
(2002) 08 KL CK 0014

In the High Court Of Kerala

Case No : W.A. No's. 1870, 1881 and 1894 etc. of 2002

State of Kerala

APPELLANT

Vs

Fathima Seethi

RESPONDENT

Date of Decision : 05-08-2002

Acts Referred:

Constitution of India, 1950 — Article 14, 226

Citation : (2002) 3 ILR (Ker) 165

Hon'ble Judges : B.N. Srikrishna, C.J;G. Sivarajan, J

Bench : Division Bench

Advocate : M. Ratna Singh, General and P.I. Davis, Government Pleader, for the Appellant; B. Rangunathan and V.V. Mathew, for the Respondent

Final Decision : Allowed

Judgement

B.N. Srikrishna, C.J.—Appeals admitted. Notices made returnable forthwith. Respondents waive service through respective counsel, By consent, appeals called out for hearing and heard.

2. These appeals are directed against the judgment of the learned Single Judge dated 12th July, 2002 in O.P. Nos. 15643, 16123, 16306, 16310, 16312, 16377, 16847, 17147, 18367, 18711 and 19110 of 2002.

3. The facts

Admission to Professional Degree Courses is determined by merit of a candidate as ascertained in the Entrance Examination. The Entrance Examination is conducted by an officer specially empowered by the State of Kerala, who is known as the Commissioner for Entrance Examinations (hereinafter referred as "the Commissioner").

4. The prospectus for admission to the Professional Degree Courses Kerala, 2002 published by the State of Kerala on 2nd March, 2002 gives detailed information as to the methodology adopted for conducting the examinations for ascertaining

the inter se merit of the students. Paragraph 9.4 describes in detail the Scheme of the Examinations and says:-

9.4.1. The examination(s) will be objective in nature, and based on single response that is, for each question, five suggested answers will be given, of which only one will be the most appropriate response, and the candidate will have to select and mark the answer in the appropriate space in the Answer Sheet. (The specimen answer sheet is appended).

9.4.2. The question paper for all the subjects will be given in the form of question-booklets. Candidates will be permitted to take the question booklet with them at the end of the examination.

9.4.3. All Papers will have 120 questions each, with a duration of 120 minutes.

9.4.4. Scoring, negative marking:

For each correct response, the candidates will be awarded FOUR marks, and for each incorrect response, ONE mark will be deducted from the total score. However, in the event of failure to answer a question, (that is, no response is indicated for an item in the answer-sheet) no deduction from the total score will be made. More than one answer indicated against a question will be deemed as incorrect response, and will be negatively marked. Therefore the candidates are advised not to attempt an answer, should they not be sure of the response, because mere guessing may lead to choice of wrong answers, with the consequent penalty of negative marking.

Paragraph 9.5 indicates that the standard of the examination will be that of Higher Secondary or equivalent examinations. The syllabi are indicated in Annexure XVI of the Prospectus. There is however a note of caution introduced that the syllabi are only outlines of the topics that would be covered in the test and that, since the tests are of highly competitive nature and the cream of the competing students had to be found out through a process of elimination, higher order application questions on the topics included in the published syllabi can be expected. Students are also advised that questions are not exclusively based on the text books published by the National Council for Education, Research and Training (NCERT) or any other particular text book. Paragraph 9.7.5 deals with the manner of preparation of Rank Lists to determine the merit of the student. As we are concerned with the examination for admission to the Professional Degrees in Medical and Agricultural Courses, paragraph 9.7.5(e)(ii) indicates that the marks obtained in Biology and Chemistry would be determinative of the merits of the student in the event of a tie. It is also made clear by paragraph 9.7.5(c) that the rank list for Medical/Agricultural courses except B.Pharm. will be prepared on the basis of the total marks obtained in Biology and Chemistry and Physics papers in the Medical Entrance Examination.

