

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

D.B. Civil Writ Petition No. 10022/2019

Arti Meena D/o Shri Dhanji Lal Meena, Aged About 27 Years, R/o Quarter No. 143, Railway Colony, Sawaimadhopur Rajasthan.

----Petitioner

Versus

Rajasthan High Court, Jodhpur, Through Its Registrar.

----Respondent

D.B. Civil Writ Petition No. 10100/2019

Sugandha Gupta W/o Shri Devkrishna Purohit, Aged About 30 Years, R/o 54-Type-3, Income Tax Colony, Jyoti Nagar, Jaipur, Rajasthan.

----Petitioner

Versus

1.The Honble High Court For Judicature Of Rajasthan, Through Registrar General, Jodhpur.

2.The Honble High Court For Judicature Of Rajasthan, Through Registrar (Examination) Jodhpur.

----Respondents

D.B. Civil Writ Petition No. 10217/2019

Kiran Meena D/o Late Shri Ram Swaroop Meena, Aged About 34 Years, R/o 47Ka-1, Jyoti Nagar, Housing Board Colony, Near Vidhan Sabha, Jaipur 302005

----Petitioner

Versus

1.The Honble High Court For Judicature Of Rajasthan, Through Registrar General Jodhpur.

2.The Honble High Court For Judicature Of Rajasthan, Through Registrar (Examination) Jodhpur.

----Respondents

D.B. Civil Writ Petition No. 10570/2019

Jigyasa Arya D/o Shri Ramesh Kumar Arya, Aged About 23 Years, Caste- Sain, R/o 33/115, Varun Path, Mansarovar, Jaipur (Raj.)

----Petitioner

Versus

1.Rajasthan High Court, Through Registrar General, Rajasthan High Court, Jaipur Bench, Jaipur.

2.Registrar (Examination), Rajasthan High Court, Jodhpur

----Respondents

D.B. Civil Writ Petition No. 10705/2019

Vishal Kataria S/o Shri S R Kataria, Aged About 25 Years, R/o 24, Tagore Nagar, Dcm, Ajmer Road, Jaipur (Rajasthan) Roll No. 57008

----Petitioner

Versus

1.Rajasthan High Court, Jodhpur, Through Registrar General,
Rajasthan High Court Building, Jodhpur.

2.Rajasthan High Court, Jodhpur, Through Registrar
(Examination), Rajasthan High Court Building, Jodhpur.

----Respondents

D.B. Civil Writ Petition No. 10920/2019

Hemank Vaishnav Son Of Laxmikant Vaishnav, Aged About 24
Years, Resident Of Vaishnav Colony, Village And Post Ghatol,
District Banswara (Rajasthan) (Roll No. 32537)

----Petitioner

Versus

1.The Rajasthan High Court, Jodhpur Through Registrar General,
Rajasthan High Court Building, Jodhpur.

2.The Rajasthan High Court, Jodhpur, Through Registrar
(Examination), Rajasthan High Court Building, Jodhpur.

----Respondents

D.B. Civil Writ Petition No. 10921/2019

Shivangini Audichya Kaushik Daughter Of Govind Lal Audichya,
Aged About 38 Years, Resident Of Bada Bazar, Nathdwara, District
Rajsamand (Rajasthan) 313301 (Roll No. 21191)

----Petitioner

Versus

1.The Rajasthan High Court, Jodhpur Through Registrar General,
Rajasthan High Court Building, Jodhpur.

2.The Rajasthan High Court, Jodhpur, Through Registrar
(Examination), Rajasthan High Court Building, Jodhpur.

----Respondents

D.B. Civil Writ Petition No. 10922/2019

Yashwardhan Singh Rathore Son Of Peer Singh, Aged About 25
Years, Resident Of Santpur, Aburoad, District Sirohi (Rajasthan)
Pin 307026 (Roll No. 57516)

----Petitioner

Versus

1.The Rajasthan High Court, Jodhpur Through Registrar General,
Rajasthan High Court Building, Jodhpur.

2.The Rajasthan High Court, Jodhpur, Through Registrar
(Examination), Rajasthan High Court Building, Jodhpur.

----Respondents

D.B. Civil Writ Petition No. 10953/2019



1.Vivek Pandey S/o Sh. Shiv Prasad Pandey, Aged About 27 Years, R/o B-100, Ashok Nagar Colony, Pandeypur, Varanasi, Uttar Pradesh-221003 (Roll No. 57277)

2.Kavita Meena D/o Sh. Ramcharan Lal Meena, Aged About 29 Years, R/o Flat No. 110/a-45, Jaipur, Rajasthan-302033, (Roll No. 18178)

----Petitioners

Versus

1.Rajasthan High Court, Jodhpur, Through Registrar General, Rajasthan High Court, Jodhpur.

2.Registrar (Examination), Rajasthan High Court, Jodhpur.

----Respondents

D.B. Civil Writ Petition No. 11102/2019

Kritika Dey, Daughter Of Shri Jagdish Narayan Kohli, Aged About 26 Years, Resident Of Dev Kutir 44 Radhikapuram Jagatpura, Jaipur (Rajasthan) 302017

----Petitioner

Versus

Rajasthan High Court, Through Its Registrar (Examination) Jodhpur

----Respondent

D.B. Civil Writ Petition No. 11134/2019

Ms. Kajal Singh D/o Shri Brij Pal Singh, Aged About 25 Years, Resident Of House No. I/iv, C.i.r.b. Campus, Hisar, Haryana, Pin-125001.

----Petitioner

Versus

The Registrar (Examination), Rajasthan High Court, Jodhpur.

----Respondent

D.B. Civil Writ Petition No. 11161/2019

Nandini Sharma D/o Shri Naval Kishore Sharma, Aged About 22 Years, Resident Of 132 Kv Gss Colony, Karauli (Raj.)

----Petitioner

Versus

1.Rajasthan High Court, Jodhpur Through Registrar General, High Court Building, Jodhpur (Raj.)

2.Registrar (Examination), Rajasthan High Court, Jodhpur.

----Respondents

D.B. Civil Writ Petition No. 11257/2019

1.Kamal Kishore Modi S/o Shri Raj Kumar, Aged About 25 Years, By Caste Modi, Resident Of Bigga Bass, Ward No. 16, Shri Doongargarh, Bikaner, Rajasthan.

2.Arjoo Tailor D/o Shri Gopal Tailor, Aged About 25 Years, Resident Of 1-B-21, R.c. Vyas Colony, Bhilwara, Rajasthan.

----Petitioners



Versus

1.Rajasthan High Court, Jodhpur Through Its Registrar General

2.Registrar (Examination), Rajasthan High Court Jodhpur.

----Respondents

D.B. Civil Writ Petition No. 11317/2019

1.Vijay S/o Shri Girdhari Lal, Aged About 37 Years, B/c Brahmin, R/o Fca-28, East Chawala Colony Both Abgarh, District Faridabad, Haryana.

2.Nikhil Kaushik S/o Shri Amar Chand Kaushik, Aged About 24 Years, B/c Brahmin, R/o H.no. 276/12-A, Near Prakash Vatika, Konsiwas Road, Vijay Nagar, Rewari, Haryana.

----Petitioners

Versus

1.Rajasthan High Court Jodhpur, Through Its Registrar General

2.Registrar (Examination), Rajasthan High Court Jodhpur

----Respondents

D.B. Civil Writ Petition No. 11319/2019

1.Khanjan Sharma D/o Shri Pradyot Sharma, Aged About 25 Years, B/c Brahmin, R/o 59, Sonabadi, Gopalpura Bypass, Jaipur, Rajasthan

2.Pankaj Soni S/o Late Shri Pradeep Kumar Soni, Aged About 30 Years, B/c Soni, R/o 84, Bajrang Nagar, Mr 9 Road, Indore, Madhya Pradesh

3.Vasudha Goutam D/o Shri Sita Ram Sharma, Aged About 34 Years, B/c Brahmin, R/o Behind Bus Stand, Janta Colony, Deoli, Tonk, Rajasthan

4.Sunita Kumari D/o Shri Jagdish Prasad, Aged About 36 Years, B/c Meena, R/o Village And Post Bhatu Kalan, Tehsil Kathumar, District Alwar, Rajasthan

----Petitioners

Versus

1.Rajasthan High Court Jodhpur, Through Its Registrar General

2.Registrar (Examination), Rajasthan High Court Jodhpur

----Respondents

D.B. Civil Writ Petition No. 11356/2019

Ravi Gupta S/o Shri Kedar Mal Gupta, Aged About 27 Years, R/o 23, Soni Ka Bag, Behind Alka Theater, Sikar Road, Murlipura, Jaipur - 302039, Rajasthan

----Petitioner

Versus

1.Rajasthan High Court Jodhpur, Through Its Registrar General

2.Registrar (Examination), Rajasthan High Court, Jodhpur.
----Respondents

D.B. Civil Writ Petition No. 11357/2019

Arti Devi D/o Shri Padam Chand, Aged About 32 Years, R/o Jai
Bharat Traders Opposite Shubham Marriage Home, Kherli Road,
Nagar, Bharatpur, Rajasthan-321205

----Petitioner

Versus

1.Rajasthan High Court Jodhpur, Through Its Registrar General

2.Registrar (Examination), Rajasthan High Court, Jodhpur.
----Respondents

D.B. Civil Writ Petition No. 11358/2019

1.Payal Agarwal D/o Shri Girdhari Lal, Aged About 24 Years, B/c
Agarwal, R/o Plot No. 8, Moti Nagar, Near Jhotwara Circle,
Jhotwara, Jaipur, Rajasthan- 302012

2.Utkrsha Mittal D/o Shri Ashok Kumar Mittal, Aged About 29
Years, B/c Agarwal, R/o Radha Krishna, Colony, In-Front Of New
Collectred, Gulab Bag Road, Dholpur, Rajasthan- 328001

3.Diksha Sangwan D/o Azit Singh, Aged About 28 Years, B/c Jat,
R/o Village And Post Chandeni, Charkhi Dadri, Bhiwani, Haryana.

----Petitioners

Versus

1.Rajasthan High Court Jodhpur, Through Its Registrar General

2.Registrar (Examination), Rajasthan High Court, Jodhpur.
----Respondents

D.B. Civil Writ Petition No. 11360/2019

Lalita Matai D/o Shri Narayan Das Matai, Aged About 31 Years, B/c
Sindhi, R/o D-3/11, Wonder Cement Ltd Colony, Nimbahera,
Chittorgarh, - 312601, Rajasthan

----Petitioner

Versus

1.Rajasthan High Court Jodhpur, Through Its Registrar General

2.Registrar (Examination), Rajasthan High Court, Jodhpur.
----Respondents

D.B. Civil Writ Petition No. 11361/2019

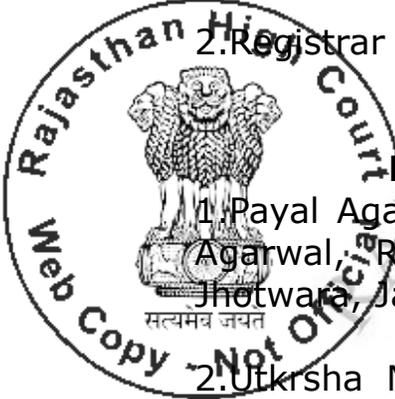
Chhitar Mal Jat S/o Shri Ram Sahai, R/o A-5, Shanti Niketan
Colony, Barkat Nagar, Tonk Phatak, Jaipur (Raj.)

