

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
(Appellate Side)

Present: THE HON'BLE JUSTICE RAJARSHI BHARADWAJ

W.P.A 19197 of 2021

Reserved on : 19.09.2025
Pronounced on: 25.09.2025

Akbar Ali & Ors.

...Petitioners

-Vs-

The State of West Bengal & Ors.

... Respondents

Present:-

Mr. Samim Ahammed
Mr. Khairul Alam

...for the Petitioners

Mr. Kartick Chandra Kapas

... for the State

Mr. Pratik Dhar, Sr. Adv.
Ms. Madhurima Sarkar

... for the Madrasah Service Commission

Rajarshi Bharadwaj, J:

1. The petitioners are citizens of India residing permanently at their respective addresses as mentioned in the writ petition. Being similarly situated and similarly circumstanced, they have the locus standi to maintain the present writ application, which arises out of a common grievance relating

to the 6th State Level Selection Test (SLST), 2013 process of recruitment of Assistant Teachers in Arabic (MM) (H/PG) through the 6th State Level Selection Test, 2013 conducted by the West Bengal Madrasah Service Commission.

2. The facts in a nutshell are that an advertisement dated 30th December, 2013 was issued by the Commission declaring 121 vacancies for the aforesaid post. The petitioners, being duly qualified, applied and were issued admit cards for appearing in the written examination held on 24th August, 2014. Each of the petitioners fulfilled the prescribed educational qualifications, having successfully completed Alim, Fazil, Kamil and M.M. examinations conducted by either the West Bengal Board of Madrasah Education or Aliah University, in various years and divisions.

3. After the written test, the petitioners were called to appear for the personality test by Memo dated 28th November, 2017 and duly participated before the interview board of the Commission. However, upon publication of the result on 22nd June, 2018, the petitioners were declared as “*not selected.*” According to them, notwithstanding their fulfilling all eligibility requirements and performing satisfactorily, they were denied empanelment whereas candidates having inferior qualifications and lower marks were empanelled. At the same time, the notified vacancies for Arabic (MM) (H/PG) were not fully filled up despite the Commission having appointed candidates in other subjects.

4. Aggrieved thereby, the petitioners sought information under the Right to Information Act, 2005 regarding their written answer scripts, distribution of marks for academic qualifications, personality test scores, and the lowest marks obtained by the last empanelled and wait-listed candidates. Although the Commission disclosed certain particulars such as marks and cutoff details, the most vital information, namely, copies of their written answer scripts, was never supplied. The petitioners pursued statutory appeals under Section 19 of the RTI Act and were granted hearings on diverse dates, but the

information continued to be withheld by the Appellate Authority. The letters communicating marks were received belatedly, long after filing of the writ application, which according to the petitioners, only strengthens their apprehension of irregularities and manipulation.

5. The petitioners also state that one Abdul Latiff, similarly placed and originally declared as “*not selected*” in the same recruitment process, succeeded before this Court in W.P. No. 11706 (W) of 2019. Pursuant to Court’s order directing reconsideration, he was ultimately appointed as Assistant Teacher in Arabic. The petitioners, having been denied similar treatment, allege discriminatory conduct on the part of the Commission. They further rely on earlier writ petitions filed by themselves where this Court directed them to approach the RTI Appellate Authority. However, despite complying with such direction, they were denied any meaningful relief.

6. By way of a supplementary affidavit, the petitioners have further brought to the notice of this Court subsequent orders related to their answer scripts. It is stated that despite earlier directions, the Commission did not produce the scripts until 19th December, 2022, when this Court directed their production. By order dated 20th December, 2022, the Registrar General of this Court was directed to keep all ten answer scripts of the petitioners in a sealed cover. When the matter was listed on 2nd January, 2023, it was adjourned to March 2023.

7. The petitioners aver that upon a bare perusal of their answer scripts, it became apparent that there had been interpolation and overwriting of marks, suggesting manipulation at the evaluation stage. Such tampering, according to the petitioners, is not only illegal but has gravely prejudiced them by reducing their scores and enabling less meritorious candidates to benefit. It is prayed that the answer scripts be referred to a competent and independent authority for scrutiny so that the truth regarding these interpolations may be verified. The petitioners have also urged that any undue delay in hearing the

writ petition would cause them irreparable prejudice, since the benefit of appointment may be irretrievably lost with the passage of time.