5. In all, there are two papers, Paper I comprising Chemistry and Physics and Paper II comprising Biology. There are 120 questions set in each paper. In Paper

I questions 1 to 72 are on Chemistry and questions 73 to 120 are on Physics. Since the questions are of the objective multiple choice, the candidate is expected to merely tick off the "most appropriate answer" without indicating any reasons in support. To prevent copying by students, the Commissioner gives out for versions of the question papers in which the order of the questions is changed. These versions are known as A1 to A4 and B1 to B4 in the two papers. These papers are then graded with the help of a Computer which is programmed with the key answers. Each correctly answered questions would fetch four marks while an incorrectly answered question entails a negative mark of one. If a question is not attempted, there is neither gain nor loss of marks. The total marks obtainable in each paper is 480. These are the salient features of the examinations.

6. The examinations for the current academic year were held on 30th and 31st of May, 2002. After the current examinations, and before the rank list was prepared, the necessary answer keys of both papers were published on 5.6.2002. As soon as the answer keys were published, a number of objections were raised to some of the questions asked in Paper I as well as Paper II. The objections ranged from challenging the accuracy of the key answers to pointing out that there could be more than one "most appropriate answer" to the questions, thus challenging some of the questions as objective multiple choice questions. As a matter of fact, some of the students raised objections, as soon as the examinations were over and even before the key answers were published. The Commissioner, not being an expert in academic matters, constituted a committee of experts to consider the objections. On the basis of the advice tendered to him by the experts, the Commissioner decided to delete 13 questions from the process of evaluation, even before the key answers were published. After the key answers were published, and further objections were received and considered, four more questions were deleted on the advice obtained from the experts. The rank list was thereafter compiled on 8.6.2002. As expected, a spate of writ petitions were moved in this Court.

7. In the writ petitions, the learned Single Judge was confronted with the challenges made to the views expressed by the experts committee and the decision of the Commissioner to delete 17 questions, as also the action of the Commissioner in not deleting some questions, which according to the petitioners, were equally liable to be deleted. There was also a challenge made to the correctness of the answer key itself. Confronted with these conflicting contentions, the learned Single Judge played safe by appointing three experts of unimpeachable credentials who were teachers in the field of Chemistry, Physics and Biology and referred the disputed questions to them for their expert opinion. As is normally wont, experts disagree. The advice tendered by the experts rendered the situation even more confounded. Despite the conflicting advice tendered even by the experts appointed by him, the learned Single Judge, with commendable tenacity, waded through the technical material presented by the contending parties on the subjects of Physics, Chemistry and Biology papers and

decided for himself as to what would be the "most appropriate answer" to the given 17 questions which were in dispute. Having decided this, the learned Judge gave directions as to the correctness of the deletion and non-deletion of the questions made by the Commissioner. Hence, these appeals.

8. The State of Kerala is in appeal and contends that the learned Single Judge exceeded the jurisdiction of this Court in interfering with the process of examination and virtually sitting in appeal over the decision of the Commissioner. Each individual student, who was a party to a Writ Petition, challenges the correctness of the learned Judge's finding depending on whether it is convenient to him/her or not. Some of the students, who were not parties to the writ petitions, have impleaded themselves to these appeals and canvass the correctness or otherwise of the learned Single Judge's judgment depending how convenient it is to them.

9. In order to be fair to all concerned, we have permitted all interested persons to intervene and we have heard them all. At the end of the day, we are satisfied that there is no fool-proof solution of the problem that is presented to us except scrapping the whole examination and ordering re-examination. Perhaps, that may be the ideal solution. But would it be practicable, is the fear that haunts us. As Justice Oliver Wendell Holmes said, "The life of the law has not been logic; it has been experience". We, therefore, cannot solve the problem before us by logic. We have to reckon with the fact that 33600 students appeared for the examination and each one of them is waiting with bated breath for the rank list to be finalised so as to get admission to some professional degree courses to be pursued. The most ideal and most just solution would be scrapping the whole examination and making 33600 students take the examination once again. But, in our view, such a course is not only not practicable, but is also totally harsh and unfair to the student community as a whole, apart from the costs involved in the process to the State. We have, therefore, decided not to go in for the ideal, but the most practical, solution of the problem presented to us. Before we enter into the merits of the solution, we desire to reiterate the principle which limits the jurisdiction of this Court while entertaining writ petitions of this nature whenever there is a challenge to the process of examination of students.

