

(2012) 08 MP CK 0140

In the Madhya Pradesh High Court

Case No : Writ Petition No's. 6674, 6407 and 7480 of 2012

Ku. Radhika Dubey and 10 others

APPELLANT

Vs

Professional Examination Education Board, Bhopal and
another
 Vaishali Kothari Vs State of Madhya Pradesh
and 2 others
 Ku. Paragi Goyal Vs Madhya Pradesh
Professional Examination Board, Bhopal and another

RESPONDENT

Date of Decision : 14-08-2012

Acts Referred:

Citation : (2012) 4 MPLJ 388

Hon'ble Judges : Shantanu Kemkar, J;Prakash Shrivastava, J

Bench : Division Bench

Advocate : A.S. Kutumbale, with Mr. M.A. Bohara, in Writ Petition Nos. 6674, 7124 and 7663 of 2012, Mr. M.I. Khan, in Writ Petition No. 6414 of 2012, Smt. Meena Chaphekar, in Writ Petition No. 6407 of 2012, Mr. Ajay Jain, in Writ Petition No. 7480 of 2012, for the Appellant; Piyush Dubey, Learned Counsel for the Respondent No. 1, Ms. Mini Ravindran, learned Deputy Govt. Advocate for the Respondent No. 2/State in Writ Petition Nos. 6674, 6414, 7124, 7663 and 7480 of 2012, Ms. Mini Ravindran, learned Deputy Govt. Advocate for the Respondents No. 1 and 2/State Shri Piyush Dubey, Learned Counsel for the Respondent No. 3 in Writ Petition No. 6407 of 2012, for the Respondent

Final Decision : Dismissed

Judgement

Shantanu Kemkar, J.—THE petitioners are candidates who had appeared in the M. P. Pre Medical Test, 2012 [for short "the MPPMT"] examination conducted by the M. P. Professional Examination Board [for short "the Examination Board"]. In the said examination for the year 2012 for 2884 seats more than 38,000 candidates submitted on line applications. After scrutinizing the applications, the Examination Board issued the admission cards and on 11.06.2012 conducted the examination. After examination, on 12.06.2012 the Examination Board published the model answers on their website and formed the Committee of Subject Experts for examination of the questions of question paper along with the answers suggested by the paper-setter and moderator in terms of the Pre

Medical Examination Test Rules, 2012 [for short "the Rules"]. The Subject Experts so appointed examined all the questions and the objections submitted by the various persons / candidates in response to the publication of the model answers on the website. After examination, the Experts Committee recommended for cancellation of 14 questions.

2. Feeling aggrieved by the decision so taken by the Experts Committee and the result declared by the Examination Board on 20.06.2012 on the basis of such decision, the petitioners have filed these petitions seeking revival of cancelled 14 questions with a prayer to order for revaluation of the answer-sheets in the light of the modification.

3. In Writ Petition No. 6407 of 2012, apart from challenging the decision of the Experts Committee, it has been averred that the petitioner had answered more than 160 questions correctly and, therefore, was entitled for more than 160 marks but the same have not been awarded to her and inspite of a prayer being made for revaluation, it has not been ordered as yet.

4. It is the case of the petitioners that the cancellation of the 14 questions by the Experts Committee and the Examination Board is illegal as those questions and answers with options were correct, but they have wrongly been cancelled. According to the petitioner by doing so, the Examination Board has caused serious prejudice to them and by this illegal act on the part of the Examination Board, the petitioners received less marks. In support the petitioners have placed reliance on the text books and the document showing that answers to many questions which have been cancelled treating to be wrong have been treated as correct by the text books and by the other States examination body.

5. The first Respondent - Examination Board has stated that in terms of Rule 3.12 of Rules a Committee of the Subject Experts was constituted for each subject, namely, Physics, Chemistry, Botany and Zoology. For these four subjects, four Subject Experts for each subject, totaling to 16 Experts were appointed. The Subject Experts considered and decided the objections raised by the candidates in respect of their subject and made recommendation of cancellation of 14 questions. The first Respondent - Examination Board in its reply extracted the report submitted by the Subject Experts Committee giving reasons recommending cancellation of 14 questions. The Examination Board has relied upon the order passed by a Division Bench of this Court at Principal Seat Jabalpur in the case of Ankit Tiwari v/s State of M.P. and another, decided on 03.08.2012 (Writ Petition No. 11589 of 2012) and prayed for dismissal of the writ petition.

6. Heard Learned Counsel for the parties and considered the averments made in the petitions, reply, rejoinder and the annexures.

7. It has been urged on behalf of the petitioners that the action of the first Respondent - Examination Board to cancel the 14 questions which should not have been cancelled being correct has caused prejudice to the petitioners

inasmuch as the petitioners marks were reduced by such cancellation. Placing reliance on the judgment of the Supreme Court in the case of Kanpur University and Others Vs. Samir Gupta and Others, a prayer has been made to allow the writ petitions and to order for revival of the said cancelled 14 questions and to order for revaluation of the answer-sheets.