8. Thus, the main grievance is that the West Bengal Madrasah Service Commission has acted in gross violation of the principles of transparency and non-arbitrariness by withholding the petitioners' answer scripts, declaring them as not empanelled despite their eligibility and failing to prepare or publish a full panel and wait list to fill up the notified number of vacancies.

9. The Learned counsel for the petitioners submits that the present petition is maintainable and that the conduct of the West Bengal Madrasah Service Commission is arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India. It is contended that the denial of answer scripts, even after invoking the statutory right under the RTI Act, 2005, amounts to a deliberate withholding of material information in relation to a public recruitment process. According to them, unless the answer scripts are disclosed and compared with the marks officially awarded, the petitioners cannot ascertain whether they were rightfully or wrongfully excluded from the panel. The unexplained refusal also creates a serious suspicion of manipulation of marks and undermines the transparency of the selection process.

10. The petitioners contend that once vacancies are duly notified, it is incumbent upon the Commission to fill them up in accordance with law and by preparing a panel and wait list as required under the Rules of 2010. Non-compliance with this statutory obligation renders the entire recruitment flawed. Further, since another candidate, Abdul Latiff, who was identically situated, obtained relief through judicial intervention and was appointed, the denial of similar consideration to the present petitioners results in hostile discrimination.

11. It is their specific case that they are statutorily entitled under the RTI Act to access their answer scripts, academic scores and interview marks, together with the cut-off marks for empanelled candidates. The Commission,

however, has deliberately sat tight over the matter and only communicated selective information after the filing of writ proceedings. Such unexplained delay and partial disclosure, coupled with the admitted fact that several vacancies remain unfilled, justifies judicial intervention.

12. The petitioners submit that the conduct of the Commission in failing to produce their answer scripts in time and the discovery of interpolation and overwriting in the evaluated scripts, reinforces their grievance that the recruitment process was tainted by illegality. They contend that since answer scripts form the primary material for assessing merit, any tampering vitiates the entire process. Hence, the only proper course would be to have the answer scripts scrutinized by an independent or competent authority under the supervision of this Court. Also, appointment of forensic and handwriting experts, alongside reassessment by an independent Arabic subject expert, is indispensable to unearth the truth. Judicial precedent affirms that where illegalities are manifest, this Hon'ble Court may intervene and mould relief in light of subsequent events, as held in **Munna Pandey v. State of Bihar** reported in **2023 SCC OnLine SC 1103**.

13. The learned Counsel for the petitioners further places reliance on the order of this Court dated 30th August, 2022 passed by Hon'ble Justice Abhijit Gangopadhyay, wherein upon perusal of a photocopy of one of the petitioners' answer scripts, the Court itself recorded its prima facie satisfaction that interpolation had been made, marks originally awarded as "1" were altered to "0.5" and the total marks were changed from "27.5" to "24.5". The Court observed that the writing clearly suggested overwriting inconsistent with natural evaluation. Learned counsel submits that this judicial finding fortifies their serious apprehension that the marks have been deliberately reduced to prevent their selection.

14. Mr. Dhar, learned Senior Counsel appearing for the Madrasah Service Commission submits that the writ is wholly misconceived and not maintainable and is liable to be dismissed at the threshold. At the very outset,

he submits that the question of maintainability was kept open by the order of this Hon'ble Court passed at the time of hearing. It is therefore imperative to decide this issue first.

15. It is submitted that the petitioners jointly instituted the present writ petition despite being ten unrelated candidates hailing from different districts of the State. There is no commonality in their cause of action save and except that they had all appeared for the 6th Level Selection Test (Assistant Teacher) 2013 for the subject of Arabic (MM) (H/PG). Each of them was issued individual admit cards, appeared at the written examination held on 24.08.2014 in their designated centres and upon evaluation, were declared unsuccessful. Thus, their grievances arose from distinct contexts and not from a common cause. In such circumstances, the joinder of multiple independent petitioners in one proceeding is impermissible in law and for this ground alone, the writ is unsustainable.

