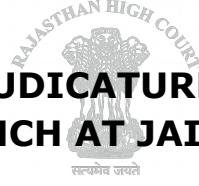




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



D.B. Special Appeal Writ No. 1064/2022

Mahesh Kumar Son Of Har Phool Kumhar, Aged About 29 Years,
Resident Of Ward No. 20 (New 25), Kumharon Ka Mohalla,
Sujangarh, District Jhunjhunu.

----Appellant

Versus

1. State Of Rajasthan, Through The Principle Secretary
Department Of Personnel, Government Secretariat,
Jaipur.
2. Rajasthan Public Service Commission, Through Its
Secretary, Ajmer.
3. The Principle Secretary, Department Of Sanskrit
Education, Government Secretariat, Jaipur.
4. Director, Sanskrit Education, Jaipur.

----Respondents

For Appellant(s) : Mr. O. P. Mishra with
Mr. Ajay Verma

For Respondent(s) : Mr. Rajesh Maharshi, AAG
Mr. M. F. Baig

**HON'BLE THE CHIEF JUSTICE AUGUSTINE GEORGE MASHI
HON'BLE MR. JUSTICE SAMEER JAIN**

Judgment

19/07/2023

1. Challenge in this appeal is to the order dated 28/06/2022
passed by the learned Single Judge vide which the writ petition
preferred by the petitioner on the ground that question Nos. 23,
27, 71 & 72 in the examination for the post of School Lecturer
(Sanskrit Education) were out of syllabus.
2. Upon notice having been issued, the respondent i.e.
Rajasthan Public Service Commission (for short, 'RPSC') has filed



its reply wherein it has been specifically stated that upon the submission of an application alongwith fee, an expert committee was constituted with regard to the objections which have been raised by the appellant which report has found that the said questions were within the syllabus. Accepting the said report, RPSC has proceeded to evaluate the answer-sheets of the candidates and declared the result.

3. Assertion has been sought to be projected in the present appeal by counsel for the appellant is that the report of the experts committee is not sacrosanct and it was for the Court to have seen the report of the experts committee before accepting the same. In support of his contention, counsel for the appellant has placed reliance upon the judgment of Hon'ble Supreme Court in the case of **Union Public Service Commission vs. M. Sathiya Priya & Ors. reported in (2018) 15 SCC 796** on which reliance has been placed by learned Single Judge. Assertion is that despite application having been moved by appellants for the production of report of the experts committee, the court has proceeded to decide the case in the absence of the report believing the written statement/affidavit, as was submitted by respondent-RPSC. Assertion has also been made that learned Single Judge has failed to exercise its jurisdiction of judicial review while coming to a conclusion regarding acceptance of the report of the experts committee. On this basis, prayer has been made for setting aside the judgment passed by learned Single Judge and to grant the benefit to the appellant of the four questions which would entitle him to be included in the select list for appointment to the post of School Lecturer (Sanskrit Education).



4. On the other hand, learned counsel for the respondents have placed reliance upon the same judgment, as has been referred to by counsel for the appellant, on which in-fact the learned Single Judge has also placed reliance to substantiate the contention as has been projected. It is asserted that had there been any dispute with regard to the constitution of the expert committee or the report not being there of the experts on which reliance was placed by RPSC, a rejoinder to the written statement should have been filed by the applicants. In the absence of any rejoinder which would dispute the factual assertion that has been made in the written statement, learned Single Judge has rightly proceeded to reject the objection of the appellant. Learned counsel for the respondents have placed reliance upon the judgment of the Hon'ble Supreme Court in the case of **Vikesh Kumar Gupta and Ors. vs. State of Rajasthan and Ors. reported in (2021) 2 SCC 309** decided on 7th December, 2020, apart from the judgment in **Ran Vijay Singh and Ors. Vs. State of Uttar Pradesh and Ors. reported in (2018) 2 SCC 357** decided on 11th December, 2017, to contend that the report of the expert committee if taken by the examination holding authority, the same need to be relied upon unless the constitution thereof or the capability and qualification of the said committee is disputed. Prayer has thus been made for dismissal of the appeal upholding the order passed by the learned Single Judge.

5. We have considered the submissions made by the learned counsel for the parties.

6. In the light of the admitted facts the issue which has been raised by the appellant is limited to the extent of there being four



questions i.e. question nos. 23, 27, 71 & 72 which was claimed by the appellant to be out of syllabus. In case, these questions were declared to be out of syllabus and the marks so assigned would be deleted, the appellant would have made the grade which issue as raised by the appellant had been disputed by the respondents on the basis of the report of an expert committee which was constituted to examine the objection as has been raised by the appellant. The expert committee in its opinion had come to the conclusion that these questions are within the syllabus issued by the RPSC and therefore, the decision which has been taken with regard to the said questions being within the syllabus, thus entitling the RPSC to take them as valid for the purpose of assigning the marks to the candidates. The opinion of the experts, as has been rightly pointed out by the counsel for the appellant, is not to be accepted blindly but nevertheless the settled position is that if the constitution of the expert committee itself competence and qualifications are not in dispute, the said report as has been submitted by an expert committee for all intends and purposes need to be accepted, especially when the courts are not expert in all field and therefore, would not be in a position to take a decision in this regard.

7. The factum of there being an expert committee, as has been asserted and stated in an affidavit by the respondents in the reply has not been disputed as no counter to the same has been filed by the appellant. In any case, the factual assertion having not been contradicted, no interference by the court is called for. The reliance as placed by the counsel for the respondents on the judgment in **M. Sathiya Priya (supra), Vikesh Kumar Gupta**



(supra) and Ran Vijay Singh (supra), leaves no scope for accepting the contentions that has been raised by the counsel for the appellant which covers the case in favour of the respondents.

The observations as made by learned Single Judge being in consonance with law, do not call for any interference.

8. The appeal being devoid of merit stands dismissed.

(SAMEER JAIN),J

(AUGUSTINE GEORGE MASIH),CJ

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