----Petitioner

Versus

Rajasthan High Court Jodhpur, Through Its Registrar

----Respondent



D.B. Civil Writ Petition No. 11394/2019

1.Mohit Rana S/o Pramod Rana, Aged About 25 Years, Resident Of D1, Sanjay Enclave, Rajapuri Road, Uttam Nagar, New Delhi At Present Residing At C-603, Hanging Garden, Jaisinghpura Road, Bhakrota, Jaipur.

2.Paramvir Singh, S/o Satvir Singh, Aged About 26 Years, Resident Of 174/27 Rohtak Road, Jind, Harayana At Present Residing At C-603, Hanging Garden, Jaisinghpura Road, Bhakrota, Jaipur.

3.Somya Singh, D/o Jitendra Singh Deshwal, Aged About 25 Years, Resident Of C3 (New) Isswc, Selaqui, Dehradun, Uttarakhand At Present Residing At C-603, Hanging Garden, Jaisinghpura Road, Bhakrota, Jaipur.

----Petitioners

Versus

1.Rajasthan High Court, Jodhpur, Through Registrar General, Rajasthan High Court Building, Jodhpur.

2.Rajasthan High Court, Jodhpur, Through Registrar (Examination), Rajasthan High Court Building, Jodhpur.

----Respondents

D.B. Civil Writ Petition No. 11395/2019

Meghna Tanwar D/o Shri Bhawani Singh Tanwar, Aged About 25 Years, Resident Of C-324, Sector 8, Vidhyadhar Nagar, Jaipur-302023, Raj.

----Petitioner

Versus

1.Rajasthan High Court, Jodhpur, Through Registrar General, Rajasthan High Court Building, Jodhpur.

2.Registrar (Examination), Rajasthan High Court, Rajasthan High Court Building, Jodhpur.

----Respondents

D.B. Civil Writ Petition No. 11456/2019

Ankita Bafna Daughter Of Shri Kantilal Bafna, Aged About 28 Years, Resident Of Flat No. 406, Vidhi Vinayak Apartment, Khaine Ka Kua, Jodhpur, Presently Resident Of C-45, B, 6D, Engineers Colony, Mansarovar, Jaipur (Roll No. 25576)

----Petitioner

Versus

1.Rajasthan High Court, Jodhpur, Through Registrar General, Rajasthan High Court Building, Jodhpur.

2.Rajasthan High Court, Jodhpur, Through Registrar (Examination), Rajasthan High Court Building, Jodhpur.

----Respondents

D.B. Civil Writ Petition No. 11570/2019

Gayatri Singh D/o Shri Sangram Singh, Aged About 24 Years, By Caste Rajput, R/o Retd. Dgp Police Residence, Opposite Road No. 14, Vki Area, Near Jaipur Ajmer Bye Pass, Jaipur (Raj.)

----Petitioner

Versus

1.Rajasthan High Court, Jodhpur Through Registrar General, Rajasthan High Court Building, Jodhpur.

2.Rajasthan High Court, Jodhpur Through Registrar (Examination) Rajasthan High Court Building, Jodhpur.

----Respondents

D.B. Civil Writ Petition No. 9577/2019

Seema Roj D/o Shri Prahlad Sahay Roj, Aged About 22 Years, R/o 361, Tegore Nagar, Ajmer Road, Jaipur.

----Petitioner

Versus

1.Rajasthan High Court, Jodhpur, Through Registrar General, Rajasthan High Court Building, Jodhpur.

2.Rajasthan High Court, Jodhpur, Through Registrar (Examination), Rajasthan High Court Building, Jodhpur.

----Respondents

D.B. Civil Writ Petition No. 9752/2019

Mohit S/o Shri Karam Chand, Aged About 25 Years, R/o 323, Near Desu Road, Shalimar Village, New Delhi-110088

----Petitioner

Versus

Rajasthan High Court, Through Its Registrar (Examination), Jodhpur.

----Respondent

D.B. Civil Writ Petition No. 9697/2019

Vidhi Joshi D/o Shri Deep Chandra Joshi, Aged About 25 Years, R/o Plot No.71, Lane 5, Bhrigu Nagar, Behind Elements Mall, Dcm, Ajmer Road, Jaipur (Rajasthan) Roll No. 55981

----Petitioner

Versus

1.Rajasthan High Court Jodhpur, Through Registrar General, Rajasthan High Court Building, Jodhpur.

2.Rajasthan High Court, Jodhpur, Through Registrar (Examination), Rajasthan High Court Building, Jodhpur.

----Respondents

D.B. Civil Writ Petition No. 9854/2019

Rakesh Sharma S/o Shri Jagdish Prasad Sharma, Aged About 33 Years, Resident Of Plot No. 25, Shri Ram Nagar, Near Avm School, Jhotwara, Jaipur.

----Petitioner

Versus



1.Rajasthan High Court Jodhpur, Through Its Registrar General

2.Registrar (Examination), Rajasthan High Court, Jodhpur.
----Respondents

D.B. Civil Writ Petition No. 9857/2019

Rupendra Kumar Sharma S/o Shri Gopal Krishan Sharma, Aged About 35 Years, Resident Of 1525, Teli Mohalla, Near Sr. Sec. School, Kalyan Ganj, Bassi Village Bassi District Jaipur.

----Petitioner

Versus

1.Rajasthan High Court Jodhpur, Through Its Registrar General

2.Registrar (Examination), Rajasthan High Court, Jodhpur.
----Respondents

D.B. Civil Writ Petition No. 9906/2019

Archana Sharma D/o. Om Prakash Sharma, Aged About 36 Years, Permanent Address- Ram Bhajo Kutir, Ward No.8, Doliyon Ka Bas, Sikar. Present Address House No. 51/157, Shipra Path, Mansarovar, Jaipur (Raj.) 302020

----Petitioner

Versus

1.Rajasthan High Court, Jodhpur Through Its Registrar Administrative.

2.Rajasthan High Court, Jaipur Bench, Jaipur Through Its Registrar Administrative

3.Registrar (Examination), Rajasthan High Court, Jodhpur.
----Respondents

D.B. Civil Writ Petition No. 9965/2019

1.Anugrah Singh S/o Shri Shailendra Singh, Aged About 25 Years, Resident Of Flat No.101, Shivalaya Apartments, M-55, Janakpuri, Marris Road, Aligarh-202001, Uttar Pradesh. (Roll No. 26000)

2.Priyanka Yadav D/o Shri Yadram Singh Yadav, Aged About 35 Years, Resident Of X-118, Street No.8, Brahmpuri, Delhi-110053. (Roll No. 44633)

3.Vishaka Pundeer D/o Shri Shakti Singh, Aged About 26 Years, Resident Of H.no.39, Kanwali, G.m.s. Road, Dehradun-248001, Uttarakhand. (Roll No. 56961)

4.Amanpreet Kaur D/o Shri Amarjit Singh, Aged About 23 Years, Resident Of H.no.77, U.p.o. Randhawa Masanda, Jalandhar-144004., Punjab. (Roll No.24257).

5.Neelima Singh D/o Shri Manoj Kumar Tanwar, Aged About 24 Years, Resident Of H.no.3040, New Housing Board, Sector-13, Bhiwani-127021, Haryana. (Roll No. 40244).

6.Gaurav Saxena S/o Shri Ashok Saxena, Aged About 33 Years, Resident Of Saxena Bhawan, Plot No.5, Near Chaturvedi Bhawan, Behind Atta Mandir, Indira Colony, Alwar-301001, Rajasthan. (Roll No.31437).

7.Vishal Godara S/o Shri L.r. Godara, Aged About 28 Years, Resident Of C-252, Gokul Path, Vaishali Nagar, Jaipur-302021. (Roll No. 57000)

8.Aditi Nagayach D/o Shri Madan Mohan Nagayach, Aged About 30 Years, Resident Of 3-Mb-161, Indira Gandhi Nagar, Jagatpura, Jaipur-302017. (Roll No. 23183).

9.Neha Rai D/o Shri Vashistha Rai, Aged About 23 Years, Resident Of Pathakauli Kaloni, Harra Ki Chungi, Azamgarh-276001, U.p. (Roll No. 40613).

10.Nishant Jain S/o Shri Bharat Bhushan Jain, Aged About 25 Years, Resident Of Near, Sbi Bank, Ward No.14, Tijara-301411, Alwar, Rajasthan (Roll No. 41237).

11.Noopur Sharma D/o Shri Rajnikant Sharma, Aged About 28 Years, Resident Of Mandir Shri Madho Biharji, Opposite Reserve Police Line, Station Road, Jaipur-302006 (Roll No. 41541).

12.Aditya S/o Shri Ram Niwas Sharma, Aged About 34 Years, Resident Of 1399, Sector-I, Rohtak-124001, Haryana (Roll No.23218).

13.Akshay Pandey S/o Shri Raj Kumar Pandey, Aged About 24 Years, Resident Of H.no.60, Ansal Pradhan Enclave, Bhopal-462039 (Roll No.23967)

14.Bhavneet Arora D/o Shri Suresh Kumar, Aged About 25 Years, Resident Of 777-A Jheel Khuranja, East Delhi-110051 (Roll No.28333).

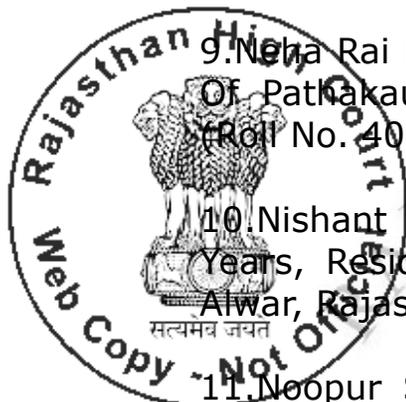
15.Akash Gosain S/o Shri Gopal Gosain, Aged About 24 Years, Resident Of 111-A, R-23, Meenakshi Garden, Tilak Nagar, New Delhi-110018. (Roll No.23778).

16.Sameer Gosain S/o Shri Gopal Gosain, Aged About 25 Years, Resident Of 111-A, R-23, Meenakshi Garden, Tilak Nagar, New Delhi-110018. (Roll No. 48776).