16. The Learned Senior Counsel further submits that the substantive reliefs originally sought in the writ petition relate to the disclosure and supply of answer scripts alongside the disclosure of marks obtained by the petitioners and thereafter for recommendations of their names for appointment if they are found qualified. It is not in dispute that pursuant to interim orders of this Hon'ble Court, copies of evaluated answer scripts have already been supplied to the petitioners. They have been made fully aware of the marks secured by them and of the reasons for their non-inclusion in the selection panel. Having received the very documents prayed for, the grievance originally projected in the writ petition does not survive any longer. The matter has been rendered infructuous. The consequential relief of recommendation for appointment does not arise since all petitioners admittedly failed to secure qualifying marks.

17. It is further contended by Mr. Dhar that the petitioners, through the medium of a supplementary affidavit, are presently seeking to expand the scope of their writ petition by alleging anomalies in evaluation. Such a recourse is wholly impermissible in law. The original writ petition did not seek

re-examination or re-evaluation of the answer scripts. It was confined purely to disclosure of marks and supply of copies. By filing a supplementary affidavit, new grounds and new prayers cannot be introduced which were absent in the original pleadings. Reliance is placed on the principle enunciated by the Hon'ble Supreme Court in **Ran Bijoy Singh & Ors. v. State of Haryana & Ors.** reported in **(2018) 2 SCC 357**, which categorically held that the process of evaluating answer scripts by examiners cannot be re-opened in writ jurisdiction, save and except where the rules expressly provide for re-evaluation.

18. Mr. Dhar submits that the answer scripts concerned were duly examined by competent subject experts appointed by the Commission, strictly following the prescribed procedure. The entire selection process in respect of the 6th SLST has long been concluded, a panel was prepared in accordance with law and its validity has expired. Subsequently, the process for the 7th SLST has begun and notifications have already been issued. Importantly, neither the West Bengal Madrasah Service Commission Act, 2008 nor the Rules framed thereunder provide for review, scrutiny or re-evaluation of answer scripts, once evaluated. Therefore, the challenge regarding evaluation is unsustainable in law. In public service recruitments, Supreme Court has consistently held that the prerogative of evaluation being entrusted to academic authorities and subject experts cannot be interfered with by writ courts unless a manifest error or procedural illegality is apparent. The present case reveals neither.

19. The Learned Senior Counsel further relies on the history of litigation pursued by these petitioners. It is brought to the notice of this Court that some of the petitioners had earlier approached this Court in W.P.A. Nos. 3508, 3511 and 3519 of 2021, which were dismissed with liberty to avail alternative efficacious remedies under law. Similar observations were made in W.P.A. No.15481 of 2021. The petitioners, however, never pursued such remedies available to them, including second appeal under section 19(3) of the Right to

Information Act, 2005 against denial of information. Despite not having exhausted the available statutory remedies and despite having been earlier granted liberty, the petitioners have again sought to re-agitate substantially the same issues by way of the present writ petition. This amounts to abuse of the process of Court and such repeated litigation ought to be disallowed.

20. With respect to allegations made in the petition, Mr. Dhar clarifies that all allegations, save those admitted as matters of record, are denied in toto. It is submitted that the petitioners were declared unsuccessful in the written examination. Accordingly, the question of recommending them for appointment as Assistant Teachers does not arise. The allegation that vacancies were deliberately left unfilled is categorically denied as false and baseless. All vacancies arising were duly processed in accordance with law, no allegation of arbitrary withholding of vacancies can be sustained.

