



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

S.B. Civil Writ Petition No. 14302/2017

Mamta Sharma through- New Oxford B-150, Mangal Marg, Bapu
Nagar, Jaipur (Raj.) Pin Code-302015

----Petitioner

Versus

1. Secretary, Rajasthan Public Service Commission, Ajmer
2. Secretary, Department of Personnel, Government of Rajasthan, Jaipur.

----Respondent

For Petitioner(s) : Mr. Shyam Lal Innana and
Petitioner in person

For Respondent(s) : Mr. M.F. Baig for RPSC
Mr. K.S Chandel, Add. Government
Advocate for Res. No.2

HON'BLE MR. JUSTICE PANKAJ BHANDARI

Order

29/01/2020

1. Petitioner has preferred this Writ Petition aggrieved by her rejection in the RAS main examination.
2. It is contended by learned counsel for the petitioner and the petitioner in person that her papers have not been properly evaluated. If, her papers have properly been evaluated, she would have scored more than the cut-off marks. It is contended that petitioner has scored 298 marks out of 800 and the cut-off for the General category is 350.
3. My attention has been drawn to the various questions and answers to establish that the papers were not properly evaluated.
4. Learned counsel appearing for the RPSC contends that Rule 18 of the RPSC Rules of 1999, provides for retotalling of the marks



obtained by a candidate in the Main examination. However, there is no provision for re-examining the evaluation.

5. It is further contended that RPSC took services of as many as 300 Examiners, 100 Additional Head examiners and 22 Head examiners and answer sheets were randomly checked so as to maintain parity in the marks obtained by the candidates.

6. Learned counsel for the respondent has placed reliance on **Maharashtra State Board of Secondary and Higher Secondary Edu vs. Paritosh Bhupesh Kumar Sheth**, 1985 SCR (1) 29, **Himachal Pradesh Public Service Commission vs. Mukesh Thakur And Anr.**, (2010) 6 SCC 759, **The Secretary, West Bengal Council of Higher Secondary Education vs. Ayan Das & Ors.**, Appeal No.4560/2007 decided by the Apex Court on 28.09.2007.

7. Learned counsel has also placed reliance on **Shyam Sunder vs. The State of Rajasthan And Anr.**, D.B. Special Appeal Writ No.993/2018 decided by the Rajasthan High Court on 22.04.2019, **Mukesh Kumari Yadav vs. State of Rajasthan And Anr.**, S.B. Civil Writ Petition No.18117/2017 decided on 23.10.2017, **U.P.P.S.C., through its Chairman And Anr. vs. Rahul Singh And Anr.**, AIR 2018 Supreme Court 2861, **The Rajasthan Public Service Commission vs. Pankaj Raj And Ors.**, D.B. Special Appeal Writ No.697/2019 decided by the Division Bench of the Rajasthan High Court on 29.05.2019 and **Narendra Singh Rathore vs. Rajasthan Public Service Commission**, decided by the Rajasthan High Court on 08.03.2017.

8. I have considered the contentions.

9. As to whether the High Court can go into the questions was aptly dealt with by the Apex Court. In **Himachal Pradesh Public**



**Service Commission vs. Mukesh Thakur And Anr.** (supra)

Apex Court held that:-

"In absence of any provision under the Statute or Statutory Rules/Regulations, the Court should not generally direct re-evaluation.

The Court further observed that it was not permissible for the High Court to examine the question paper and answer sheets itself, particularly, when the Commission had assessed the inter-se merit of the candidates. If there was a discrepancy in framing the question or evaluation of the answer, it could be for all the candidates appearing for the examination and not for the respondent only. It is a matter of chance that the High Court was examining the answer sheets relating to law. Had it been other subjects like physics, chemistry and mathematics, we are unable to understand as to whether such a course could have been adopted by the High Court."

10. In **Maharashtra State Board of Secondary and Higher Secondary Edu vs. Paritosh Bhupesh Kumar Sheth** (supra)

Apex Court observed that:-

"Every possible precaution was taken and all necessary safeguards provided to ensure that the answer books inclusive of supplements are kept in safe custody so as to eliminate the danger of their being tampered with and that the evaluation is done by the examiners applying uniform standards with checks and cross-checks at different stages and that measures for detection of malpractice, etc. have also





been effectively adopted, in such cases it will not be correct on the part of the Courts to strike down the provision prohibiting revaluation on the ground that it violates the rules of fair play."

11. The Court referred to the judgment passed by the Constitution Bench in **Fatehchand Himmatlal And Ors. vs. State of Maharashtra** and held that the High Court was in error in striking down clauses (1) and (3) of Regulation 104 as illegal, unreasonable and void and the validity of the regulation was upheld.

12. Rule 18 of the Rules of 1999 is not under challenge before this Court.

13. As per the Rule only retotalling of the marks obtained by a candidate in RAS examination is permissible, answer sheets are not to be re-examined.

14. In **U.P.P.S.C., through its Chairman And Anr. vs. Rahul Singh And Anr.** similar controversy was there before the Apex Court and Apex Court held that:-

"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. The court should not at all re-evaluate or scrutinise the answer sheets of a candidate as it



has no expertise in the matter and academic matters are best left to academics.

The Apex further observed that the High Court over stepped its jurisdiction by giving the directions which amounted to setting aside the decision of experts in the field."

15. In the light of the judgments placed by learned counsel appearing for the RPSC, this Court is of the considered view that Courts cannot examine the question paper and answer sheets as it does not have expertise to do so and the Rules also prohibit re-examination of the answer sheets. Legality of Rule 18 of the RPSC Rules is not challenged before the Court. Petitioner herein has scored bare minimum of 298 marks as compared to the cut-off marks of 350, hence this Court is not inclined to entertain the Writ Petition, the same is dismissed. Stay application stands disposed of.

(PANKAJ BHANDARI),J

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