



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

D.B. Special Appeal Writ No.697/2019

The Rajasthan Public Service Commission, Ajmer Through Its Secretary.

----Appellant

Versus

1. Pankaj Raj S/o Shri Ashok Raj, Aged About 37 Years, R/o (Local Address) C.i.d. Crime Branch, P.h.q. Jaipur (Raj.).
2. Mahesh Kumar S/o Shri Bhawani Singh Sandu, Aged About 39 Years, R/o Iii E 70, Jnv Colony, Bikaner (Raj.).
3. Bhanwar Lal S/o Shri Mangla Ram, Aged About 40 Years, R/o Ishavashyam Shyam Nagar, Ii Yojna, Behind Pal Balaji Temple, Pal Road, Distt. Jodhpur (Raj.).
4. Manish Kumar Saini S/o Shri Sunder Lal Saini, Aged About 29 Years, R/o Saini Bhawan, Post Office Road, Gandhinagar, Abu Road, Distt. Sirohi (Raj.).
5. Om Prakash Bishnoi S/o Shri Bhagwana Ram Bishnoi, R/o 143, Bishnoi Ki Dhani, Jaleli Faujdarani Kakelao, Jodhpur (Raj.).
6. The State Of Rajasthan, Through Its Principal Secretary, Department Of Personnel And Administrative Reforms, Govt. Of Rajasthan, Secretariat, Jaipur.

----Respondents

Connected With

D.B. Special Appeal Writ No. 718/2019

The Rajasthan Public Service Commission, Ajmer Through Its Secretary.

----Appellant

Versus

1. Jitendra Kumar Bagaria S/o Shri Vidyadhar Singh Bagaria, Aged About 34 Years, R/o Village Fadanpura, Post Khirwa, Tehsil Laxmangarh, Distt. Sikar (Raj.).
2. Nitin Yadav S/o Shri Gajraj Singh Yadav, Aged About 35 Years, R/o Opposite Hans College, Amai Road, Kotputli, Distt. Jaipur (Raj.).
3. Vikram Singh Shekhawat S/o Shri Nand Singh Shekhawat, Aged About 39 Years, R/o Village And Post Bhavathari,



Tehsil Surajgarh, Distt. Jhunjhunu (Raj.).

4. Jitendra Kumar Yadav S/o Mahavir Prasad Yadav, Aged About 28 Years, R/o Dhani Aheero Ki V/p Guhala, Tehsil Neem Ka Thana, Distt. Sikar (Raj.)
5. Priyanka Solanki D/o Rajender Singh Solanki, Aged About 25 Years, R/o H.no.342, Sunaro Wali Gali, Pooth Kalan, Delhi.
6. Sunita Kumari D/o Karni Ram, Aged About 32 Years, R/o Village Hamerwas, Post Birmi, Vaya Biassau, District Jhunjhunu (Raj.)
7. Ashish Daga S/o Vijay Gopal Daga, Aged About 28 Years, R/o 38, Krishna Colony, Naya Khera, Ambabari, Jaipur (Raj.).
8. Lakhan Singh Rathore S/o Prahlad Singh Rathore, Aged About 35 Years, R/o Rajput Colony, Station Road, Didwana, District Nagaur (Raj.)
9. Nathuram S/o Dheera Ram, Aged About 28 Years, R/o Vpo Shivaji Nagar (Kanhisar), Tehsil Sheo, District Barmer (Raj.)
10. Ashish Sharma S/o Shyam Sunder Sharma, Aged About 27 Years, R/o 35A, Vandana Vihar, Budhsinghpura, Jaipur (Raj.)
11. The State Of Rajasthan, Through Its Principal Secretary, Department Of Personnel And Administrative Reforms, Govt. Of Rajasthan, Secretariat, Jaipur.

----Respondents

D.B. Special Appeal Writ No. 742/2019

Rajasthan Public Service Commission, Through Its Secretary, Ajmer.

----Appellant

Versus

Debee Lal S/o Mangee Lal, Aged About 36 Years, R/o H.no. 27, Karshna Nagar B, Mahesh Nagar, Jaipur, Rajasthan.

----Respondent

D.B. Special Appeal Writ No. 746/2019

Rajasthan Public Service Commission, Through Its Secretary, Ajmer.



