

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (S) No. 5153 of 2021

Aditya Isha Prachi Tirkey **PETITIONER**

- V E R S U S -

1. The Jharkhand Public Service Commission through its Secretary, Ranchi.
2. The Chairman, Jharkhand Public Service Commission through its Secretary, Ranchi.
3. The Secretary, Jharkhand Public Service Commission through its Secretary, Ranchi.
4. The Examination Controller, Jharkhand Public Service Commission through its Secretary, Ranchi.

... .. **RESPONDENTS**

CORAM: HON'BLE MR. JUSTICE DR. S. N. PATHAK
(Through : Video Conferencing)

For the Petitioner :Mr. Rajeeva Sharma, Sr. Advocate
Mr. Aishwarya Prakash, Advocate
For the Respondents :Mr. Sanjay Piprawall, Advocate

05/18.01.2022 Defects, as pointed out by the office are ignored for the present.

2. The petitioner has approached this Court for a direction commanding upon the respondents to allow her to appear in the Mains Examination to be conducted by the respondent-JPSC, as she has obtained 240 marks in the Preliminary Test, whereas the cut off marks obtained by the last selected candidate in Scheduled Tribes category is 230.

3. The brief facts of the case lie in a narrow compass. Advertisement No. 01/2021 was published on the website of the Jharkhand Public Service Commission, as also on several newspapers for Jharkhand Combined Civil Services Competitive Examination, 2021. The petitioner being eligible applied for the said examination. Thereafter, admit card bearing Roll No. 52278958 and Registration No. 40029025 was issued to the petitioner for appearing in the Preliminary Test. Thereafter, the petitioner appeared on the date and

venue of Preliminary Test and did well. On 03.11.2021, the result of Preliminary Test was published on the website of Jharkhand Public Service Commission, in which, she was not declared as successful candidate. On enquiry, the petitioner could know that OMR sheet of paper-I and II proves that she had secured 240 marks, whereas the cut off marks for the scheduled tribe category was 230 only. Thereafter, petitioner approached before the respondent authority for re-evaluation of OMR sheet by filing her representation on 30.11.2021, but no heed was paid by the respondent JPSC and as such she has knocked door of this Court.

4. Mr. Rajeeva Sharma, learned senior counsel appearing for the petitioner, assisted by Mr. Ashiarwa Prakash, Advocate submits that the petitioner had secured higher marks than the cut off fixed by the respondent JPSC and as such, she cannot be deprived from appearing in the 7th – 10th JPSC Mains Examination, scheduled to be held on 28th January 2022. Learned Senior Counsel further argues that it is totally careless, callous and arbitrary attitude on part of the JPSC and if this Hon'ble Court will not interfere in the matter by directing the respondents to allow the petitioner to appear in the 7th – 10th JPSC Mains Examination, her career would be spoiled. Learned Sr. Counsel vehemently argues that petitioner comes under the Scheduled Tribes category and had secured 240 marks in the Written Preliminary Test whereas the cut off marks fixed for the said Scheduled Tribes category was merely 230 and such it is a fit case for interference. In the facts and circumstances, the JPSC may be directed to re-evaluate the marks sheet of the petitioner and publish the result and in the alternative, she may be allowed to appear in the 7th – 10th JPSC Mains Examination provisionally.

5. Mr. Sanjay Piprawal learned counsel appearing for the JPSC submits that there is no merit in the instant case and as such the same may be dismissed in limine. Petitioner has tried to make out a case which has no legs to stand. Learned counsel further argues that pursuant to advertisement no. 01/2021, Preliminary Test was

conducted on 19.09.2021 and the candidates were allowed to download their Admit Cards wherein instructions were made to the candidates with regard to examination and use of OMR Sheet. In Clause – 4 of the Admit Card, it is clearly stipulated that OMR Sheets are scanned through Electronic Machine and the automatic process may lead to rejection of answer/ answer sheets if the same is not properly darkened or filled up by the concerned candidate. Objective type examination and OMR Answer Sheet was to be processed through OMR Scanning Machine and OMR Scanning Machine would not read the OMR Sheet in which there is wrong darkening of bubbles and would automatically reject the same. Learned counsel further argues that after examination and evaluation of answer sheets, the objections/ suggestions were invited from the candidates within the stipulated period and information to that effect was also given to the candidates by way of press communiqué. Pursuant thereto, many candidates including the petitioner submitted their objections/ suggestions before the JPSC. Experts were also hired in the entire process and after re-evaluation of the answer sheets, results thereof were duly informed through website. Thereafter, the results of Preliminary Examination were prepared and published by the JPSC on the basis of the marks secured by the candidates.