17.Mohammed Shadab S/o Shri Fariyad Mohammed, Aged About 26 Years, Resident Of S-63, Babu Nagar, Bhilwara-311001, Rajasthan. (Roll No. 38710).

18.Anirudh Singh Rathore S/o Shri Rajendra Singh Rathore, Aged About 28 Years, Resident Of E-310, Shastri Nagar, Ajmer, Rajasthan (Roll No.25068).

19.Shivangi Gupta D/o Shri Indra Bhooshan Gupta, Resident Of Rajeev Colony, Deeg, Bharatpur, Rajasthan. (Roll No. 51416)



----Petitioners

Versus

1.Rajasthan High Court, Jodhpur Through Registrar General,
Rajasthan High Court Building, Jodhpur.

2.Rajasthan High Court, Jodhpur Through Registrar (Examination),
Rajasthan High Court Building, Jodhpur.

----Respondents

D.B. Civil Writ Petition No.11788/2019

Kriti Gour D/o Sh. Abhisheak Gour, Aged About 26 Years, R/o 45,
Priyanka, Scheme No.1 (Extension) Mehtab Singh Road, Alwar
(Raj).

----Petitioner

Versus

High Court Of Judicature For Rajasthan, Jodhpur
through Its Registrar General.

Registrar (Examination), Rajasthan High Court, Jodhpur.

----Respondents



D.B. Civil Writ Petition No. 9768/2019

Shashi D/o Shri Bhagwat Singh, Aged About 28 Years, R/o 23,
Deen Dayal Nagar, Bharatpur, Rajasthan.

----Petitioner

Versus

1.Registrar General, High Court Of Judicature For Rajasthan,
Jodhpur.

2.Registrar Examination, High Court Of Judicature For Rajasthan,
Jodhpur.

----Respondents

Advocates who appeared in these matters:

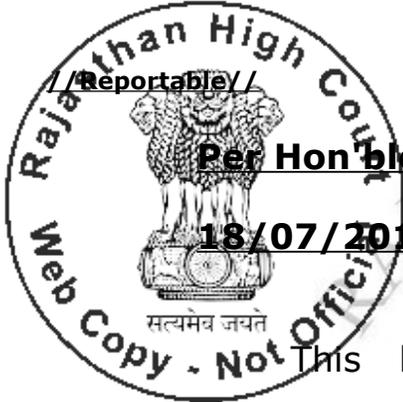
For Petitioner(s) : Mr. R.N. Mathur, Senior Advocate,
assisted by Mr. Shovit Jhajharia,
Mr. Biri Singh Sinsinwar, Senior
Advocate, assisted by Mr. Raghu
Nandan Sharma,
Mr. Rajesh Sharma, Mr. Dev Krishna
Purohit, Mr. Mithlesh Kumar,
Mr. Ashwini Jaiman, Mr. Mukesh
Kumar Meena, Mr. Kuldeep Singh
Meena, Mr. Kamal Kant Vyas, Mr.
Ashish Kumar, Mr. Anurag Sharma,
Mr. Giriraj Prasad Sharma, Mr. Dinesh
Pareek, Mr. Rakesh Chandel, Mr. Abhi
Goyal, Mr. Raj Kumar Garhwal, Mr.
Ved Prakash, Mr. Martand Pratap

Singh, Mr. S.N. Kumawat, Mr. Govind Gupta, Ms. Mahi Yadav, Mr. Punit Singhvi, Mr. Asgar Khan, Mr. Rajeev Sogarwal.

For Respondent(s) : Mr. A.K. Sharma, Senior Advocate, assisted by Mr. V.K. Sharma & Mr. Rachit Sharma

**HON'BLE MR. JUSTICE MOHAMMAD RAFIQ
HON'BLE MR. JUSTICE NARENDRA SINGH DHADDHA**

Judgment



Per Hon'ble Mr. Justice Mohammad Rafiq:

18/07/2019

This batch of writ petitions seeks to challenge the correctness of final answer key of the preliminary examination issued by the respondent Rajasthan High Court dated 20.05.2019 for recruitment of 197 posts to Civil Judge Cadre, notified vide advertisement dated 15.11.2018. Challenge has been made to decision of the respondent-High Court establishment, deleting five questions of the question paper of preliminary examination. In the alternative, prayer has also been made for award of bonus marks for the deleted five questions. Also challenged answers to twenty other questions on different grounds.

It may be noted at the outset that as per the scheme of examination, the competitive examination for recruitment was to be conducted in two stages, i.e., preliminary examination and main examination. Marks obtained in the preliminary examination by the candidates, who are declared qualified for main examination, are not counted for determination of final merit. All those candidates who secure same percentage of marks of the last

cut off would be admitted to the main examination. Candidates belonging to Scheduled Caste and Scheduled Tribes category were required to secure 35% minimum marks and candidates of all other categories were required to secure 40% minimum marks in the preliminary examination. It was also notified that number of candidates to be permitted to appear in the main examination would be 15 times the total number of vacancies categorywise. It was also notified that number of candidates to be called for interview shall be, as far as possible, three times the number of vacancies categorywise, provided that a candidate in order to qualify for interview shall have to secure minimum 35% marks in each law paper and 40% marks aggregate in main examination. However, the candidates belonging to Scheduled Castes and Scheduled Tribes would be deemed to be eligible for interview if he/she has obtained minimum 30% marks in each of the law paper and 35% marks aggregate in the main examination. It was compulsory for every candidate to appear in each paper of written test as also before the interview board for viva-voce failing which he shall not be recommended for appointment. The preliminary examination carried 100 marks on the basis of hundred objective type questions, with one mark for each question. Each question had four options with only one correct answer. The question papers booklet distributed at the examination centers were in four series, namely, A, B, C, D, where due to reshuffling serial number of the questions would undergo a change in the paper, although the question remains the same with the same multiple options in the same order. Except the language papers, candidates were provided question paper booklet in bi-lingual, i.e., both



English and Hindi and the candidates were provided OMR sheets in objective type where they have to simply darken the circle/bubble, indicating the correct answer from black/blue ball point pen as per the instruction no.6 provided on the top thereof. The answer-books are evaluated with the help of the computer programme, as per one of the four circles/bubbles so darkened. In fact, question paper booklet contained 12 instructions. The instruction no.3 was to the effect that only one answer is to be given for each question. The instruction no.4 provided that if more than one answer is marked, it would be treated as wrong answer. Instruction no.6 was to the effect that each question has four options marked serially as 1,2,3,4 out of which only one is correct. Instruction no.7 read that there is no Negative Marking. Instruction no.10 provided that if there is any sort of ambiguity/mistake either of printing or factual nature then out of Hindi and English version of the question, the English version will be treated as standard.

A total 42118 candidates applied in response to the advertisement but only 27776 candidates appeared in the preliminary examination. Of them, only 3290 candidates were declared eligible for the main examination. The respondents immediately after conducting the preliminary examination on 31.03.2019 published the model answer key of the question paper on 01.04.2019, with noting that if any candidate has any objection regarding correctness of any of the answer, he/she should upload the same on the official website of the Rajasthan High Court between 04.04.2019 and 13.04.2019 by entering his application ID and date of birth. According to the respondent, a total number of 2910 objections against 86 model answers were received. 58 out of



them pertained to the law papers of civil and criminal, whereas 30 and 15 were pertaining to the language papers of English proficiency and Hindi proficiency, respectively. All the objections were placed before the Examination Committee, which, in its discretion, constituted a Committee comprising two Hon'ble Judges of this Court with the subject experts of each subject, namely, Law, English and Hindi subjects, having vast experience in their respective fields, to consider the objections. The Expert Committee after examining the matter meticulously, disposed of all the objections in its meeting held on 03.05.2019. It submitted three separate reports for Law, English and Hindi subjects, thereby sustaining objections in regard to five questions and rejecting other objections in respect of all other questions.

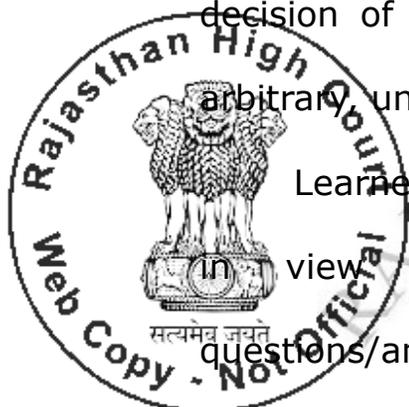
We have heard learned counsel for the parties and perused the material on record.

Contention of learned counsel for the petitioners is that deletion of five questions has diminished the chances of the candidates, who diligently prepared for the examination and marked the correct answers to the question. Even in a case where there are multiple correct options, deletion of the questions would only work to the advantage of those who have chosen wrong answers, thereby putting the candidates who have attempted the correct answer in a disadvantageous position. The appropriate course, even in the case of multiple correct answers, would be to award marks to each of those candidates, who selected any one of correct answers, including with regard to Question No.A/50 where the option (2) is correct answer in English language and option (1) is correct answer in Hindi language. It is argued that the Expert



Committee ought not to have given vague and unclear opinion. Its opinion in respect of five deleted questions was that either questions be deleted or any other appropriate decision, which is in the interest of the examinees, may be taken. The best decision in the interest of the examinees would have been to award marks to all the candidates who chose any one of the correct answers. The decision of the respondent to delete the questions is therefore arbitrary, unreasonable and is liable to be set aside.

Learned counsel for the petitioners have also submitted that in view of the discrepancies found in number of questions/answers, this Court should appoint a fresh Expert Committee as was done by the Supreme Court in **Richal Vs. Rajasthan Public Service Commission and Others - (2018) 8 SCC 81**, in regard to recruitment to the post of School Lecturers. In fact, a Division Bench of this Court in **Special Appeal (Writ) No.1092/2015 - Pankaj Oswal and Others Vs. Rahul Kumar Mahrawal and Another**, decided vide judgment dated 14.05.2018, while dealing with a case pertaining to recruitment to the post of School Lecturers, followed the judgment of the Supreme Court in **Richal**, supra, and directed a third Expert Committee to be constituted and required the Vice Chancellor of the University of Rajasthan, Jaipur, to nominate three Professors in his discretion to constitute such Committee. Reliance is also placed on the judgment of this Court in **Girraj Prasad Sharma and Others Vs. Rajasthan High Court and Another - 2012 WLC (Raj.) UC 597**, wherein the Division Bench of this Court appointed a Senior Advocate of this Court as Amicus Curiae to scrutinize the model answer key published by the Rajasthan Public

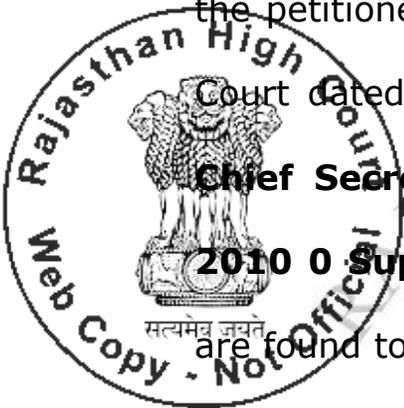


Service Commission pertaining to recruitment of Civil Judge Cadre in 2012, which agreed to his suggestions for deleting 6 questions, changing answer key in respect of 8 questions, which were wrongly deleted and correcting answer key in respect of other 6 questions.