21. Mr. Dhar draws the Court's attention to the fact that in the supplementary affidavit, only six out of the ten petitioners have attempted to question the evaluation of a few descriptive questions. Insofar as the remaining petitioners are concerned, no grounds have been put forth even in the supplementary affidavit. Therefore, in respect of them, the writ petition is liable to be dismissed, since their original prayer stands satisfied and no further grievance has been substantiated. As to the six petitioners who allege wrong evaluation, the submission remains that the evaluation was carried out by qualified subject experts, guided by model answers and duly moderated where required. Judicial scrutiny of such minute academic decisions is impermissible. It is further submitted that in **Bharat Udyog Nigam Ltd. Vs. Jesop and Co. Ltd. Staff Association** in **FMA 433 of 2003** it was held:

"At the outset, we would like to mention that the parties cannot be permitted to ravel beyond their pleadings and make a new case on the basis of supplementary affidavits."

22. It is submitted that the statutory scheme under the Madrasah Service Commission Act, 2008, does not permit re-examination or reassessment of

answer scripts once the results are declared. The evaluation process stands concluded and no statutory right survives in favour of the petitioners. The distinction between re-checking of marks to identify clerical errors and actual re-evaluation of content has been consistently drawn in judicial pronouncements. The petitioners are not alleging clerical discrepancy but are seeking reconsideration of substantive evaluation in subjective questions, which is prohibited.

23. The Learned Senior Counsel relies on settled principles from the Apex Court which consistently caution against judicial interference in academic or competitive evaluations, except in cases of manifest illegality. The Court has held that matters of academic evaluation lie within the domain of experts and not courts exercising writ jurisdiction. Unless there is proof of patent error such as miscalculation, absence of model answers or deviation from prescribed method, the integrity of evaluation remains beyond judicial reach. No such allegation is either proved or evident here. Reliance is also placed on the judgment of the Himachal Pradesh High Court in **Ashutosh Parmar v. State of Himachal Pradesh & Ors.** reported in **(2015) SCC OnLine HP 3663**, wherein, it was reiterated that mere allegations of interpolation or tampering in answer sheets cannot be entertained in absence of cogent proof.

24. Mr. Dhar emphasizes that the principal grievance of the petitioners has already been redressed through the supply of the answer scripts and disclosure of marks obtained. The life of the relevant panel has long since expired, thereby extinguishing any scope for consequential relief. The petitioners having been duly declared unsuccessful and the statutory recruitment mechanism having moved forward with subsequent selection tests, no relief now survives. When circumstances render it impossible or futile for the Court to grant effective relief, a writ petition becomes infructuous and should be dismissed on that ground alone.

25. In view of the above, Mr. Dhar submits that the grievances of the petitioners having already been redressed and their attempt to raise new

grievances being impermissible, the writ petition is wholly infructuous and not maintainable. It deserves to be dismissed, not only on the ground of maintainability but also on merits for want of any surviving issue or enforceable right. He therefore prays that this Hon'ble Court may be pleased to dismiss the writ petition accordingly, without granting any further reliefs.

26. Having heard learned counsel for the parties and upon perusal of the pleadings and materials on record, this Court finds that the original reliefs claimed in the writ petition have been fulfilled insofar as the petitioners have been furnished with their evaluated answer scripts, marks obtained therein, and other particulars sought at the inception of the proceeding. The grievance projected in the writ petition was essentially directed towards securing disclosure of information relating to performance in the 6th SLST recruitment process for the post of Assistant Teachers in Arabic and the same stands satisfied pursuant to interim directions of this Court.

27. In consequence, the substratum of the writ petition, that is, the demand for answer scripts and disclosure of marks, no longer survives. What the petitioners now seek by way of supplementary affidavit is, in effect, an enlargement of the scope of the original pleadings through allegations of interpolation and overwriting in their answer scripts and the prayer for scrutiny or re-evaluation thereof. This Court is of the view that such additional issues, not having been part of the original pleadings, cannot be entertained at this stage in a proceeding instituted for a different, limited relief. In **Sachin Kashyap and others v. Sushil Chandra Srivastava and others** reported in **(2021) 19 SCC 758**, the Apex Court reiterated that:

“The writ petition having been filed for a particular cause and with a particular prayer cannot be expanded to cover within its ambit all the issues which may be of general or public importance without there being any pleadings or prayer with regard to a particular issue. In our view, no such directions could have been issued, especially in a private litigation which was not in the nature of public interest litigation.”

