W.P. No.7418/2015

30.6.2016

Shri Akash Sharma, learned counsel for the petitioner.

Shri Milind Phadke, learned counsel for the respondent No.1.

Shri V.P. Khare, learned counsel for the respondent No.2.

Heard finally with consent.

This writ petition has been filed by the petitioner aggrieved with the result of the preliminary examination of Civil Services Examination, 2013.

The case of the petitioner is that in the first paper of Set-A in which the petitioner had appeared, the correct answer to Question No.2 is 'b' and Question No.97 is 'c' and, therefore, the petitioner should have been granted marks on these two questions and declared qualified in the preliminary examination.

A reply has been filed by the respondent-PSC disclosing that the model answers were referred to the expert committee and the expert committee had examined the model answers and had submitted the report. Thereafter the notice dated 12.6.2015 was issued. As per the respondent No.2, the expert committee had found that the correct answer of Question No.2 is 'c' and Question No.97 is 'd'. Since the petitioner had given incorrect answers, therefore, the petitioner has been awarded the marks accordingly.

So far as the petitioner's contentions about the model answer given by the expert committee to be incorrect is concerned, the Division Bench has already examined in the matter and has held that the court does not sit as an appellate forum on the opinion of the experts. A Division Bench of this Court in the matter of **M.P.P.S.C, Indore v. Ku.**

Aayushi & anr in W.A. No.692/2014 and connected writ appeals, by order dated 30/09/2014 has held as under:-

> "**13. A Division Bench of this Court in the case of Ku. Radhika d/o Vinay Kumar Dubey & others v. Professional Examination Education Board, Bhopal & another [2012 (4) MPLJ 388] after considering various judgments of High Court and Supreme Court held that the Court should not interfere in matters involving academic expertise. It would not be right for the Court to sit in judgment over the decision of the University relating to the academic question because it is not a matter on which the Court possesses any expertise. It is wise and safe for the Courts to leave the decision of academic matters to experts who are more familiar with the problems they face than the Courts generally are.**
>
> **14. The Supreme Court in the case of Maharashtra State Board of Secondary and Higher Secondary Education and another v. Paritosh Bhupesh Kumar Sheth and others [AIR 1984 SC 1543] was pleased to observe in paragraphs 27 and 29 as observed thus:**
>
> > **"27. Further, it is in the public interest that the result of public examinations when published should have some finality attached to them. If inspection, verification in the presence of the candidates and revaluation are to be allowed as of right, it may lead to gross and indefinite uncertainty, particularly in regard to the relative ranking etc. of the candidates, besides leading to utter confusion on account of the enormity of the labour and time involved in the process.**
> >
> > **29. Far from advancing public interest and fair play to the other candidates in general, any such interpretation of the legal position would be wholly defeasive of the same. As has been repeatedly pointed out by this Court, the Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual dayto-day working of educational institutions and the departments controlling them. It will be wholly wrong for the Court to make a pedantic and purely idealistic approach to the problems of this nature, isolated from the actual realities and grass-root problems involved in the working of the system and unmindful of the consequences which would emanate if a purely idealistic view as opposed to a pragmatic one were to be propounded. It is equally important that the court should also, as far as possible, avoid any decision or interpretation of a statutory provision, rule or bye-law which would bring about the result of rendering the system unworkable in practice. It is unfortunate that this principle has**

not been adequately kept in mind by the High Court, while deciding the instant case."

15. In the case of Pramod Kumar Shrivastava v. Chairman, Bihar Public Service Commission, Patna & others AIR 2004 SC 4116, it has been held by the Supreme Court that in the absence of any provision or rules for re-evaluation of answer books, no candidate would have right to seek revaluation of the answer books. In the case of Board of Secondary Education v. Pravas Ranjan Panda & another [(2004) 13 SCC 383], a three Judge Bench of the Supreme Court in paragraph 6 has observed thus:

"6.The High Court though observed that the writ petitioner who has taken the examination is hardly a competent person to assess his own merit and on that basis claim for re-evaluation of papers, but issued the aforesaid direction in order to eliminate the possibility of injustice on account of marginal variation in marks. It is an admitted position that the regulations of the Board of Secondary Education, Orissa do not make any provision for re-evaluation of answer-books of the students. The question whether in absence of any provision to that effect an examinee is entitled to ask for reevaluation of his answer-books has been examined by us in Pramod Kumar Srivastava v. Chairman, Bihar Public Service Commission (2004) 6 SCC 714 decided on 06.08.2004. It has been held therein that in absence of rules providing for reevaluation of answer-books, no such direction can be issued. It has been further held that in absence of clear rules on the subject, a direction for reevaluation of the answer-books may throw many problems and in the larger public interest such a direction must be avoided. We are, therefore, of the opinion that the impugned order of the High Court directing for re-evaluation of the answerbooks of all the examinees securing 90% or above marks is clearly unsustainable in law and must be set aside."

16. So far as the order passed by a Division Bench of this Court in Chanchal Modi v. State of MP (supra) relied upon by the respondent, the same has been stayed by the Supreme Court vide order dated 18.07.2014 in SLP No.15976-15977/2014 filed at the instance of PSC. So far as the order passed in the case of Ajay Kumar Gupta v. High Court of MP (supra), in our considered view, it is of no help to the respondent in the facts of the present case, as in this case, the PSC after the examination had already got the questions and model answers to be re-examined on the basis of representations of the candidates from a Committee of 'Senior Subject Experts' and therefore, ignoring the same, the Writ Court ordered for formation of yet another Expert Committee."

A Division Bench of this Court in another judgment dated 29/10/2015 in W.P. No.20253/2014, in the matter of Surendra Kumar Gautam v. Stae of M.P., while examining the similar grievance has held as under :

> **"We make it clear that we are not sitting over the judgment of the Experts, but only analyzing the argument advanced before us by the petitioner to test the correctness thereof regarding the exclusion of sixteen questions is arbitrary, unreasonable or without application of mind. Besides this, nothing more is required to be dealt with in this judgment."**

It is pointed out by the counsel for the respondent / M.P.P.S.C that similarly in the matter of **Dinkar Singh Tiwari v. State of M.P. & anr**., the writ petition bearing W.P. No.17673/2015, has been dismissed vide order dated 15/10/2015 and W.P. No.16796/2015 in the matter of **Rahul Dhar Badgiyan v. M.P.P.S.C** has also been dismissed by order dated 13/10/2015.

In view of the aforesaid factual and legal position I am of the considered opinion that the writ petition is devoid of merit and no relief can be granted to the petitioner. The writ petition is accordingly dismissed.

C.C. as per rules.

(Prakash Shrivastava)
Judge

trilok