

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

109	Date of Decision: 08.01.2025
	CWP-30309-2024 (O&M)
Amit and others	...Petitioner(s)
	Versus
State of Haryana and others	...Respondent(s)
	With
	CWP-29861-2024
Arjun Singh and others	...Petitioner(s)
	Versus
State of Haryana and another	...Respondent(s)
	And
	CWP-30191-2024
Archana	...Petitioner(s)
	Versus
State of Haryana and another	...Respondent(s)
	And
	CWP-30208-2024
Chaudhary Sunita Ramkishan	...Petitioner(s)
	Versus
State of Haryana and others	...Respondent(s)
	And
	CWP-31974-2024



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Parmod Kumar and others

...Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. A.S. Nirmaan, Advocate,
Mr. Daksh Uppal, Advocate,
Mr. Ankur Sidhar, Advocate, and
Mr. Mazlish Khan, Advocate for the petitioners

Ms. Tanushree Gupta, DAG, Haryana

Mr. Kanwal Goyal, Advocate with
Ms. Sheena Dahiya, Advocate for respondent/HPSC

TRIBHUVAN DAHIYA, J. (Oral)

The aforesaid petitions are being decided together since common questions of law based on similar facts arise for consideration therein. For brevity, facts are being taken from CWP-30309-2024.

2. The petition has been filed *inter alia* seeking a writ of *certiorari* quashing the screening test/question paper, Annexure P-3, held on 13.10.2024 for the post of Post Graduate Teacher (PGT) Chemistry, and its final answer key, Annexure P-9, published on 28.10.2024. Further, writ of *mandamus* has been sought directing the fourth respondent/Director General, Anti-Corruption Bureau or any other independent agency to conduct an inquiry into the matter regarding corrupt practices adopted by the Commission in conducting the screening test.

3. Facts of the case in brief are:

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3.1. The third respondent/Haryana Public Service Commission advertised posts of PGTs in various subjects for Rest of Haryana and Mewat cadre vide advertisement 18 to 37/2024, Annexure P-1; the petitioners applied for the post of PGT Chemistry in their respective categories. As per scheme/pattern of examination notified in the advertisement, a Screening Test of hundred marks was to be conducted, and candidates four times the number of advertised posts were to be called for the next stage of selection process/Subject Knowledge Test, provided they scored minimum twenty-five per cent marks. The selection was to be made on the basis of total marks obtained by the candidates in Subject Knowledge Test and Interview/*Viva Voce* only.

3.2. In line with the scheme, the Screening Test was conducted by the Commission on 13.10.2024. Thereafter, standard question booklet and standard/provisional answer key, Annexure P-7, were uploaded on the designated web portal, inviting objections to questions/answers, if any, from the candidates on 15.10.2024. After considering the objections received, the final answer key was uploaded along with the result of Screening Test on 28.10.2024.

3.3. The petitioners could not be shortlisted for the Subject Knowledge Test as they failed to secure the minimum required twenty-five per cent marks in the Screening Test, and approached this Court by filing the instant petition(s).

4. Learned counsel for the petitioners have contended that as per the final answer key, eleven questions were deleted from the question booklet of the Screening Test without citing any reason which is palpably wrong. It has



not been explained as to how the result has been prepared. The second ground of challenge is that forty-five out of hundred questions of the Test were exactly the same as asked to the candidates in Haryana Teachers Eligibility Test (HTET)-2019 and HTET-2020, as apparent from the comparative chart and question booklets, Annexures P-4 to P-6. This points to a new trend of leaking/disclosing the questions, and demonstrates that the test has been conducted in an incompetent, corrupt and non-transparent manner to select pre-decided candidates having the knowledge of such repeated questions. Thirdly, it has been contended that before finalising the answer key, the Commission was required to seek cross-objections from the candidates in terms of law laid down by this Court in Civil Writ Petition No.8015 of 2017 titled *Ramandeep Kaur v. Council of Scientific and Industrial Research (CSIR)*, decided on 28.09.2017. It required that objections received were to be published on the website and cross-objections were to be invited within a certain time frame, as the objectors had a right to show how and why the prescribed question or answer was wrong; and those who had answered it as per the answer key, had a right to show that the prescribed question/answer was correct. It must be the duty of original paper setters to respond to the objections within the same time period. Thereafter, the objections/cross-objections and reply of the paper-setter/s to the objections should be referred to independent subject experts, before finalising the answer key. This procedure laid down in the aforementioned judgment was not followed by the Commission, which rendered the final answer key illegal.

