

18 17.03.2025
rkd Ct.18

W.P.A. 413 of 2025

Samiun Islam Gazi

-vs-

The State of West Bengal & Ors.

Mr. Anindya Bose,
Mr. Golam Mahiuddin

....for the petitioner.

Mr. Pratik Dhar,
Mr. Prosenjit Mukherjee,
Ms. Madhurima Sarkar

....for the Madrasah Service Commission.

Ms. Tapati Samanta,
Mr. Arindam Ghosh

....for the State.

Petitioner participated in 7th State Level Selection Test (Assistant Teacher), 2023 which was conducted by the West Bengal Madrasah Service Commission (hereinafter referred to as “Commission”) for appointment in the post of Assistant Teacher in English in Classes IX & X.

The grievance of the petitioner is in spite of giving correct answer to question Nos.30 & 67 under A series questions he was not awarded marks.

It is also submitted that primarily against question No.30 (Question Booklet A) Commission in provisional answer key indicated (C) was the

correct answer but in the final answer key (A) was notified as correct answer. Similarly, against question no.67 (Question Booklet A) in provisional answer key (B) was declared as correct answer but subsequently in the final answer key (D) was notified as correct answer.

It is submitted on behalf of the petitioner if marks were awarded following the provisional answer key petitioner should have been awarded two more marks in connection with question Nos.30 & 67 and due to publication of final answer key indicating different correct answers to aforesaid question Nos.30 & 67 petitioner has been deprived of two marks.

It is further contended that report should have been called for from another subject expert to verify the correctness of the report submitted by the subject expert before the Commission. It is also contended that in terms of reference book petitioner has answered correctly to question Nos. 30 & 67.

In this regard, reliance is placed on judgment dated 23rd August, 2024 delivered by the Hon'ble Division Bench passed on a batch of matters one of which was *West Bengal Board of Primary Education & Ors. v. Mousona Mitra & Ors..*

On the contrary, Mr. Dhar, learned senior advocate representing the Commission in reference to the report filed, has submitted that changes had to be incorporated in the final answer key based on report furnished by the subject expert. The report of the subject expert is placed before this Court in a sealed envelope for consideration of this Court.

It is also submitted that in terms of the interim order passed by this Court on 13th January, 2025 petitioner was permitted to participate in the interview.

In order to buttress the submission made on behalf of the Commission reliance is placed on the order of the Hon'ble Division Bench dated 10th March, 2025 passed on an intra Court appeal being MAT 14 of 2025 (*Monnath Hossain v. The State of West Bengal & Ors.*). Reliance is also placed on the judgments of the Hon'ble Supreme Court, reported in (2021) 2 SCC 309 (*Vikesh Kumar Gupta & Anr. v. State of Rajasthan & Ors.*) and (2018) 2 SCC 357 (*Ran Vijay Singh & Ors. v. State of Uttar Pradesh & Ors.*).

On perusal of the records, it appears that main examination under 7th SLST (AT) was held on 3rd March, 2024 and Commission published an answer key on 22nd May, 2024 on the website.

A notice dated 24th May, 2024 was published thereby inviting objections from the candidates who participated in the said selection process with regard to provisional answer key and several objections were received by the Commission through online portal expressing reservations of the candidates relating to provisional answer key.

Thereafter, Commission obtained report from the subject expert and based on the report of the subject expert final answer key of English (Classes IX & X) was published on 20th December, 2024. Since report of the subject expert is placed before this Court in sealed envelope, this Court has the occasion to consider such report wherefrom it appears that subject expert declared A is the correct answer to question No.30 and D is the correct answer to question No.67.

It is true that subject expert did not concur with the provisional answer key so far the answers to question Nos. 30 & 67 are concerned but that does not exacerbate the situation since the procedure followed by the Commission by publishing provisional key answer and thereafter final answer key was published after candidates were permitted to express their observations relating to correctness of the provisional answer

key.

On perusal of the report of the subject expert it is determined which one is the correct answer to question Nos.30 & 67 (Question Booklet A). Therefore, this Court is not required to enter into the domain of the subject expert since such issue has already been decided by the Hon'ble Supreme Court in *Vikesh Kumar Gupta* (Supra).

In paragraph 16 of *Vikesh Kumar Gupta* (Supra) it has been observed that it was not open to the Division Bench to have examined the correctness of the questions and the answer key to come to a conclusion different from that of the expert committee. In this regard, the judgment of the Hon'ble Supreme Court in *Richal v. Rajasthan Public Service Commission*, reported in (2018) 8 SCC 81 was taken into consideration. The Hon'ble Supreme Court in *Vikesh Kumar Gupta* (Supra) relied upon *Ran Vijay Singh* (supra) wherein it was decided if 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 rationalization and

only in rare or exceptional cases that a material error has been committed.

Case of the Commission has been fortified by the report of subject expert and on the contrary no case is made out on behalf of the petitioner which would demonstrate that any material error crept in while assessing the answer of the petitioner. Only effort has been made before this Court that based on reference books answer of the petitioner should be adjudged as correct but the view expressed by the subject expert is different so far answers to question Nos. 30 & 67 are concerned.

In this backdrop, the judgment of the Hon'ble Division Bench dated 23rd August, 2024 passed in *West Bengal Board of Primary Education* (Supra) does not come in aid of the petitioner since it was observed therein that the Division Bench did not find any absolute embargo in exercising the judicial review in this regard as the Hon'ble Division Bench found that the real purpose is to bring correctness in the questions and the answers as the wrong if allowed to sustain would vitally affect the academic career. Therefore, judicial conscience warranted direction upon an expert committee to submit a report.

In the present case considering the nature of questions (MCQ) and the report furnished by the subject expert which is placed before this Court today further report from another subject expert is found to be not necessary since there is no ambiguity in the report furnished by the subject expert.

Moreover, the Hon'ble Supreme Court in *Vikesh Kumar Gupta* (supra) has held that it is not open to the Court to have examined the correctness of the questions and the answer key to come to a conclusion different from the expert committee. In *Ran Vijay Singh* (supra) in paragraph 30.5 it has been held that in the event of a doubt, the benefit should go to the examination authority rather than to the candidate.

In view of aforesaid discussion, no relief can be granted to the petitioner.

The writ petition stands dismissed.

However, there shall be no order as to costs.

Report of subject expert which is placed before this Court in sealed envelope is returned to learned advocate for the Commission.

Urgent photostat certified copy of this order, if applied for, be given to the learned

Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)