

(2018) 07 MP CK 0144

In the Madhya Pradesh High Court

Case No : Writ Petition No.12562 Of 2018

Ramjee Pandey & Others

APPELLANT

Vs

State Of Madhya Pradesh & Others

RESPONDENT

Date of Decision : 17-07-2018

Acts Referred:

Citation : (2018) 07 MP CK 0144

Hon'ble Judges : Vivek Rusia, J

Bench : Single Bench

Advocate : Ramesh Moolchandani, V.P.Khare

Final Decision : Dismissed

Judgement

SET-

A", "SET-

B", "SET-

C", "SET-

D", "MODEL

ANSWER", "AMENDED

ANSWER KEY

4,32,59,86,B,Delete

15,43,70,97,C,Delete

41,69,96,23,B,Delete

SET-A,SET-B,SET-C,"SET-

D", "MODEL

ANSWER", "AMENDED

ANSWER KEY

19,47,74,1,A,D

21,49,76,3,B,C

23,51,78,5,C,A

24,52,79,6,D,A

25,53,80,7,B,C

26,54,81,8,C,A

27,55,82,9,B,A

45,73,100,27,B,A

80,8,35,62,B,C

81,9,36,63,A,D

Again, there is no liberty, if the judicial power be not separated from the legislative and executive. Were it joined with the legislative, the life and liberty" ,,,,,

of the subject would be exposed to arbitrary control; for the judge would be then the legislator. Were it joined to the executive power, the judge might" ,,,,,

behave with violence and oppression. There would be an end of everything, were the same man or the same body, whether of the nobles or of the" ,,,,,

people, to exercise those three powers, that ofÂ enacting laws, that of executing the public resolutions, and of trying the causes of individuals.â??" ,,,,,

(Emphasis supplied),,,,,

We fully agree with the view expressed above. Montesquieuâ??s warning in the passage abovequoted is particularly apt and timely for the Indian ,,,,,

judiciary today, since very often it is rightly criticised for â??overreachâ?? and encroachment into the domain of the other two organs.â??" ,,,,,

28. The scope of interference in academic matters has been examined by the Supreme Court in many cases. In Basavaiah (Dr.) v. DrÂ H.L. ,,,,,

Ramesh, (2010) 8 SCC 372 : (2010) 2 SCC (L&S) 640, the Court held as under:-" ,,,,,

â??38. We have dealt with the aforesaid judgments to reiterate and reaffirm the legal position that in the academic matters, the courts have a very" ,,,,,

limited role particularly when no mala fides have been alleged against the experts constituting the Selection Committee. It would normally be prudent," ,,,,,

be considered as arbitrary, illegal or discriminatory or violative of Article 14 of the Constitution of India." ,,,,,

30. Thus, we are of the opinion that the judgment of this Court in Chanchal Modi's case (supra) does not lay down correct law." ,,,,,

31. In view of the discussion above, we hold that in exercise of power of Â Â Judicial Review, the Court should not refer the matter to court appointed" ,,,,,

expert as the courts have a very limited role particularly when no mala fides have been alleged against the experts constituted to finalize answer key. ,,,,,

It would normally be prudent, wholesome and safe for the courts to leave the decisions to the Â academicians and experts." ,,,,,

32. In respect of the second question, this Court does not and should not act as Â Court of Appeal in the matter of opinion of experts in academic" ,,,,,

matters as the power of judicial review is concerned, not with the decision, but with the Â Â Â decision-making process. The Court should not under" ,,,,,

the guise of preventing the abuse of power be itself guilty of usurping Â power. ,,,,,

Similar issue came up for hearing before the Apex Court in case of UPPSC and ano. vs. Rahul Singh and ano. (Civil Appeal No. 5838/2018) vide ,,,,,

judgment dt. 14.6.2018 the Apex Court has held that the Constitutional Court must exercise great restraint in such a matter and should be reluctant to ,,,,,

entertain the plea challenging the correctness of the key answer. ,,,,,

Para 12 to 14 are reproduced below:- ,,,,,

â??12. The law is well settled that the onus is on the candidate to not only demonstrate that the key answer is incorrect but also that it is a glaring ,,,,,

mistake which is totally apparent and no inferential process or reasoning is required to show that the key answer is wrong. The Constitutional Courts ,,,,,

must exercise great restraint in such matters and should be reluctant to entertain a plea challenging the correctness of the key answers. ,,,,,

In Kanpur University case (supra), the Court recommended a system of - (1) moderation; (2) avoiding ambiguity in the questions; Â (3) prompt" ,,,,,

decisions be taken to exclude suspected questions and no marks be assigned to such questions. ,,,,,

13. As far as the present case is concerned even before publishing the first list of key answers the Commission had got the key answers moderated by ,,,,,

two expert committees. Thereafter, objections were invited and a 26 member committee was constituted to verify the objections and after this" ,,,,,

exercise the 9 Committee recommended that 5 questions be deleted and in 2 questions, key answers be changed. It can be presumed that these" ,,,,,

committees consisted of experts in various subjects for which the examinees were tested. Judges cannot take on the role of experts in academic ,,,,,

matters. Unless, the candidate demonstrates that the key answers are patently wrong on the face of it, the courts cannot enter into the academic field," ,,,,,

weigh the pros and cons of the arguments given by both sides and then come to the conclusion as to which of the answer is better or more correct. ,,,,,

14. In the present case we find that all the 3 questions needed a long process of reasoning and the High Court itself has noticed that the stand of the ,,,,,

Commission is also supported by certain text books. When there are conflicting views, then the court must bow down to the opinion of the experts." ,,,,,

Judges are not and cannot be experts in all fields and, therefore, they must exercise great restraint and should not overstep their jurisdiction to upset" ,,,,,

the opinion of the experts.â?? ,,,,,

Shri Akash Sharma, learned Counsel for the petitioner has placed reliance over the judgment passed by the Apex Court in case of Richal & ano vs." ,,,,,

Rajasthan Public Service Commission & ors. reported in 2018(2) SCT 773 in which the Apex Court has directed the Rajasthan Public Service ,,,,,

Commission to revise the result of all the candidates including the appellants on the basis of report of Expert Committee. ,,,,,

In this case, by way of interim order dt. 16.1.2018 the Apex Court had already directed to constitute a Committee of expert to examine the model" ,,,,,

answer and thereafter by way of final order has directed for revision of the result on the basis of report but in the present cases, the MPPSC as per" ,,,,,

Clause 5.2 of the advertisement had already constituted an Committee and examined the model answers. None of the petitioners submitted any ,,,,,

objection therefore, they are now estopped from challenging the decision of Committee." ,,,,,

In view of the above, no case for interference is made out." ,,,,,

The writ petition is, accordingly, dismissed." ,,,,,