Mr. Biri Singh Sinsinwar, learned senior counsel for some of the petitioners, relying on Single Bench judgment of Madras High Court dated 31.08.2010 in **N. Sasi Kumar & Another Vs. The Chief Secretary, Government of Tamil Nadu and Others - 2010 0 Supreme (Mad) 3800**, argued that where two answers are found to be correct the only rectification that could be done by the respondents is to award marks to all candidates, who chose either of the two correct options. The Allahabad High Court also in **Sunil Kumar Singh and Others Vs. State of U.P. and Others - 2016 0 Supreme (All) 1568**, refused to interfere with the decision of the U.P.P.S.C. in awarding marks to candidates, who chose either of the two correct answers to the questions.

Mr. Rajesh Sharma, learned counsel for petitioner Arti Meena, submitted that the petitioner being a female candidate of Scheduled Tribe category, the respondents were required to notify a separate cut off for female candidates in each reserved category, viz., Scheduled Castes and Scheduled Tribes etc.

Mr. A.K. Sharma, learned senior counsel for respondent, submitted that scope of judicial review of correctness of answer key has been considered by the Supreme Court as well as this Court time and again. The Courts have entertained such challenge only on very limited grounds and have always given due weightage to the opinion of the subject experts. Even if there are



any conflicting views in text books or other study material, each person should bow down to the opinion of experts. The court should not at all reevaluate or scrutinize the answer sheets of a candidate as it has no expertise, for academic matters are best left to academicians. It has also been held that the courts should presume the correctness of the key answers and proceed on that assumption and in the event of a doubt, the benefit should go to the examination authority rather than to the candidate. So far as present matters are concerned, the petitioners have failed to prove that the answers are palpably incorrect or demonstrably wrong. It is submitted that the entire action of the respondents in deleting 5 questions and turning down the objections with regard to remaining questions is perfectly in accordance with law. The Courts have always been slow to interfere with the opinion expressed by the experts unless there are allegations of mala fides against the experts. Reliance in support of this argument has been placed on the judgments of the Supreme Court in **Richal Vs. Rajasthan Public Service Commission and Others - (2018) 8 SCC 81, Ranvijay Singh and Others Vs. State of Uttar Pradesh and Others - (2018) 2 SCC 357, Uttar Pradesh Public Service Commission and Another Vs. Rahul Singh and Another - (2018) 7 SCC 254, Kanpur University Vs. Samir Gupta - (1983) 4 SCC 309** and that of the Division Bench of this Court in **D.B. Civil Writ Petition No.12277/2015** decided on 06.10.2015. It is submitted that in the present matters, there being no allegations of bias or mala fides against the Expert Committee, the present writ petitions deserve to be dismissed.



It is submitted that the Delhi High Court in the judgment in **Anjali Goswami and Others Vs. Registrar General, Delhi High Court - Writ Petition (C) No.963/2019**, on which reliance has been placed by the learned counsel for the petitioners, has observed that the candidates who had marked option (1) or (4) be awarded one mark. The said judgment is distinguishable on the facts as well as law. The respondents in that case proceeded to straightaway declare result of the preliminary examination without first uploading answer key, inviting and disposing of the objections. There was no dispute with regard to deleting any question before the Division Bench of the Delhi High Court. Therein the Delhi High Court followed its earlier judgment dated 09.05.2016 in **Samir Gupta Vs. Delhi High Court - Writ Petitions (C) No.3453/2016 and 2104/2016**, in which the High Court observed that since two or more of the suggested answers were correct, the model answer key and the question would faultier as only one answer was to be marked. The High Court therefore observed that the questions and suggested answers fell foul to the test stipulated in **Kanpur University's** case, supra, and should be deleted. Referring to judgment of the Delhi High Court in **Samir Gupta**, supra, Mr. A.K. Sharma, learned senior counsel, submitted that where more than one suggested answers were correct, the Court has taken the view that such questions should be deleted. It is submitted that the decision regarding deletion of questions and preparing the result on the basis of reduced 95 marks has been taken in the interest of all the examinees and applied uniformly to all, which cannot be said to be unfair or arbitrary or irrational in any manner.



Replying to the argument raised on behalf of the petitioners that a separate cut off ought to have been declared for the female candidates of the Scheduled Castes and Scheduled Tribes, Mr. A.K. Sharma, learned senior counsel for the respondents, cited a Division Bench judgment of this Court in Vikram Singh Chouhan vs. State of Rajasthan & Ors. [D.B. Civil Writ Petition No.3115/2014, decided on 16.05.2014], and submitted that this being a horizontal reservation, a separate cut off for female candidates of the reserved categories is not required to be notified. In any case, there were already sufficient female candidates available within the notified cut off, therefore, separate cut off marks for females was not required to be notified.

We have given our anxious consideration to rival submissions and perused the material on record.

We may at the outset observe that contention that separate cut off marks should be declared for female candidates of the reserved categories, i.e., Scheduled Castes and Scheduled Tribes, is liable to be rejected for the simple reason that the respondents in their reply to the writ petition filed in **D.B. Civil Writ Petition No.10022/2019 - Arti Meena Vs. Rajasthan High Court, Jodhpur through its Registrar**, have categorically stated that separate cut off marks for women candidates of all categories have not been issued, reason being that more than required number of women have already found place in the main list of all categories, having scored more marks than the cut off, and no occasion had arisen to drag any less meritorious women candidate to make up for deficiency of the required 15 times the number of vacancies.

Before proceeding to examine the submissions with regard to alleged discrepancies in the options given under different questions, we must observe that in this age of mass unemployment, there is always a very stiff competition amongst the candidates to secure a job. Difference of one wrong answer taken as correct and vice versa may result in loss of fortune to hundreds. But at the same time, it must also be kept in view that the courts should be extremely loath in making interference in the opinion of the experts unless the key answer is proved to be palpably wrong, which no reasonable body of men would record as correct. Such decision however should not be arrived at on the basis of inferential process or process of rationalization. The opinion of the academic experts is entitled to due weightage. The writ court should not act like a court of appeal over the decision of experts until it is proved on weighty material that such opinion is wholly perverse and erroneous.

The earliest judgment available on the scope of interference by this Court in exercise of its power of judicial review is in the case of **Kanpur University Vs. Samir Gupta**, supra, wherein the Supreme Court considered the issue pertaining to the scope of judicial review of the correctness of key answer notified by the examining body supplied by the paper setter with regard to multiple choice of objective type test for admission to medical course through combined pre medical test. The High Court in that case upheld the challenge by the candidates to various key answers of different questions in respect of some of the questions. Repelling the challenge to the judgment of the High Court, the Supreme Court in para 15 and 16 of the report, held as under:-

"15. The findings of the High Court raise a question of great importance to the student community. Normally, one would be inclined to the view, especially if one has been a paper setter and an examiner, that the key answer furnished by the paper setter and accepted by the University as correct, should not be allowed to be challenged. One way of achieving it is not to publish the key answer at all. If the University had not published the key answer along with the result of the test, no controversy would have arisen in this case. But that is not a correct way of looking at these matters which involve the future of hundreds of students who are aspirants for admission to professional courses. If the key answer were kept secret in this case, the remedy would have been worse than the disease because, so many students would have had to suffer the injustice in silence. The publication of the key answer has unravelled an unhappy state of affairs to which the University and the State Government must find a solution. Their sense of fairness in publishing the key answer has given them an opportunity to have a closer look at the system of examinations which they conduct. What has failed is not the computer but the human system.



16. Shri Kacker, who appears on behalf of the University, contended that no challenge should be allowed to be made to the correctness of a key answer unless, on the face of it, it is wrong. We agree that the key-answer should be assumed to be correct unless it is proved to be wrong and that it should not be held to be wrong by an inferential process of reasoning or by a process of rationalisation. It must be clearly demonstrated to be wrong, that is to say, it must be such as no reasonable body of men well-versed in the particular subject would regard as correct. The contention of the University is falsified in this case by a large number of acknowledged text-books, which are commonly read by students in U.P. Those text-books leave no room for doubt that the answer given by the students is correct and the key answer is incorrect."

The Supreme Court in **Manish Ujwal & Others Vs. Maharishi Dayanand Saraswati University and Others - (2005) 13 SCC 744**, held that in the case of multiple choice in objective type test, the authorities have to be very careful and should always keep in view the interest of students as paramount consideration. A wrong key answer may result in a merit being

made a casualty. Disapproving the approach of the High Court, the Supreme Court held that the student community cannot be made to suffer on account of errors committed by the University. The Supreme Court enunciated the same principle which was propounded in **Kanpur University**, supra, as would be evident from para 9 of the report in **Manish Ujwal**, supra, which reads

thus:



"9. In **Kanpur University v. Samir Gupta**, considering similar problem, this Court held that there is an assumption about the key answers being correct and in case of doubt, the court would unquestionably prefer the key answer. It is for this reason that we have not referred to those key answers in respect whereof there is a doubt as a result of difference of opinion between experts. Regarding the key answers in respect whereof the matter, is beyond the realm of doubt, this Court has held that it would be unfair to penalise the students for not giving an answer which accords with the key answer, that is to say, with an answer which is demonstrated to be wrong. There is no dispute about the aforesaid six key answers being demonstrably wrong and this fact has rightly not been questioned by the learned counsel for the University. In this view, students cannot be made to suffer for the fault and negligence of the University."

The same approach was taken by the Supreme Court in **Guru Nanak Dev University Vs. Saumil Garg and Others**, supra, wherein the Supreme Court directed the University to reevaluate answer of eight questions in reference to key answers provided by the CBSE. The Supreme Court disapproved the course adopted by the University in giving marks to all the students, who had participated in the entrance test irrespective of whether any of them had answered questions or not. It was held that when correctness of the answer keys given by the paper setters is examined by the experts, it should be assumed to be correct unless they are shown to be palpably or demonstrably erroneous.

Being, therefore, fully conscious of the limitations of its jurisdiction, this Court has with the assistance of learned counsel appearing on both the sides, evaluated the correctness of questions primarily with a view to finding out whether there are plural number of correct options given by the Examination Committee against any question, though at the same time keeping in mind the law laid down by the Supreme Court in **Subhash Chandra Verma**, supra that candidates are required to tick mark the answers which is most appropriate out of plurality of answers and that even if the answers could be more than one, the candidates will have to select the one, which is more correct than the alternative answers.

