

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(Sr. No. 214)

(1)

CWP-2990-2023 (O&M)
Date of Decision : 21.03.2025

Sushil Kumar and others

...Petitioners

Versus

State of Haryana and others

...Respondents

(2)

CWP-4131-2023 (O&M)

Sheesh Pal Singh and another

...Petitioners

Versus

Board of School Education, Haryana, Bhiwani

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Dushyant Rana, Advocate for the petitioners.

Mr. Jasbir Mor, Advocate for the petitioners
in CWP-4131-2023.

Mr. Naveen Singh Panwar, Deputy Advocate General, Haryana.

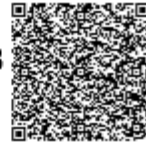
Mr. Deepak Balyan, Advocate and
Mr. Vicky Chauhan, Advocate for respondent No. 2-HBSE
in both cases.

Mr. Subhash Ahuja, Advocate
for the respondent-Panjab University.

Harsimran Singh Sethi J. (Oral)

CM-3889-CWP-2023 in CWP-2990-2023

Present application has been filed for impleading the Haryana
Staff Selection Commission, Bays No. 67-70, Sector-2, Panchkula as



respondent No.3 and Department of Elementary Education, Haryana as respondent No. 4 in the present petition.

Keeping in view the averments made in the application, which are duly supported by an affidavit, present application is allowed. The Haryana Staff Selection Commission, Bays No. 67-70, Sector-2, Panchkula and Department of Elementary Education, Haryana are allowed to be impleaded as respondents No. 3 and 4 in the present petition. The amended memo of parties attached with the present application is taken on record only for prosecuting the present litigation.

CM stands allowed.

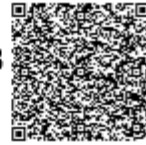
CM-930-CWP-2024 in CWP-2990-2023

As the main writ petition is listed for today, the present application seeking preponement of the date of hearing of the writ petition has become infructuous.

CWP-2990-2023 and CWP-4131-2023

1. In the present set of two petitions, the grievance being raised by the petitioners is that the petitioners competed for the Haryana Teachers Eligibility Test in the year 2022 and had appeared in the written examination but their answer sheets have not been evaluated correctly, which is causing prejudice to the petitioners.

2. Learned counsel for the petitioners submits that as the written examination was of multiple choices, a proposed answer key was published seeking the objections and the petitioners raised objections qua the question which was listed at serial no. 39 of Set-A. Learned counsel for the



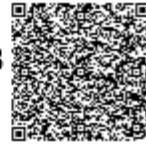
petitioners submit that the answer given in the initial answer key was incorrect and the objection was raised though, the said objection has been rejected by the experts, which is arbitrary and illegal.

3. Learned counsel for the petitioners further submits that keeping in view the fact that *prima-facie*, the claim of the petitioners was correct, Co-ordinate Bench of this Court passed an order on 18.12.2024 directing the Punjab University, Chandigarh to constitute another Expert Committee to look into the said grievance of the petitioners qua question no. 39 of Set-A though, the said opinion of the Expert Committee of the Punjab University also concurred with the answer given in the answer key by the respondents. Learned counsel submits that *prima-facie*, the report of the Expert Committee is incorrect and the respondents should constitute another Expert Committee to find out the correct answer qua the question no. 39 of Set-A.

4. Learned counsel for the respondents submits that the objections raised by the petitioners has been considered twice by the experts and both the Experts Committee have concurred with the option given in the revised answer key hence, no further Expert Committee is required to be formed and the present petition may kindly be dismissed.

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

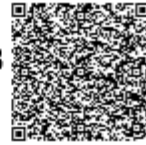
6. The only grievance of the petitioners raised in the present petitions is that the answer given in the answer key qua question no. 39 of Set-A is incorrect.



7. It may be noticed that the said grievance of the petitioners has been considered by the Expert Committee, which was constituted by the respondents in view of the objection raised by the petitioners and the Expert Committee found that the answer given in the answer key is correct and the objections being raised by the petitioners are incorrect. Keeping in view the said Expert Committee report, which was accepted by the authorities, the final answer key was published and the petitioners failed to clear the Haryana Teachers Eligibility Test.

8. Feeling aggrieved against the said action, the present petition has been filed raising the same grievance before this Court. As per the settled principle of law settled by 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 once, the objections have been considered by the Experts and respondents have accepted the opinion of the Experts, so as to finalize the answer key, the Court will have no jurisdiction to interfere with the opinion of the Experts. It has been further held that even if, there is any gray area after the recommendation of the Experts, the benefit of the same will go to the recruiting agency rather than 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."

9. Despite the said settled principle of law, an indulgence was given by the Co-ordinate Bench of this Court vide order dated 18.12.2024 so as to form another Expert Committee for the redressal of the grievance of the petitioners and direction was given to the Panjab University to look into the grievance of the petitioners and make recommendations. As per the recommendations which were placed before this Court in the sealed envelope of the Expert Committee constituted by the Panjab University, the Expert Committee has again reiterated that the answer given in the answer key is correct and the grievance of the petitioners is not correct. That being so, no further consideration can be given to the claim of the petitioners keeping in view the settled principle of law. The report of Expert Committee is re-sealed and same is given back to Mr. Subhash Ahuja, Advocate to be



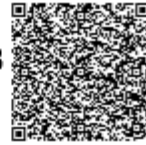
given to the concerned authority with a direction to preserve it for a period of two years.

10. Similar issue again came up for consideration before the Hon'ble Supreme Court of India in Civil Appeal No. 7727 of 2019 titled as ***H.P.S.C. Vs. State of Haryana and others***, decided on 30.09.2019, wherein it has been held that once, the Expert Committee has given the report, no further consideration can be given to the objection raised by the candidate and the same has to be finalized. The relevant paragraph of the 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.

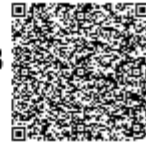
Learned Single Judge curiously acted himself as an expert and on going through the question paper concluded that four more questions were ambiguous and, therefore, they should also be deleted from consideration.

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."



11. Keeping in view the settled principle of law noticed here-in-before, the grievance of the petitioners that another Expert Committee should be formed to look into the grievance of the petitioners is not maintainable and cannot be accepted.

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.

March 21, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No