10. These writ petitions are in the nature of petitions for the issue of a writ of certiorari by invoking Article 14 of the Constitution. Article 14 is anathema to arbitrary action. Petitioners could succeed only if they show that the State or its officers have acted arbitrarily and unreasonably and in breach of the fundamental right guaranteed under Article 14. In a challenge to State action in Writ Petition of this nature under Article 226 invoking the high prerogative writ of certiorari, it is not the function of this Court to sit in judgment over the correctness of the administrative or executive action. The Court has to examine if the decision making process has been vitiated on account of illegality, arbitrariness and mala fides both legal and actual. Absent these factors, the court must refrain from interfering with the decision taken by the administrative authority, whatever it's

personal predictions.

11. Now to notice some of the judgments which delineate the jurisdictional limits of this Court with regard to judicial review. In *Tata Cellular v. Union of India* 1994 6 SCC 651 the Supreme Court pointed out that judicial quest in administrative matters has been to find the right balance between the administrative discretion to decide matters, whether contractual or political in nature, or issues of social policy. Thus they are not essentially justiciable. Hence, the need to remedy any unfairness. It is only such an unfairness which is set right by judicial review. The Supreme Court quoted Lord Scarman in *Nottinghamshire County Council v. Secretary of State for the Environment* 1986 AC 240

""Judicial review" is a great weapon in the hands of the Judges; but the Judges must observe the constitutional limits set by our parliamentary system upon the exercise of this beneficial power."

It was pointed out that the observance of judicial restraint is currently the mood in England, that the judicial power of review is exercised to rein in any unbridled executive functioning. The restraint has two contemporary manifestations. One is the ambit of judicial intervention; the other covers the scope of the court's ability to quash an administrative decision on its merits. These restraints bear the hallmarks of judicial control over administrative action. The Supreme Court noticed with approval the words of Lord Brightman in *Chief Constable of the North Wales Police v. Evans* (1982) 3 All. ER 141:

"Judicial review, as the words imply, is not an appeal from a decision, but a review of the manner in which the decision was made....."

Judicial review is concerned, not with the decision, but with the decision making process. Unless that restriction on the power of the court is observed, the court will in my view, under the guise of preventing the abuse of power, be itself guilty of usurping power."

The comment of Sir John Donaldson, M.R. in *R. V. Panel on Take-overs and Mergers, exp Datafin plc* (1987) 1 All. ER 564 "An application for judicial review is not an appeal" and the dicta of Lord Keith in *Lonrho plc v. Secretary of State for Trade and Industry* (1989) 2 All. ER 609 "Judicial review is a protection and not a weapon" were cited approvingly.

12. The Supreme Court then pointed out that the duty of the court in an exercise of judicial review is to be confined to the question of legality and its concern should be: (1) whether a decision making authority exceeded its powers, (2) committed an error of law, (3) committed a breach of the rules of natural justice, (4) reached a decision which no reasonable tribunal would have reached or, (5) abused its powers. The principle adopted by the Court of Appeal in *Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation* (1947) 2 All. ER 680 reiterated by the Court in England, was approved by the Supreme Court and applied in a number of cases including *Tata Cellular supra*. *Wednesbury principle*

is simple "A decision of a public authority will be liable to be quashed or otherwise dealt with by an appropriate order in judicial review proceedings where the court concludes that the decision is such that no authority properly directing itself on the relevant law and acting reasonably could have reached it". Finally, the Supreme Court, (vide paragraph 94), enunciated the deducible principles on the subject of judicial review as: (1) the modern trend points to judicial restraint in administrative action, (2) the court does not sit as a court of appeal but merely reviews the manner in which the decision was made, (3) the court does not have the expertise to correct the administrative decision. If a review of the administrative decision is permitted it will be substituting its own decision, without the necessary expertise which itself may be fallible, (4) a fair play in the joints is a necessary concomitant for an administrative body functioning in an administrative sphere or quasi-administrative sphere. However, the decision must not only be tested by the application of Wednesbury principle of reasonableness, but must be free from arbitrariness not affected by bias or actuated by mala fides, (5) quashing decisions may impose heavy administrative burden on the administration and lead to increased and unbudgetted expenditure."