We shall in the first instance deal with the arguments of the petitioners challenging the deletion of aforementioned five questions and in later part of the judgment, consider the argument challenging the choice of the respondents as one of the four options to be the correct answer in respect of the twenty questions.

Question No.A/13, B/20, C/01, D/03, reads thus:-

Which of the following contracts can be enforced?

- (1) A contract for the non-performance of which compensation is an adequate relief.
- (2) A contract which is in its nature determinable.
- (3) A contract the performance whereof involves the performance of a continuous duty.
- (4) Purchase of a share of a partner in a firm

According to learned counsel appearing for the petitioners, the respondents have in the model answer key wrongly treated option (4) as the only correct answer, whereas according to the

petitioners, option (1) is also a correct answer. Thus there were two correct answers. Whoever has chosen either of these two as the correct answer, should be awarded marks rather than deleting the questions. According to the respondents, total 65 objections were received about this question mainly on the ground that the Specific Relief (Amendment) Act, 2018 notified on 01.08.2018 has introduced certain amendments, amending various provisions of the Specific Relief Act. The Committee was of the view that in the light of the aforesaid amendment, options (1) and (4) would both be correct answers and therefore sustained the objections and proposed that either the question itself be deleted or any other appropriate decision be taken in the interest of the examinees.

It may be significant to note that prior to amendment of Section 14, its clause (a) had included a contract for non-performance of which the compensation in money is an adequate relief as one such contract, which could not be enforced but that clause has since been deleted by the Amendment Act, which substituted Section 14 with only four clauses, namely, (a) to (d), wherein the aforesaid old clause (a) has not been retained. The question is that which of the contracts referred to in four options can be enforced. Option (1) refers to a contract for the non-performance of which compensation is adequate relief. When read in the light of the amendment, this would bring the same within the purview of such contract which after amendment can be specifically enforced. The option 4 includes the contract for purchase of a share of the partnership in a firm which also by virtue of Section 14(3)(b)(ii) can be enforced by specific



performance and therefore options (1) and (2) were both rightly taken as correct.

We are not inclined to accept the argument that the deletion of the question by the respondent was not legally correct. We are not inclined to uphold the argument that the respondent should have awarded marks to all those candidates who chose either option (1) or (4) as the answer. We shall deal with this aspect in detail a little later.

Question No.A-50, B/47, C/66, D/41 reads as under:-

Kalu prosecutes Khema for stealing a car from him, Khema is convicted. Kalu afterwards sues Ganesh for the car which Khema had sold to him before his conviction. The Judgment of conviction of Khema in the suit between Kalu and Ganesh is:

- (1) Relevant
- (2) Irrelevant
- (3) Relevant only with prior permission of court
- (4) None of the above.

According to the model answer key of the respondent, the option no.2 was correct, whereas the argument of the petitioners is that while option no.2 of the English version of the question is correct but at the same time in Hindi version, the options no.1 and 2 got inter-changed and thus option no.1 became the correct answer. There was thus one correct option in both English and Hindi version.

There has been a conflict in the arguments made by different learned counsel appearing for the petitioners in regard to this question. Mr. R.N. Mathur, learned Senior Counsel appearing for the petitioners, submitted that the respondents in Instruction no.10 on the question paper booklet provided that "if there is any

sort of ambiguity/mistake either of printing or factual nature then out of Hindi and English version of the question, the English version will be treated as standard." Therefore, the respondents have to treat only option no.2 given in the English version as the correct answer. It is argued that principle of promissory estoppel would apply in such a situation and the respondents would be bound to adhere to instruction no.10. Learned Senior Counsel argued that even if large number of candidates have answered option (1) as correct in Hindi version, the English version shall have to be preferred. Reliance is placed on the judgment of the

Allahabad High Court in **Jaswant Sugar Mills Ltd., Meerut Vs.**

The Presiding Officer, Industrial Tribunal (III), U.P.,

Allahabad and Others - AIR 1962 Allahabad 240, judgment

of Orissa High Court in **G. Sreenivasan and Others Vs.**

Principal, Regional Engineering - AIR 2000 Ori 56, judgment

of the Supreme Court in **Guru Nanak Dev University Vs.**

Saumil Garg - (2005) 13 SCC 749 and judgment of the

Supreme Court dated 22.11.2018 in **The Central Board of**

Secondary Education and Another Vs. T.K. Rangarajan and

Others - Civil Appeal No.11232/2018 and Others.

Mr. R.N. Mathur, learned Senior Counsel, relied on judgment of the Supreme Court in the **The Central Board of Secondary**

Education and Another Vs. T.K. Rangarajan and Others -

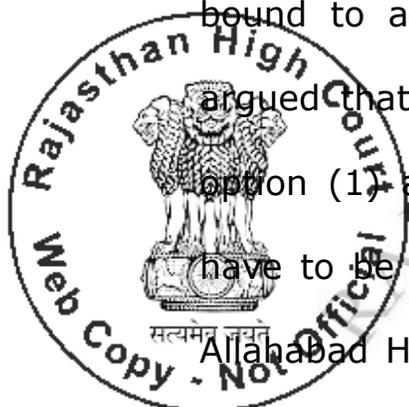
Civil Appeal No.11232/2018 and Others. That was a case

where the students appeared in National Eligibility-cum-Entrance

Test - UG, 2018, which was in English, conducted by the Central

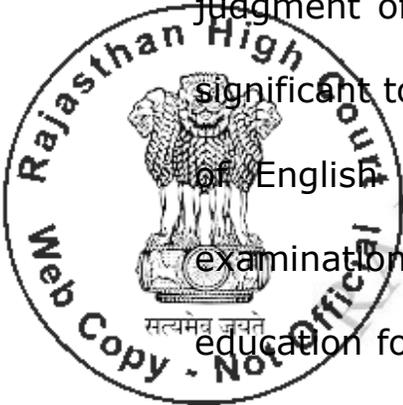
Board of Secondary Education. Therein bi-lingual questions were

set in English with an option of regional language Tamil. The High



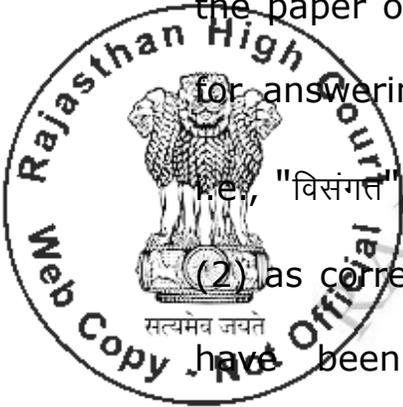
Court while allowing the writ petition held that 49 questions in Tamil were ambiguous, especially in respect of the students who had throughout studied in Tamil medium and had scant knowledge of English. The instruction C (vi) in that case provided that in case of any ambiguity in translation of any of the questions, its English version shall be treated as final. The Supreme Court reversing the judgment of the High Court, held that this clause was extremely significant to ensure that the students have some basic knowledge of English even if they are allowed the facility to write the examination in their regional language because the entire education for MBBS/BDS courses throughout the country is taught in English.

On the other hand, Mr. A.K. Sharma, learned Senior Counsel appearing for the respondent Rajasthan High Court, submitted that the Expert Committee after analyzing the objections objectively, was of the unanimous opinion that objections are to be sustained and proposed that either the question itself be deleted or any other appropriate decision be taken in the interest of examinees. He submitted that the instruction no.6 of the very same question paper booklet provided that "each question has four options marked serially as 1,2,3,4 out of which only one is correct." This being an objective type examination, the answer-sheets were evaluated by a computer programme. The Expert Committee, taking into consideration all the above factors and also in the interest of examinees, decided to delete the question as it was not possible to simultaneously treat option (2) in English version as correct and option (1) in the Hindi version as correct answer. The examining authority has no means of knowing or



verifying as to which candidate has followed English or Hindi version to answer the question. The sequence of answer of Question No.A/50, B/47, C/66, D/41, in English and Hindi version mismatched. If the answer key is prepared on the basis of correct answer (2), i.e., "irrelevant" in English version than those examinees, who might have followed the Hindi version to solve the paper or to understand the questions, would stand penalized for answering the questions correctly by opting for answer (1), i.e., "विसंगत" (visangat). And going by final answer key with option (2) as correct, candidates who had given incorrect answer would have been rewarded. Having considered this aspect, the examining authority, acting on the recommendations of the Expert Committee decided to delete the question to avoid arbitrary and inequitable result.

Mr. A.K. Sharma, learned senior counsel for respondent, further submitted that the instructions are not statutory in nature. These are in the nature of guidelines to the candidates. Instructions do not hold out any promise to the candidates making it obligatory for the examining authority to award marks to those candidates, who on their own volition, chose to follow English version of the question. There is no case for invoking doctrine of promissory estoppel. The English version in situation covered by instruction no.10 was to be treated as standard and not final. Reliance in support of this argument is placed by the learned senior counsel on the judgments of the Supreme Court in **Motilal Padampath Sugar Mills Vs. State of U.P. - (1979) 2 SCC 409**



and **Union of India Vs. Shri Hanuman Industries - (2015) 6 SCC 600.**

In our view, deletion of this question has not prejudiced any of the candidates as it affects all of them equally regardless of whether they attempted the option in English or Hindi version. At the stage of preliminary examination, the candidates are not required to indicate their medium of instruction, which is why all the hundred objective type questions in the question paper booklet are printed in bi-lingual languages in English and Hindi. The respondents in their counter affidavit have also clarified that the candidates are required to indicate their medium of instruction, either Hindi or English, only on the cover page of the main examination.

Question No.A/58, B/38, C/42, D/63 reads thus:-

The right of private defence of the body does not extend to voluntarily causing of death or of any other harm to the assailant, if the offence which occasions the exercise of the right to be of any of the descriptions hereinafter enumerated:

- (1) An assault with the intention of committing rape.
- (2) An assault with the intention of kidnapping or abducting.
- (3) An assault with the intention of wrongfully confining a person under circumstances which may reasonably cause him to have recourse to the public authorities for his release.
- (4) An assault of causing of grievous hurt on provocation.

Contention of the petitioners is that the option (4) was rightly shown as the correct answer in the model answer key published by the respondent and therefore the respondents have unjustifiably deleted this question. According to the respondents, a total of 360 objections were received on the model answer key

of the question. The Expert Committee, after due deliberation, came to the conclusion that option (3) is also correct. Since there were two correct options, namely option (3) and option (4), the Expert Committee while sustaining the objections proposed that either the question should be deleted or any other appropriate decision be taken in the interest of the examinees. The Examination Committee therefore decided to delete the question.