8. Replying the arguments Shri Piyush Dubey, Learned Counsel appearing for the Examination Board has contended that the matter having been set at rest by the Division Bench of this Court at Jabalpur, in the case of Ankit Tiwari v/s State of M.P. and another (Supra), the petitioners are not entitled for any relief.

9. In order to appreciate the rival contentions, it would be appropriate to extract the relevant rules. Rule 3.12 of the Rules reads thus :-

3.12 DEFECTIVE QUESTION THEIR CANCELLATION AND AWARD OF MARKS IN LIEU OF CANCELLED QUESTIONS

After the completion of examination, Board gets each question of the question paper examined by a group of subject experts along with the answer suggested by the paper-setter and moderator. If any question is found defective by these experts, the question may be cancelled due to :-

(i) wrong structuring

(ii) More than one option being correct;

(iii) None of the options being correct;

(iv) Any printing error leading to a situation where more than one answer may be correct or none of the answers may be correct.

In lieu of the cancelled question every candidate may be awarded marks in proportion to marks obtained by him/her irrespective of the fact whether the candidate has attempted such cancelled questions or not. For example if 2 questions out of total 200 questions are cancelled in a particular question paper and if each correct answer carries 01 mark then after evaluation it is found that the candidate has secured 90 marks from the remaining 198 questions considered for evaluation purpose then his/her marks for 200 question are computed as under :-

$$90 \times 200 (200-2) = 90.90 \text{ rounded off } 91.00$$

Note : All calculations shall be rounded off to two decimal places.

Rule 4.13 of the Rules, which is also relevant, is extracted as under :-

4.13. Procedure provided for question involving error, cancellation thereof and marks allotted in written. The question can be cancelled for the following reasons :-

1. The question is wrongly formulated.

2. There are more than one right answer in the the multiple choice.
3. There is no right answer in the multiple options.
4. If there is difference in the English and Hindi translation of any question in the question paper due to which different meaning implies and no correct answer could be obtained from.
5. Any other printing mistake occurred or no correct answer obtain due to that or more than one correct answer.

10. Undisputedly in accordance with the Rules, the Examination Board got the question paper examined by a group of Subject Experts [Four Experts for each subject] along with answers suggested by the paper-setter and moderator and also got examined the objections received. After the examination of the same, the Subject Experts reached to a conclusion that 14 questions needs to be cancelled. They have also assigned reasons for the same.

11. Thus, in our considered view, when an expert body has already examined the questions, it is not open for the Courts to interfere into the matter. A Division Bench of this Court at Jabalpur in the case of Ankit Tiwari v/s State of M.P. and another (Supra) has already dealt with the mater and has reached to the conclusion that in view of the law laid down by the Supreme Court in the case of Secretary, All India Pre-Medical / Pre-Dental Examination, C.B.S.E. & others v/s Khushboo Shrivastava & others - Civil Appeal No. 7024 of 2011 decided on 17.08.2011 no interference is needed in the matter. We find no ground to take a different view. It is now well settled 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. See - Rajendra Prasad Mathur v/s Karnataka University and another [1986 (suppl) SCC 740]. The University of Mysore and Another Vs. C.D. Govinda Rao and Another, , Tariq Islam Vs. Aligarh Muslim University and Others,

12. Similarly a Division Bench of this Court in the case of Ku. Neha Indurkhya Vs. M.P. Board of Secondary Education, placing reliance on the judgment of the Supreme Court in the case of Maharashtra State Board of Secondary and Higher Secondary Education and Another Vs. Paritosh Bhupeshkumar Sheth and Others, dismissed the writ petition. In Para 27 and 29, the Supreme Court in the case of Maharashtra State Board of Secondary and Higher Secondary Education and another v/s Paritosh Bhupesh Kumar Sheth and others (Supra) 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 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. 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.

13. As regards the petitioners reliance on the judgment of the Supreme Court in the case of Kanpur University and others v/s Samir Gupta and others (Supra), we find that the facts of that case are quite distinguishable. In that case no Subject Experts Committee had examined the questions and the model answers and, therefore, the judgment has no applicability to this matter.

14. In regard to the contention of the petitioner of Writ Petition No. 6407 of 2012 that she had correctly attempted and answered more than 160 questions and, therefore, she should have been awarded more than 160 marks, the Examination Board has produced details of marks obtained by the petitioner. In the said details, it has been recorded that the petitioner had answered only 117 questions correctly and had answered 69 questions wrongly. She had attempted total 186 questions and on cancellation of 14 questions, she was rightly awarded the total 126 marks as per the Rules. Thus in view of the details of marks obtained by this petitioner and keeping in view the law laid down by the Supreme Court, we are not inclined to accept the petitioner's prayer for ordering for revaluation or to produce the answer paper for inspection by the Court as no case is made out for passing such order. In the circumstances, in our considered view, keeping in view the legal positions, as aforesaid, no case is made out for interference. As a result, the petitions are hereby dismissed with no orders as to costs.