13. These principles were reiterated in a number of judgments, but we shall cite only one more judgment in *Haryana Financial Corporation and Another Vs. Jagdamba Oil Mills and Another*, (Paragraph 10), where the Supreme Court says:

" 10. The obligation to act fairly on the part of the administrative authorities was evolved to ensure the rule of law and to prevent failure of justice. This doctrine is complementary to the principles of natural justice which the quasi-judicial authorities are bound to observe. It is true that the distinction between a quasi-judicial and the administrative action has become thin, as pointed out by this Court as far back as 1970 in *A.K. Kraipak and Others Vs. Union of India (UOI) and Others*, . Even so the extent of judicial scrutiny/judicial review in the case of administrative action cannot be larger than in the case of quasi-judicial action. If the High Court cannot sit as an appellate authority over the decisions and orders of quasi-judicial authorities, it follows equally that it cannot do so in the case of administrative authorities. In the matter of administrative action, it is well known, more than one choice is available to the administrative authorities; they have a certain amount of discretion available to them. They have "a right to choose between more than one possible course of action upon which there is room for reasonable people to hold differing opinions as to which is to be preferred". (As per Lord Diplock in *Secretary of State for Education and Science v. Metropolitan Borough Council of Tame* side 1977 AC 1014. The Court cannot substitute its judgment for the judgment of administrative authorities in such cases. Only when the action of the Administrative authority is so unfair or unreasonable that no reasonable person would have taken that action, can the Court intervene. To quote the classic passage from the judgment of Lord Greene, M.R. in *Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation* 1947 (2) All ER 680:

"It is true the discretion must be exercised reasonably. Now what does that mean ? Lawyers familiar with the phraseology commonly used in relation to exercise of statutory discretions often use the word "unreasonable" in a rather comprehensive sense. It has frequently been used and is frequently used as a general description of the things that must not be done. For instance, a person entrusted with the discretion must, so to speak, direct himself properly in law. He must call his own attention to the matters which he is bound to consider. He must exclude from his consideration matters which are irrelevant to what he has to consider. If he does not obey those rules, he may truly be said, and often is said, to be acting "unreasonably". Similarly, there may be something so absurd that no sensible person could ever dream that it lay within the powers of the authority."

14. The learned Advocate General drew our attention to a judgment of the U.S. Supreme Court in *Tennessee Valley Authority v. Hiram G. Hill, Jr. et al.* (437 US 153, 57 L Ed 2d 117, 98 S Ct 2279). In paragraph 15, at page 146, the court while dealing with the plea of judicial review of reasonableness on Endangered Species Act pointed out that such was not the function of the court. "We have no expert knowledge on the subject of endangered species, much less do we have a mandate from the people to strike a balance of equities on the side of the Tellico Dam." There is a passage from Robert Bolt about the observations of Sir Thomas More quoted in this judgment which, in our view, is illuminative and of relevance:

"The law, Roper, the law. I know what's legal, not what's right. And I'll stick to what's legal I'm not God. The currents and eddies of right and wrong, which you find such plain-sailing, I can't navigate, I'm no voyager. But in the thickets of the law, oh there I'm a forester.... What would you do? Cut a great road through the law to get after the Devil? And when the last law was down, and the Devil turned round on you - where would you hide, Roper, the laws all being flat?.... This country's planted thick with laws from coast to coast-Man's laws, not God's - and if you cut them down.... you really think you could stand upright in the winds that would blow them?..... Yes, I'd give the Devil benefit of law, for my own safety's sake" R. Bolt, *A Man for All Seasons*, Act I, p. 147 (Three Plays, Heinemann ed 1967)."

