
(2019) 04 RAJ CK 0093

In the Rajasthan High Court

Case No : Civil Writ Petition No. 2838, 4025, 4700, 5534, 5766, 6396 Of 2019

Pankaj Raj And Ors

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 23-04-2019

Acts Referred:

Constitution Of India, 1950 — Article 14, 226

Citation : (2019) 04 RAJ CK 0093

Hon'ble Judges : Alok Sharma, J

Bench : Single Bench

Advocate : Vigyan Shah, RP Saini, M.S. Singhvi, Raunak Singhvi, M.F. Baig

Judgement

1. All these petitions agitate common issues, hence are being disposed of by this common order.

2. S.B. Civil Writ Petition No. 4700/2019 - Pankaj Raj & Ors. Versus The State of Rajasthan & Anr. will be taken to be a lead case, and its facts adverted to where warranted.

3. This is the second round of litigation before this Court regarding the result of the preliminary examination conducted by the RPSC pursuant to the Rajasthan State and Subordinate Service (Direct Recruitment) by Combined Competitive Examination, 2018 (hereafter 'RAS & RTS Examination, 2018') whereon successful candidates are entitled to write the RAS & RTS Main examination, 2018. The issue agitated in these petitions is with regard to the correctness of the answer key to model question paper in respect of question nos. 11, 22 and 143. The same issue was earlier agitated in S.B. Civil Writ Petition No. 25338/2018 - Jitendra Kumar Bagaria & Ors. Versus The State of Rajasthan & Anr. and other connected matters before the Jaipur Bench and in S.B. Civil Writ Petition No. 17219/2018 - Bhanwar Lal & Ors. Versus Rajasthan Public Service Commission & Anr. and other connected matters before the Principal Seat of this Court at Jodhpur and were decided on 10.12.2018 and 15.12.2018 respectively.

Thereunder the RPSC's notified answers to the aforesaid questions were directed to be reconsidered by expert committees to be constituted afresh by RPSC.

4. The case of the petitioners now is that the report of the Expert Committee constituted by RPSC under the order of this Court in respect of answers to questions nos. 11, 22 and 143 of the model question paper is wholly arbitrary, based on impermissible assumptions, founded on circuitous false reasoning and not based on standard and authentic books and / or government publications and hence in the cross-hair of the manner of assessment, as required by the Court including in the case of *Jitendra Kumar Bagaria & Ors.* (supra) where copiously relying on *Ramdhan Kumawat Versus State of Rajasthan* (SBCWP No. 10622/2014), it was held as under:

"It is no doubt true that academic matters including those relating to competitive examination are best left to the domain of experts concerned. The limitation of this court under Article 226 of the Constitution of India in such matters are well known. But for reason of overarching fairness, necessity of level playing field, of equality and justice, the doors of court's interference are not closed where an outlandish case of, first an exfacie demonstrable error being made out and it is then not being corrected despite objections filed with supporting material more so on invitation therefor by the examining body. The court however for its interference has even in such situations has yet to find demonstrable wrong in the answer/s in question permitting of no doubt in regard thereto with reference to Standard and Authentic text Book and/ or those approved/ recognized by Universities/ Boards and Government Central or State. The court has thus to intercede where a call on that count is necessarily made out. This as finding of a palpable error strikes at the right to fairness inhering in every candidate and which demonstrable error can jeopardize merit at an examination for recruitment to public office to public detriment. It is for the court to ensure that no injustice is done even in the field in the domain of experts. Exfacie and crying lethargy and misdirection in such situations whenever made out is not beyond the ken of the court's equitable extraordinary jurisdiction for the protection of a citizen's fundamental right of fairness and justice referable to Article 14 of the Constitution of India.

The state of law with regard to interference with the results at an examination based on multiple objective type questions culled out from various judgments of the court referred to earlier in this judgment makes it evident that the correct answer key has to be based on material available in text books which are Standard and Authentic published by Universities/ Boards government and/ or based on material available on government website/s either Central or State. This court in the case of *Ramdhan Kumawat Vs. State of Rajasthan* (supra) has categorically held in para 9(ii) of its judgment that the expert committee shall prepare model answer key taking recourse to the standard text books prescribed and taught in the schools and colleges published by the Education Boards or the State Government and/ or shall take recourse to other government publications

or material which are officially put on the government website while disclosing the source of information relied upon by them for each of the answer keys.

