

**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**Writ Petition (S) No. 7779 of 2023**

**Order Reserved On : 20.03.2024**

**Order Pronounced On : 31.05.2024**

- Srishti Sharma D/o Narendra Sharma, Aged About 30 Years R/o Near Atmanand English Medium School, Chakarbhata Camp, Tehsil Bilaspur, District Bilaspur (C.G.)

**---- Petitioner**

**Versus**

1. State of Chhattisgarh Through Its Secretary, Women and Child Development Department, Indravati Bhavan, Mantralaya, Atal Nagar, Naya Raipur, District Raipur (C.G.)
2. Director, Directorate of Women and Child Development Department, Raipur, District Raipur (C.G.)
3. Chhattisgarh Professional Examination Board Raipur, Through Its Secretary, Pension Bada Raipur, District Raipur (C.G.)

**----Respondents**

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For Petitioner	: Ms. Srishti Sharma in person
For State	: Mr. Suyashdhar Badgaiya, Dy. Govt. Adv.
For Respondent No. 3	: Mr. Yogendra Pandey, Advocate on behalf of Mr. Animesh Tiwari, Advocate.

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**Hon'ble Shri Justice Narendra Kumar Vyas**

**CAV ORDER**

1. The respondent No. 2 has issued an advertisement on 05.07.2023 for appointment of 440 posts of Supervisor in Women and Child Development Department which is Class-III Executive Post in the pay scale of Rs. 5200-20200 (Grade Pay Rs. 2400). As per advertisement 220 posts were for direct recruitment which consists of 92 posts for unreserved candidates, 71 posts for Scheduled Tribes, 26 posts for

Scheduled Castes and 31 posts for Other Backward Class. The advertisement further provides 220 posts through limited direct recruitment. As per the advertisement, the examination has to be conducted by the respondent No. 3/Chhattisgarh Professional Examination Board (CGVYAPAM). The petitioner applied for appointment which is reserved for direct recruitment in unreserved candidates. The examinations were held on 27.08.2023 and the respondent No. 2 issued model answer on 12.09.2023 and also called objection on the model answer. The time period provided in the publication was 15.09.2023. The direction further provides that at the time of recording their objection, the candidate should login their profile and in the profile, the objection tab will be shown and after clicking it, it will be registered. The direction further provides that the candidate is required to prepare the documents which have to be uploaded, registration number and after putting signature in it, the soft copy should be prepared for uploading. The direction further provides that the objection sent by post or in person will not be accepted and the decision taken by the expert will be final. Thereafter, final result of combined merit list was declared on 20.09.2023 by respondent No. 3.

2. The petitioner has assailed the legality and propriety of the answer of question No. 85 in Set-B in the examination for recruitment conducted by respondent No. 3 for the post of Supervisor and also prayed for re-valuation of question No. 85 and re-determination of merit list.

3. According to the petitioner, question No. 85 of Set-B has wrongly been evaluated, therefore, it is required to be corrected. It is also the case of the petitioner that she belongs to Unreserved Category and has secured 73.969 marks, if answer No. 85 in Set-B, is correctly valued and .25 negative marks could have not been deducted in view of minus marking system, the petitioner could have secured 75.258 marks, thus her ranking in the list would have been upgraded and she would be selected in the examination.
4. The petitioner in person would submit that respondent No. 2 after holding examination, published model answer and uploaded in the website. On going through the model answer, it is revealed that answers taken by respondent No. 2 with respect to aforementioned questions are wrongly taken, therefore, the action taken on the part of respondent No. 2 is highly arbitrary. She would further submit that as per the material available with her, the answers suggested by the respondent No. 3, are illegal. She would further submit that the respondents are under obligation to notify what are the sources on the basis of which the answer was modified or changed.
5. Apart from oral submission, the petitioner in person has submitted written submission wherein she has reiterated the stand taken by her in the writ petition. She has also stated that the she has received the information under Right to Information Act on 17.10.2023 wherein it has been informed that the final answer has been published after deciding the objection by the

expert of the subject and would submit that respondent No. 3 has committed illegality and would pray for allowing the writ petition. To substantiate her submission, she has relied upon the judgment of Hon'ble High Court of Rajasthan in case of **S.B. Civil Writ Petition No. 10622/2014** titled **Ramdhan Kumawat Vs. The State of Rajasthan & Ors. dated 18.11.2014 & Hari Singh & Ors. Vs. Rajasthan Public Service Commission: S.B. Civil Writ Petition No. 12621/2009** and Hon'ble Supreme Court in case of **Richal & Ors. Vs. Rajasthan Public Service Commission [(2018) 8 SCC 81]**.

