

HIGH COURT OF MADHYA PRADESH BENCH AT GWALIOR**BEFORE HON'BLE SHRI JUSTICE ANAND PATHAK****ON 19th July, 2024****WRIT PETITION NO.7395 OF 2024****SACHIN KUMAR SAXENA****VS.****STATE OF MADYA PRADESH AND OTHERS**

Appearances:-

Shri Krishna Kartikey Sharma – Advocate for the petitioner.

Shri Vishal Tripathi – Government Advocate for respondents No.1
& 2 – State.

Shri Vivek Khedkar – Advocate for respondent No.3.

ORDER

1. The present petition under Article 226 of the Constitution of India is filed seeking following reliefs:-

“(i) That, the question no.1,2,24,53,59,79,89 of the exam High School Teacher Selection Test 2023 challenged by the petitioner, the objection taken be allowed and question no.1,2,53,59,79,89 be deleted and marks may be provided while question No.24 which is deleted by the respondents be not cancelled being correct.

(ii) That, respondents may kindly be directed to prepare fresh merit list after taking into account the above changes and publish fresh cut-off regarding the exam.

(iii) That, any other relief which this Hon'ble High Court may deem fit, with cost of the petition imposing exemplary cost.”

2. Precisely stated facts of the case are that petitioner applied for the M.P. High School Selection Test, 2023 and appeared in the examination held on 02-08-2023, result of which was declared on 20-02-2024. Petitioner scored 79.35 marks in EWS open category (non-guest faculty). After result being opened, respondents published model answer-sheets. It appears to the petitioner that certain questions of the question paper which were performed by the petitioner were either incorrect or not properly framed. When objection was raised then some of the questions were treated as disputed and evenly 01 mark has been allotted to all the candidates who appeared in the said exam, and the same is the bone of contention of the petitioner.

3. According to the petitioner, some of the questions were not properly framed therefore, he could not score sufficient mark to move into the fray further.

4. Learned counsel for the petitioner referred certain questions which are as under:-

Question no. 1 “टुमकि-टुमकि रूनझुन धुनि-सुनि, कनक अजिर शिशु डोलत” प्रस्तुत पंक्तियों में कौन-सा अलंकार है?”

- [A] अन्योक्ति अलंकार [B] विशेषोक्ति अलंकार
[C] अनुप्रास अलंकार [D] मानवीकरण अलंकार

Question no.2 “अंग्रेजी और अन्य विदेशी भाषाओं से नए शब्द ग्रहण करने और उनके देवनागरी में लिप्यंतरण (अनुवाद) करने के विषय में किस आयोग द्वारा किया गया है”

- [A] राजभाषा आयोग [B] वैज्ञानिक तथा तकनीकी शब्दावली
[C] कोठारी आयोग [D] केन्द्रीय हिन्दी निदेशालय आयोग

Question no. 24 “माखनलाल चतुर्वेदी की कविता “कैदी और कोकिला” किसका प्रतीकात्मक दस्तावेज है?”

- [A] राष्ट्रीय स्वतंत्रता दिवस संग्राम का [B] अध्यात्म का
[C] विद्रोह का [D] अहिंसा और शान्ति का

Question no. 53 “आशीषों का आंचल भरकर, प्यारे बच्चों लाई हूँ। युग जननी मैं भारत-माता द्वार तुम्हारे आई हूँ। प्रस्तुत पंक्तियों में किस काव्य- गुण का प्रयोग उपयुक्त नहीं होगा?”

- [A] व्यंजना [B] ओज गुण
[C] प्रसाद गुण [D] माधुर्य गुण

Question no.59 “निम्न में से कौन सा शब्द आंचलिक नहीं है”

- [A] राहदारी [B] रेलगाड़ी
[C] कुची-कुची [D] थुम्पा

Question no. 79 “जिनका पृथक एवं स्वतंत्र उच्चारण संभव हो उसे क्या कहते हैं?”

- [A] अखंडयेतर स्वनिम [B] स्वनिम
[C] खंड्य स्वनिम [D] अखंड्य स्वनिम

Question no.89 “काम मंगल से मंडित श्रेय स्वर्ग, इच्छा का है परिणाम तिरस्कृत कर उसको तुम भूल बनाते हो असफल भवधाम।” कामायनी की इन प्रस्तुत पंक्तियों में श्रद्धा निराश मनु को क्या संदेश देती है?”