In the instant case in respect of model question No.11 the petitioners have relied upon the gazette notification on the website of the State of Rajasthan to contend that Nanak Ram did not belong to the Alwar School of Painting as also the publication of the Rajasthan Hindi Granth Academy -a government of Rajasthan entity to the same end, as against the books of private authors whose publishers have not been stated nor obviously approved or recognized by the State/ Central Government or a University/ Board. In respect of model question No.22, reliance by the petitioners has been placed on text-books published by NCERT and RSBSE collected by team of nationally recognized academic experts for the answer that Pondu and Odisha were also a mismatch. Yet the RPSC's experts have oddly contrary to the dictum of the court in Ramdhan Kumawat for a contrary view relied on the book authored by a Professor in Saharanpur in Uttar Pradesh and published by a publisher in Merut."

5. Question no. 11, 22 and 143 of the model question paper and the options in regard thereto which are in issue in these petitions are reproduced hereinbelow:

Question No.11: Which of the following painters does not belong to Alwar School of Painting?

- (1) Jamnadas
- (2) Bakasaram
- (3) Nanakram
- (4) Nandram

Question No. 22: Which is not a correct match?

- (1) Pondu - Odisha
- (2) Masha - Himachal Pradesh
- (3) Poonam - Kerala
- (4) Jhoom - Assam

Question No. 143: Which of the following statements about Temple Architecture are true?

- (1) The freestanding (mortar & stone) temples are supposed to have originated in the Gupta period.
- (2) Ladkhan, which is one of the earliest temple belongs to Chalukya of Badami
- (3) In Khajuraho temples, all the compartments of the temple are connected internally and externally.
- (4) Kailashnath temple at Kanchi is the earliest freestanding temple of Dravid

style.

Choose the correct Answer:

(1) (i), (iii) & (iv)

(2) (i) & (ii)

(3) (i), (ii) & (iv)

(4) (I,), (ii) & (iii)

6. Mr. Vigyan Shah submitted that following the preliminary examination on 5.8.2018, the model answer key in the first instance was uploaded on RPSC's website on 9.8.2018 alongwith the model question paper. Objections thereto were invited by RPSC from those who had written the preliminary examination. While so doing, it was specifically provided that in support of the objections, the candidates must enclose supporting standard and authentic books, information published by governments State / Central as reference. The petitioners amongst themselves inter-alia filed objections to RPSC's answers to question nos. 11, 22 and 143 of the model question paper. And it was prayed by them that the 3 questions now in issue in these petitions be deleted for reasons set out in tabular form below:

Sr. No.

Question No.

Paper Name

Impugned Act. Of RPSC

Prayer of the petitioners

1

11

Gen. Awareness & Gen. Studies

Option - 3

Delete

2.

22

Gen. Awareness & Gen. Studies

Option - 2

Option No. 1 & 2 Or delete

3.

143

Gen. Awareness & Gen. Studies

Option - 4

Option - 1 Or Delete

7. The objections of the petitioners as submitted above purportedly considered, result of the preliminary examination was then declared on 23.10.2018 by the RPSC and the petitioners declared not qualified for the RAS / RTS main Examination, 2018. The final answer key dated 28.8.2018, on the basis of which the result was declared on 23.10.2018, was then uploaded on the RPSC's website on 25.10.2018. Against the result of preliminary examination declared on 23.10.2018 and the final answer key dated 28.8.2018 uploaded on the RPSC's website on 25.10.2018, the petitioners no. 1 and 2 approached this Court in S.B. Civil Writ Petition No. 2434/2019 titled Renu Sagar & Ors. Versus RPSC, which was decided by this Court on 31.1.2019 in the light of the judgment and order dated 10.12.2018 passed in the case of Jitendra Kumar Bagaria & Ors. (supra). Petitioners no. 3 and 4 on their part filed S.B. Civil Writ Petition No. 17219/2018 before the Principal Seat of this Court at Jodhpur and petitioner no.5 also filed similar petition before the principal Seat of this Court at Jodhpur. In the petitions so filed this Court both at the Jaipur Bench and at the Principal Seat at Jodhpur came to the conclusion that prima-facie the answers of the experts of RPSC to question no. 11, 22 and 143 of the model question paper at the RAS / RTS preliminary examination, 2018 could not be treated to be correct for the reason that while determining the correct answers to the questions in issue, RPSC's experts had overlooked information relevant for the correct answers - such as that available in the State Government's Gazette Notification as well as standard and authentic publications of the Government / Government controlled bodies. RPSC was therefore directed to re-visit its answers to the aforesaid questions accordingly inter-alia also reckoning for the directives of this Court relevant to evaluation of correct answers at a public examination as set out in para 9(ii) of SBCWP No. 10622/2014 titled Ramdhan Kumawat (supra).

