# IN THE HIGH COURT OF MADHYA PRADESH
# A T J A B A L P U R

**BEFORE**

**HON'BLE SHRI JUSTICE VISHAL MISHRA**

**ON THE 17th OF OCTOBER, 2024**

**WRIT PETITION No. 25791 of 2024**

***SHIVAM TRIPATHI AND OTHERS***

*Versus*

***THE STATE OF MADHYA PRADESH AND OTHERS***

---

***Appearance*** *:*

*Shri Utkarsh K. Sonkar - Advocate for the petitioners.*

*Shri Aditya Pachori – Advocate for the respondents No.2 and 3.*

---

**O R D E R**

The present petition has been filed seeking the following reliefs :

*(i) That this Hon'ble Court be pleased to issue a writ of mandamus to Respondents No.2 and 3 to amend the Final Answer Key dated 19.07.2024, No.714/69/2011/P-9 [Annexure P/1] of Preliminary Examination Madhya Pradesh State Service and State Forest Service Examination, 2024 with respect to following questions in Set A including in their answers the options provided hereunder and make similar consequential changes in other sets.*

| *QUESTIONS* | *ADD AS ANSWER THE FOLLOWING OPTION(S)* |
|---|---|
| *11. In which of the following cases did the Supreme Court of India declare the prevalence of Fundamental Rights over Directive Principles of the State Policy in case of conflict between the two?*<br>*(A) Golaknath vs State of Punjab (1967)*<br>*(B) State of Madras vs Champakam Dorairajan (1951)*<br>*(C) Kesavananda Bharati vs State of Kerala (1973)*<br>*(D) Minerva Mills vs Union of India (1980)* | *(A) Golaknath vs State of Punjab (1967)*<br>*(D) Minerva Mills vs Union of India (1980)* |
| *27. Birha is the popular folk song of which group of tribal women ?*<br>*(A) Gond*<br>*(B) Kol*<br>*(C) Bhil*<br>*(D) Sahariya* | *(B) Kol* |
| *42. A ……. attack comes in the form of deceptive emails or text messages that may ask you to install software or divulge personal information.* | *(A) Spamming* |

| *QUESTIONS* | *ADD AS ANSWER THE FOLLOWING OPTION(S)* |
|---|---|
| *(A) Spamming*<br>*(B) Virus Signing*<br>*(C) Phishing*<br>*(D) Scanning* | |
| *63. During which movement did Gandhiji call for boycott of the Prince of Wales ?*<br>*(A) Khilafat Movement*<br>*(B) Non-Cooperation Movement*<br>*(C) Civil Disobedience Movement*<br>*(D) Quit India Movement* | *(A) Khilafat Movement* |
| *64. In the administrative system of the Mauryan period, Pradeshta is related to which department ?*<br>*(A) Revenue Department*<br>*(B) Justice Department*<br>*(C) Military Department*<br>*(D) Economic Department* | *(A) Revenue Department* |
| *66. In which Vedas are Sabha and Samiti included as separate institutions ?*<br>*(A) Rigveda* | *(A) Rigveda* |

| *QUESTIONS* | *ADD AS ANSWER THE FOLLOWING OPTION(S)* |
|---|---|
| *(B) Samaveda*<br>*(C) Atharvaveda*<br>*(D) Yajurveda* | |

*(ii) To award appropriate marks to the petitioners in light of the correct answers as above and consequently hold them to be qualified to attempt the Mains Examination of Madhya Pradesh State Service and State Forest Service Examination,2024.*

*(ii) Any other relief(s) that this Hon'ble Court deems just and proper in the case.*

2. Challenge is made to the final model answer keys prepared by the respondent/authorities dated 19.07.2024 with reference to 6 questions because of which the petitioners could not qualify to participate in the mains examination of Madhya Pradesh State Service and State Forest Service Examination, 2024. As the petitioners were desirous to join the Madhya Pradesh State Services and the State Forest Services, they have participated in the preliminary examination of Madhya Pradesh State Service and State Forest Service Preliminary Examination, 2024 which was held on 23.06.2024. They obtained marks just below the cut-off marks. They are aggrieved by the final answer key provided by the respondent-MPPSC in six questions.

3. It is submitted that the options selected by the petitioners offer the correct answer and they ought to be granted marks for it and if the said marks could have been granted to the petitioners, they would have qualified for the mains examination. Six questions for which the petitioners gave correct answers are Questions No.11, 27, 42, 63, 64 and 66. It is argued that the answers which have been attempted by the petitioners are correct as they find reference in the Government publications by NCERT, Government of India Gazetteer, Books or the judgments passed by the Hon'ble Supreme Court.