We express our entire agreement with the lament of Sir Thomas More articulated by Robert Bolt.

15. Now that the principles have been brought into focus we shall apply them to resolve the problem before us. In Paper I (Physics and Chemistry), A1 Version, question Nos. 11, 14, 25, 28, 29, 32, 33, 36, 56,65,67, 101 and 107 are the subject matters of the dispute. Similarly, in Paper II (Biology), B1 Version, question Nos. 4, 24, 30, 51, 73 and 99 are the subject matters of the controversy. The Commissioner on obtaining expert advice decided to delete these questions since he was of the opinion that these questions did not have any unique and "most appropriate answer" and, therefore, it would be unfair and unreasonable to ask such a question in an objective MCQ where more than one

appropriate answer is possible. This decision, the Commissioner did not take unilaterally. He took the decision as a result of consideration of the objections presented to him before and after the key answers were published. We cannot forget that the question papers themselves were set by expert teachers in the subjects. The key answers were also prepared by experts appointed to carry out the exercise. Finally, after reviewing the objections made before and after publication of the key answers, the Commissioner appointed a committee of experts to go into the objections and, acting in accordance with the advice tendered to him, decided to delete the aforesaid questions as in his view the questions did not have only one "most appropriate answer". We are of the view that the course adopted by the Commissioner was fully justified. The principle followed was also consistent with the representation made to the students by paragraph 9.4.1 of the prospectus that "the examination(s) will be of objective in nature, and based on single response that is, for each question five suggested answers will be given, of which only one will be the most appropriate response."

16. The Supreme Court had occasion to consider a similar situation in *Kanpur University and Others Vs. Samir Gupta and Others*, . In that case, in a situation of objective multiple choice questions, there was a challenge to the correctness of some of the answers which were said to be the key answers. The matter was decided by the Allahabad High Court by taking a particular view. While disposing of the appeal there against, the Supreme Court indicated in paragraph 18 the principle to be adopted while dealing with such a matter. The Supreme Court observed:

"In a system of "Multiple Choice Objective-type test, care must be taken to see that questions having an ambiguous import are not set in the papers. That kind of system of examination involves merely the tick-marking of the correct answer. It leaves no scope for reasoning or argument. The answer is "yes" or "no". That is why the questions have to be clear and unequivocal. Lastly, if the attention of the University is drawn to any defect in a key answer or any ambiguity in a question set in the examination, prompt and timely decision must be taken by the University to declare that the suspect question will be excluded from the paper and no marks assigned to it."

17. This being the principle enunciated by the Supreme Court, it appears to us that much of the controversy raised before us can easily be resolved by recourse to this principle. While we appreciate the keen efforts taken by the learned Single Judge in appointing experts to advise him, and commend the pains taken by him in studying the subjects and deciding the correctness of each disputed answer, we are afraid that the jurisdictional limits of judicial review were not observed. As already pointed out, it is not the function of this Court to decide what should be the correct answers to the multiple choice questions. This is not a case where there is any mala fides or improper motives alleged against the Commissioner. Nor is there any illegality alleged. The Commissioner, bonafide, accepted the advice tendered to him by the experts appointed by him. It is not as if the

credentials of the said experts is under challenge or any mala fides are attributed to the experts themselves. In a situation like this, it would have been preferable to leave the matters where they lay. We see that appointing of further experts by the learned Single Judge produced no better results and only added to the confusion which prevailed.

18. One principle is certain, namely, every "suspect question" needs to be deleted so that no student gets advantage, or is denied advantage, because of evaluation of such questions. A "suspect question" is one which is incapable of being asked as objective multiple choice question, in that it has no single, unique or "most appropriate answer". This may be because the answer requires an explanation and argumentation or reasons for its justification. These are exercises not permissible in an objective multiple choice question, where the candidate has to merely mark a tick in the space provided for it. The answer key is also programmed into the Computer.