6. Learned counsel for the Professional Board/Respondent No. 3 has submitted written synopsis mainly contending that the petitioner applied for the post of Supervisor in the Open Direct Recruitment (MBS23), thereafter the admit card was issued to the petitioner in which Roll No. 13061322 was provided to her. The written examination for the aforesaid examination was held on 27.08.2023 and on 12.09.2023 the respondent No. 3 issued the Model Answers. It is submitted that after issuance of model answers the respondent No. 3 invited claims/objections from the candidates and after resolving all the objections final results were published on 20.09.2023. It is submitted that the dispute in this present petition is with regard to Question No. 85 of SET-"B". For ready reference Question No.85 is mentioned below:-

Q.85 The possible passive voice of the given statement is/are :-  
Who starts the pump?

- A) By whom was the pump started?
- B) By who was the pump started?
- C) By whom is the pump started?
- D) By who is the pump started?

The petitioner has marked Option C.

7. It is most humbly submitted that the model answer for the particular examination was published on 12.09.2023 and as per the model answer the answer for the above-mentioned question No. 85 was option "C", after publishing the model answers and as per the procedure the answering respondent called for the objections from the candidates. It has also been submitted that the respondent has placed the question before the expert committee for proper valuation and the expert committee examined the question and answer and opined that right answer of the question No. 85 will be option A, therefore final answer key of the question was published by the respondent on 20.09.2023. The respondents have also annexed the decision taken by the expert of the subject along with the written submission.
8. He would further submit that the experts of the subject have evaluated the answer thereafter they have issued the model answer and accordingly the answer-sheet has been examined. He would further submit that the procedure adopted by them is fair, transparent and applicable to all the candidates uniformly. He would further submit that this Court's power to interfere in the academic matter is very limited, in view of law laid down by

Hon'ble the Supreme Court in various judgments. Thus, he would pray for dismissal of the writ petition. To substantiate his submission, learned counsel for the respondent No. 3 would refer to the judgment of Hon'ble Supreme Court in the cases of **Ran Vijay Singh Vs. State of Uttar Pradesh (2018) 2 SCC 357, Uttar Pradesh Public Service Commission & Anr. Vs. Rahul Singh & Anr. (2018) 7 SCC 254 and Umang Gauraha vs. State of Chhattisgarh & Ors decided on 10.12.2020 in Writ Appeal No. 165 of 2020** and has also placed reliance upon the decision passed by this Court in case **Tarun Kumar Vs. State of Chhattisgarh [WPS No. 5365/2023, decided on 28.11.2023]** and **Kajal Banjare Vs. State of Chhattisgarh [WPS No. 4317/2020, decided on 02.01.2023]**.

9. Learned counsel for the State would submit that Hon'ble the Supreme Court time and again has held that the Courts cannot take upon themselves the task of verifying answers in an examination under the exercise of Judicial Review. It is most humbly submitted that the petitioner cannot call upon this Hon'ble Court to take upon the role of experts in the field of expert of the subject, conduct an inquiry by exercising the powers of Judicial Review and would pray for dismissal of the writ petition.
10. I have heard learned counsel for the parties and perused the documents placed on record with utmost satisfaction.
11. It is not in dispute that the Professional Board has constituted the expert committee which has analyzed each and every answer

and thereafter they have assessed the question and issued model answer and only thereafter the marks were allotted. It is also not in dispute that the similar treatment has been given to all the candidates. Thus, considering the well settled principle of law that scope of judicial review under Article 226 of the Constitution of India in matters concerning evaluation of candidates, particularly for the purpose of recruitment to public service is narrow and also considering that in absence of any provisions for revaluation of answer-sheets judicial review should be exercised only under exceptional circumstances. The petitioner is unable to point out that it is an exceptional case where this Court can exercise power of review. Hon'ble the Supreme Court in case of **Bihar Staff Selection Commission and others Vs. Arun Kumar & others reported in (2020) 6 SCC 362**, wherein it has been held at paragraph 23 to 25 as under:-