4. Petitioners' counsel has drawn attention of this Court to Question No.11 of Set 'A' of the examination paper. He has emphasized on the fact that the question does not clearly speak that in which case the Supreme Court had declared the prevalence of Fundamental Rights over Directive Principles of the State Policy in case of conflict between the two. It is submitted that the options which have been provided have three correct options as there are three Supreme Court judgments which clearly held the prevalence of Fundamental Rights over Directive Principles of the State Policy in case of conflict between the two. Question No.11 does not say that which first case decided by the Hon'ble Supreme Court provides the same. The respondent-MPPSC in their model answers has provided the answer to Question No.11 is Option (B) i.e. The State of Madras vs Champakam Borairajan (1951) whereas the fact remains that the Hon'ble Supreme Court in the cases of Golaknath vs State of Punjab (1967) and Minerva Mills vs Union of India (1980) also provided the same

proposition. It is the case of the petitioners that as they have attempted option (A) or (D) which are also correct answers, therefore, they should have been provided marks for attempting option (A) or (D).

5. It is submitted that similar is the situation with other questions; for example, in respect of Question No.27, the answer as provided by the respondent/MPPSC is option (A) i.e. 'Gond'. However, the answer which was attempted by the petitioners is option (B) i.e. Kol, which is also the correct answer in terms of Gazetteer of India, Madhya Pradesh for Jabalpur, 1st Edn. 1968, which provides that on special occasions, Gond as well as Kol performs Birha dance. For this, he has placed reliance upon Hindi Granth Academy in its Book entitled Gyan Sampada in context of Madhya Pradesh which also provides for the same answer. Thus, the petitioners ought to be awarded marks for attempting Option (B) i.e. Kol.

6. It is submitted that insofar as Question No.42 is concerned, the closest answer is Option (A) i.e. Spamming which finds place in NCERT and ICT Textbook for Class IX. The petitioners have attempted Option (A) i.e. Spamming; therefore, marks should have been provided to them. It is submitted that similar is the situation to Questions No.63, 64 and 66.

7. The petitioners have placed on record the material i.e. Government of India Gazetteer, relevant extracts of NCERT publications and other textbooks and Government publications on which they are placing reliance including the Supreme Court judgments. Attention is invited to the relevant clauses of the advertisement which provides for the grant of marks to the candidates in case of two or more same answers provided in a particular

question. Reliance is placed upon relevant clauses of the scheme of the examination. Clauses 4(5) and 4(5)(3) thereof are relevant. It is argued that Clause 4(5)(3) clearly provides that in case there are more than one correct options for the question then the marks ought to have been awarded to the same question. Clause 4(5) provides that there is a provision for raising an objection on the preliminary model answer sheet prepared by the authorities and after considering the objection, the final answer sheet has to be prepared. Five days' time was granted to raise such an objection, and they are to be filed online. The same was required to be considered by the committee constituted of experts.

8. It is submitted that as already pointed out hereinabove that Question No.11 was itself doubtful, as it does not provide that the Hon'ble Supreme Court in which first case has held that in case of conflict between the Fundamental Rights over Directive Principles of the State Policy, which one has to be given primacy. The question is not clear in which case the Hon'ble Court has held so, therefore, there can be more than one correct options. As the petitioners have attempted the other correct options, therefore, they should have been granted marks in terms of Clause 4(5)(3) of the scheme of examination. Petitioners' counsel has placed reliance upon the judgments passed by the Hon'ble Supreme Court in Golak Nath vs State of Punjab reported in 1967 SCC OnLine SC 14 and Minerva Mills Ltd. vs Union of India reported (1980) 3 SCC 625 wherein final conclusion is that the Fundamental Rights hold primacy over the Directive Principles of the State Policy.

9. It is argued that the aforesaid guidelines of the scheme of the examination have not been adhered to by the authorities while preparing the final answer sheet and deciding the objections of the candidates. Therefore, interference is sought for.