19. Faced with this situation, we have with the help of the learned counsel, carefully scanned the questions challenged with respect to the subject matter of challenge in the writ petitions. At the outset, we may place on record-that as far as question No. 29 in Paper I (Physics and Chemistry) A1 version, and question No. 90 in Paper II (Biology) B1 version, are concerned, by common consent, it is agreed that they are not "suspect questions". The learned Advocate General concedes that deletion of these questions was an error on the part of the Commissioner and that these questions need not be deleted for evaluation of the students.

20. With regard to question Nos. 11, 14, 25, 28, 32, 33, 36, 56, 65, 67, 101 and 107 of Paper I (Physics and Chemistry) A1 version, and question Nos. 4, 24, 30, 51, 73 and 99 of Paper II (Biology), B1 version, we notice that there is difficulty. These questions may properly be regarded as "suspect questions", for the simple reason that there is disagreement between the experts appointed by the Commissioner and the experts appointed by the learned Single Judge, and even amongst the experts appointed by the latter. A reading of the judgment in the light of the contentions urged across the bar leads us to the conclusion that all these are questions which do not have a unique or single most appropriate answer. These questions were, therefore, incapable of being asked in an objective multiple choice questions test. In our view, therefore, these suspect questions must be eliminated and the students must be evaluated on their performance in response to the other questions.

21. Question Nos. 24, 51, 65, 73 and 104 in Paper II (Biology), B1 version, were not deleted by the Commissioner in view of the advice tendered to him by the experts appointed by him. There is divergence of opinion amongst the students as to which of them has to be deleted and which of them is not to be deleted. For question No. 24, the Commissioner's experts suggested that the correct answer is "D", which was agreed to by the two experts appointed by the learned Single Judge while the third expert suggested that the answer could be either "B" and

"D". In view of this disagreement amongst the experts, we treat this question as a "suspect question" and direct its deletion. With regard to question No. 51, the Commissioner's experts suggested the correct answer to be "B", while one of the experts appointed by the learned Single Judge opined that it could have no appropriate answer, the second expert opined that the correct answer could be "B" and "C", while the third expert disclaimed his expertise on the subject. We are not satisfied that there could be a single or unique answer and, therefore, this question also needs to be deleted. Turning to question No. 65, all the experts unanimously agreed that this question ought not to be deleted. The learned Advocate General concedes this, nor did the Commissioner choose to delete it. This question shall be retained without deletion. With regard to question No. 73, the Commissioner's experts suggested the key answer as "B". All the three experts appointed by the learned Single Judge opined that there could be no most appropriate answer. However, the learned Single Judge took the view that "B" was the correct answer. In our view, this is a "suspect question" and therefore, it needs to be deleted. Turning to question No. 104, this question was not deleted by the Commissioner and the parties are agreed that this question need not be deleted.

22. Mr. T.R. Ravi, learned counsel appearing for the petitioner in O.P. No. 16123 of 2002 referred to the judgment of the Supreme Court in *Smt. Vinitha Ashok Vs. Lakshmi Hospital and Others*, , *Madan Gopal Kakkad Vs. Naval Dubey and Another*, , *The Asiatic Steam Navigation Co. Ltd. Vs. Sub-It. Arabinda Chakravarti*, and *Haji Mohammad Ekramul Haq Vs. The State of West Bengal*, and contended that these judgments indicate without doubt that no expert opinion is binding on the court and the court is always under a duty to assess the expert opinion and form its own judgment in the matter. The principle as stated is unexceptionable, but we notice that all these are cases where there is a trial - civil or criminal - held in the matter. If the matter were in the realm of a trial, where expert opinion is adduced as evidence and subjected to cross-examination by the challenging party, undoubtedly, the principle canvassed by the learned counsel would be the correct principle to be adopted. We are however, in the realm of a petition for certiorari where the parameters and the roles are quite distinct and different. We have already indicated in detail what the approach of the court should be. In any event, there was no trial in the instant case and therefore, these authorities are of no assistance in deciding the matter.