6. Mr. Sanjay Piprawal, learned counsel appearing for the JPSC submits that OMR Answer Sheet of General Studies Paper-II of the petitioner was rejected by the OMR Scanning Machine due to wrong darkening/ shadowing of Roll Number filled up by the petitioner herself and it is fault on part of the petitioner herself in not adhering to the guidelines/ instructions in the Advertisement and Admit Card. The instructions mentioned in the Admit Card are mandatory in nature for all the candidates and JPSC cannot do anything in the automatic process of evaluation of answer sheets. Learned counsel further argues that any correction even with regard to roll number or name etc. in the OMR Sheet would lead to manipulation with the OMR Sheet of the candidate. Learned counsel further argues that petitioner belongs to

the Scheduled Tribes category and has secured 140 marks in General Studies Paper-I whereas the marks secured by the last successful candidate in S.T. Category is 230 and as such she has not been declared successful. Writ petition has no merits and even the prayer for interim protection should not be allowed to the petitioner as the entire preparation for examination scheduled to be held on 28.01.2022 has already been made by the JPSC and aspirant candidates are waiting for the same.

7. Having heard counsel for the parties and considering facts and circumstances of the case, this Court is of the considered view that no case is made out for any interference by this Court. The emphasis has been led to Annexure-2 series at page 21 of the writ petition, which is similar to page 33 of the counter affidavit (Annexure-C). From bare perusal of two documents, it appears that last digit of roll number i.e. 8, the petitioner has wrongly circled in the OMR sheet the digit 6. This fact also supports from the document at Annexure-C of the counter affidavit. In that document at Annexure-C it appears that instead of digit '8', digit '6' has been circled by the petitioner. In this context, it is relevant to quote clause 4 of the advertisement which reads **as under:-**

“4. OMR (Optical mark recognition) answer sheet will be processed electronically. As such invalidation of answer sheet due to incomplete / incorrect filling / darkening of the bubbles on OMR sheet, will be the sole responsibility of the candidate. OMR Scanning machine will reject OMR sheet in which Roll No and Booklet series are not properly and correctly (in word or number or both as required) darkened or fillup in OMR sheet).

8. Admittedly the petitioner has wrongly darkened the last digit of her roll number and instead of digit 8, she has darkened digit '6', which is fault on her part and as per instruction in the Admit Card, such mistakes on part of the candidate, cannot be rectified by the Commission and according to the arguments advanced by counsel for the JPSC, such correction would lead to manipulation in the OMR Sheet. Thus, it is evident that the conditions/instructions mentioned in

clause-4 of the Admit Card have not been fulfilled by the petitioner herself and as such, case of the petitioner has rightly been rejected by the Commission for appearing in Mains Examination. Secondly, from the record it appears that petitioner has obtained 140 marks only in totality whereas the marks obtained by the last selected candidate under the Scheduled Tribes category is 230. Thus, plea raised by the petitioner is rejected on this score also. Petitioner cannot take the plea to add marks of second paper of General Studies which could not be evaluated or scanned by the OMR machine due to mistake or laches on part of the petitioner herself by darkening wrong roll number. At this stage this Court cannot direct the Commission to correct the same because it would amount to manipulation in the OMR Sheet. A candidate is supposed to follow the instructions and such mistakes are not expected by the aspirants appearing in the State Civil Service Examination. May be the petitioner has not intentionally darkened digit 6 instead of 8, but sympathy has no place in the eyes of law. The law will prevail in view of the terms and conditions as mentioned in the Advertisement, Admit Card and that of the Rules framed by the JPSC. The Hon'ble Apex Court in the case of Ram Vijay Singh & Ors. State of Uttar Pradesh & Ors., reported in (2018) 2 SCC 357, wherein, taking into consideration its previous decisions, including the one in Manish Ujwal's case (2005) 13 SCC 744, the law was laid down by the Hon'ble Apex Court as follows:-

“30.5 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 mathematically precision is not always possible.”

9. If the contention of the learned Senior Counsel is accepted regarding re-evaluation of the OMR sheet, it will amount to opening flood gate and a blanket order has to be issued regarding entertaining of those candidates, who have made incorrect entry in violation of clause 4 of the terms and conditions as mentioned in the admit card. This Court sitting under Article 226 of the Constitution of India cannot interfere in such matters. No interference is warranted in this writ petition.

10. Resultantly, this writ petition fails and is, hereby, dismissed.

(Dr. S.N. Pathak, J.)