10. Counsel appearing for the MPPSC has filed preliminary submissions. It is stated that in the said examination i.e. State Service and State Forest Service Preliminary Examination 2024, a provisional answer key was issued on 27.06.2024 and within a period of 7 days, the candidates have to raise objections and after considering the objections so raised, the experts have to prepare and release a final answer key which, in the present matter, was released on 19.07.2024. It is pointed out that the petitioners No.4 and 7 have not raised any objections during the aforesaid period nor have filed any document to show that the answers which they have attempted are contrary to the final answer sheet. In absence of objections raised by these candidates, they could not have filed the writ petition challenging the final answer sheet. To buttress the submission, he has placed reliance upon the decision in the case of Ankita Jaiswal vs MPPSC : WP No.10062 of 2019 decided on 13.10.2023 wherein similar issue was considered and no relief was extended to the candidates. It is further contended that the objections raised by the candidates have been taken note of by the expert committee and thereafter, final model answer sheet has been prepared. It is submitted that the Court is having limited powers to interfere with the final answer sheet prepared by the expert because it is held that while exercising of power of judicial review, this Court should not act as an appellate court and go into the evidence part and then decide the

matter. It is within the domain of the expert body, especially in the cases of academic matters. The aforesaid aspect was considered by the full Bench of this Court in the case of Nitin Pathak vs State of Madhya Pradesh reported in ILR 2017 MP 2314. He has also relied upon the judgment passed by the Hon'ble Supreme Court in the case of Ran Vijay Singh vs State of Uttar Pradesh reported in (2018) 2 SCC 357 to substantiate his arguments. It is pointed out that the Hon'ble Supreme Court in Ran Vijay Singh's case (supra) has considered all the previous matters and highlighted a few significant conclusions in paragraph 30 thereof. Hence, it is apparently clear that the Court should not interfere with the final answer sheet prepared by the expert body. It was categorically held that the Court should not at all re-evaluate or scrutinize the answer sheets of a candidate - it has no expertise in the matter and academic matters are best left to academics. It was further observed that in the event of any doubt, the benefit should go to the examination authority rather than to the candidate. The Court should presume the correctness of the key answers and proceed on that assumption. It is submitted that once the model answer keys are prepared by the expert body based on some material and therefore, no interference should be made by this Court.

11. It is submitted that present is not a case where the petitioners are contending that the benefits are being extended to some of the candidates and not being extended to the petitioners, rather it is a case where in terms of final model sheet prepared by the expert body, the benefits have been extended to the concerning candidates. Under these circumstances, no relief

should have been extended to the petitioners. On these grounds, respondent's counsel prays for dismissal of the petition.

12. I have heard learned counsel for the parties and given my thoughtful consideration to the matter.

13. Challenge in the petition is made to the final model answer sheet prepared by the expert body with reference to 6 questions. First of all, this Court deems it appropriate to examine the scheme of the examination. Clauses 4(5) and 4(5)(3) thereof are relevant and read as under :

> ''4(5) प्रारंभिक परीक्षा उपरांत परीक्षा में पूछे गए प्रश्नों और उसके मॉडल उत्तरों की प्रावधिक उत्तर कुंजी तैयार कर आयोग की वेबसाइट https://mppsc.mp.gov.in पर प्रकाशित कर ऑनलाइन पद्धति से 05 दिवस की अवधि में आपात्तियॉ प्राप्त की जाएंगी । अभ्यर्थी आयोग द्वारा प्रति प्रश्न निर्धारित प्रश्न शुल्क तथा पोर्टल शुल्क का भुगतान कर केवल ऑनलाइन पोर्टल के माध्यम से ही आपात्तियॉ जमा कर सकेगें । 05 दिवस के निर्धारित अवधि के पश्चात् किसी भी अभ्यावेदन पर कोई विचार नहीं किया जाएगा ।
> प्राप्त आपत्तियों पर विषय-विशेषज्ञ समिति द्वारा विचार किया जाएगा । समिति द्वारा आपत्तियों पर विचार कर निम्नानुसार कार्यवाही की जाएगी -
>
> .....
>
> 1.
>
> 2.
>
> 3. ऐसे प्रश्न जिनका दिए गए विकल्पों में एक से अधिक सही उत्तर है, सभी सही उत्तरों को मान्य किया जाएगा । ''

14. From the aforesaid, it is clear that in terms of the preliminary answer sheets prepared by the authorities, the candidates were having option to submit their objections within a time frame and thereafter, the said objections were required to be considered by the expert body. The expert body after due consideration of the objections so raised by the candidates,

have prepared the final answer sheet in the matter. There is no option provided in the examination for re-evaluation of answer sheet as is reflected from the scheme of the examination. The Supreme Court in the case of Central Board of Secondary Education vs Khushbu Srivastava and others reported as (2014) 14 SCC 523 has held that in the absence of any provision for the re-evaluation of answers books in the relevant rules, no candidate in an examination has any right to claim or ask for re-evaluation of his marks. Therefore, no such re-evaluation is permitted.