(3 of 15)

----Appellant

Versus

1. Harendra Singh S/o Narayan Singh, Aged About 36 Years, R/o Q-4. Police Station, Malviya Nagar, Jaipur, Rajasthan.
2. Jitendra Sharma S/o Prahlad Sharma, Aged About 32 Years, R/o 1228-A, Barkat Nagar, Tonk Phatak, Jaipur, Rajasthan.
3. Sahul Goyal S/o Dilip Kumar Goyal, Aged About 27 Years, R/o Adarsh Medical Store, B.I. Jangio Katla, Paota, Jaipur, Rajasthan.

----Respondents

D.B. Special Appeal Writ No. 750/2019

Rajasthan Public Service Commission, Ajmer Through Its Secretary.

----Appellant

Versus

1. Anita Choudhary D/o Heera Lal Choudhary, Aged About 35 Years, Address- 1 B 47 Shiv Sakti Colony, Shastri Nagar, Jaipur (Rajasthan)-302016.
2. Govind Sharma S/o Deendayal Sharma, Aged About 31 Years, Address- 94 Saini Colony-1 Kartarpura Phatak, Jaipur (Rajasthan)-302006.
3. Shrawan Singh Rajawat S/o Mohan Singh Rajawat, Aged About 34 Years, Address- 1-C-3, Extension Colony, New Housing Board, Kishangarh, Ajmer (Rajasthan)-305801.
4. Hari Om Meena S/o Satyanarayan Meena, Aged About 29 Years, Address- Jawati Kalan Post Nayagaanv Jharbalapura, Bundi (Rajasthan)-323001.
5. Raj Kumari Meena D/o Murari Lal Meena, Aged About 33 Years, Address- 77, Harijan Mohalla, Babeli, Tehsil Rajgarh, Ishwana Vabeli, Alwar (Rajasthan)-301408.
6. Rajat Sharma S/o Ramesh Chand Sharma, Aged About 23 Years, Address- Abhaneri, Baswa, Dausa (Rajasthan)-303313.
7. Rajendra Kumar Sharma S/o Ramesh Chand Sharma, Aged About 33 Years, Address- 12 Raghav Sadan, Behind Collectorate, Ganesh Nagar-B, Mantown, Sawai Madhopur (Rajasthan)-322001.





8. Kulshan Kriti D/o Ramavatar Sharma, Aged About 27 Years, Address- Phatak Bhavan Near Pnb Rtdc Midway Ke Samne Mahwa, Mahwa, Dausa (Rajasthan)-321608.
9. Jaidev Charan S/o Vani Dan Charan, Aged About 32 Years, Address- 74, 3 Rd Ext. Kamla Nehru Nagar, Nandanwan, Jodhpur (Rajasthan)-342008.
10. Dhanna Ram S/o Jwara Ram, Aged About 27 Years, Address- Ward No. 10, Kitnod, Barmer (Rajasthan)-344022.
11. Manoj Kumar Meena S/o Mangal Ram Meena, Aged About 33 Years, Address- Meena Kho Ghati, Bainara, Benada, Jaipur (Rajasthan)-303301.
12. Monika Vijay Vargiya D/o Shambhu Dayal Vijay Vargiya, Aged About 27 Years, Address- Brahmano Ka Mohalla, Chotabas, Kot Khawada, Jaipur (Rajasthan)-303908.
13. Vinod Kumar Meena S/o Murari Lal Meena, Aged About 31 Years, Address- Bada Thok, Bamanwas Patti Kalan, Sawai Madhopur (Rajasthan)-322211.
14. Neha Sharma D/o Bharat Bhushan Sharma, Aged About 27 Years, Address- 192, Manpur, Dausa (Rajasthan)-303509.
15. Sanjay Kumar Bairwa S/o Mangal Ram Bairwa, Aged About 27 Years, Address- Peepalki, Dausa (Rajasthan)-303509.
16. State Of Rajasthan, Through Secretary, Department Of Personnel, Government Of Rajasthan, Secretariat, Jaipur.

-----Respondents

For Appellant(s) : Mr. Mirza Faisal Baig with Mr. Govind Gupta

For Respondent(s) : Mr. Vigyan Shah with Mr. Akshit Gupta
Mr. R.P. Saini, Mr. Himanshu Jain,
Mr. Vedprakash Sogarwal,
Mr. Tribhuvan Narayan Singh,
Mr. Hemant Tailor,
Mr. S.S. Raghav, AAG with
Mr. Ajay Singh Rajawat

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE G R MOOLCHANDANI



Judgment

Reportable

29/05/2019

1. The Rajasthan Public Service Commission (hereinafter referred to as the "RPSC") in these five appeals is aggrieved by a common judgment issued by the learned Single Judge, whereby a direction was issued to delete Question Nos.11 & 22 from the Model Question Paper for the Rajasthan Administrative Service (RAS) cum Rajasthan Tehsildar Service (RTS) Preliminary Examinations, 2018 and a consequential order directing fresh re-evaluation in the light of the judgment.