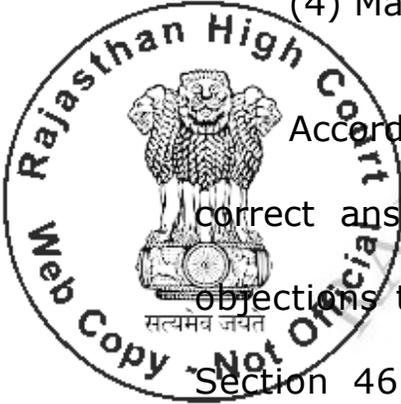
The parties are not at variance with respect to the fact that option (4) is the correct answer. They also do not dispute that options (1) and (2) are not the correct answers. The respondents, however, have found the option (3) also as a correct answer.

Section 100 of the IPC when read along with option (3) makes it clear that while this option is worded substantially similar to its clause sixthly, with the omission of the word "unable", which means that the person was able to have recourse to the public authorities for his release. Since this word has been omitted, the right of private defence of the body does not extend to voluntary causing of death or of any other harm to the assailant. The option (4) was also correct, which would be evident by comparison of this option with clause secondly of Section 100 of the IPC, with words "on provocation" have been added thereto. While voluntarily causing grievous hurt is punishable under Sections 325 and 326 IPC, voluntarily causing grievous hurt on provocation is punishable under Section 335 IPC. The Examination Committee therefore rightly deleted this question.

Question No.A/61, B/57, C/61, D/40, reads as under:-

Which of the following irregularities vitiate the proceedings, if any Magistrate, not being empowered by law in his behalf, does any of the following things?

- (1) Makes an order under Section 133 of Cr.P.C. as to a local nuisance.
- (2) Makes an order under Part C or Part D of Chapter X of Cr.P.C.
- (3) Holds an inquest under Section 176 of Cr.P.C.
- (4) Makes an order for maintenance.



According to the model answer key, option (3) was the correct answer. The respondents have received in total 468 objections to this option. The question is apparently based on Section 461 of the Cr.P.C. Option (1) has been taken from Clause (h), option (2) has been taken from clause (j) and option (4) has been taken from clause (g) of Section 461. Had the question been formed in negative to the effect as to which of the irregularities indicated in the options does not vitiate the proceedings, the option (3) in the model answer key published by the respondent would have been correct. However, the omission of the word "does not" has resulted into a situation where three options, namely, options (1), (2) and (4) have been rendered correct and therefore the Examination Committee, on recommendation of the Expert Committee, has rightly decided to delete the question.

Question No.A/83, B/72, C/77, D/74, reads thus:-

Complete the following sentence with correct subordinating conjunction:

You must start at once _____ you will be late.

- (1) therefore
- (2) although

(3) otherwise

(4) because

As per the model answer key notified by the respondent, option (3) was the correct answer. The objection to this option was that "Otherwise" is not subordinating conjunction and it is a conjunctive adverb. The Examination Committee concurring with the view of the Expert Committee, decided to delete the question.

Learned counsel for the petitioners have vehemently argued that the use of word "otherwise" in the blank space in the question makes the sentence grammatically correct and therefore word "otherwise" being the only possible correct option available to the candidates, this question ought not to have been deleted. We are however unable to countenance this submission as the blank space indicated in the question is not the complete question but the question becomes complete when read in entirety, which require the examinees to complete the sentence with correct subordinating conjunction and since "otherwise" instead of being subordinating conjunction, has been opined to be conjunctive adverb, this court would not be justified in substituting the opinion of the language experts by that of its own.

Argument that deletion of the questions may cause prejudice to those candidates who had attempted the correct answer and give advantage to those, who had given wrong answer, cannot be accepted as after deletion of the questions, the performance of the candidates is evaluated on the remaining questions. The deletion of the questions thus does not affect any one unevenly as all the candidates are then uniformly subjected to examination on the



remainder of the questions, with equal weightage to each of such questions, for the entire examination. The Supreme Court in

Richal, supra, rejected similar contention in the following terms:

"25. One of the submissions raised by the appellants is that marks of deleted question ought not to have been redistributed in other questions. It is submitted that either all the candidates should have been given equal marks for all the deleted questions or marks ought to have been given only to those candidates who attempted those question.

26. The questions having been deleted from the answers, the question paper has to be treated as containing the question less the deleted questions. Redistribution of marks with regard to deleted questions cannot be said to be arbitrary or irrational. The Commission has adopted a uniform method to deal with all the candidates looking to the number of the candidates. We are of the view that all the candidates have been benefited by the redistribution of marks in accordance with the number of correct answers which have been given by them. We, thus, do not find any fault with redistribution of marks of the deleted marks (sic questions). The High Court has rightly approved the said methodology."



In a multiple-choice question paper, there can be only one correct answer. The OMR sheets were got examined by a computer programme. It was made clear in instruction no.6 that each question had four options, out of which only one was correct. As per instruction no.11 of the question paper booklet, candidates were asked to darken only one circle or bubble indicating the correct answer on the answer sheet. Instruction no.6 on the OMR sheet also says that while marking answers the candidates were required to darken the circle which is the correct best answer. Decision to award marks to all who chose any one of two or three correct answers would have been absurd and arbitrary by all cannons of justice and equity. The examining body has to view hardships to few individual vis-a-vis injustice to other, who will

stand penalized for none of their fault, rather it would amount to merit being a casualty. As there can be only on answer, therefore, the questions which had multi options correct were ordered to be deleted by the respondents. The decision taken by the respondents therefore cannot be faulted.

This now brings us to the second segment of the controversy in regard to the challenge by the petitioners in different writ petitions to the model answer key and/or final answer key notified by the respondents with regard to 20 more questions, which we shall deal one by one.

Before venturing to examine challenge to correctness of the answers to different questions, we want to make it clear that even if it could be said that as per understanding of the candidates, there could be more than one answer to a question, the candidates are expected to select more correct option out of alternative answers. We may for this proposition of law rely on the judgment of the Supreme Court in **Subhash Chandra Verma and Others Vs. State of Bihar and Others - 1995 Supp (1) SCC 325**, in para 25 of the report, wherein their Lordships observed as under:-

"25. We will now examine, whether these grounds had been made out by those candidates who took the objective test as well as the viva voce and yet could qualify for selection.

(1) xxxxxxxxxxxx

2. xxxxxxxxxxxx

3. Several controversial questions were set and in relation to some questions, there could be more than one answer: In an objective type of test, more than one answer are given. The candidates are required to tick mark the answer which is the most appropriate out of the plurality of answers. The questions and answers

were prescribed by the experts in the field with reference to standard books. Therefore, it is incorrect to say that a question will have more than one correct answer. Even if the answers could be more than one, the candidates will have to select the one which is more correct out of the alternative answers. In any event, this is a difficulty felt by all the candidates."

A reference at this juncture may also be made to a judgment

of the Supreme Court in **Dr. J.P. Kulshreshtha and Others Vs.**

Chancellor, Allahabad - 1980(3) SCC 418, which is a case

relating to recruitment based entirely on interview. The Supreme

Court speaking through Hon'ble Mr. Justice V.R. Krishna Ayer held

therein that while there is no absolute ban, it is a rule of prudence

that courts should hesitate to dislodge decisions of academic

bodies. But University organs, for that matter, any authority in our

system, is bound by the rule of law and cannot be a law unto

itself. If the Chancellor or any other authority lesser in level

decides an academic matter or an educational question, the Court

keeps its hands off, but where a provision of law has to be read

and understood, it is not fair to keep the court out. (emphasis

supplied).

Question No.A/8, B/21, C/17, D/23 reads thus:

"Rule in Heydon's case is also known as:

- (1) Purposive construction
- (2) Casus omissus
- (3) Literal construction
- (4) Harmonious construction

As per respondents, option (4) was the correct answer to the

question. A total of 15 objections were received to the aforesaid

question and 11 of them suggested that all were wrong whereas

four objections suggested that in place of option (1), all other

three options were correct. Opinion of the Expert Committee, concurred with by the Examination Committee, in respect of this question, is based on an excerpt from the celebrated book on "Principles of Statutory Interpretation" 13th Edition by Justice G.P. Singh, wherein Rule of Heydon's case has been described as under:-



When the material words are capable of bearing two or more constructions the most firmly established rule for construction of such words "of all statutes in general (be they penal or beneficial, restrictive or enlarging of the common law)" is the rule laid down in Heydon's case which has now attained the status of a classic. The rule which is also known as "purposive construction" or "mischief rule", enables consideration of four matters in construing an Act: (i) What was the law before the making of the Act, (ii) What was the mischief or defect for which the law did not provide, (iii) What is the remedy that the Act has provided, and (v) What is the reason of the remedy."

Objections of the learned counsel for the petitioners to the option (1) taken as correct by the respondent is that while that "Rule in Heydon's case" is mischief rule, which is not indicated in any one of the four options, therefore, none of them is correct. In the context of the question, the option (1) "Purposive construction", as per afore-extracted excerpt, is the nearest correct answer and therefore we do not find any fault with the decision of the Examination Committee in rejecting the objection.

Question No.A/10, B/25, C/32, D/2, reads thus:

Who amongst the following cannot be appointed as Advocate General:

- (1) An Advocate of 66 years of age
- (2) An Advocate who has not practiced in such State
- (4) An Advocate having 07 years of practice at Bar
- (4) All of above

Mr. Kuldeep Singh Meena, learned counsel for the petitioners, has argued that since Article 165 of the Constitution of India provides that the Governor of the State shall appoint a person, who is qualified to be appointed as a Judge of the High Court, to be Advocate General of the State and since as per Article 217 of the Constitution, a Judge of the High Court shall hold office until he attains the age of 62 years. Therefore, not only option (3) as

per the model answer key notified by the respondent is correct, but option (1) would also be correct. This issue is no more res

Integra in view of the judgment of this Court in **Dr. Chandra Bhan Singh Vs. State of Rajasthan and Others - AIR 1983**

Raj. 149, in which such contention was held as devoid of any force because "all that the first clause of Article 165 lays down is that a person, who is qualified for appointment as a Judge of a High Court, can be appointed Advocate-General for the State. The qualifications for the appointment of a Judge of a High Court are prescribed under the second clause of Article 217 of the Constitution. The provision about duration of tenure of the appointment of a Judge of a High Court does not find place in Clause (2) of Article 217 and so the attainment of the age of 62 years cannot be regarded as a disqualification for appointment of a Judge of a High Court under Clause (2) of Article 217."

Question No.A/12, B/8, C/34, D/1, reads thus:-

For the purpose of Limitation Act, 1963, a suit in the case of a pauper, is instituted;

- (1) When the plaint is presented to the proper office
- (2) When application for leave to sue as a pauper is made
- (3) When the application seeking leave to sue as a pauper is granted

(4) None of the above

Objection to option (2) in the aforesaid question chosen by the respondent as the correct answer is wholly without substance. Answer to this question lies in Section 3(2)(a)(ii) of the Limitation Act, which inter alia provides that for the purpose of the Act of 1963, a suit is instituted in the case of a pauper, when his application for leave to sue as a pauper is made. Obviously, option (2) being the correct answer, has rightly been chosen and the objections thereto have rightly been turned down.