8. The case of the petitioners is that on 2.2.2019, the respondent RPSC informed the petitioner no. 4 Manish Kumar Saini and petitioner no. 5 Om Prakash Bishnoi that the expert committee constituted under the directions of this Court in the case of Jitendra Kumar Bagaria & Ors. (supra), Bhanwar Lal & Ors. (supra) and other connected cases had not found any merit in their objections and therefore not suggested any change in the final answer key in respect of question no. 11, 22 and 143 of the model question paper. Effectively the Expert Committee of the RPSC therefore upheld the final answers to model question nos. 11, 22 and 143, as notified on 25.10.2018.

9. The petitioners submit that the determination of the expert committee rejecting the petitioners' objections and upholding RPSC's answer key to question nos. 11, 22 and 143 of the model question paper is wholly arbitrary and illegal inasmuch it has misdirected itself, proceeded on its own ipse dixit and deviated from the legitimate expectation that it would hold to its obligation to adhere to Government Notifications / Publications and the standard and authentic books

widely read by the candidates writing the RAS / RTS preliminary examinations, 2018. It has been submitted that therefore the conclusions of the Expert Committee rejecting the petitioners' objections as communicated on 2.2.2019 and the upholding of answers to model question nos. 11, 22 and 143, as earlier notified on 25.10.2018, demonstrably wrong as they are cannot be sustained. It has been submitted that objections of the petitioners to the correct answers to model questions no. 11, 22 and 143 as uploaded, have been cursorily overlooked with a predetermined mind and sole intent on seconding the palpably erroneous conclusions first arrived at in regard to the correct answers of those questions as notified on 25.10.2018. It has been submitted that the recklessness of the RPSC and its experts in so doing entails malice in law, denial of principles of natural justice more particularly of fairness and has resulted in an unjust outcome at the RAS / RTS Preliminary Examinations, 2018 to the petitioners' detriment.

10. Reply of denial to the averments and allegations in the petitions has been filed by the RPSC. It has been submitted that indeed pursuant to the Court's order dated 10.12.2018 in the case of Jitendra Kumar Bagaria & Ors. Versus The State of Rajasthan & Anr. (supra), RPSC constituted expert committees comprised of upto 5 subject experts. An expert committee, as directed by this Court, re-visited the answer to model question no. 11 and on the basis of information inter-alia sought and obtained from a primary source i.e. Alwar Museum. Therefrom it transpired that a painting with the museum has been signed as by one Nanag Ram, not Nanak Ram who was never a part of the Alwar School of painting. It has been submitted a name is a personal noun and a mere phonetic variation resulting from local dialect can entail a variation of spelling wholly unintended and of no consequence. The expert committee has opined that resultantly for reason above, in certain books one Nanak Ram in lieu of Nanag Ram has been shown as belonging to the Alwar school of painting when in fact Nanak Ram belonged to the Kishangarh School. The expert committee has held that such an error, resulting from phonetic similarity in the name of Nanag Ram of the Alwar school of painting and the name of Nanak Ram from the Kishangarh school of painting also inadvertently intruded into a well renowned and popular book of Indian Painting and Art History by Dr. Reeta Pratap where Nanak Ram has been indeed recorded as belonging to the Alwar School. But the Expert committee thereafter noted that Dr. Reeta Pratap, herself on the panel of the experts of the RPSC, admitted to the error in the printing of her book and agreed that Nanak Ram did not belong to the Alwar School of painting. Hence option 3 i.e. Nanak Ram in question 11 of the model question paper was the correct answer as he did not belong to the Alwar School of painting.

11. In regard to the answer to question no. 22 in the model question paper, RPSC has submitted that an expert committee of three was constituted and they have opined that option no.2 (Masha - Himachal Pradesh) was the only correct answer because it was not the correct match between the type of shifting agriculture indicated and the State. Detailed reasoning has been given by the experts for their conclusion. Its conclusions are based on the standard text

books / reference books prescribed in the syllabus of various Universities in North India including Universities in the State of Rajasthan. The petitioners had, RPSC has submitted, filed objection to the answer to question no. 22 in the model question paper on the basis of Secondary and Sr. Secondary School level books, which are less relevant to the candidates at the RAS / RTS preliminary examinations, 2018 who were expected to have access to books recommended and taught in colleges at the Bachelors Degree level. It has been submitted that Podu indicated as option no. 1 of question no. 22 of the model question paper ought to be read and understood as Podu which is a type of shifting agriculture in the State of Odisha was not a mismatch and hence as asserted in the petitioners' objections could not be reckoned for the correct answer / option to question no. 22.

