

(2015) 10 RAJ CK 0011

In the Rajasthan High Court

Case No : Civil Writ Petition Nos. 9338/2014 and 85, 1310, 1364, 1489, 2193 and 2484 of 2015

Subhash Chandra Godara and Others

APPELLANT

Vs

State of Raj. and Others

RESPONDENT

Date of Decision : 05-10-2015

Acts Referred:

Citation : (2015) 10 RAJ CK 0011

Hon'ble Judges : Sandeep Mehta, J

Bench : Single Bench

Advocate : Arjun Purohit, Deepak Kankar, Sukesh Bhati and Om Singh Chouhan, for the Appellant; Anil Bissa, AGC, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Sandeep Mehta, J—Heard learned counsel for the parties.

2. The instant batch of writ petitions is preferred by the petitioners prosecuting a common cause of action and praying for an identical relief and thus are being decided together by this single order.

3. The petitioners are all aspiring candidates who crave appointment as Constables in furtherance of Constable recruitment advertisement dated 14.7.2013 issued from the office of the Director General of Police, Government of Rajasthan, Jaipur. As per the terms and conditions of the advertisement, the recruitment process consists of three parts:-

- (i) written examination,
- (ii) physical standards test, and
- (iii) physical efficiency test.

After completing all these three steps, the concerned candidate would be entitled for appointment as a constable subject to character verification.

4. The petitioners claim to have appeared in the written examination conducted on 1.6.2014 and failed therein. The answer key of the written examination which was held on O.M.R. sheets, was published on internet on 7.7.2014. The authorities invited objections against the answer key up-till 13.7.2014. The petitioners are those candidates who bear a grievance against the answer key published by the respondent authorities. They claim to have raised timely objections against the incorrect answers reflected in the answer key but as per the petitioners, the objections submitted by them to the authorities were not considered properly and as such, they have approached this Court by way of these writ petitions assailing the action of the respondents in not properly dealing with the objections raised against the faulty answer key.

5. Reply has been filed by the respondents in few of the writ petitions. Learned AGC Mr. Bissa submitted that he adopts the reply filed in writ petition No. 9338/2014 in all the writ petitions.

6. It is asserted in the reply that after publication of the answer key on the internet, the aggrieved candidates were invited to submit their objections upto 13.7.2014. As many as 159 objection applications were received regarding 27 answers. After receiving and consolidating the objections, a committee of subject experts was constituted. The committee found that, out of the objections raised by the candidates regarding 27 answers, 26 were unsustainable and the answers already adopted by the department were correct. Regarding answer of the question No. 30, the expert committee opined that more than one correct answer of the question was reflected in the answer key and, therefore, the said question was required to be ignored and one bonus mark be awarded to all the candidates irrespective of the fact whether they had attempted the question or not. The expert committee's recommendations have been accepted and the consequential revision effected in the result.

7. In this background, the respondents have contended that as timely objections raised by the aggrieved candidates against the answer key have already been considered and decided by an expert committee, no further interference is called for in these writ petitions for directing a fresh evaluation of the answer-key.

8. Learned counsel for the respondents have placed on record the report of the expert committee in order to satisfy the Court that all the timely objections submitted by the aggrieved candidates were extensively and objectively examined by the expert committee which considered the whole issue and rejected the objections for 26 answers whereas objection for one question, was sustained and the question was directed to be ignored/deleted and 1 bonus mark awarded to all candidates.

9. Learned counsel for the petitioners placed reliance on the following decisions and vehemently urged that this Court is required to interfere in the matter for coming to the aid of the aggrieved candidates like the petitioners because the authorities did not properly respond to and consider the objections raised by the

petitioners and, therefore, it is a fit case to direct a fresh evaluation of the objections submitted by the petitioners against the wrong answers:-