28. In **Central Board of Secondary Education & anr. v. Aditya Bandopadhyay & ors.** reported in **(2011) 8 SCC 497**, the Hon'ble Supreme Court had occasion to consider the scope of relief available to examinees under the Right to Information Act, 2005. It was clarified that while an examinee may be entitled to inspection of his answer scripts subject to safeguards, the relief of re-evaluation of answer sheets is not available under the RTI Act. The Court held that where the rules of the examining body bar re-evaluation, what is permissible is only a limited verification such as checking whether all answers have been evaluated, whether totalling is correct and whether marks are correctly transferred. Absent a superior statutory right expressly enabling re-evaluation, no writ court can compel such an exercise.

29. Moreover, in **Pramod Kumar Srivastava v. Chairman, Bihar Public Service Commission**, reported in **(2004) 6 SCC 714**, it was expressly held that candidates do not have the right to demand re-evaluation of their answer sheets in absence of a specific provision in the Commission's rule the autonomy of examining bodies is preserved and judicial interference is impermissible in such cases.

30. Further, reliance must also be placed on **Central Board of Secondary Education & ors. v. Khusboo Srivastava & ors.** reported in **(2014) 14 SCC 523**, where the Hon'ble Supreme Court reaffirmed the principle that, in the absence of any provision in the relevant rules permitting re-evaluation, no such right can be claimed by examinees. The Court observed that:

"9. We find that a three-Judge Bench of this Court in Pramod Kumar Srivastava v. Bihar Public Service Commission has clearly held relying on Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupesh Kumar Sheth that in the absence of any provision for the re-evaluation of answer books in the relevant rules, no candidate in an examination has any right to claim or ask for re-evaluation of his marks. The decision in Pramod Kumar Srivastava v. Bihar Public Service Commission was followed by another three-Judge Bench of this Court in Board of Secondary Education v. Pravas Ranjan Panda in which the direction of the High Court for re-evaluation of answer books of all the examinees securing 90% or above marks was held to be

unsustainable in law because the regulations of the Board of Secondary Education, Orissa, which conducted the examination, did not make any provision for re-evaluation of answer books in the rules.”

31. Further, in **Ran Vijay Singh (supra)**, the Hon’ble Supreme Court emphatically cautioned against judicial intervention in academic evaluation and held:

“...the High Court should be extremely reluctant to order revaluation of answer scripts. Interference is permissible only when it is demonstrated very clearly, without any doubt, that there has been a taint of mala fides or tampering or is so irrational and unreasonable that no sensible body of persons would have taken that decision. Otherwise, sympathy has no role to play nor equitable considerations can justify such interference.”

32. The principles laid down in **Aditya Bandopadhyay (supra)**, **Khusboo Srivastava (supra)** and **Ran Vijay Singh (supra)** apply squarely in the present case. The petitioners’ original prayers for disclosure stand fully satisfied and their attempt to seek a broader inquiry or re-evaluation is impermissible within the writ jurisdiction. The statutory framework under the West Bengal Madrasah Service Commission Act, 2008 and the Rules framed thereunder does not provide for any re-evaluation, nor is there demonstration of mala fides or tampering established on record to the very high threshold delineated by the Apex Court.

33. Moreover, it is undisputed that the panel prepared pursuant to the 6th SLST has expired and subsequent recruitment processes have commenced. No effective consequential relief of appointment can, therefore, be granted by this Court at this stage. A writ petition which has otherwise served its purpose and where no executable relief can now follow is liable to be treated as infructuous, even if formally maintainable.

34. Accordingly, while this Court holds that the writ petition is maintainable in law, it has been rendered infructuous in view of full satisfaction of the original reliefs prayed for. The further claims sought to be projected by way of

supplementary affidavits are clearly beyond the scope of the pleadings and cannot be adjudicated in the present proceeding.

35. The writ petition is thus disposed of as infructuous, without any order as to costs.

36. Urgent Photostat certified copy of this judgment, if applied for, be given to the parties upon compliance with all requisite formalities.

(RAJARSHI BHARADWAJ, J)

Kolkata

25.09.2025

PA (BS)