12. In respect of answer to question no. 143 of the model question paper, it has been submitted that the expert committee of five members was constituted and they have concluded on consideration of the matter with reference to standard and authentic books that option no. 4 was correct in view of the fact that only statements in clause no. (i), (ii) and (iii) in respect of question no. 143 were correct. The opinion of the experts is again based, it is submitted, on various books at the graduation level such as a book published by the Archaeological Survey of India. Reference has also been made by the Experts to the book titled "Dakshin Bharat (Rajnitik Aur Sanskritik Itihas)" authored by Balram Srivastava, Reader, History Department, Hindu University, Varanasi, which is reference book for the Government College, Alwar in UGC Plan. Further the Experts also relied upon the book named "Bharti Kala Shilp Shastra and Prachi Sthpatya" authored by Udit Narayan, retired Professor and President Ancient History and Archaeological Department, Allahabad University.

13. RPSC has submitted that in this view of the matter, the experts of the various Committees constituted following the judgment / order of this Court in the case of Jitendra Kumar Bagaria & Ors. (supra) have considered the objections of the petitioners to the correct answers, as notified by the RPSC to the model paper question nos. 11, 22 and 143. Their opinion rests on their domain expertise. The answers determined as correct by them to model paper questions no. 11, 22 and 143 in issue not being demonstrably wrong, no interference is warranted therewith at the hands of this Court in the exercise of equitable extraordinary discretionary jurisdiction under Article 226 of the Constitution of India. It has been submitted that in this view of the matter, these petitions seeking intrusion of the equitable extraordinary discretionary jurisdiction of this Court into domain expertise are misdirected in their effort and be therefore dismissed.

14. Mr. Vigyan Shah and Mr. RP Saini appearing for the petitioners have submitted that the report of the Expert Committee constituted following the directions of this Court in the case of Jitendra Kumar Bagaria & Ors. (supra) and the conclusions therein have to reflect due application of mind and adherence to directions of this Court in Jitendra Kumar Bagaria & Ors. (supra) and Ramdhan

Kumawat (supra). Hence the correct answers to the disputed questions in model question paper have to be supported by authentic and standard text books and / or Government publications to the exclusion of outlier private publications which do not have the imprimatur / approval of a Board / University or the Department of the State / Central Government. Mr. Vigyan Shah further submitted that publication of books both text and for reference is a humongous industry in the context of the unfulfilled demand for education in India for escaping want and uplifting the lives of its citizenry. To eschew prejudice in this potpourri of information available through varied books etc to the competing candidates at a competitive examination leading to recruitment in government service. This Court in the case of Ramdhan Kumawat (supra) had categorically directed that "The Expert Committee shall prepare the model answer keys, taking recourse to the standard text books prescribed for being taught in the schools and standard reference books used for colleges, published by the Education Board or the State Government, or shall take recourse to other government publications or materials, which are officially put on the government website or used for the information of public at large, or to the publications of the books written by the authors recognized by the Government as the authority on a particular subject. " The Court further directed that "the Expert Committee shall disclose the source of information relied upon by them for each of the answer keys, while submitting their reports to the RPSC" (underlining mine).

15. Mr. Vigyan Shah submitted that in the law enunciated by this Court in the case of Ramdhan Kumawat (supra) and reiterated in Jitendra Kumar Bagaria & Ors. (supra) was with the sole intent of providing a level field to competing candidates at a competitive examination for recruitment in Government service. The experts revisiting the answers to question no. 11, 22 and 143 in the model question paper pursuant to the court's direction in Jitendra Kumar Bagaria & Ors. (supra) were therefore under an obligation to inform their exercise with reference to standard / authentic books recognized by statutory / Government Boards and Universities and the material otherwise available in Government publications / websites.