2. The present litigation has a chequered history. Briefly, the RAS/RTS Examinations, 2018 were notified in 2018. The process entails a two stage examination procedure : Preliminary Examination, whereby the candidates are assessed on the basis of their answers to objective multiple choice questions. After the conclusion of the preliminary examination, results of model answer key were published, eliciting comments and objections. The objections received were then taken up and considered by an expert committee set up by the RPSC, which after considering the recommendations of the of the committee published the final answer keys. The results published by the RPSC became the subject-matter of controversy in two cases i.e. *Jitendra Kumar Bagaria & Ors. Vs. The State of Rajasthan & Anr.* (SBCWP No.25338/2018) and connected cases decided on 10.12.2018 and the judgment in *Bhanwar Lal & Ors. Vs. Rajasthan Public Service Commission & Anr.* (SBCWP No.17219/2018) and connected cases, decided on 15.12.2018. Both these decisions relied upon the parameters of judicial review -outlined in such cases, by an earlier judgment of this Court in *Ramdhan Kumawat Vs. State of Rajasthan* (SBCWP No.10622/2014) decided on 18.11.2014. The directions in *Jitendra Kumar Bagaria and Bhanwar Lal (supra)* are identical. Directions were issued for re-consideration of the correct marking by the Expert Committee with respect to Question Paper Nos.11 & 22.



3. The relevant observations with respect to two questions and the conclusions drawn by the learned Single Judge – primarily made in *Jitendra Kumar Bagaria (supra)* are as follows:-

"In the instant case in respect of model question No.11 the petitioners have relied upon the gazette notification on the website of the State of Rajasthan to contend that Nanak Ram did not belong to the Alwar School of Painting as also the publication of the Rajasthan Hindi Granth Academy –a government of Rajasthan entity to the same end, as against the books of private authors whose publishers have not been stated nor obviously approved or recognized by the State/ Central Government or a University/ Board. In respect of model question No.22, reliance by the petitioners has been placed on text-books published by NCERT and RSBSE collected by team of nationally recognized academic experts for the answer that Pondu and Odisha were also a mismatch. Yet the RPSC's experts have oddly contrary to the dictum of the court in Ramdhan Kumawat for a contrary view relied on the book authored by a Professor in Saharanpur in Uttar Pradesh and published by a publisher in Merut."

4. Accordingly, a review was directed in respect of Model question papers No.11 & 22 apart from Question Paper Nos.45, 73, 83 & 101 in respect of RAS and RTS Preliminary Examinations. The RPSC, based on the fresh recommendations of the expert committee, which re-considered the matter, rejected the petitioners' case, in effect reiterating the model keys published earlier in respect of Question Nos 11 and 22.

5. Before the learned Single Judge in the second and latest round of litigation, the respondents (hereinafter referred to as the "candidates") contended that the review conducted was a mere formality because experts did not take into account specific directions of the court and carry out an informed analysis with the result that the previous answers – being erroneous and demonstrably wrong in *Jitendra Kumar Bagaria (supra)*, were reiterated.

6. In reply to the candidates' allegations, the RPSC in its counter affidavit inter-alia averred as follows:-

"on the direction of the Hon'ble High Court dated 10.12.2018, expert committees were constituted to examine the various questions which were referred by





the Hon'ble High Court in the order. That question No.11 was also referred to reassess by the Hon'ble Court, by the committee of subject experts which was required to found by the Chairman, RPSC. That in pursuance of order dated 10.12.2018 RPSC constitute a committee consisting of five subject experts. That after revisiting the question No.11 the experts submitted their detail report on the basis of authentic source of Government of Rajasthan and on the basis of the book published by the Rajasthan Hindi Granth Academy and other books. That while revising the question No.11 expert committee given specific observation, that in the Alwar Museum Painting of Nanag Ram is available and sign of Nanag Ram is mentioned as कलम नानग. The experts also annexed an information which was given by the curator Government Museum, Alwar. That in the expert report, experts given their opinion that option No.3 "Nanak Ram" is correct because in Alwar Style there was the painter namely Nanag Ram was there instead of Nanak Ram."