“23. This court reiterates that the scope of judicial review under Article 226 in matters concerning evaluation of candidates-particularly, for purpose of recruitment to public services is narrow. The previous decisions of the court 3; Maharashtra State Board of Secondary and Higher Secondary Education and Another v. Paritosh Bhupeshkumar Sheth & Ors (1984) 4 SCC 27; Pramod Kumar Srivastava v. Chairman, Bihar Public Service Commission, Patna & Ors. (2004) 6 SCC 714; Board of Secondary Education v. Pravas have constantly underscored that in the absence of any provision for re- evaluation of answer sheets, judicial review should be rarely exercised - preferably under exceptional circumstances. A three judge Bench of this court, in Pramod Kumar Srivastava (supra) held as follows:

"7.....Under the relevant rules of the Commission, there is no provision wherein a candidate may be entitled to ask for re-evaluation of his answer-book. There is a provision for scrutiny only wherein the answer-books are seen for the purpose of checking whether all the answers given by a candidate have been examined and whether there has been any mistake in the totalling of marks of each question and noting them correctly

on the first cover page of the answer-book. There is no dispute that after scrutiny no mistake was found in the marks awarded to the appellant in the General Science paper. In the absence of any provision for re-evaluation of answer-books in the relevant rules, no candidate in an examination has got any right whatsoever to claim or ask for re- evaluation of his marks."

24. In *Khushboo Shrivastava* (supra) too, a similar view was echoed:

"9. We find that a three-Judge Bench of this Court in *Pramod Kumar Srivastava v. Chairman, Bihar Public Service Commission, Patna and Ors.* (supra) has clearly held relying on *Maharashtra State Board of Secondary and Higher Secondary Education and Anr. v. Paritosh Bhupeshkumar Sheth and Ors.* (supra) that in the absence of any provision for the re-evaluation of answers 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. Chairman, Bihar Public Service Commission, Patna and Ors.* (supra) was followed by another three-Judge Bench of this Court in *Board of Secondary Education v. Pravas Ranjan Panda and Anr.* (2004) 13 SCC 383 in which the direction of the High Court for re-evaluation of answers 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 *Ranjan Panda* (2004) 13 SCC 383; *Himachal Pradesh Public Service Commission v. Mukesh Thakur & Anr* (2010) 6 SCC 759; *Gangadhara Palo v. Revenue Divisional Officer & Anr.* (2011) 4 SCC 602; *Central Board of Secondary Education Through Secretary, All India Pre-Medical/Pre-Dental Entrance Examination & Ors. v. Khushboo Shrivastava & Ors* (2014) 14 SCC 523 and *Ran Vijay Singh & Ors. v. State of Uttar Pradesh & Ors* (2018) 2 SCC 357 conducted the examination, did not make any provision for re- evaluation of answers books in the rules.

10. In the present case, the bye-laws of the All India Pre-Medical/Pre-Dental Entrance Examination, 2007 conducted by the CBSE did not provide for re-examination or re-evaluation of answers sheets. Hence, the Appellants could not have allowed such re- examination or re-evaluation on the representation of the Respondent No. 1 and accordingly rejected the representation of the Respondent No. 1 for re-examination/re-evaluation of her answer sheets. The Respondent No. 1, however, approached the High Court and the learned Single Judge of the High Court directed production of answer sheets on the Respondent No. 1 depositing a sum of Rs. 25,000/- and when the answer sheets were produced, the learned Single Judge himself compared the answers of the Respondent No. 1 with the model answers produced by the CBSE and awarded two marks for answers given by the Respondent No. 1 in the Chemistry and Botany, but declined to grant any relief to the Respondent No. 1. When Respondent No. 1 filed the LPA before the Division Bench of the High Court, the Division Bench also examined the two answers of the Respondent No. 1 in Chemistry and Botany and agreed with the findings of the



learned Single Judge that the Respondent No. 1 deserved two additional marks for the two answers.