16. Mr. Vigyan Shah submitted that replies to the petitions indicate that it has not been so done in respect of answer to question no. 11 in the model question paper. Instead the Expert Committee has, by sleight of hand and assumptive flawed reasoning declared that Nanak Ram did not belong to the Alwar School of Painting and for this conclusion on its ipse dixit equated Nanak Ram as an option to question no. 11 to Nanag Ram holding that as Nanag Ram belonged to the Alwar school of painting and Nanak Ram who belonged to the Kishangarh school of painting, option no. 3 Nanak Ram was correct option in the answer to question no. 11. This conclusion has been reached by the Expert Committee even while admitting that in a book authored by Dr. Reeta Pratap published by Rajasthan Hindi Granth Academy, Jaipur, a body of the State Government under the aegis of the Ministry of Human Resource Development, Government of India, Nanak Ram was given out as a painter related to Alwar school of painting. This stark

fact was however conveniently circumvented by recording that Dr. Reeta Pratap, the author of the said book which was published, circulated and read by the petitioners, was in the RPSC's panel of expert and had in private admitted to the mistake of Nanak Ram, being erroneously indicated in her book, as a painter of the Alwar School. Mr. Vigyan Shah further submitted that to allow such a distorted self serving approach to finding the correct answers by the expert committee to questions at a public examination has to be held to be most unjust and unsustainable by this Court. And were it not so to be, it would be ironic that information in a Government publication is held to be incorrect on the basis of a private conversation and purported admission of the author thereof and candidates at a public examination for entry to government service accordingly marked to their grave prejudice. Mr. Vigyan Shah further submitted that Nanak Ram cannot be equated with Nanag Ram as the Expert Committee has done, for to so do would change the options available with the candidates in the real time when they were answering the relevant question. Such alteration of the question as appearing before a candidate at a public examination and variation for the purpose for ascertaining the correct answer has to be necessarily held by this Court to be wholly arbitrary and unfair. Mr. Vigyan Shah further submitted that aside of the above, the Expert Committee has in its reasons for upholding Nanak Ram as the correct option to question no. 11 of the model question paper also overlooked the fact that as per Rajasthan District Gazetteers relating to Alwar, a part of the Government of India gazette obtainable from the Publication Branch, Government Central Press, Jaipur, Nanak Ram is categorically stated to belong to the Alwar School of painting and hence Nanak Ram could not have been under any eventuality the correct answer to question no. 11, which was, as to which of the painters did not belong to Alwar School of Painting? (underlining mine) Mr. Vigyan Shah further submitted that in the aforesaid facts, as held by the Apex Court in the case of Ran Vijay Singh and Ors. Versus State of UP and Ors. (2018) 2 SCC 357, the Expert Committee of the RPSC constituted following the judgment of this Court in the case of Jitendra Kumar Bagaria & Ors. (supra) ought to have fairly and reasonably directed deletion of question no. 11 in the model question paper.

17. With regard to the answer to question no. 22 of the model question paper, Mr. Vigyan Shah submitted that aside of option no. 2 being a mismatch for Masha form of shifting agriculture is indeed not relatable to Himachal Pradesh in option 2, Pondu - stated in the relevant question to be a form of shifting agriculture vis-a-vis Odisha was also a mismatch. Hence two correct options to question no. 22 thus being available, either both ought to have been treated as correct by the Expert Committee or question no. 22 also deleted for reasons of ambiguity operating to the detriment of the candidates, such as the petitioners, at the RAS / RTS Preliminary Examination, 2018. Mr. Vigyan Shah submitted that the report of the Expert Committee as annexed to the reply to the petitions indicates that the starting point of the Expert Committee in evaluating the correct answer to question no. 22 in the model question paper was dishonest. That dishonesty

lies in overlooking that the first option to question no. 22 was Pondu - Odisha but instead the expert committee construed Pondu, in the alternative as Podu. Thereafter the Expert Committee proceeded to consider Podu shifting agriculture as the correct match for Odisha and not a mismatch. Mr. Vigyan Shah submitted that again, as in respect of the answer to question no. 11 in the model question paper, the Expert Committee has shifted the goal post and considered the matter of the correct option to a question at the examination in issue on a variation of the question - answer vis-a-vis the question - answer as available as an option to the candidates real time at the RAS / RTS Preliminary Examination, 2018. Mr. Vigyan Shah submitted that in this view of the matter, the conclusions of the Expert Committee qua the correct answer to question no. 22 is unsustainable, wholly unfair as it is and hence also liable to be set-aside by this Court. Two answers in the facts thus obtaining by model question no. 22, excluding the variation at the ipse-dixit of the Expert Committee, either both ought to have been treated correct or for reasons of resultant ambiguity question no. 22 also deleted in view of the Apex Court's observation in *Ran Vijay Singh and Ors. Versus State of UP and Ors.* (supra) that in situations of ambiguity and uncertainty the one way out of the impasse is to exclude the suspect or offending question. Mr. Vigyan Shah further submitted that albeit in the case of *Kanpur University Versus Samir Gupta* reported in (1983) 4 SCC 309, the Apex Court recognized the presumption of correctness of an answer determined by experts to a question at a public examination and held that unless the answer is demonstrably wrong, it should not be allowed to be a subject matter of proceedings under Article 226 of the Constitution of India, yet it in the same breath proceeded to hold that the examining body should avoid ambiguity in questions and be prompt in deciding to exclude the suspect questions and assign no marks to such questions (underlining mine).

