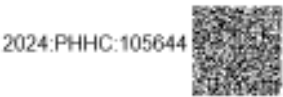


CM-12799-CWP-2024 in/and
CWP No. 27706-2023 & connected cases 1



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(112) CM-12799-CWP-2024 in/and
CWP No. 27706-2023
Date of Decision : 14.08.2024

Jashandeep Singh Sidhu ...Petitioner

Versus

State of Punjab and another ...Respondents

(112-2) CM-12884-CWP-2024 in/and
CWP-1248-2024

Ajay Kumar ...Petitioner

Versus

State of Punjab and others ...Respondents

(112-3) CM-12792-CWP-2024 in/and
CWP-950-2024

Vishal Sidana ...Petitioner

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Pankaj Garg, Advocate, for the petitioner
in CWP-27706-2023.

Mr. Puneet Sharma, Advocate, for the petitioner
in CWP-1248-2024.

Mr. Amarjot Grewal, Advocate, for the petitioner
in CWP-950-2024.

**CM-12799-CWP-2024 in/and
CWP No. 27706-2023 & connected cases 2**

2024:PHHC:105644



Mr. Amarpreet Singh Bains, Asstt. Advocate General, Punjab.

Harsimran Singh Sethi J. (Oral)

CM-12799-CWP-2024 in CWP -27706-2023

CM-12884-CWP-2024 in CWP-1248-2024

CM-12792-CWP-2024 in CWP-950-2024

Present applications have been filed for preponing the date of hearing of the main petitions i.e. CWP No. 27706 of 2023, CWP No.1248 of 2024 and CWP No.950 of 2024, which were adjourned to 04.11.2024.

Notice of the applications to the counsel opposite.

Mr. Amarpreet Singh Bains, learned Asstt. Advocate General, Punjab, who is present in Court, accepts notice on behalf of respondent-State and raises no objection for the grant of prayer as raised in the present applications.

Keeping in view the above, applications are allowed and the hearing of the main petitions i.e. CWP No. 27706 of 2023, CWP No.1248 of 2024 and CWP No.950 of 2024 is preponed from 04.11.2024 to today.

CWP -27706-2023 and connected cases

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

2. For the sake of convenience, the facts are being taken from CWP No. 27706 of 2023.

3. In the present petition, the grievance being raised by the petitioner is with regard to the expert opinion given qua Question Nos. 62



and 134 that option 'D' and 'C' respectively are the correct answer, which opinion of the expert should not be accepted as the said expert related to the field of Botany whereas, the question in dispute related to the field of Agriculture.

4. Learned counsel for the respondents submits that the due explanation has been given by the Expert for giving his opinion qua the disputed question and the petitioner cannot object to the said opinion of expert only on the ground that the Expert was working in the Department of Botany as a Professor and Head of the Department and the question related to the subject of 'Agriculture'. Learned counsel for the respondents further submits that the petitioner was allowed to undergo the selection process and it is only that after the declaration of the final result the petitioner could not get selected, the ground is being raised by the petitioner to challenge the Expert's opinion hence, the same is liable to be rejected.

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

6. It may be noticed that the jurisdiction of the Court so as to interfere with the opinion of the Subject Expert is very limited. As per the judgment of the Hon'ble Supreme Court of India in Civil Appeal No. 367 of 2017 titled as ***Ran Vijay Singh & Others Vs. State of U.P. & Others***, decided on 11.12.2017, in case a candidate has a grievance with regard to the provisional answer key, the same needs to be put up before the Experts and after the report of the Experts, no further action can be taken even by the Court and even if, there is a gray area after the report of the Expert, the



benefit of the same has to go to the selection agency and not the candidate.

The relevant paragraph No. 30 of this judgment is 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 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.”

7. Thereafter, in a similar matter, the indulgence was shown by this Court even after the report of the Expert Committee to hold that certain observations of the Expert Committee needs to be revisited. The matter was ultimately decided by the Hon’ble Supreme Court of India, wherein indulgence of the High Court so as to revisit the issue was held to be bad in **CWP No.7727 of 2019 titled as “HPSC Vs. State of Haryana and ors.”** decided on 30.09.2019. Relevant paragraph of the said judgment is as under:-



“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".

8. A bare perusal of the above reproduction would show that once the Expert Committee report has been relied and the result so declared is in accordance with the advice of the expert, this Court will not have any jurisdiction to interfere with the opinion of the experts so as to accept that the claim of the petitioners so as to revisit the objection raised to the answer key.

9. Even otherwise, recently in SLP having diary No. 30367 of 2024 titled as ***Robin Sharma Vs. Haryana Public Service Commission decided on 11.07.2024***, the Hon'ble Supreme Court of India upheld the judgment of this Court in CWP No. 9273 of 2024, decided on 10.07.2024 with the observation that once an Expert Committee's view has been accepted qua the objections raised to the answer key, no interference can be done by the courts.

10. Keeping in view the above, this Court cannot interfere with the opinion given by the Subject Experts.

**CM-12799-CWP-2024 in/and
CWP No. 27706-2023 & connected cases 7**

2024:PHHC:105644



11. With regard to the other objection taken by the petitioners in the present petitions is that the Expert was a Professor of the Subject of Botany whereas, the question related to the subject of 'Agriculture', it may be noticed that nothing has come on record that the opinion given by the Subject Expert is malafide or is contrary or he was not capable of being a Subject Expert on the issue. In the absence of any such reasons existing in the present petitions, once the Subject Expert is working as a Professor and Head of a Department and has given the due reasons for his opinion which reasons have been accepted by the Selecting Agency, the petitioners cannot raise the objection that the opinion should have been sought from another expert.

12. No ground is made out for any interference by this Court in the present petitions.

13. Dismissed.

14. Pending miscellaneous application, if any, also stands disposed of.

15. A photocopy of this order be placed on the file of connected cases.

August 14, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No