Question No.A/36, B/61, C/51, D/64, reads thus:-

Under which provision can a Court issue a warrant of arrest against a person released on bail and require him to furnish sufficient sureties?

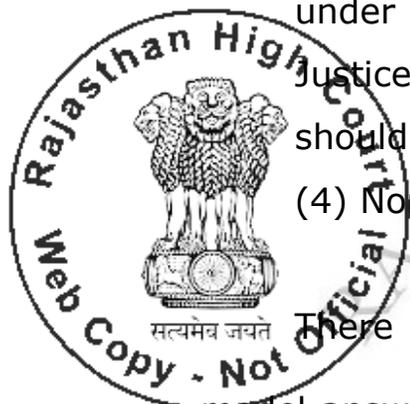
- (1) Section 440 of Cr.P.C.
- (2) Section 446 of Cr.P.C.
- (3) Section 441 of Cr.P.C.
- (4) Section 443 of Cr.P.C.

The respondent in the model answer key indicated option (4), i.e., Section 443 of Cr.P.C., as the correct answer. Section 443 Cr.P.C., inter alia, provides for the power to order sufficient sureties, and that "if through mistake, fraud, or otherwise, insufficient sureties have been accepted or if they afterwards become insufficient, the Court may issue a warrant of arrest directing that the person released on bail be brought before it and may order him to find sufficient sureties, and on his failing so to do, may commit him to jail." We do not find any fault with the decision of the Examination Committee.

Question No.A/41, B/50, C/58, D/48 reads thus:

In which of the following situations, the general principle of presumption of innocence of a child in conflict with law shall not be applicable?

- (1) When the child is charged for the offence of murder punishable under Section 302 IPC
- (2) When the child is charged for the offence of gang rape punishable under Section 376(2)(g) of IPC
- (3) Where the Juvenile Justice Board has passed an order under Section 15 read with Section 18(3) of the Juvenile Justice (Care and Protection of Children) Act that the child should be tried as an adult.
- (4) None of the above.



There were in all 64 objections received in respect of the model answer key of this question, according to which option (4), i.e., "None of the above.", answers given in options (1), (2) and (3), was correct. The question is quite categorical as to in which of the enumerated situations, the general principle of presumption of innocence of a child in conflict with law shall not be applicable. The Expert Committee as also the Examination Committee in rejecting the said objection relied on Section 3(1) of the Juvenile Justice (Care and Protection of Children) Act, 2015, which, inter alia, provides that while implementing the provisions of the Act of 2015, the Central Government, the State Government, the Board and the other agencies shall be guided by the fundamental principles enumerated in Section 3 of the Act of 2015. Clause (i) thereof reads that "Any child shall be presumed to be an innocent of any mala fide or criminal intent upto the age of fifteen years" after the amendment in the Act. And since this was not given as one of the options, option (4) was the only correct answer and therefore the decision cannot be faulted.

Here it may be noted that the respondent in their counter affidavit have inadvertently stated that the option (3) in the model answer key is the only correct answer whereas in the model/final answer key enclosed with the writ petition, option (4) was indicated as the correct answer. The respondent have filed the affidavit of the Registrar (Writs) of the Rajasthan High Court Bench, Jaipur, stating that this was a bona-fide typographical error which crept in the reply.

Question No.A/43, B/36, C/65, D/55 reads thus:

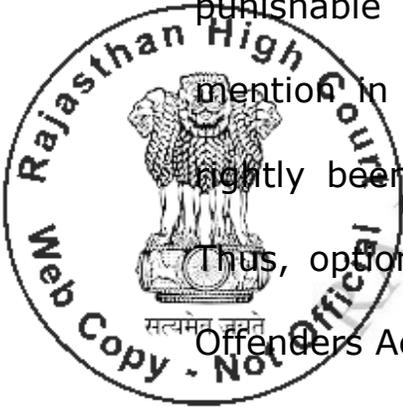
Under which provision of law, the Court while considering the case of a person convicted for an offence not punishable with death or imprisonment of life, is under an obligation to call for the report of Probation Officer?

- (1) Section 9 of Probation Offenders Act
- (2) Section 7 of Probation Offenders Act
- (3) Section 4 of Probation Offenders Act
- (4) None of the above.

According to the model/final answer key published by the respondent, option (3) was taken as the correct answer.

Some of the learned counsel have, however, argued that Section 6 of the Probation of Offenders Act was the only correct answer to the question and Section 6 having not been indicated in any one of the four options, the correct answer would be option (4) "None of the above." The question is that under which provision of law, the Court while considering the case of a person convicted for an offence not punishable with death or imprisonment of life, is under an obligation to call for the report of the Probation Officer. This question appears to have been inspired by Section 4. Section 6(1) merely refers to an offence punishable

with imprisonment and not with imprisonment for life. Besides, Section 6(1) refers to any person who is under twenty-one years of age and is found guilty of an offence punishable with only imprisonment but not with imprisonment for life, but Section 4(1) mentions about any person, not necessarily under twenty-one years of age, found guilty of having committed an offence not punishable with death or imprisonment, both of which find mention in the question. Section 4 in our considered view has rightly been accepted as the correct option by the respondent. Thus, option (3) having indicating Section 4 of the Probation of Offenders Act, is the correct answer.



Question No.A/45, B/43, C/36, D/39, reads thus:

In which celebrated judgment, did the Hon'ble Supreme Court classified the witnesses into three categories (i) wholly reliable; (ii) wholly unreliable; (iii) neither wholly reliable nor wholly unreliable?

- (1) AIR 1957 SC 614, Vadivelu Thevar Vs. State of Madras
- (2) AIR 1974 SC 276, Guli Chand & Ors. Vs. State of Rajasthan
- (3) AIR 2012 SC 1357, Ramaresh & Ors. Vs. State of Chhattisgarh
- (4) (1994) 2 SCC 467, Bheru Singh Vs. State of Rajasthan

In respect to this question, none of objections was of any worth. The respondents in model answer key have indicated option (1) as the correct answer. Having gone through the judgment of the Supreme Court in **Vadivelu Thevar Vs. State of Madras - AIR 1957 SC 614**, in comparison to other judgments referred to in remaining three options, we find option (1) to be the correct answer.

Question No.A/46, B/66, C/48, D/50, reads thus:-

When a child in conflict with law is in custody while undergoing trial, is declared adult under Section 18(3) of the Juvenile Justice (Care and Protection of Children) Act upon crossing the age of 18 years during the course of trial, which of the following option is available to the trial court in such a situation?

- (1) To allow the child to go home after advise or admonition
- (2) To drop the proceedings and release the child from custody forthwith
- (3) To direct the child to be released on probation of good conduct
- (4) Send the child to a place of safety.



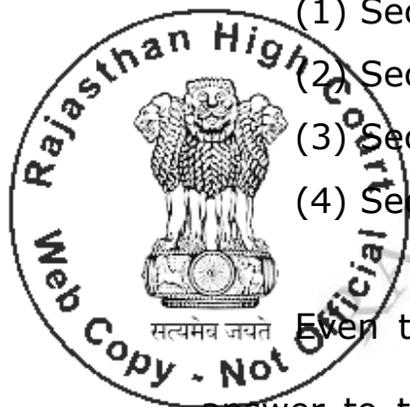
The respondent in the model answer key, indicated option (4) as the correct answer. According to some of the petitioners, this is not the correct answer. The Expert Committee on conjoint reading of Sections 15, 18 and 19 of the Juvenile Justice (Care and Protection of Children) Act, 2015, found option (4) as the correct answer. Section 18(3) provides that where the Board after preliminary assessment under Section 15 pass an order that there is a need for trial of the child above the age of sixteen years as an adult, then the Board may order transfer of the trial of the case to the Children's Court having jurisdiction to try such offences. Section 19(3) provides that the Children's Court shall ensure that the child who is found to be in conflict with law is sent to a place of safety till he attains the age of twenty-one years and thereafter, the person shall be transferred to a jail. Obviously therefore a child in conflict with law having crossed the age of sixteen years, upon crossing the age of eighteen years, can be sent by the Children's Court to a "place of safety" till he attains the age of twenty-one years and thereafter shall be transferred to a jail.

Option (4) has therefore rightly been accepted as the correct answer.

Question No.A/53, B/67, C/53, D/36, reads thus:-

Under which provision of law, the Sessions Court can make a reference to the High Court regarding the validity of any Act, Ordinance or Regulation, the determination fo which is necessary for the disposal of the case?

- (1) Section 396 of Cr.P.C.
- (2) Section 368 of Cr.P.C.
- (3) Section 366 of Cr.P.C.
- (4) Section 395 of Cr.P.C.



Even though none of the candidates, who have challenged answer to this question in writ petitions, submitted objection to the model answer key, therefore it is not open for any of the petitioners to agitate this issue. Yet, mere reading of Section 395 of the Cr.P.C. makes it clear that where any Court is satisfied that a case pending before it involves a question as to the validity of any Act, Ordinance or Regulation or of any provision contained in an Act, Ordinance or Regulation, the determination of which is necessary for the disposal of the case, it can refer the same for decision of the High Court. Option (4) has therefore been rightly taken as the correct answer by the respondent.

Question No.A/59, B/59, C/41, D/69, reads thus:-

A trial court in State of Rajasthan delivers its judgment in English. Under what provision of law, can the accused seek a translated copy of the judgment in Hindi language?

- (1) Section 353 of Cr.P.C.
- (2) Section 362 of Cr.P.C.
- (3) Section 364 of Cr.P.C.
- (4) Section 363 of Cr.P.C.

While according to the respondents, option (4) containing Section 363 of the Cr.P.C. is the correct answer to the question, but some of the petitioners contend that option (3) containing Section 364 of the Cr.P.C. is the correct answer. The answer to this question is to be found in the context of the fact that the judgment is delivered in the State of Rajasthan by a trial court in English language whereas the language of the court is Hindi. Sub-section (2) of Section 363 of the Cr.P.C. provides that "on the application of the accused, a certified copy of the judgment, or when he so desires, a translation in his own language, if practicable or in the language of the Court, shall be given to him without delay." In contrast, Section 364 of the Cr.P.C. provides that "the original judgment shall be filed with the record of the proceedings and where the original is recorded in a language different from that of the Court and the accused so requires, a translation thereof into the language of the Court, shall be added to such record." The distinction in the two provisions is that while Section 363(2) refers to the demand of the accused of translated copy of the judgment in his own language, and when it is not practicable to provide him copy of the judgment in his own language, provide him copy of the judgment in the language of the court. But Section 364 essentially postulates the delivery of the judgment by the Presiding Officer of the Court in a language other than the language of the court and on being required by the accused a translated copy thereof into the language of the court is added to such record. As would be evident from the very language of Section 364, this provision applies where the judgment is passed in a language different than the language of



the court and therefore the right is given to the accused to require a translation thereof into the language of the court. The language of the court in the State of Rajasthan being Hindi, and the judgment referred to this question having been delivered in English, a language different than that of the Court, if the accused so requires, a translation thereof into the language of the court, which is Hindi, shall be added to the record of the proceedings.