11. In our considered opinion, neither the learned Single Judge nor the Division Bench of the High Court could have substituted his/its own views for that of the examiners and awarded two additional marks to the Respondent No. 1 for the two answers in exercise of powers of judicial review under Article 226 of the Constitution as these are purely academic matters. This Court in Maharashtra State Board of Secondary and Higher Secondary Education and Anr. v. Paritosh Bhupeshkumar Sheth and Ors. (supra) has observed:

29... 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 day-to-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.

12. We, therefore, allow the appeal, set aside the impugned judgment of the learned Single Judge and the Division Bench of the High Court and dismiss the writ petition. There shall be no order as to costs. We are informed that the first Respondent was admitted to the MBBS Course subsequently. If so, her admission in the MBBS Course will not be affected."

25. The decision in Ran Vijay Singh (supra f.n.2), after a review of all previous decisions, held as follows:

"30. The law on the subject is therefore, quite clear and we only propose to highlight a few significant conclusions. They are:

30.1. 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;

30.2. 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;

30.3. 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;

30.4. 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.

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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."

12. Again Hon'ble the Supreme Court in case of **Dr. B.R. Ambedkar University, Agra Vs. Devarsh Nath Gupta and Others** reported in 2023 SCC OnLine SC 970, has held at paragraph 16 to 19 as under:-

"16. As regards the question of re-evaluation, the principles enunciated by this Court could be usefully recapitulated as follows:

17. In the case of Mukesh Thakur (supra) this Court observed and held as under:—

"24. The issue of revaluation of answer book is no more res integra. This issue was considered at length by this Court in Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupeshkumar Sheth [(1984) 4 SCC 27 : AIR 1984 SC 1543], wherein this Court rejected the contention that in the absence of the provision for revaluation, a direction to this effect can be issued by the Court. The Court further held that even the policy decision incorporated in the

Rules/Regulations not providing for rechecking/verification/revaluation cannot be challenged unless there are grounds to show that the policy itself is in violation of some statutory provision. The Court held as under : (SCC pp. 39-40 & 42, paras 14 & 16) “14. ... It is exclusively within the province of the legislature and its delegate to determine, as a matter of policy, how the provisions of the statute can best be implemented and what measures, substantive as well as procedural would have to be incorporated in the rules or regulations for the efficacious achievement of the objects and purposes of the Act. ...

16. ... The Court cannot sit in judgment over the wisdom of the policy evolved by the legislature and the subordinate regulation- making body. It may be a wise policy which will fully effectuate the purpose of the enactment or it may be lacking in effectiveness and hence calling for revision and improvement. But any drawbacks in the policy incorporated in a rule or regulation will not render it ultra vires and the Court cannot strike it down on the ground that, in its opinion, it is not a wise or prudent policy, but is even a foolish one, and that it will not really serve to effectuate the purposes of the Act.”

25. This view has been approved and relied upon and reiterated by this Court in Pramod Kumar Srivastava v. Bihar Public Service Commission [(2004) 6 SCC 714 : 2004 SCC (L&S) 883 : AIR 2004 SC 4116] observing as under : (SCC pp. 717-18, para 7)

“7. ... Under the relevant rules of the Commission, there is no provision wherein a candidate may be entitled to ask for revaluation of his answer book. There is a provision for scrutiny only wherein the answer books are seen for the purpose of checking whether all the answers given by a candidate have been examined and whether there has been any mistake in the totalling of marks of each question and noting them correctly on the first cover page of the answer book. There is no dispute that after scrutiny no mistake was found in the marks awarded to the appellant in the General Science paper. In the absence of any provision for revaluation of answer books in the relevant rules, no candidate in an examination has got any right whatsoever to claim or ask for revaluation of his marks.”

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26. Thus, the law on the subject emerges to the effect that in the absence of any provision under the statute or statutory rules/regulations, the Court should not generally direct revaluation.”