23. Mr. Babu Karukappadath, appearing for the appellant in W.A. No. 1881 of 2002 drew our attention to a judgment of the Supreme Court in *The University of Mysore and Another Vs. C.D. Govinda Rao and Another*, (paragraphs 12 and 13) to highlight the principle that the power of judicial review has to be sparingly used in academic matters where expert opinion has been rendered and the court should be slow to interfere with the opinion expressed by the experts in the absence of any allegations of mala fides and that it would be wise and safe for the courts to leave the decisions of academic matters to experts who are more familiar with the problems they face than the courts generally can be. That is

precisely the principle on which we have to judge the present case. Principal, Patna College, Patna and Others Vs. Kalyan Srinivas Raman, (paragraph 20) is another judgment of the Supreme Court in which it cautioned that the High Court should be very slow to pass ex pane interim orders with regard to matters falling within the jurisdiction of the educational authorities which should normally be left to their discretion, to be interfered with only when the court thinks it must do in the interest of justice.

24. We are informed that this problem is a recurring one, almost in the nature of a seasonal epidemics. A reference to the judgment of this Court in O.P. No. 22631 of 2001 (by K.S. Radhakrishnan and G. Sasidharan, JJ.) on 24th August, 2001 and the judgment of this Court in Madhwnohan v. State of Kerala 2000 (2) KLT 669 bears this out. In the latter judgment, at paragraph 23, the Division Bench of this Court, following the Supreme Court in Samir Gupta (supra), took the view that it is imperative that the answers to the questions indicated must not carry1 two correct answers. It also noted the representations made in the different paragraphs of the prospectus, which are almost identical with the ones we find in the current prospectus, and, therefore, deleted the questions which were described by the Supreme Court-as "suspect questions". The same principle is adopted in the judgment in O.P. No. 22631 of 2001.

25. The above discussion leads to the following results:

(a) In Paper I (Physics and Chemistry) A1 version, the following questions shall stand deleted therefrom:

Question Nos. 11, 14, 25, 28, 32, 33, 36, 56, 65, 67, 101 and 107.

Out of these questions, questions 11, 14, 25, 28, 32, 33, 36, 56, 65 and 67 pertain to Chemistry and questions 101 and 107 pertain to Physics.

(b) From Paper II (Biology), B1 version, question Nos. 4, 24, 30, 51, 73 and 99 shall stand deleted. Question No. 29 in Paper I (A 1 version) and question No. 90 in Paper II, (B 1 version), shall not be deleted.

(c) The total number of questions to be answered shall be 108 in Paper I and 114 in Paper II.

(d) It is submitted by the learned counsel for the students that the first paper does not have equal weightage in Chemistry and Physics inasmuch as there are 72 questions of Chemistry as against 48 questions of Physics. Deletion of ten questions from Chemistry would put some students to disadvantage because the proportional weightage given to two subjects would be disturbed. The candidates are required to answer 62 questions in Chemistry and 46 questions in Physics. The maximum marks in the two subjects would be 248 and 184 respectively. The marks obtained by each candidate in Chemistry shall be multiplied by 72/62 and the marks obtained in Physics shall be multiplied by 48/46 to obtain the corrected marks in both subjects to maintain the same proportional weightage given to the two subjects.

(e) Paper II shall be valued for 114 questions carrying maximum marks of 456 and the marks obtained by each candidate shall be multiplied by 120/114 for getting the corrected marks to maintain the proportional weightage.

(f) The corrected marks shall be worked out to four decimal figures. Considering the keen competition, this might be necessary, as mere rounding-off may create difficulties.

(g) The rank list shall be prepared in the manner as above indicated on the basis of the total of corrected marks in both papers, as expeditiously as possible.

(h), It is necessary to add a caveat here that there shall be no further litigation by any person who has not already come up before this court, as otherwise, this litigation can be carried out ad infinitum without putting a finality to the results of the 2002 examination. If any persons have not already approached the court, either before the learned Single Judge, or before us, the results of the examination declared and the rank list compiled by the Commissioner in accordance with the directions contained in this judgment shall be final, irrespective of whether they had appeared before the court or not.

We accordingly allow the appeals and the judgment of the learned Single Judge stands modified as directed in the judgment.