

(2022) 03 MP CK 0123

In the Madhya Pradesh High Court

Case No : Writ Petition No. 26637 Of 2021????

Dr. Neetu Pal

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 23-03-2022

Acts Referred:

Citation : ??

Hon'ble Judges : Ravi Malimath, CJ;Purushaindra Kumar Kaurav, J

Bench : Division Bench

Advocate : Ashish Vishwakarma, Darshan

Final Decision : Dismissed

Judgement

Purushaindra Kumar Kaurav, J

1. The petitioner in the instant writ petition has prayed for directions to the respondents to appoint the petitioner on the post of Assistant Professor (Home Science), with a further directions to direct the respondents to explain about 18 disputed questions to the answer sheets of the subject in question.

2. The facts of the case are that on 24.01.2018, M.P. Public Service Commission (hereinafter referred to as the 'M.P. PSC' for short), issued an advertisement inviting applications for appointment on the post of Assistant Professor under various subjects. The petitioner applied for the post of Assistant Professor (Home Science). After the examination was over, the key answers were uploaded by the M.P.PSC. The objections were invited by M.P.PSC on 30.6.2018 against key answers. The petitioner allegedly made objection with regard to 18 questions. According to appellant, without considering his objection, the respondent No.2 published the select list on 04.09.2019 for the post of Assistant Professor and the name of the appellant did not find place in select list and instead it finds place in waiting list. He sought information under the RTI as to what decision was taken on his representation and in response to the same, it has been intimated that the concerned e-mail address on which the objections were invited is managed by

S.P.A. He, therefore, submitted that what would mean by S.P.A. or who manages the said e-mail, is not his concern, but in any case, his objection ought to have been decided.

3. We have perused the record and we find that the select list was published on 04.09.2019 and the instant writ petition has been filed on 01.12.2021 i.e. after about more than two years. Clause 27 & 29 of the advertisement dated 24.01.2018, deal with the issues of key answers, their scrutiny and preparation of the final result. The same are reproduced as under :-

4. On perusal of the aforesaid Scheme, it is seen that after the examination is over, the answer sheets along with proposed key answers are sent to the candidates on their registered e-mail I.D. It also provides that on the basis of model key answers, objections are invited from the candidates within seven days from the date of uploading the model key answers on the website of the M.P. PSC and against each objection, fee of Rs.100/- is prescribed. The objections so received are placed before the Expert Committee and it is on the basis of the Expert Committee opinion, the model key answers are modified and appropriate decision is taken. When this entire exercise is over, the final key answers are again uploaded on the official website of M.P. PSC and on the basis of final key answers, the valuation of the answer sheet of individual candidate is made.

5. We do not find any rule which prescribes that an individual intimation is required to be sent to any of the candidates on his or her individual objections. The process appears to have been adopted so as to maintain fairness and transparency in the examination process. The petitioner has also failed to point out as to whether he within a period of seven days, after depositing of requisite fees, has raised the objection to the M.P. PSC. The petitioner has not been able to satisfy as to which of the rules/instructions of the advertisement have not been adhered to.

6. The Full Bench of this Court in the case of Nitin Pathak Vs. State of M.P. (2017) 4 MPLJ 353 has considered the scope of interference in the Model Answer Keys. It has been held that in exercise of power of Judicial Review, the Court should not refer the matter to Court appointed expert as Courts have a very limited role particularly when no mala fides have been alleged against experts constituted to finalize answer key. It would normally be prudent, wholesome and safe for Courts to leave decisions to academicians and experts. It has also been held that the court in exercise of power of Judicial Review, if finds that sufficient material exists to return a finding that the Model Answer Key is palpably incorrect that no reasonable person would find the same to be acceptable, then the Court could direct the examining body to re-examine the answer key itself.

7. The Hon'ble Supreme Court in the matter of Ran Vijay Singh Vs. State of U.P. (2018) 2 SCC 357 in para 32 has held as under :-

"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."

8. While relying on various earlier decisions the Hon'ble Supreme Court in *Vikas Kumar Gupta and another Vs. State of Rajasthan and others* (2021) 2 SCC 309, had an occasion to consider the correctness of final key answers uploaded by the State PSC of State of Rajasthan. In para 4 of the said decision, the Hon'ble Supreme Court has noted that the High Court in the concerned case examined the correctness of the disputed questions by itself and came to a conclusion that the answers to five questions were wrong. In paragraph 14, the Hon'ble Supreme Court has observed that re-evaluation can be directed if rules permits. However, it is not permissible for the High Court to examine the question papers and answer sheets itself particularly when the Commission has assessed the inter se merits of the candidates. Courts have to show deference and consideration to the recommendations of the expert committee who have the expertise to evaluate and make recommendations. After placing reliance on various earlier decisions, the Hon'ble Supreme Court observed that it is rather unfortunate that despite several decisions of the Hon'ble Supreme Court, there is still interference by the Courts in the result of examination.

9. Another reason for which also no interference is warranted is that the select list was published on 04.09.2019 and the present writ petition has been filed on 01.12.2021 i.e. after about more than two years of unexplained delay and laches. By now much water has flown, as rights have been created, and appointments as per the select list already been made.

10. Under such circumstances, we do not find any justification to issue any directions to the respondents. Hence, the writ petition does not have any

substance and the same is, hereby, dismissed.