- [A] काम का [B] उदासी का
[C] सत्य का [D] आनंद का

5. According to the counsel for the petitioner, for question No.1, correct answer was “**पुनर्वक्ति** अलंकार” and not “अनुप्रास अलंकार” For question No.2, although correct answer was “वैज्ञानिक तथा तकनीकी शब्दावली” but in the said question word “आयोग” was missing. For question No.24, “राष्ट्रीय स्वतंत्रता संग्राम का” was the correct answer but word “दिवस” was mentioned which made the respondents to delete the said question. Similarly, for question No.53, although correct answer was “व्यंजना” but it is not “काव्य गुण” therefore, question was improperly framed.

6. Learned counsel for the petitioner although referred question No.59 and submits that only word “रेलगाड़ी” is the word which is not regional. Other three words were regional as reflected in travelogue “राहुल सांकृत्यायन” attached with answer key. Similarly for question No.79, answer (c) “खंड्य स्वनिम” was correct answer and for question No.89 answer (d) “आनंद का” was correct answer. Therefore, these questions be

deleted and marks be awarded to the petitioner.

7. It is further submitted (alternatively) that he is in waiting list. Therefore, if situation arises, then he may be called to serve.

8. Learned counsel for the respondent No.3 – Employees Selection Board on the basis of instructions, opposed the prayer and submits that it is not a case where petitioner can be permitted to move forward because he scored 79.35 marks and there is deficit of more than 03 marks after normalization of marks. Therefore, it cannot be said that petitioner was eligible.

9. So far as answers to different questions were concerned, regarding question no.1, correct answer was “अनुप्रास अलंकार” which was required to be mentioned by the petitioner but he did not mention and suffered. So far as question no.2 is concerned, although word “आयोग” was not mentioned but certainly it was “वैज्ञानिक तथा तकनीकी शब्दावली आयोग” which carried out the work of translation but petitioner did not opt the same also.

10. Question no.24 was deleted as per the policy decision of the examination board. Question no.53 was correctly evaluated as evenly 01 mark has been allotted to all the students who appeared in the said exam. So far as question no.59 is concerned, word “रेलगाड़ी” may be correct answer but that question was cancelled because of its nature. So far as question no.79 is concerned, correct answer was answer (c) “खंड्य स्वनिम” but petitioner did not attempt properly therefore, he did not get the mark for the said question. While referring question no.89, he submits that correct answer was (a) “काम का” and (d) “आनंद का” therefore, it was to be deleted.

11. It is further submitted that even if petitioner gets marks of deleted questions; even then there is deficit of 03 marks therefore, petitioner was not qualified for interview. Scope of Article 226 of the Constitution of India is narrow. He prayed for dismissal of the petition.

12. Learned Government Advocate for the respondents No.1 & 2 - State also opposed the prayer and supported the submissions advanced by counsel for the respondent No.3.

13. Heard and perused the record.

14. This is a case where petitioner is seeking deletion of certain questions and treatment of some questions in a particular manner, which is not the scope under Article 226 of the Constitution of India in the matter of examination because it is the examining body which frames the questions in a particular manner therefore, these questions were cancelled.

15. Even if marks of the cancelled questions could have been awarded to the petitioner even then he would not have cleared the barrier. Therefore, while exercising extraordinary jurisdiction under Article 226 of the Constitution of India, respondents cannot be directed to delete certain questions and evaluate certain questions in a particular manner, therefore, plea of petitioner stands rejected.

16. It is settled in law that Court is not a "Body of Experts" and final answer keys are being prepared by the body of experts, therefore, scope of interference is limited as held in the case of **Piara Singh Vs. State of Punjab, (1977) 4 SCC 452** till **Sunflag Iron and Steel Co. Ltd. Vs. State**

of M.P. (2019) 1 MPLJ 689, Full Bench Judgment of this Court in the case of **Nitin Pathak Vs. State of M.P. and others (W.A.581 of 2017)** as well as judgment of learned Division Bench of this Court in the case of **Mayank Dwivedi Vs. Madhya Pradesh Public Service Commission order dated 25.10.2023 passed in Writ Appeal 1728/2023**. Therefore, scope of interference is constricted.

17. Being expert body, the Employee Selection Board which undertakes selection for many posts including the post of Teachers is expected to be more vigilant and more circumspective about its own disposition and working, so that it can truly harness the talent of young people. They are also required to be more careful and cautious about questions framed and the question be framed in a manner, which do not create any confusion or giving answers to those questions would not create any chaos.

18. However, dismissal of petition does not give clean chit to respondent No.3/ Employee Selection Board about their seamless working.

19. Petition stands dismissed but with above mentioned food for thought for Employee Selection Board. Hopefully, they would restore their house in order soon.

20. In case petitioner is in waiting list and called for service then it is to be done as per law/ entitlement (if waiting list subsists).

(ANAND PATHAK)

JUDGE