7. The report of the experts with respect to Question No.22, which required the candidates to identify "which is not the correct match". The experts stated that Option 2 i.e. the "masha" in State of Himachal Pradesh was the correct answer. The expert reasoned as follows:-

"22. Which is not a correct match?

Shifting State Agriculture

- | | | |
|------------|---|------------------|
| (1) Pongu | - | Odisha |
| (2) Masha | - | Himachal Pradesh |
| (3) Poonam | - | Kerala |
| (4) Jhoom | - | Assam |

In Q.No.22, Option (2) is the Correct answer as per details given below:-

1. Pongu or Podu – Odisha and Andhra Pradesh since in option only odisha has been given therefore odisha is correct.
2. Masha shifting agriculture is of Madhya Pradesh and not in Himachal Pradesh. It is not correct match therefore the correct answer as asked in the question is option (2).
3. Poonam is the correct match.
4. Jhoom is also a correct match.

Proofs are as follows:-

1. भारत का भूगोल— प्रो. रामचन्द्र तिवारी प्रवालिका पब्लिकेशन इलाहाबाद 2015 पेज 198
2. Geography of India – R.C. Tiwari, Prayag, Prayag Pustak Bhawan, Allahabad 2006, Page 219.



3. भारत का वृहत भूगोल— सुरेश चन्द्र बंसल, मीनाक्षी प्रकाशन मेरठ, 2015— पेज 370
4. *Advanced Economic Geography - Dr. Alka Gautam, Sharda Pustak Bhawan Allahabad, 2010 Page 433.*
5. *Agricultural Geography - क्त. Alka Gautam, Sharda Pustak Bhawan Allahabad, 2012 Page 145.*
6. कृषि भूगोल— माजिद हुसैन, रावत पब्लिकेशन जयपुर,, 2014 पेज 123
7. *Agricultural Geography - Ali Mohammed, Yasir Saeed Hanafi, Vasundhara Prakashan Gorakhpur, 2013 page 168.*
8. भारतवर्ष का विस्तृत भूगोल (20th Edition) डॉ. वीरेन्द्र सिंह चौहान एवं डॉ. अलका गौतम, रस्तोगी पब्लिकेशन मेरठ, 2010—11, पेज 327”

8. It is argued on behalf of the RPSC that the Single Bench fell into error in interfering with the determination made by the experts. It was contended that having regard to the judgments of the Supreme Court in *Ran Vijay Singh and Ors. Vs. State of U.P. and Ors.* (2018) 2 SCC 357 and *Uttar Pradesh Public Service Commission Vs. Rahul Singh* 2018 (2) SCC 357 it was not open to the court to have exercised its discretion and direct the deletion of entire answer-key in respect of Question No.11 & 12. Learned counsel highlighted that whether the materials taken into account by the experts was correct and based upon publicly available information or a view adopted by them – in turn based upon credible material was correct, is not something that the court could have considered.

9. Counsel for the writ petitioners on the other hand argued that the reasoning and conclusions of the Single Judge fell within the narrow compass of judicial review permitted by the authorities, especially where the Supreme Court has held that the interference is not possible unless the error is manifest and the answers adopted and applied by the examining body are “demonstrably wrong”. It was submitted that in this case the model answer keys, reiterated by the expert committee not only showed that they completely overlooked the court’s directions but also that they were as a matter of fact demonstrably wrong. The learned Single Judge, therefore, did not act correctly within the



bounds of his jurisdiction in holding that the model answers needed to be deleted. In support of their submission, the writ petitioner/candidates counsel drew attention of the court to extracts of the Rajasthan Gazette as well as the reply to the query given by the Ajmer museum in respect of Question 11, i.e. whether Nanak Ram is counted as a practitioner of the Alwar style of painting.