- (i) Nutan Trivedi vs. State of M.P. reported in (1993) 1 MPWN 199
- (ii) Competent Authority Entrance Examination. Vs. Wasim Ashraf reported in 1997 KashLJ 435.
- (iii) Shiv Shankar Dal Mills and Others Vs. State of Haryana and Others, AIR 1980 SC 1037 : (1980) 2 SCC 437 : (1980) 1 SCR 1170 : (1980) 12 UJ 55 .
- (iv) Fertilizer Corporation Kamgar Union (Regd.), Sindri and Others Vs. Union of India (UOI) and Others, AIR 1981 SC 844 : (1981) 42 FLR 192 : (1980) LabIC 1367 : (1981) 1 LLJ 193 : (1981) 1 SCC 568 : (1981) 2 SCR 52 .
- (v) Arunima Baruah Vs. Union of India (UOI) and Others, (2007) 6 SCALE 293 : (2007) 6 SCC 120 : (2007) 5 SCR 904 : (2008) 1 SLJ 77 .
- (vi) Bhagubhai Dhanabhai Khalasi and Another Vs. The State of Gujarat and Others, (2007) 5 SCALE 357 : (2007) 4 SCC 241 : (2007) 4 SCR 899 .
- (vii) Mohd. Aslam Vs. Shambhoo Singh and Others, (2005) 2 RLW 1400 .
- (viii) Kanpur University and Others Vs. Samir Gupta and Others, AIR 1983 SC 1230 : (1983) 2 SCALE 89 : (1983) 4 SCC 309 : (1984) 1 SCR 73 .
- (ix) Manish Ujwal and Others Vs. Maharishi Dayanand Saraswati University and Others, (2005) 8 JT 382 : (2005) 13 SCC 744 .

10. Per contra, learned Addl. Govt. counsel Mr. Bissa relied on a Full bench decision of this Court in the case of Lalit Mohan Sharma Vs. RPSC and Others, (2005) 4 RLW 2725 : (2005) 4 WLC 354 and contended that once the expert committee examines the authenticity of the answer keys, the Court is not required to sit over such opinion and to probe into the matter.

11. I have heard the arguments advanced at the Bar and have perused the material available on record.

12. It is undisputed that after the publication of the answer key on the internet, the respondent authorities invited objections from the aggrieved candidates. Thus, all the aggrieved candidates were given adequate and appropriate opportunity to submit their objections and to have the same considered and decided by the experts. The petitioners too, at that very point of time, were entitled to raise their objections against the answers published on internet by the recruiting authority.

13. Most of the petitioners have raised an objection regarding the question No. 41 of the question series No. A. The said objection was received from as many as 19 candidates as per the list provided to this Court by Mr. Bissa. The expert committee examined the objection raised against the answer adopted in the model answer key to be unsustainable.

14. The only significant judgment, out of the judgments cited by the learned counsel for the petitioners, which could persuade this Court to take a possible view in favour of the petitioners is the judgment rendered in the case of Kanpur University and Others Vs. Samir Gupta and Others, AIR 1983 SC 1230 : (1983) 2 SCALE 89 : (1983) 4 SCC 309 : (1984) 1 SCR 73 . The other judgments are either on entirely different questions of law or are of other High Courts. The judgment in Kanpur University's case (supra) was extensively examined by the Full Bench of this Court in the case of Lalit Mohan Sharma (supra) wherein the Full Bench of this Court clearly expounded that the Court is not required to sit over the opinion of the expert committee.

15. The scope of the Court's powers to interfere in the reports of the experts in academic matters was examined by the Hon'ble Supreme Court in the case of University Grants Commission and Another Vs. Neha Anil Bobde (Gadekar), (2013) 6 ABR 900 : (2013) 10 AD 174 : (2013) 11 SCALE 593 : (2013) 10 SCC 519 : (2014) 1 SCC(L&S) 842 : (2014) 1 SCT 295 . The Hon'ble Supreme court in no unequivocal terms held that:-

"29. 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 The University of Mysore and Another Vs. C.D. Govinda Rao and Another, AIR 1965 SC 491 : (1964) 4 SCR 575 , Tariq Islam Vs. Aligarh Muslim University and Others, AIR 2001 SC 3058 : (2001) 8 JT 459 : (2002) LabIC 566 : (2001) 7 SCALE 86 : (2001) 8 SCC 546 : (2002) 1 SLJ 343 : (2001) AIRSCW 4128 : (2001) 7 Supreme 401 and Dr. Rajbir Singh Dalal Vs. Chaudhari Devi Lal University, Sirsa and Another, (2008) 8 JT 621 : (2008) 11 SCALE 211 : (2008) 9 SCC 284 : (2008) 2 SCC(L&S) 887 : (2009) 1 SLJ 109 : (2009) 8 SLR 640 , has taken the view that the Court shall not generally sit in appeal over the opinion expressed by expert academic bodies and normally it is wise and safe for the Courts to leave the decision of academic experts who are more familiar with the problem they face, than the Courts generally are."

16. In view of the above discussion, this Court is of the firm opinion that the objections submitted by the respective candidates having been examined and answered once by the expert committee, the petitioners cannot be allowed to have a second round of challenge to the answer key and thereby, drive the entire recruitment process into realms of uncertainty.

17. Consequently, these writ petitions, being devoid of any merit, are hereby dismissed.

18. Stay petitions are also dismissed.

19. No order as to costs.

20. A copy of this order be placed in each file.