18. Mr. Vigyan Shah in respect of question no. 143 of the model question paper fairly conceded that the experts' view on the correct answer to the said question albeit suspect is plausible on material placed before this Court and hence cannot indeed be impugned as being demonstrably wrong. This concession has been made, as the answer to model question no. 143 is on the basis of the book, "India Art and Architecture" published by the Publishing Department of the Central Government, the book *Indian Architectural Art* published by the Banaras Varanasi University by P.L. Gupta and other relevant material from unimpeachable sources with the description thereof in *Ramdhan Kumawat* (supra).

19. Per contra, Mr. M.S. Singhvi, Advocate General submitted that the Apex Court in the case of *Kanpur University Versus Samir Gupta* (supra) has held that, "the answer key to a model question paper determined by the experts of the examining body should be assumed to be correct and cannot be put to question either by an inferential process of reasonable or by a process of rationalization, but must be clearly demonstrated to be wrong." Mr. M.S. Singhvi submitted that an answer determined by the experts to a question in the model question paper

at a public examination can be held to be demonstrably wrong by the courts only when it is based on material which no reasonable person would hold to even remotely suffice for such a conclusion. Mr. M.S. Singhvi further submitted that the purport of the aforesaid view of the Apex Court reiterated ad-nauseam is that domain expertise including in the field of education should be rendered due respect and unless the view of experts is such that it cannot under any circumstance stand, such view must be upheld. Mr. M.S. Singhvi submitted that it has also been held by the Apex Court in *Manish Ujwal Versus Maharishi Dayanand Saraswati University* (2005) 13 SCC 744 that even where there are cases of doubt as to the correctness of an answer determined by the experts in respect of question in a model question paper at a public examination, the benefit has to accrue in favour of the domain experts and the examining authority and not in favour of the candidates at such examination. Mr. M.S. Singhvi then submitted that from the case of *Himachal Pradesh Public Service Commission Versus Mukesh Thakur* reported in (2010) 6 SCC 759, it is apparent that the case law developed over the years is that interference with evaluation at public examination is rare, confined to exceptional situations and to a very limited extent. He submitted that no such exceptional situation to warrant the court's interference arises in the instant petitions.

20. More specific to correct answers to question no. 11 and 22, Mr. M.S. Singhvi submitted that the preliminary examination in issue is for the recruitment to the premier administrative service in the State of Rajasthan and the level expected of candidates at such examination is high. The candidates at the RAS /RTS Preliminary Examination are expected to inculcate an eclectic intellect capable of nuanced approach to the various options which are the correct answers to the questions at the examination. The answers may not be in black and white. The best answer amongst the various options offered has to be chosen. Mr. M.S. Singhvi submitted that in this view of the matter, the entire case of the petitioners based effectively, as it is on spelling mistakes as in Nanak Ram instead of Nanag Ram and Podu instead of Pondu in question no. 11 and 22 respectively cannot be at the foundation of a challenge by way of a petition under Article 226 of the Constitution of India and interference on such a challenge by this Court is not warranted. Mr. M.S. Singhvi submitted that in this view of the matter, the petition in respect of correct answers to both questions no. 11 and 22 of the model question paper has to fail as no demonstrable error in the experts view on the two answers is made out. Mr. M.S. Singhvi submitted that where plausible, the view of the examining body has to be taken into consideration in view of the judgment of the Apex Court in the case of *UPSC Versus Rahul Singh and Another* reported in AIR 2018 Supreme Court 2861. He prayed that in the circumstances the petitions be dismissed.