(emphasis supplied)

18. Further, in the case of *Ran Vijay Singh* (supra), this Court has observed and held as under:—

“30. The law on the subject is therefore, quite clear and we only propose to highlight a few significant conclusions. They are:

30.1. 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;

30.2. 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;

30.3. The court should not at all re-evaluate or scrutinise the answer sheets of a candidate—it has no expertise in the matter and academic matters are best left to academics;

30.4. The court should presume the correctness of the key answers and proceed on that assumption; and

30.5. In the event of a doubt, the benefit should go to the examination authority rather than to the candidate.”

(emphasis supplied)

19. Recently, in the case of *Dr. NTR University of Health Sciences v. Dr. Yerra Trinadh*, 2022 SCC OnLine SC 1520, this Court has, after referring to the previous decisions, including that in the case of *Ran Vijay Singh* (supra), thoroughly disapproved the process of the Court calling for answer sheets for satisfying as to whether there was a need for re-evaluation or not and thereafter, issuing directions for re-evaluation. This Court has observed and held as under:—

“9. Applying the law laid down by this Court in the aforesaid decisions to the facts and circumstances of the case on hand, we are of the opinion that the High Court was not at all justified in calling the record of the

answer scripts and then to satisfy whether there was a need for re-evaluation or not. As reported, the High Courts are calling for the answer scripts/sheets for satisfying whether there is a need for re-evaluation or not and thereafter orders/directs re-evaluation, which is wholly impermissible. Such a practice of calling for answer scripts/answer sheets and thereafter to order re-evaluation and that too in absence of any specific provision in the relevant rules for re-evaluation and that too while exercising powers under Article 226 of the Constitution of India is disapproved.”

13. Recently the Division Bench of this Court has examined in the case of **Sarita Sangam Vs. Chancellor & Ors.** in **WA No. 105 of 2024** reported in **(2024) SCC Online CHH 1326** wherein it has been observed in para 12 which reads as under:-

“The appellant/writ petitioner cannot be a judge of her own case, whereas the subject expert had valued the answer-sheet of the appellant/writ petitioner and the subject expert had not awarded the minimum passing marks to the appellant/writ petitioner, therefore, the allegation made by the appellant/writ petitioner regarding wrong valuation of the answer-sheet is baseless, as there is no provision of revaluation in the Ph.D. examination still the answer-sheet of the appellant/writ petitioner has been re-examined wherein result remain unchanged, this Court cannot at all reevaluate or scrutinize the answer-sheet of a candidate, as it has no expertise in the matter and academic matters are best left to the academics.”

14. Reliance was placed by petitioner in person on **Richal & Ors. Vs. Rajasthan Public Service Commission [(2018) 8 SCC 81]** in the said judgment, this Court interfered with the selection process only after obtaining the opinion of an expert committee but did not enter into the correctness of the questions and answered by itself. Therefore, the said judgment is not relevant for adjudication of dispute in this case.

15. It is apparent that respondent No. 3 immediately after conducting examination has published model answer called claims and objections from the participating candidates on the model answer and thereafter the final answer was published based on the opinion of the experts and thereafter results were declared. The procedure adopted by the respondent No.3 was transparent and therefore, it cannot be said that action of the respondent No. 3 is malafide or unreasonable in any manner. The Committee constituted by respondent No. 3 has published the model answer invited objections and the model answer and objections were placed before the panel of experts and the panel of experts after considering the issue relying upon the material available with them submitted their opinion which cannot be held to be illegal, in view of limited power available with this Court with regard to interference in the field of experts.
16. The petitioner has nowhere pleaded in the writ petition that she has ever raised objection after publication of notice for calling claim/objection on 12.09.2023 and even the petitioner has nowhere pleaded that she has complied with the conditions enumerated in directions issued by the respondent No. 3 for calling claim/objection on 12.09.2023 wherein it has been specifically mentioned that the candidate has to raise objection/claim through their profile maintained by the Profession Board and no objection/*claim should be sent through post or in person. From perusal of Annexure P10* and from the postal receipt attached with the claim/objection, it is quite vivid

that it has been sent through speed post and also after the cut off date given in the direction. As such also the petition is liable to be dismissed on the count that she has neither raised the objection within stipulated time period nor has complied with the direction dated 12.09.2023 in its letter and spirit.

17. Considering the submissions made by the parties and also considering the restriction imposed by the Hon'ble Supreme Court in interference by the Courts with regard to field of expert, particularly when the answers have been evaluated by the experts of the subjects and it has been uniformly applied to every candidate and even petitioner is unable to point-out that she is subjected to discrimination while evaluating the answer-sheet by the respondent, this Court does not find any irregularity or illegality in the decision taken by the expert. As such, the writ petition *sans* merit and deserves to be and accordingly it is dismissed.

Sd/-  
**(Narendra Kumar Vyas)**  
**Judge**