



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Special Appeal Writ No. 993/2018

In

S.B. Civil Writ Petition No.1933/2016

Shyam Sunder S/o Shri Pema Ram Ji, Aged about 41 years, R/o
C-113, Keerti Nagar, Magra Poonjla, Jodhpur Raj.

----Appellant

Versus

1. The State Of Rajasthan Through The Secretary,
Department Of Personnel, Government Of Rajasthan,
Jaipur.
2. The Rajasthan Public Service Commission Through Its
Secretary, Ajmer Raj.

----Respondents

For Appellant(s) : Mr. A.K. Choudhary
For Respondent(s) : Mr. G.R. Poonia with
Mr. Mahaveer Bhariya

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

Order

22/04/2019

By way of instant petition challenge has been made to
the order dated 22.11.2017, whereby learned Single Judge has
dismissed the writ petition filed by the petitioner observing that
full bench judgment of this Court *Lalit Mohan Sharma & Ors.*
reported in 2006 (1) CDR 834 (Raj.) (FB) supports the respondent
besides the petitioner being not able to show as to exact what
could be the specific motive behind causing prejudice to the
petitioner.



In brief, petitioner had preferred writ petition under Article 226 of the Constitution of India with the following prayer:

- "a. by an appropriate writ, order or direction your lordship may kindly be pleased to quash the result of petitioner and direct the RPSC for re-evaluation of the answer sheets of the petitioner by expert committee and if the petitioner secures more marks than the cutoff marks of the General category then, interview may be taken of the petitioner and he may be considered for appointment as per his merit in pursuance of advertisement issued RAS and RTS Examination-2012.
- b. That by an appropriate writ order or direction, the techniques used by RPSC for evaluation of the answer sheets and for scaling the marks may kindly be declared illegal and therefore, it may be kindly be quashed and set aside.
- c. Any other relief which this Hon'ble Court may deem fit may kindly be granted in favour of the petitioner.
- d. Cost of the writ petition may kindly be awarded to the petitioner."

It is pertinent to mention that the nature of the answer/s alleged to have been evaluated in a biased way is subjective and petitioner has failed to explain as to what kind of malafide has been perpetrated against the petitioner.

Para 20 of the full bench Judgment of this court in **Lalit Mohan Sharma & Ors.** has observed:

"20. In the context of impressive array of facts, as fully detailed above, we are not inclined to accept the contention raised on behalf of the learned counsel appearing for the petitioners that the key answers provided by the respondent-Commission for evaluating the answer-sheets of the petitioners were wrong or that despite there being a report by the Expert Committee the Court must take in hand the exercise of finding out as to whether the key answers are correct or wrong. There is no need to go into the plea raised by the petitioners for



examining the disputed questions and the authenticity of the key-answers provided by the respondent Commission in view of the report of the Expert Committee constituted for the propose. Surely, the Court is not an expert in the field of education and the various subjects for which the question paper written statement settled. Expert Committee constituted for the purpose has given its report based upon recognized text books authored by persons of repute in the field. There is no allegation, whatsoever that the members constituting the committee did not know or had no specialization in the concerned subjects nor is there any allegation of bias against them. In the facts and circumstances of the case, no occasion at all arises for the Court to further probe the matter. The contention of the learned counsel appearing for the petitioners needs thus no further comments. Suffice is it, however, to motion that while urging that the key-answers provided by the respondent Commission are wrong, all that is being urged is that in some of the recognized test book or books of repute, different answers of the concerned questions have been provided. Assuming what has been urged by the learned counsel appearing for the petitioners to be correct, it would neither be permissible nor just and proper to interfere and other re-evaluation of the answer sheets.”

Evaluation and deciphering answer to a subjective question always varies evaluator to evaluator and it cannot be alleged that the same shall remained static, the cited law of Lalit Mohan Sharma (supra) supports respondent and petitioner has





failed to explain as to what alleged malafide is perpetrated qua the petitioner, so there appears no reason to interfere with the view taken by the Single Judge.

Therefore, we are not inclined to interfere with the judgment impugned, since no infirmity is reflected in the same. Thus, the appeal fails and is dismissed accordingly.

(G.R. MOOLCHANDANI),J (MOHAMMAD RAFIQ),ACTING CJ

AKS-TN/35



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