

The High Court Of Madhya Pradesh**WP-2050-2020***(GYAN AGNIHOTRI AND OTHERS Vs PROFESSIONAL BOARD OF EXAMINATION)***2****Jabalpur, Dated : 31-01-2020****As Per : Vijay Kumar Shukla, J.**

Shri Anuvad Shrivastava, learned counsel for the petitioners.

Shri Rahul Diwaker, learned counsel for the respondent No.1.

Petitioners have filed the present petition under Article 226 of the Constitution of India seeking direction to the respondent/M.P. Professional Examination Board to cancel the wrong questions (out of syllabus) and to issue revised merit list of the petitioners by giving bonus marks to them in the interest of justice.

The facts, in short, are that the respondents invited applications for High School Teacher Eligibility Test, 2018. It is contended that due to several wrong questions, the examination was cancelled and re-examination was held on 29.9.2019. The petitioners appeared in the said examination and found that several questions were out of syllabus and some of the questions having multiple answers were wrong as none of the options have correct answer to the concerned questions. Petitioners further contended that their objections have not been considered. It is urged that Teacher Eligibility Test is a qualifying test without which the candidate would not be eligible for appointment as Teacher Grade-I in the School Education Department.

Per contra, learned counsel for the respondents submitted that the questions and model answers are set by a body of experts in the concerned subject. It is further submitted that after the examination, the objections are invited from the candidates and thereafter, in accordance with the mechanism prescribed under the Rules, the numbers are awarded by adopting a formula contained in Clause 2.9A and after normalization as prescribed under Clause 2.9B, the results are published. It is further submitted that the validity of the formula and normalization has already been upheld by this Court.

We have heard learned counsel for the parties and perused the record.

We are of the view that in academic matters where question papers and key answers are set by a body of experts, no interference is called for.

In the case of *Nitin Pathak vs. State of M.P. and others* 2017(4) **M.P.L.J 353**, the Full Bench of this Court has laid down following principles :-

"In exercise of power of Judicial Review, the Court should not refer the matter to court appointed expert as the courts have a very limited role particularly when no mala fides have been alleged against the experts constituted to finalize answer key. It would normally be prudent, wholesome and safe for the courts to leave the decisions to the academicians and experts.

Secondly, this Court does not and should not act as Court of Appeal in the matter of opinion of experts in academic matters as the power of judicial review is concerned, not with the decision, but with the decision making process. The Court should not under the guise of preventing the abuse of power be itself guilty of usurping power."

Further, the Apex Court in the case of *Ran Vijay Singh and others vs. State of Uttar Pradesh and others* (2018) 2 SCC 357 held that :-

"31. On our part we may add that sympathy or compassion does not play any role in the matter of directing or not directing re-evaluation of an answer sheet. If an error is committed by the examination authority, the complete body of candidates suffers. The entire examination process does not deserve to be derailed only because some candidates are disappointed or dissatisfied or perceive some injustice having been caused to them by an erroneous question or an erroneous answer. All candidates suffer equally, though some might suffer more but that cannot be helped since mathematical precision is not always possible. This Court has shown one way out of an impasse -Â“ exclude the suspect or offending question.

32. It is rather unfortunate that despite several decisions of this Court, some of which have been discussed above, there is interference by the Courts in the result of examinations. This places the examination authorities in an unenviable position where they are under scrutiny and not the candidates. Additionally, a

massive and sometimes prolonged examination exercise concludes with an air of uncertainty. While there is no doubt that candidates put in a tremendous effort in preparing for an examination, it must not be forgotten that even the examination authorities put in equally great efforts to successfully conduct an examination. The enormity of the task might reveal some lapse at a later stage, but the Court must consider the internal checks and balances put in place by the examination authorities before interfering with the efforts put in by the candidates who have successfully participated in the examination and the examination authorities. The present appeals are a classic example of the consequence of such interference where there is no finality to the result of the examinations even after a lapse of eight years. Apart from the examination authorities even the candidates are left wondering about the certainty or otherwise of the result of the examination - whether they have passed or not; whether their result will be approved or disapproved by the Court; whether they will get admission in a college or University or not; and whether they will get recruited or not. This unsatisfactory situation does not work to anybody's advantage and such a state of uncertainty results in confusion being worse confounded. The overall and larger impact of all this is that public interest suffers."

In view of the aforesaid, we do not find any case for interference under Article 226 of the Constitution of India.

Accordingly, the writ petition is dismissed. No order as to costs.

(AJAY KUMAR MITTAL)
CHIEF JUSTICE

(VIJAY KUMAR SHUKLA)
JUDGE

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