Analysis & Reasoning

10. As is immediately apparent from the factual narrative, the previous litigation and judgments of this Court, coupled with the narrow challenge to the correctness of the model answer keys adopted for the two questions, have narrowly defined the scope of the present controversy. Before an examination of the merits, however, it is necessary to outline the scope of judicial review under Article 226 in matters concerning evaluation of candidates-particularly, for purpose of recruitment to public services. The decisions of the Supreme Court in *Maharashtra State Board of Secondary and Higher Secondary Education and Another v. Paritosh Bhupeshkumar Sheth and Others* (1984) 4 SCC 27; *Pramod Kumar Srivastava v. Chairman, Bihar Public Service Commission, Patna & Ors.* (2004) 6 SCC 714; *Ran Vijay Singh and Ors. v. State of Uttar Pradesh & Ors* (2018) 2 SCC 357; *Gangadhara Palo v. Revenue Divisional Officer & Anr.* (2011) 4 SCC 602; *Himachal Pradesh Public Service Commission v. Mukesh Thakur & Anr* (2010) 6 SCC 759; *Central Board of Secondary Education Through Secretary, All India Pre-Medical/Pre-Dental Entrance Examination & Ors. v. Khushboo Shrivastava & Ors* (2014) 14 SCC 523; *Board of Secondary Education v. Pravas Ranjan Panda* (2004) 13 SCC 383; and *Rahul Singh* (supra) have consistently underlined that judicial review, in the absence of any provision for revaluation, should be rarely exercised- preferably under exceptional circumstances. For instance, a three judge Bench of the Supreme Court, in *Pramod Kumar Srivastava* (supra) held as follows:

"Under the relevant rules of the Commission, there is no provision wherein a candidate may be entitled to ask for re-





evaluation of his answer-book. There is a provision for scrutiny only wherein the answer-books are seen for the purpose of checking whether all the answers given by a candidate have been examined and whether there has been any mistake in the totalling of marks of each question and noting them correctly on the first cover page of the answer-book. There is no dispute that after scrutiny no mistake was found in the marks awarded to the appellant in the General Science paper. In the absence of any provision for re-evaluation of answer-books in the relevant rules, no candidate in an examination has got any right whatsoever to claim or ask for re-evaluation of his marks."

Again, in *Khushboo Shrivastava* (supra) the Supreme Court held as follows:

"7. We find that a three-Judge Bench of this Court in *Pramod Kumar Srivastava v. Chairman, Bihar Public Service Commission, Patna and Ors.* (supra) has clearly held relying on *Maharashtra State Board of Secondary and Higher Secondary Education and Anr. v. Paritosh Bhupeshkumar Sheth and Ors.* (supra) 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. The decision in *Pramod Kumar Srivastava v. Chairman, Bihar Public Service Commission, Patna and Ors.* (supra) was followed by another three-Judge Bench of this Court in *Board of Secondary Education v. Pravas Ranjan Panda and Anr.* (2004) 13 SCC 383 in which the direction of the High Court for re-evaluation of answers books of all the examinees securing 90% or above marks was held to be unsustainable in law because the regulations of the Board of Secondary Education, Orissa, which conducted the examination, did not make any provision for re-evaluation of answers books in the rules.

8. In the present case, the bye-laws of the All India Pre-Medical/Pre-Dental Entrance Examination, 2007 conducted by the CBSE did not provide for re-examination or re-evaluation of answers sheets. Hence, the Appellants could not have allowed such re-examination or re-evaluation on the representation of the Respondent No. 1 and accordingly rejected the representation of the Respondent No. 1 for re-examination/re-evaluation of her answers sheets. The Respondent No. 1, however, approached the High Court and the learned Single Judge of the High Court directed production of answer sheets on the Respondent No. 1 depositing a sum of Rs. 25,000/- and when the answer sheets were produced, the learned Single Judge himself compared the answers of the Respondent No. 1 with the model answers produced by the CBSE and awarded two marks for answers given by the Respondent No. 1 in the Chemistry and Botany, but declined to grant any relief to the





Respondent No. 1. When Respondent No. 1 filed the LPA before the Division Bench of the High Court, the Division Bench also examined the two answers of the Respondent No. 1 in Chemistry and Botany and agreed with the findings of the learned Single Judge that the Respondent No. 1 deserved two additional marks for the two answers. In our considered opinion, neither the learned Single Judge nor the Division Bench of the High Court could have substituted his/its own views for that of the examiners and awarded two additional marks to the Respondent No. 1 for the two answers in exercise of powers of judicial review under Article 226 of the Constitution as these are purely academic matters. This Court in Maharashtra State Board of Secondary and Higher Secondary Education and Anr. v. Paritosh Bhupeshkumar Sheth and Ors. (supra) has observed:

... As has been repeatedly pointed out by this Court, the Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day-to-day working of educational institutions and the departments controlling them. It will be wholly wrong for the Court to make a pedantic and purely idealistic approach to the problems of this nature, isolated from the actual realities and grass root problems involved in the working of the system and unmindful of the consequences which would emanate if a purely idealistic view as opposed to a pragmatic one were to be propounded....

