

(2018) 07 MP CK 0093

In the Madhya Pradesh High Court

Case No : Writ Petition No.12625 Of 2018

Shikha Kumrawat

APPELLANT

Vs

State Of Madhya Pradesh & Anr

RESPONDENT

Date of Decision : 11-07-2018

Acts Referred:

Citation : (2018) 07 MP CK 0093

Hon'ble Judges : Vivek Rusia, J

Bench : Single Bench

Advocate : A.Shrivastava, V.P.Khare

Final Decision : Dismissed

Judgement

SET-

A",SETB,SETC,"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

56,84,11,38,B,Delete

SET-

A",SETB,SETC,"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

56,84,11,38,B,Delete

84,12,39,66,A,Delete

or of the people, to exercise those three powers, that of 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. Montesquieu's warning in the passage abovequoted is particularly apt and timely for the ,,,,,

Indian judiciary today, since very often it is rightly criticised for "overreach" 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. Dr 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, wholesome and safe for the courts to leave the decisions to the academicians and experts. As a matter of principle, the courts should" ,,,,,

never make an endeavour to sit in appeal over the decisions of the experts. The courts must realise and appreciate its constraints and limitations ,,,,,

in academic matters. ,,,,,

29. Supreme Court in another judgment reported as University Grants Commission v. Neha Anil Bobde, (2013) 10 SCC 519, held that in academic" ,,,,,

matters, unless there is a clear violation of statutory provisions, the regulations or the notification issued, the courts shall keep their hands off" ,,,,,

since those issues fall within the domain of the experts the Court. The Court held as under: ,,,,,

â??31. We are of the view that, in academic matters, unless there is a clear

violation of statutory provisions, the regulations or the notification",,,,,

issued, the courts shall keep their hands off since those issues fall within the domain of the experts. This Court in *University of Mysore v. C.D.*",,,,,

Govinda Rao AIR 1965 SC 491; *Tariq Islam v. Aligarh Muslim University* (2001) 8 SCC 546; and,Â Â Â *Rajbir Singh Dalal v. Chaudhary Devi*",,,,,

Lal University (2008) 9 SCC 284, has taken the view that the court shall not generally sit in appeal over the opinion expressed by the expert",,,,,

academic bodies and normally it is wise and safe for the courtsÂ to leave the decision of the academic experts who are moreÂ Â Â familiar,,,,,

with the problem they face, than the courts generally are. UGC as an expert body has been entrusted with the duty to take steps as it may think",,,,,

fit for the determination and maintenance of standards of teaching, examination and research in the university.Â Â ForÂ attaining the said",,,,,

standards, it is open to UGC to lay down any â??qualifying criteriaâ?, which has a rational nexus to the object to be achieved, that is, for",,,,,

maintenance of standardsÂ of teaching, examination andÂ research. The candidates declared eligible for Lectureship may be considered for",,,,,

appointment as Assistant Professors in universities and colleges and the standard of such a teaching faculty has a direct nexus with the,,,,,

maintenance of standards of education to be imparted to the students of the universities and colleges. UGC has only implemented theÂ opinion,,,,,

of the experts by laying down the qualifying criteria, which cannot be considered as arbitrary, illegal or discriminatory or violative of Article 14 of",,,,,

the Constitution of India.â??",,,,,

30. Thus, we are of the opinion that the judgment of this Court in *ChanchalModi*â??s case (supra) does not lay down correct law.",,,,,

31. In view of the discussion above, we hold that in exercise ofÂ power ofJudicial 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 academicians and experts.",,,,,

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

matters as the power of judicial review is concerned, not with the decision, but

with the decision-making process. The Court should not under the" ,,,,,

guise of preventing the abuse of power be itself guilty of usurpingÂ power. ,,,,,

Similar issue came up for hearing before the Apex Court in case of UPPSC and ano. vs. Rahul Singh and ano.(Civil Appea NI o.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 A.Shrivastava, 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 Â cluding the appellants on the basis of report of Expert Committee. ,,,,,

In this case, by wayÂ 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." ,,,,,