5. *Per contra*, learned counsel for the Commission has contended that the Commission duly followed the procedure prescribed for conduct of

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the Screening Test. The standard answer key was uploaded on the designated web portal inviting objections from the candidates. The objections so received along with the documents of proof submitted by the candidates were sent to the subject experts for reviewing the same. As per experts' opinion, the answer key was finalised, and certain questions were dropped wherever recommended. Besides, there is no requirement, nor any procedure has been prescribed for inviting cross-objections from the candidates; in fact, law has been settled to the contrary. The allegations of corruption etc. are false, apart from being vague and general in nature. There is no specific allegation against anybody related to the Commission; nor any beneficiary of the alleged corruption has been named by the petitioners. The petition has been filed only because they could not clear the Test. Learned counsel has further contended that it is a matter of chance that questions in the Test were repetitions of the questions asked in HTET-2019 and HTET-2020 conducted by the Board of School Education, Haryana, which cannot be a ground to set aside the test as such, especially when no prejudice has been caused to the petitioners or any other candidate. In support of the contentions, he has relied upon a judgment rendered by the Supreme Court in Civil Appeal No.7727 of 2019 titled *Haryana Public Service Commission v. The State of Haryana and others*; the Division Bench of this Court, dated 10.08.2023, in Letters Patent Appeal No.1054 of 2023 titled *Varun Girdhar and others v. State of Haryana and others*; and a judgment, dated 10.07.2024, in Civil Writ Petition No.8510 of 2024 titled *Sukhnoor Singh v. Hayana Public Service Commission and another*.

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6. Submissions made by learned counsel for the parties have been considered.

7. The petitioners have sought quashing of the Screening Test for the post of PGTs conducted on 13.10.2024 on the ground of repetition of forty-five out of hundred questions from two separate tests, HTET-2019 and HTET-2020, conducted by the Board of School Education, and deletion of eleven questions without citing any reason. The second ground of challenge is not inviting cross-objections from the candidates before finalising the answer key of the Screening Test in violation of law laid down in *Ramandeep Kaur* case (*supra*).

7.1. It remains undisputed that the Screening Test is a qualifying exam for the candidates for the next stage of selection, that is, appearing in the Subject Knowledge Test and the marks obtained therein are not to be counted for determining the merit of selection. The candidates were required to secure minimum cut-off marks of twenty-five per cent in the Screening Test, and candidates four times the number of advertised posts were to be called for the next stage of selection from amongst such candidates. The petitioners could not reach that stage, and approached this Court by filing the instant petitions.

7.2. As per facts on record, forty-five questions which have earlier been asked to the examinees in a different test/HTET conducted by a different recruiting agency/Board of School Education about more than three years back, have been repeated in the Screening Test which has been conducted for altogether different purpose, viz., recruitment for the posts of PGTs. It is too far-fetched to contend that repetition of such old questions of a different test conducted by another agency for a separate purpose, can in itself cause any



prejudice to the candidates/petitioners or impute the sanctity of the Test. There is no specific allegation to even *prima facie* establish that any of the repeated questions was ever disclosed to any candidate by anyone in particular; nor any other circumstance has been pointed out establishing that any of the candidates had such a knowledge. The allegations, therefore, appear to be mere imagination of the petitioners which cannot form the basis of any plausible action by this Court. On being specifically asked about the prejudice caused to the petitioners, learned counsel could only submit that some of the candidates might have been aware about the repetition of questions and would have had an advantage over the petitioners while taking the Test, but could not refer to any material or circumstance to establish the allegation even *prima facie*. This sheer presumption, therefore, cannot be a ground to challenge the Test. Further, there is no *mala fide* alleged against anyone so far as conduct of the Screening Test is concerned, nor has any malpractice been alleged against anybody associated with it.

7.3. A reference in this regard can be made to the observations of the Court in *Varun Girdhar* case (*supra*) that mere repetition of questions in an examination does not render it illegal in the absence of any prejudice having been caused to the candidates, which are as under:

7. On being asked, learned counsel for the appellants have failed to point out prejudice caused to appellants except to make bald statement that possibility of success of candidates who appeared in 2022 exam had increased. The explanation furnished by appellants is not plausible because appellants have failed to bring on record any material indicating number of candidates who appeared in 2022 as well as 2023 exam, number of candidates out of them succeeded and number of questions which



have been answered by those candidates. In the absence of any material on record, it cannot be concluded that there was intention much less *malafide* of the Commission to favour candidates who appeared in 2022 exam as well as 2023 exam. In the absence of any evidence that there was *malafide* intention on the part of Commission to borrow questions from earlier exam, it cannot be concluded that action of Commission was unjustified and exam should be cancelled.