21. Heard. Considered.

22. It is well settled that the jurisdiction of the court under Article 226 of the Constitution of India in interfering with the results of a public examination on the

ground of said result being founded on incorrect evaluation of the answers to questions at the examination is indeed narrow. But it is also equally well settled that the jurisdiction of the Court has not been absolutely excluded, not the least for the reason that the Court in exercise of its power under Article 226 of the Constitution of India is obliged to eradicate palpable injustice in any given case including that resulting from arbitrariness and unreasonableness in the evaluation of answers to questions at a public examination. However the burden on one challenging the answers and the resultant unfair evaluation at a public examination is indeed very high and exercise of court's power are rare and exceptional as has been held by the Apex Court in the case of Kanpur University Versus Samir Gupta (supra), Manish Ujwal Versus Maharishi Dayanand Saraswati University (supra) and Himachal Pradesh Public Service Commission Versus Mukesh Thakur (supra). Interference is permissible only where the answer to a question at the examination is established beyond question by the petitioners before the Court to be demonstrably wrong.

23. What is demonstrably wrong? The answer to the aforesaid question is that to be held to be demonstrably wrong answer, the answer to a question in issue has to be palpably absurd and based on a conclusion which no reasonable person could have reached on the material before her. It also cannot be denied that the duty of the examining body at a public examination for recruitment in government service is to ensure that due care and caution informs it in the exercise of evaluation of correct answers to questions leaving no scope for howlers / blunders with the potential of causing grave injury to an otherwise intelligent student who despite being well endowed and prepared would be made to suffer detriment due to the sheer negligence or ipse-dixit of the examining body and the experts it relies on.

24. The Courts have been seized on innumerable occasions with challenges to the results at a public examination on the ground of questions thereat being arbitrarily and wrongly evaluated to the prejudice of the competing candidates. In the case of Ramdhan Kumawat (supra), this Court held that for evaluation of answers at a public examination, to ensure a level playing field, the evaluation cannot be founded on the ipse dixit of the examining body but has to be with reference to the material culled out from standard and authentic books which have the approval of the State Government, its Boards and Universities and / or material available from Government, both Central and State publications and websites. The direction of this Court in the case of Ramdhan Kumawat (supra) were quite obviously for the inarticulated reason that in the sea of information available in books published by all and sundry and information also available in the sea of the internet varied answers to a question can be found. That situation had to be eschewed. It was inter-alia for this reason that while disposing of S.B. Civil Writ Petition No. 25338/2018 - Jitendra Kumar Bagaria & Ors. Versus The State of Rajasthan & Anr. and connected matters and S.B. Civil Writ Petition No. 17219/2018 - Bhanwar Lal & Ors. Versus Rajasthan Public Service Commission & Anr. and other connected matters, this Court directed that the correct answers /

options to question no. 11, 22 and 143 in the model question paper at the RAS / RTS Preliminary Exam, 2018 be assessed with due regard and adherence to the directions of this Court in the case of Ramdhan Kumawat (supra).

25. The question is as to whether that has been done? From the submission of Mr. Vigyan Shah and Mr. RP Saini on behalf of the petitioners and Mr. M.S. Singhvi, Advocate General on behalf of the respondents and facts on record, the Court is of the view that the respondent - RPSC's conclusions on the correct answers to question no. 11 and 22 of the model question paper at the RAS / RTS Preliminary Exam, 2018 based on the expert committee's opinion are demonstrably wrong, arrived as they have been overlooking standard and authentic books and publications of the State Government, conveniently and arbitrarily excluding from consideration Gazetted information and instead relying on assumptions going beyond answers as options actually available to the questions in issue.

26. Now moving to the specifics of the answers / options to question no. 11 and 22 of the model question paper, RPSC has found option no. 3 "Nanak Ram" the correct answer to question no. 11 in the model question paper on the strange and unsustainable reasoning treating Nanak Ram as Nanag Ram. This despite the fact that the publication in Rajasthan District Gazetteers relating to Alwar indicated that Nanak Ram belonged to the Alwar school of painting. So did Dr. Reeta Pratap's book published by the Hindi Granth Academy, a Government of Rajasthan body under the aegis of the Human Resources Department, which though so noticed was conveniently and mala fide (legal) circumvented by the expert committee on recording that Dr. Reeta Pratap herself admitted to the error in her book which indicated that Nanak Ram was a painter belonging to Alwar School of painting.

27. I am of the considered view that aforesaid manner of assessment of the correct answer / option to a multiple choice question at a public examination is wholly impermissible and can only be held to be arbitrary and demonstrably wrong. The candidates at a public examination have to answer the questions before them in real time. They do not have the luxury of assumptions. Hence the candidates in the instant case could not have treated or imagined option C Nanak Ram as Nanag Ram as the correct answer to question no. 11 of the model question paper.