9. We, therefore, allow the appeal, set aside the impugned judgment of the learned Single Judge and the Division Bench of the High Court and dismiss the writ petition. There shall be no order as to costs. We are informed that the first Respondent was admitted to the MBBS Course subsequently. If so, her admission in the MBBS Course will not be affected."

11. The decision in *Ran Vijay Singh* (supra), which is relied upon by the candidates, after a thorough review of all previous decisions, held as follows:

"30. The law on the subject is therefore, quite clear and we only propose to highlight a few significant conclusions. They are: (i) 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; (ii) 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; (iii) 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; (iv) The Court should presume the correctness of the key answers and proceed on that assumption; and (v) In the event of a doubt, the benefit should go to the examination authority rather than to the candidate.

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."

12. Returning to the facts of this case, the earlier judgments by the single judge required the experts to reconsider the answer keys to essentially answers to two model keys: Question Nos 11 and 22. The first, question No. 11, was whether one of the four choices given matched with the information available in some public sources and gazette publications. The question was which of the four named individuals belonged to the Alwar School of painting and the two choices which are the subject matter of controversy are Nanak Ram and Nanag Ram. The candidates relied upon the gazette notification on the website of the State of Rajasthan to contend that Nanak Ram did not belong to the Alwar School of Painting as also the publication of the Rajasthan Hindi Granth Academy-an institution of the state of Rajasthan entity. It was contended that reliance on books of private authors whose publishers have not been mentioned or recognized by the State/Central Government or a University/Board could not be taken note of. The state, on the other hand, points out that the Expert committee specifically elicited information from the source, i.e. the public museum, which the petitioner candidates had relied on and nevertheless reiterated its previous decision.

13. As far as the answer to model question No. 22 is concerned, the candidates relied on NCERT and Rajasthan State Board text-books collected by team of nationally recognized academic experts for the answer that Ponda and Odisha was a mismatch. The RPSC experts relied on the book authored by a Professor in Saharanpur in Uttar Pradesh. The state, however, points out that the difference in "Ponda" and "Podu" methods of cultivation was insubstantial and mainly due to a printing error and that the correct answer was Masha for which the matching state is Himachal Pradesh. The experts in fact gave their reasons for supporting their conclusions, after the previous judgment of the court.



14. In this court's opinion, an error crept into the approach and therefore, the conclusions in the impugned order. Even if-*arguendo*, it were assumed that the review (or revaluation for which there is no provision in RPSC) was correctly permitted, nevertheless, for the court to conclude that the conclusions of the expert body were palpably incorrect, the standard which the Supreme Court indicated in *Ran Vijay* (supra) was that "*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*". The Supreme Court also clarified that "(T)he 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". After the conclusion of the judgment in *Jitendra Kumar Bagaria* (supra), the issues, including the correct answer keys to the two concerned questions, were again referred to the expert committee, which comprised of two individuals. These individuals did not blindly reiterate their previous opinions; they considered the materials given and relied on by the candidate-petitioners. Nevertheless, their conclusions have been faulted.

15. A court carrying on the exercise of judicial review merely scrutinizes the process in question- administrative or statutory, but necessarily public in its outcome, to see if it was arrived at in a procedurally fair and regular manner, free from illegality, not motivated by malice or *mala fides* or not so manifestly unreasonable in its conclusion that no reasonable individual placed in that situation would arrive at such a conclusion or so decide the matter. The impugned judgment in this Court's opinion is clearly erroneous inasmuch as the court has unwittingly donned the robe of the decision maker: to wit, that of an expert, in art, in concluding that one of the choices was defective (question No. 11) and that the RPSC's explanation about a misprint was irrelevant, because the answer was wrongly given. *These conclusions the court cannot arrive at, as they amount to primary decision making- a task which cannot be undertaken*





(15 of 15)

under Article 226. The impugned judgment also overlooked the salutary rule that in the event of doubt, "the benefit ought to go to the examination authority rather than to the candidate" (*Ran Vijay, supra*).

16. For the foregoing reasons this court is of opinion that the appeals have to succeed. They are accordingly allowed but without order on costs.

(G R MOOLCHANDANI),J

(S. RAVINDRA BHAT),CJ

Anil Goyal-61-65



सत्यमेव जयते