Special Leave Petition (c) No.22768 of 2023 against the judgment was dismissed by the Supreme Court vide order dated 16.10.2023.

8. So far as deletion of eleven questions from the Screening Test is concerned, that also cannot be a ground in itself to set aside the test. It remains undisputed on record that after conducting the Test, the Commission invited objections from the candidates against the provisional answer key. The same were sent to the concerned subject experts and only on the basis of their opinion the answer key was finalised; the deletion of questions was also based on their advice. Thereafter, the result of Screening Test was prepared without assigning any marks for the deleted questions. Resultantly, all the examinees have been treated at par. Merely because some of them attempted the deleted questions and their answers were correct as per the provisional answer key, this would not give them any right to object to the deletion because, firstly, correct answer to the question(s) had not been finalised by then and, secondly, in the face of experts' opinion against inclusion of those questions in the Test, a candidate had no right to claim marks against the same. It is not the petitioners' case that there is any bar on deletion of questions. Besides, there is no *mala fide* alleged against the subject experts, nor has any other document been placed on record discrediting their judgment in deciding the objections

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and/or recommending deletion of questions. In these circumstances, the Commission is within its rights to delete the questions based on the experts' opinion.

8.1. It will be beneficial to refer to observations of the Supreme Court upholding the deletion of questions in *Haryana Public Service Commission* case (*supra*), which are as under:

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.

9. The last submission of learned counsel for the petitioners to challenge the validity of Screening Test on account of failure of the Commission to invite cross-objections from the candidates, is also not sustainable in view of law laid down by the Division Bench in *Sukhnoor Singh* case (*supra*). In that case one of the grounds challenging the answer key



of preliminary examination and the result of Haryana Civil Services (Judicial Branch) Examination 2023-24 was, failure of the Commission to invite cross-objections before finalising the answer key. It was repelled by this Court by holding as under:

27. The argument that the process is vitiated due to failure to provide an opportunity of submitting cross-objections by the candidates who had given their answers as per the provisional Answer Key is also an argument devoid of any merit, hence rejected. It is pertinent to note at this stage that there is no rule, regulation or any term or condition in the advertisement which permits revaluation of the answer sheets or submission of objections/cross-objections. Hon'ble the Supreme Court in *High Court of Tripura through Registrar General Vs. Tirtha Sarthi Mukherjee and others*, 2019(2) SCT 117 has held that the right to seek a writ of mandamus is based on the existence of a legal right and a corresponding duty with the answering respondent to carry out a public duty. In the absence of any such provision, the writ Court should exercise jurisdiction only in exceptional or extraordinary circumstances. It is relevant to note at this stage that no allegation of mala fide has been pleaded or alleged against the Expert Panel or the Selection Committee. Learned counsel for the petitioners were unable to point out any exceptional or extraordinary circumstance, which calls for our interference.

9.1. In the instant case as well there is no rule, regulation or any term or condition in the advertisement which permits submission of cross-objections by the candidates. In the absence whereof, no right accrues to the petitioners to seek a direction from this Court to that effect. Besides, no illegality or unfairness as such has been pointed out in the process adopted by the Commission in finalising the result after inviting the objections and taking



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experts' opinion on the same, except that it is not as per the directions issued in *Ramandeep Kaur* case (*supra*). No doubt this Court while deciding the case pertaining to recruitment made by the CSIR issued certain directions to invite cross objections also before finalising the answer key, it would not afford any ground to term the instant Test result illegal. As in a subsequent decision on the issue in *Sukhnoor Singh* case (*supra*) the Division Bench has declined the challenge to answer key and result due to failure to invite cross-objections. The judgment remains a binding precedent after dismissal of SLP against it by the Supreme Court vide order dated 11.07.2024. Besides, not inviting the cross-objections also has not caused any prejudice to the petitioners, as they have failed to show the questions which were correctly answered by them as per the provisional answer key but were declared wrong in the final answer key; as also, the validity of such answers in the face of the experts' opinion to the contrary.

10. In view of the discussions, there is no merit in these petitions, and the same stand dismissed.

11. Pending application(s), if any, also stand(s) disposed of as having been rendered infructuous.

12. A photocopy of this order be placed on connected files.

(TRIBHUVAN DAHIYA)
JUDGE

08.01.2025

Payal

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No