15. From the perusal of the aforesaid scheme of the examination, it is also clear that the final answer sheet prepared by the expert body after considering the objections raised by the candidates shall be considered to be final and no other claims should be entertained. Since there is no provision for reevaluation of the answer sheet, this Court is now required to see whether under the scope of judicial review, how much interference can be made as far as the model answer sheet prepared by the expert body is concerned.

16. The Hon'ble Supreme Court in the case of Ran Vijay Singh's case (supra) has considered the similar situation and has held as under :

> "31. On our part we may add that sympathy or compassion does not play any role in the matter of directing or not directing re-evaluation of an answer sheet. If an error is committed by the examination authority, the complete body of candidates suffers. The entire examination process does not deserve to be derailed only because some candidates are disappointed or dissatisfied or perceive some injustice having been caused to them by an erroneous question or an erroneous answer. All candidates suffer equally, though some might suffer more but that cannot be

helped since mathematical precision is not always possible. This Court has shown one way out of an impasse - exclude the suspect or offending question.

32. It is rather unfortunate that despite several decisions of this Court, some of which have been discussed above, there is interference by the courts in the result of examinations. This places the examination authorities in an unenviable position where they are under scrutiny and not the candidates. Additionally, a massive and sometimes prolonged examination exercise concludes with an air of uncertainty. While there is no doubt that candidates put in a tremendous effort in preparing for an examination, it must not be forgotten that even the examination authorities put in equally great efforts to successfully conduct an examination. The enormity of the task might reveal some lapse at a later stage, but the court must consider the internal checks and balances put in place by the examination authorities before interfering with the efforts put in by the candidates who have successfully participated in the examination and the examination authorities. The present appeals are a classic example of the consequence of such interference where there is no finality to the result of the examinations even after a lapse of eight years. Apart from the examination authorities even the candidates are left wondering about the certainty or otherwise of the result of the examination — whether they have passed or not; whether their result will be approved or disapproved by the court; whether they will get admission in a college or university or not; and whether they will get recruited or not. This unsatisfactory situation does not work to anybody's advantage and such a state of uncertainty results in confusion being worse confounded. The overall and larger impact of all this is that public interest suffers.

- And, after considering previous judgments, the Hon’ble Supreme Court has summarized the legal position in the following terms :

30. The law on the subject is therefore, quite clear and we only propose to highlight a few significant conclusions. They are:

> 30.1. If a statute, Rule or Regulation governing an examination permits the re-evaluation of an answer sheet or scrutiny of an answer sheet as a matter of right, then the authority conducting the examination may permit it;
>
> 30.2. If a statute, Rule or Regulation governing an examination does not permit re-evaluation or scrutiny of an answer sheet (as distinct from prohibiting it) then the court may permit re-evaluation or scrutiny only if it is demonstrated very clearly, without any "inferential process of reasoning or by a process of rationalisation" and only in rare or exceptional cases that a material error has been committed;
>
> 30.3. The court should not at all re-evaluate or scrutinise the answer sheets of a candidate—it has no expertise in the matter and academic matters are best left to academics;
>
> 30.4. The court should presume the correctness of the key answers and proceed on that assumption; and
>
> 30.5. In the event of a doubt, the benefit should go to the examination authority rather than to the candidate.

17. From the perusal of the aforesaid judgments, it is apparently clear that the expert committee report i.e. model answer keys prepared by the body of experts should not be interfered under the scope of judicial review by this Court, especially in academic matters.

18. In another case i.e. Kanpur University vs Samir Gupta reported in (1983) 4 SCC 309, the Hon'ble Supreme has considered the similar aspect and has held as under :-

> "16. … We agree that the key answer should be assumed to be correct unless it is proved to be wrong and that it should not be held to be wrong by an inferential process of reasoning or by a process of rationalisation. It must be clearly demonstrated to be

> wrong, that is to say, it must be such as no reasonable body of men well-versed in the particular subject would regard as correct. …"

19. A full Bench of this Court had an occasion to consider the similar issue in the case of Nitin Pathak (supra) wherein it is held as under :

> 31. In view of the discussion above, we hold that in exercise of power of Judicial 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 as Court of Appeal in the matter of opinion of experts in 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 usurping power.

20. Thus, from the perusal of the aforesaid, it is apparently clear that the scope of interference in the model answer keys prepared by the expert is very limited, to the extent of *mala fides* being alleged by the candidates. In the present case, there is no such situation regarding *mala fides*. Apart from the aforesaid, it is further observed that especially in cases dealing with academic matters, opinion of experts based on some authority should be given weightage. It may be a case where some conflicts may be noted in the model answers, however, the fact remains that even there is some conflicts in the model answers, the weightage should be given to the institution or the examination body rather than the candidates. Only in rare or in exceptional cases that there is a material error which has been

committed or the model answer keys have been prepared being an outcome of *mala fides*, only in such situations, the matter should be entertained.

