



CWP-23299-2023 & connected case 1

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(240-A)

CWP-23299-2023

Date of Decision : December 13, 2024

Nitin Garg

.. Petitioner

Versus

State of Punjab and another

.. Respondents

(240)

CWP-19894-2023

Akash Verma and others

.. Petitioners

Versus

Punjab Public Service Commission

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vikas Chatrath, Advocate, for the petitioner
in CWP-23299-2023.

Mr. Nishant Sehgal, Advocate, for
Mr. K.S. Brar, Advocate, for the petitioners
in CWP-19894-2023.

Ms. Shruti, Assistant Advocate General, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

1. By this common order, two writ petitions, the details of which have been given in the heading, are being disposed of as both the petitions involve the same question of law on similar facts.

2. In the present bunch of petitions, the grievance being raised by the petitioners is that they competed for the post of Naib Tehsildar in the Department of Revenue and Rehabilitation, Punjab as advertised by the respondents vide Advertisement dated 17.12.2020, copy of which has been appended as Annexure P-1.

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3. Learned counsel for the petitioners argues that the selection was to be made on the basis of the written examination and the written examination was held by the respondents in pursuance to the said advertisement on 18.06.2023. After the written examination, the provisional answer key of the written examination was circulated inviting objections and the petitioners filed the said objections but without dealing with the said objections, the result of the written examination was declared and the selection has been finalized, which is causing prejudice to the petitioners.

4. Learned counsel for the petitioners further argues that once the petitioners had raised objections qua number of questions, without deciding the said objections, the answer key to the written examination could not have been finalized hence, the respondents are liable to be directed to first finalize the answer key of the written examination keeping in view the objections raised by the petitioners to various answers in the answer key and thereafter revise the answer key and evaluate the written examination afresh so as to make a fresh merit list.

5. Upon notice of motion, the respondents have filed the reply wherein, the respondents have stated that after holding of the written examination, a public notice was issued on 19.06.2023 inviting objections to the proposed answer key and after receiving the objections, the same were put to the experts and after receiving the report of the expert, the answer key was finalized and on the basis of the finalized answer key, the result of the written examination has been prepared hence, it is incorrect that without finalizing the objections raised by the petitioners to the answer key,

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the selection has been made.

6. At this stage, learned counsel for the petitioners submits that nothing has come on record whether the objections raised by the petitioners to the various question were dealt by the expert committee or not and therefore, as per the order passed by the Coordinate Bench dated 28.02.2024, the respondents were directed to place on record the expert report.

7. Learned counsel for the respondents submits that the expert committee report has been brought in Court today but as the same is confidential in nature so as to keep the identity of the experts hidden, the same can only be shown to this Court.

8. I have seen the expert committee report, expert committee has dealt with the objections raised by the candidates including the petitioner and have given their report on the objection.

9. I have heard learned counsel for the parties and have gone through the record with their able assistance.

10. The jurisdiction of the Court to interfere with the report of the select committee has been finalized by the Hon'ble Supreme Court of India in ***Civil Appeal No.367 of 2017 titled as Ran Vijay Singh vs. State of U.P., decided on 11.12.2017.*** The Hon'ble Supreme Court of India has held that the Court has no jurisdiction to interfere with the expert committee report and once, the objections raised by the candidates have been put before the expert and their report has been accepted by the recruiting agency, the Court will not interfere even if there is grey area after the report of the expert committee, which benefit can only be given to the recruiting agency and not

the candidate. The relevant paragraphs 32 and 24 of the said judgment are

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as under:

“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 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.

34. Having come to the conclusion that the High Court (the learned Single Judge as well as the Division Bench) ought to have been far more circumspect in interfering and deciding

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on the correctness of the key answers, the situation today is that there is a third evaluation of the answer sheets and a third set of results is now ready for declaration. Given this scenario, the options before us are to nullify the entire re-evaluation process and depend on the result declared on 14th September, 2010 or to go by the third set of results. Cancelling the examination is not an option. Whichever option is chosen, there will be some candidates who are likely to suffer and lose their jobs while some might be entitled to consideration for employment”.

11. Further, in one of the case after the report of the Committee, this Court interfered with the report of the Committee, which matter was taken to the Hon’ble Supreme Court of India and while passing order in ***Civil Appeal No.7727 of 2019 titled as HPSC vs. State of Haryana and others, decided on 30.09.2019***, the Hon’ble Supreme Court of India passed the following order:-

“By the impugned judgment, the Division Bench has appointed the second Expert Committee for appraisal of the question papers.

Record reveals that the Appellant, Haryana Public Service Commission (for short, ‘the Commission’) undertook selection process to appoint 133 Assistant Professors of Geography (College) Cadre HES-II for which an objective type question paper was set up wherein the candidates were required to answer 100 questions. Grievance before the learned single Judge was that out of 100 questions, most of them were either ambiguous or not having correct answer keys. Such questions were brought to the notice of the Commission by raising objections. The candidates identified 46 questions as defective. The Commission based on the objections of candidates, appointed a Committee of Experts in the field for appraisal of the question papers.



The Expert Committee, on going through the question paper in detail, concluded that seven questions were either ambiguous or not having correct answer keys. Consequently, the Commission accepting the Expert Committee's report deleted those seven questions and marks and thereafter the results were declared. Thereafter, the candidates approached the learned Single Judge with a writ petition.

Learned Single Judge curiously acted himself as an expert and on going through the question paper concluded that four more questions were ambiguous and, therefore, they should also be deleted from consideration.

Then, some of the candidates approached the Division Bench and the Division Bench passed the impugned orders appointing another Expert Committee which is challenged in this petition.

If the judgment of the Division Bench is allowed to stand, there will be no finality to the selection process. There was no allegation as such against the Expert Committee which was appointed by the Commission. The Expert Committee, in its wisdom has concluded that seven questions were either ambiguous or the answer keys were not correct. Accepting the said report, the Commission has proceeded with the selection process and results were announced. Thereafter, the candidates approached the High Court. Though learned Single Judge was right in agreeing for deletion of seven questions, was not justified in acting as an expert in the field and, therefore, the learned Single Judge's order relating to deletion of four questions also cannot be accepted.

Accordingly, the judgment of the learned Single Judge as well as that of the Division Bench stand set aside.

The appeal is, accordingly, allowed. The selection process made by the Commission based on the First Expert Committee Report deleting seven questions from consideration stands confirmed. There shall be no order as to costs".

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12. Keeping in view the above, it can be safely said that once expert opinion has been given which has been relied upon by the recruiting agency, the Court will have no jurisdiction to interfere any further.

13. In the facts and circumstances of the present case, the objections raised by the petitioners to the proposed answer key have been dealt by the expert committee and have been answered, which report of the Committee has been accepted by the recruiting agency. That being so, the Court will have no power any further to examine the issue whether, the report given by the expert committee is correct or not. Even if, there is a grey area after the report of the expert committee, the same has to go in favour of the recruiting agency and not in favour of the petitioners.

14. No ground is made out for any interference by this Court in the facts and circumstances of the present case.

15. Accordingly, the writ petitions are dismissed.

16. The report of the expert committee has been re-sealed and returned to the State counsel.

17. A photocopy of this order be placed on the file of other connected case.

December 13, 2024
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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