28. I am also of the considered view that in the obtaining facts of the case that Nanak Ram (option C) to question no. 11 in the model question paper could not at all have been held to be the correct answer by the experts as they did on their faulty reasoning recorded above. That answer is demonstrably wrong. In-fact for reasons of the error in indicating Nanak Ram as the correct answer / option in question no. 11 of the model question paper, the only recourse left with the respondent - RPSC was to overcome the resultant "impasse" of there being no correct answer / option to question no. 11 by excluding the "suspect or offending question" as was observed by the Apex Court in Ran Vijay Singh & Ors. (supra).

29. In the facts of the case and the discussion hereinabove, following the judgment of the Apex Court in the case of *Ran Vijay Singh & Ors. (supra)*, I would direct that question no. 11 in the model question paper at the RAS / RTS preliminary exam, 2018 be deleted.

30. With regard to the correct answer / option to question no. 22 of the model question paper at the RAS / RTS preliminary exam, 2018, I am of the considered view that the conclusion of the expert committee thereon as adhered to and followed by the RPSC and the rejection of the petitioners' objections in regard to the correct answers thereof not being confined to option no. 2 (Masha - Himachal Pradesh) but also including option no. 1 (Pondu - Odisha) also cannot be sustained. As recorded hereinabove the issue of a correct answer / option to a question at a public examination otherwise is indeed in the domain of the experts. Yet the experts do not have a carte - blanche. They have to bring to their consideration standard and authentic books and material information disseminated on government websites / by way of publications. The domain experts do not have the freedom to vary the options at a public examination while assessing the correct answer to a question, but have to limit themselves to the option as available to the examinees at the relevant time. In the instant case, option no. 1 to question no. 22 of model question paper required consideration as to whether the Pondu form of shifting agriculture was carried on in Odisha. The petitioners' answer is stated to be that it was not and hence was a mismatch as also was the option 2 regarding Masha form of shifting agriculture in the State of Himachal Pradesh.

31. RPSC and its experts have held that Pondu form of shifting agriculture related to Odisha, was not a mismatch and only option 2 Masha - Himachal Pradesh was the mismatch and the correct answer. The objections of the petitioners in this regard have been negated by the expert committee on the ground that reference to Pondu form of shifting agriculture in option was in-fact a reference to Podu form of shifting agriculture. This variation in the option 1 to question 22 for finding the correct answer was not available to the candidates such as the petitioners at the RAS / RTS Preliminary Exam, 2018. As earlier held the candidates at a public examination have to answer the question in real time comprehending it as it is laid before them moreso when it is not so much a matter relating to analysis but a question of fact. As was in respect to the question whether Pondu form of shifting agriculture was carried on in Odisha or not. The candidates such as the petitioners at the examination therefore were required to consider as to whether Pondu form of shifting agriculture was carried on in Odisha. They could not and were not allowed to assume that Pondu was equal to Podu or its alternate. The report of the expert committee on the answer to question no. 22 of the model question paper at the RAS / RTS Pre. Exam, 2018 shows that it has proceeded to equate Pondu with Podu and then arbitrarily concluded that Podu form of shifting agriculture in the State of Odisha was not a mismatch and the correct answer was option 2 i.e. Masha a form of shifting agriculture in Himachal Pradesh alone was a mismatch. That conclusion on the

admitted facts of the case was palpably and demonstrably wrong.

32. I am of the considered view that on the facts before the Expert Committee, the ambiguity as to the correct answer / option to question no. 22 of the model question paper for reason of the spelling of Podu as Pondu was clearly made out. The candidates at the RAS / RTS Pre. Exam, 2018 such as the petitioners could not therefore be faulted in answering / opting that Pondu form of shifting agriculture did not take place in Odisha and hence was a mismatch.

33. In the facts of the case and the discussion hereinabove following the judgment of the Apex Court in the case of Ran Vijay Singh & Ors. (supra) holding that where an impasse obtains in respect of the correct answer to a question, such question should be deleted, I would direct that question no. 22 in the model question paper at the RAS / RTS preliminary exam, 2018 also be deleted.

34. For the aforesaid reason, I would allow these petitions as under:

i) the conclusions of the expert committee / RPSC with regard to the correct answer / option to questions no. 11 and 22 of the model question paper at the RAS / RTS preliminary examination, 2018 are demonstrably wrong. Question Nos. 11 and 22 of the model question paper at the RAS / RTS Preliminary Exam, 2018 are directed to be deleted.

(ii) The respondent - RPSC is directed to re-evaluate the result at the RAS / RTS Pre. Exam, 2018 afresh in view of the direction hereinabove.