 85 questions of the five different streams have been examined by the subject experts while giving the report. As per the report, necessary steps are required to be taken by the competent authority.

3. Sh.Sunil Kumar Nehra, Advocate has entered appearance on behalf of respondent no.4 (in CWP-24855-2022) and filed his reply, which is taken on record.

4. Let the report submitted by the expert committee be considered by the Principal



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Secretary, Department of Education, Punjab and thereafter, an appropriate decision, in accordance with law, be taken, within a period of three weeks, from today, positively.

5. Report of the experts, in original, has been returned to the learned State counsel, while placing a photocopy of the same on the record. Learned State counsel has assured the Court that the necessary steps in this regard shall be taken within a period of three weeks, from today.

6. With these observations, the writ petitions are disposed of.

7. All the pending miscellaneous applications, if any, are also disposed of.”

2. After having received information from the subject matter experts, the Principal Secretary, Education, Punjab, has once again examined the matter and prepared a revised answer key. The petitioners claim that the revised answer key is wrong and the opinion of the experts has not been accepted by the Principal Secretary.

3. Learned counsel representing the petitioner contends that the Principal Secretary was not authorized to form a different opinion than the one, suggested by the subject matter experts, without the prior leave of the Court.



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4. *In the considered view of the Court, the Principal Secretary, being a top functionary of the Department of Education while exercising the powers of the Government, is free to draw a conclusion, based upon various opinions and feedbacks received by her and there was no need to seek prior permission of the Court.*

5. *In this case, this Court in the first round has already interfered, resulting in the appointment of the subject matter experts. In such circumstances, this process cannot be permitted to be stretched endlessly. Once the information submitted by the various subject matter experts has been considered by the Principal Secretary while revising the result, this Court does not find it appropriate to interfere in the exercise of the jurisdiction under Article 226/227 of the Constitution of India. The scope of the judicial review in the cases of this nature has been laid down by the Supreme Court in *Vikesh Kumar Gupta vs. State of Rajasthan* (2021) 12 SCC 309 and *Ran Vijay Singh vs. State of Uttar Pradesh* (2018) 2 SCC 357.*

6. *In view of the aforesaid facts, no ground to issue the writ, as prayed for, is made out.*

7. *Hence, dismissed.*

8. *All the pending miscellaneous applications, if any, are also disposed of.”*

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36. A perusal of the above shows that the learned Single Judge after discussing the previous round of litigation and admitting its error by stating that this Court in first round had already interfered, resulting in the appointment of subject matter expert and further observing that under such circumstances, this process cannot be permitted to stretch endlessly, dismissed the appeal filed by the appellants.

37. We do not find any infirmity in the judgment of the learned Single Judge dated 11.05.2023 and the same is upheld. Whereas we do not agree with the decision of the learned Single Judge on the issue that Principal Secretary being a top functionary of the Department of Education while exercising the powers of the Government, is free to draw a conclusion, based upon various opinions and feedbacks received by her and there was no need to seek prior permission of the Court.

38. The Principal Secretary is not a subject expert to pick and choose out of the expert reports of different expert committees as per her choice. The Hon'ble Supreme Court has time and again observed and held that the opinion of the experts cannot be interfered by the Courts, since experts are the best judge of their subject and they are the best persons to decide regarding the questions and answers of different subjects. The Principal Secretary is not a subject expert to decide as to which report of the different subject committees is the best. It is time and again referred to in many judgments of the Hon'ble Supreme Court that the opinion of the subject expert should be given weightage and even the Courts should not interfere in the same. Therefore, the finding of the learned Single Judge with regard to the decision taken by the Principal Secretary, Department of

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matter expert is bad in eyes of law as per the law laid down by the Hon’ble Supreme Court.

39. In view of the above, the present appeal is dismissed and the judgment dated 11.05.2023 passed by the learned Single Judge except the finding given on the authority of the Principal Secretary to take different opinion than the one declared by a subject matter experts, is upheld.

40. Pending application(s), if any, stand disposed of.

(SURESHWAR THAKUR)

JUDGE

(SUDEEPTI SHARMA)

JUDGE

26.09.2024

A.Kaundal

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No