21. One of the grounds which has been raised by the respondents No.2 and 3/MPPSC in preliminary submissions is that some of the petitioners have not even filed their objections. The aforesaid aspect was considered in the case of Vivek Singh Bhadoria vs State of M.P. and another : Writ Petition No.4550 of 2022 decided by Gwalior Bench of this Court on 26.02.2022 wherein it has been observed :

> "9. Perusal of said provision further reveals that within seven days he had to make complaint which he could not. Therefore, at belated stage in a case where recruitment is at the stake, interference cannot be made. Petitioner who is civil services aspirant has to be cautious about his response/disposition towards any anomaly crept into the selection process".

22. In view thereof, no benefit can be given to those candidates who have not exercised their rights of even raising any objection on the questions which appeared to them to be doubtful, therefore, the whole recruitment process cannot be put to jeopardise at the behest of the candidates who are sleeping over their rights.

23. After considering the legal propositions on the subject, this Court has arrived at a conclusion that the scope of interference in such cases is very limited. However, to ascertain or to clarify the verdict, this Court vide order dated 14.10.2024 has directed the respondent-MPPSC to produce the decision taken by the expert committee on the objections filed by the candidates in a sealed cover.

24. Counsel appearing for the respondents No.2 and 3/MPPSC has produced the same. After going through the record produced by the MPPSC, it is seen that model answer keys have been prepared by the expert body based upon some sources/authorities. The model answers to the disputed questions, the opinion given by expert body and the sources/authority have been produced. After going through all, it is apparently clear that each model answer to the questions involved in the present petition is based upon some or the other authority. Thus, it cannot be said that the model answer keys prepared by the expert body is without any basis. Except Question No.11 in Set A, all other model answers which have been prepared are based on the authorities and do not call for any interference in the present petition. Insofar Question No.11 is concerned, the argument advanced by the counsel for the petitioners is that Question No.11 itself is not clear. It does not speak that which first judgment of the Supreme Court declares the prevalence of Fundamental Rights over Directive Principles of the State Policy in case of conflict between the two, to be pointed out. However, it only says that in which cases did the Supreme Court of India declare the prevalence of Fundamental Rights over Directive Principles of the State Policy in case of conflict between the two and gave four options. It is submitted by the petitioner that out of them, three options are correct. Therefore, once the question itself is not clear and carries more than one correct answer then the candidates should be awarded marks for each correct answers as mentioned in Clause 4(5)(3) of the scheme of examination.

25. However, in this context, the Hon'ble Supreme Court in the case of Uttar Pradesh Public Service Commission vs Rahul Singh reported in (2018) 7 SCC 254 has taken note of the fact that when there are conflicting views, the Court should not interfere with the matter under the judicial review and should go by the opinion of the experts. The Court has no jurisdiction to upset the opinion of the experts. The aforesaid has been held by the Hon'ble Supreme Court owing to the fact that whatever model answer key has been prepared by the expert body are based upon some authentic publications or textbooks and the same are equally applicable to all the aspirants. The interference in such matters should not be made just because some of the candidates could not qualify for mains examination. If the interference is made in academics matters, particularly the model answer sheet prepared by the expert body, it will affect the entire examination which has been conducted. Therefore, once the candidates are not in a position to establish the factum of *mala fides* on part of the authorities to prepare answer sheet coupled with the fact that the same is equally applicable to all the candidates, no interference should be made by this Court under the judicial review.

26. The scope of interference in academic matters has been examined by the Hon'ble Supreme Court in many cases. One of such case is Basavaiah (Dr.) vs Dr. H.L. Ramesh reported in (2010) 8 SCC 372 wherein it has been held as follows :

> *"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.*

27. In the present case, the provisional answer key was issued on 27.06.2024 and in terms of aforesaid Clauses 4(5) and 3 of the scheme of the examination, within a period of 7 days, the candidates were required to raise objections, if any. The objections so raised were referred to the expert body. The experts recommended no changes in the provisional answer-sheet. Thereafter, the final answer key was released on 19.07.2024. It is not for this Court to sit over the wisdom of such an expert committee. Thus, the Court has no reason to take another view in this matter. Under these circumstances, no relief can be extended to the petitioners. The sealed cover envelop is returned to the respondent's counsel.

28. Consequently, the petition *sans* merit and is accordingly dismissed. No order as to costs.

**(VISHAL MISHRA)**
**JUDGE**

VV