

IN THE HIGH COURT OF MADHYA PRADESH AT INDORE
BEFORE
HON'BLE SHRI JUSTICE VIJAY KUMAR SHUKLA
ON THE 23rd OF FEBRUARY, 2022

WRIT PETITION No. 28481 of 2021

Between:-

**ABHISHEK KACHHWAH S/O SHRI DAMODAR
KACHHWAH , AGED ABOUT 27 YEARS,
OCCUPATION: SERVICE 385, M.G. ROAD, NEAR
BADA GANPATI (MADHYA PRADESH)**

.....PETITIONER

(BY SHRI VIVEK PATWA, LEARNED COUNSEL)

AND

1. **MADHYA PRADESH PULIC SERVICE COMMISSION
THROUGH ITS SECRETARY 1, RESIDENCY AREA
(MADHYA PRADESH)**
2. **EXAM CONTROLLER M.P. PUBLIC SERVICE
COMMISSION 1, RESIDENCY AREA (MADHYA
PRADESH)**

.....RESPONDENTS

(BY SHRI V.P. KHARE, LEARNED COUNSEL)

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This petition coming on for orders this day, the court passed the following:

ORDER

The petitioner has invoked writ jurisdiction under Article 226 of the Constitution of India seeking a writ of certiorari for quashing the final answer key published by the respondents for the result of State Engineering Services Examination 2020 and to direct the respondents to publish the same after appropriate corrections. A direction has been further sought not to declare the result of State Engineering Services Examination, 2020 on the basis of key to answers published by the respondents until the same is appropriately corrected. A further direction to the respondents prayed to make appropriate alteration on the marks of the interview to maintain the weightages of marks of written examination and interview as prescribed in the ratio of 90:10.

2) The facts adumbrated in a nutshell are that, the petitioner passed Bachelor of Engineering in 2016 and thereafter Master of Engineering in 2019 from Shri S.G.S.I.T.S., Indore. The respondent issued an advertisement on 29.12.2020 for conducting the entrance examination for appointment of engineers in various

departments of the State of MP called as State Engineering Services Examination, 2020. As per the selection procedure, the written examination was conducted and the respondents were required to publish a provisional answers key on its website. After that objections if any in respect of the proposed answers are required to be submitted. The same was to be submitted in seven days. After considering the objections in respect of the proposed answers and finding them correct, the committee constituted by the respondents will if the proposed answer is wrong and another answer is correct then the answer proposed in the answer key will be changed. But, if the answers given in the question papers are not correct then the question itself will be deleted on three conditions:-

- (a) When any of the proposed answers given in the options is not correct.
- (b) When more than one answers proposed in the options are correct.
- (c) When there is difference in the Hindi and English version of the question paper.

3) It is asseverated that the petitioner being an eligible engineering student submitted his online form on 11.02.2021 and an admit card was issued to the petitioner. On 14.11.2021, the written examination was conducted for the State Engineering Services Examination 2020 wherein the petitioner appeared and was given Set-A of the question paper. On 17.11.2021 the respondents published the provisional answer key to the question paper. After going through the provisional answers, the petitioner raised objections with respect to the answers of 15 questions bearing nos. 3, 25, 35, 47, 69, 73, 89, 98, 105, 112, 120, 122, 140, 143 and 145. The committee constituted by the respondents accepted the objections raised by the petitioner in respect of questions bearing question no.3, 24, 35, 47, 69, 89, 98, 120, 140 and 145 and made appropriate correction in the provisional answer key and issued the final answer key on 09.12.2021.

4) Counsel for the petitioner submitted that out of 15 objections raised by the petitioner, the respondents have accepted 10 objections and appropriately corrected the final answer key, but in respect of 5 questions Nos.73, 105, 112, 122 and 143, the objection has not been considered. It is submitted that as per the material filed along with the petition, the aforesaid questions were not correctly framed and, therefore, appropriate marks have not been awarded.

5) The respondents have filed the reply and submitted that the committee had invited objections from the candidates. Objections from 378 candidates were received about 47 questions. The committee of the subject expert was constituted, who considered all the objections and examined all the objections. The committee suggested to delete 13 questions. It is submitted that committee further suggested to amend the answer of four questions. It is further stated that the petitioner had submitted the objections about 15 questions which were considered by the aforesaid committee as mentioned above, but now in the writ petition, he has challenged only five questions. It is further submitted that the respondents had published the Final Answer Key by notice dated 09.12.2021 mentioning therein that the result of the examination has been declared on the basis of Final Answer Key. The reliefs claimed by the petitioner in para-7 to quash the final answer key published by the respondents for the examination of State Engineering Services Examination 2020 and to direct the respondents to publish the same after appropriate corrections and further not to declare the result of State Engineering Services Examination 2020 on the basis of the key to answers published by the respondents until the same is appropriately corrected and also claimed to direct the respondents to make appropriate alteration on the marks of interview to maintain the weightages of marks of written examination and interview as prescribed i.e. in ratio of 90:10 are denied. The same cannot be considered in view of the judgment passed by the Full Bench in the case of *Nitin Pathak vs. State of MP & Ors.* reported in *AIR 2018 MP 64* and also the judgment passed by the Division Bench in the case of *M.P. Public Service Commission, Indore vs. Aayushi d/o Ashok Thakkar & Anr.* reported in *2015(1) M.P.L.J. 661*.

6) This Court by order dated 14.02.2022 directed the respondents to produce the calculation sheet and other relevant material relating to Subject Expert Committee to indicate that the objection raised by the petitioner in respect of five questions, 73, 105, 112, 122 & 143 have been dealt with by the respondents or not. The respondents have produced the record of the Subject Expert Committee before this Court in a sealed envelope. Upon perusal of the same, it appears that the objection raised by the petitioner in respect of the aforesaid five questions have

been dealt with by the respondents and it has been found that the answer given in the model answer is correct. Since the objections raised by the petitioner in respect of the five questions have been considered by the Subject Expert Committee, I am not inclined to interfere with the final result sheet published by the respondents in exercise of the writ jurisdiction under Article 226 of the Constitution of India.

7) The law relating to scope of judicial review in such matters is well settled by the Full Bench of this Court in the case of *Nitin Pathak* (supra) where the Court held that Courts play very limited role in the matter of examination conducted by Public Service Commission. Model answer key prepared by the committee of experts. In absence of any allegations regarding mala fides against experts constituted to finalize answer key, Court should not refer matter to court appointed experts. It has been further held that power of judicial review is concerned, not with the decision of the experts, but only with the decision-making process.

In view of the aforesaid, I do not find any merit in the writ petition. Accordingly, the writ petition is dismissed.

The proceedings of Subject Expert Committee is returned to the counsel for the respondents.

(VIJAY KUMAR SHUKLA)
JUDGE