The question neither envisages accused applying for translated certified copy of judgment in his own language or in the language of the Court. Section 364 of the Cr.P.C. is indeed the nearest correct answer. Word 'seek' in the question appears to have been used in the same sense as the word 'requires' has been used in Section 364. We see no reason to differ with the view of the Expert Committee/Examination Committee as option (3) in the nearest correct answer.

Question A/62, B/41, C/47, D/44, reads thus:-

The trial court while recording evidence in a case wherein the accused is in custody, records the evidence of witnesses without ensuring presence of the accused in the court, which of the following statement would be correct?

- (1) The judgment passed by trial court in such proceedings would be vitiated by virtue of Section 273(1) of Cr.P.C.
- (2) The judgment passed by trial court in such proceedings would be saved by virtue of Section 460 of Cr.P.C.
- (3) The judgment passed by the trial court in such proceedings would be saved by virtue of Section 465 of Cr.P.C.
- (4) The judgment passed by trial court in such proceedings would be saved by virtue of Section 317 of Cr.P.C.

Mr. A.K. Sharma, learned senior counsel, submitted that the very fact that none of the candidates has submitted any objection in regard to mention of sub-section (1) along-with Section 273 Cr.P.C. goes to show that no one was misled by reason of Section 273 being indicated as Section 273(1), therefore the objection raised for the first time before this Court should not be entertained. Contention of the petitioners is that Section 273(1) does not exist in the Cr.P.C., it is only Section 273. According to the respondents, option (1), i.e., the judgment passed by trial court in such proceedings would be vitiated by virtue of Section 273(1) of Cr.P.C. is the correct answer. Respondents have relied on the judgment of this Court in **State Vs. Atma Ram - D.B. Criminal Death Reference No.2/2017** connected with **D.B. Criminal Appeal No.33/2018 - Atma Ram and Others Vs. State of Rajasthan**, wherein judgment of the trial court was set aside in regard to absence of the accused. The aforesaid DB judgment was upheld by the Supreme Court in **Criminal Appeal No.656-657 of 2019 - Atma Ram Vs. State of Rajasthan**.

We having gone through Sections 460, 465, 317 of the Cr.P.C., find that none of them is attracted to the facts and situation given in the question. The only provision attracted in this situation is Section 273 Cr.P.C. Even if sub-section (1) added thereto is superfluous, being non-existent, it has to be understood as only Section 273 Cr.P.C. Therefore, whoever attempted this question indicating the option (1) as the correct answer must be held entitled to one mark., particularly when none raised objection to model answer key.

Question A/66, B/62, C/55, D/66, reads thus:-

Which of the following documents cannot be admitted in evidence in a criminal trial without formal proof?

- (1) Certified copy of public documents
- (2) Report issued by a Government Scientist after chemical/serological examination of samples forwarded to him by the investigating agency.
- (3) A report issued by the government handwriting expert after comparison of the disputed signatures with an admitted signature.
- (4) A document which is admitted by the opposite party.



According to some of the petitioners, option (2) in view of Section 293 of the Cr.P.C. and Section 54 of the Evidence Act, is the appropriate answer, whereas the respondents have treated option (1) as the correct answer. The respondents have relied on Sections 293 and 294 of the Cr.P.C. and Sections 76, 77, 79 of the Indian Evidence Act in support of their stand. Obviously, in view of Section 293 of the Cr.P.C., the report given by a Government Scientist after chemical/serological examination of samples forwarded to him by the investigating agency, and the report issued by the Government hand-writing expert after comparison of the disputed signature with the admitted one, can be admitted in evidence without formal proof. Moreover, the document which is admitted by the opposite party need not be proved in a criminal trial in view of sub-section (3) of Section 294 read with Section 58 of the Evidence Act, and where the genuineness of a document is not disputed, such document may be read in evidence in a trial without proof of signature of the person who signed it.

Mr. Abhi Goyal, learned counsel for some of the petitioners, has however argued that certified copies of the public documents

can be proved in evidence without formal proof, therefore option (1) also cannot be said to be correct answer. In support of his argument, learned counsel has relied on the judgments of the Supreme Court in **Jaswant Singh Vs. Gurdev Singh - (2012) 1 SCC 425, Madamanchi Ramappa and Another Vs. Muthalur Bojjappa - AIR 1963 SC 1633** and judgment of this Court in **Rajasthan State Road Transport Corporation Vs. Nand Kishore and Others - 2002 ACJ 1564** and that of the Andhra Pradesh High Court in **Md. Akbar and Another Vs. State of A.P. - 2002 CrP L.J. 3167.**



The Supreme Court in **Jaswant Singh Vs. Gurdev Singh**, supra, held that certified copy of a public document prepared under Section 76 of the Act, in terms of Section 74 of the Indian Evidence Act, 1872 is admissible in evidence under Section 77 of the said Act, without being proved by calling witness. The Supreme Court in **Jaswant Singh Vs. Gurdev Singh**, supra, in para 9 of the report, held as under:-

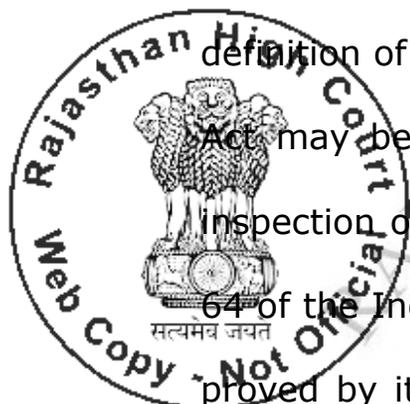
"9) Now the other question which remains to be decided is whether the compromise Ex. D3 is admissible in evidence or not? The compromise dated 27.11.1972 has become the basis of the decree dated 08.12.1972 passed by the Sub-Judge, Hoshiarpur. The perusal of Ex. D4 i.e., judgment and decree were passed as per the terms and conditions of compromise placed on file. As rightly observed by the courts below, the compromise has merged into a decree and has become part and parcel of it. To put it clear, the compromise had become a part of the decree which was passed by the court of Sub-Judge Ist Class, Hoshiarpur. Hence, it is a public document in terms of Section 74 of the Indian Evidence Act, 1872 (in short 'the Act') and certified copy of the public document prepared under Section 76 of the Act is admissible in evidence under Section 77 of the said Act. A certified copy of a public document is admissible in evidence without being proved by calling witness. Inasmuch as the decree was passed and drafted in the light of the compromise entered into between the parties, viz., the plaintiff and the defendants, the

document, and not be proof of execution of the original document. (Vide Section 57 (5) of Registration Act read with Section 77 of Evidence Act). This is because registration of a document is proof that someone purporting to be 'X' the executant admitted execution, but is not proof that 'X' executed the document.... (underline ours)"

In the context of the question that which of the documents can be admitted in evidence in criminal trial without formal proof,

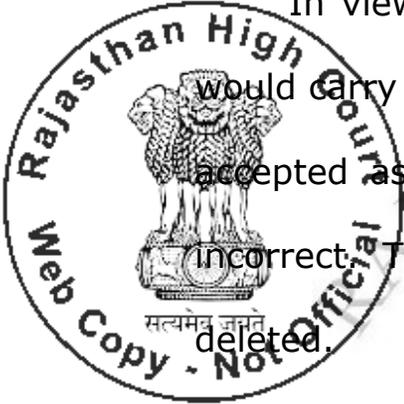
definition of the evidence given in Section 3 of the Indian Evidence Act may be noted, which says that all documents produced for inspection of the Court, are called documentary evidence. Section 64 of the Indian Evidence Act provides that the document must be proved by its primary evidence except in cases mentioned in the

Act, where Section 65 dealing with the secondary evidence, comes into picture. Section 65(f) of the Indian Evidence Act provides that secondary evidence may be given of the existence, condition, or contents of a document when the original is a document of which a certified copy is permitted by this Act, or by any other law in force in India to be given in evidence. Section 74 of the Indian Evidence Act refers to public documents. Section 76 provides every public officer having the custody of a public document, which any person has a right to inspect, shall give that person on demand a copy of it on payment of the legal fees therefor, together with a certificate written at the foot of such copy that it is a true copy of such document or part thereof, and such copy shall be called certified copy. Section 77 provides that such certified copies may be produced in proof of the contents of the public documents or parts of the public documents of which they purport to be copies. It is in continuation of these provisions that Section



79 provides that the Court shall presume to be genuine every document purporting to be a certificate, certified copy, or other document, which is by law declared to be admissible as evidence of any particular fact and which purports to be duly certified by any officer of the Central or of a State Government, who is duly authorized thereto by the Central Government.

In view of the above, none of the options (1), (2), (3), (4) would carry correct answer to the question. In our view, option (1) accepted as the correct answer by the respondents is palpably incorrect. Therefore this question, in our view, is liable to be deleted.



Question No.A/68, B/56, C/52, D/60, reads thus:-

Public servant "A" while discharging his official functions, issues a document with incorrect particulars knowing that by this action, he is likely to harm another public servant "B". The public servant "A" is responsible for which of the following offences,

- (1) Forgery
- (2) Creating of false document
- (3) Cheating
- (4) None of the above.

As per the respondent, the option (4) "None of the above", i.e., options (1), (2), (3), is correct. According to the respondent, this question is based on Section 167 IPC. The respondent contends that in the given problem the public servant is responsible for offence punishable under Section 167 IPC, which is not any one of the options and therefore "None of the above" as mentioned in option (4), is the correct answer. Whereas some of the petitioners relying on Section 464 of the IPC, have contended that option (2) "Creating of false document" is the correct answer.

The question is based on Section 167 IPC, which, inter alia, provides that "whoever, being a public servant, and being, as such public servant, charged with the preparation or translation of any document or electronic record, frames, prepares or translates that document or electronic record in a manner which he knows or believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both." Section 167 IPC falls in Chapter IX, which enumerates offences by or relating to public servants, whereas Section 464 IPC is part of Chapter XVIII of the IPC pertaining to offences relating to documents and to property marks. Section 167 IPC describes the intended act to be done only framing, preparing or translating the document or electronic record only by a "public servant", which he knows or believes it to be incorrect. Section 464 IPC, on the other hand, envisages the making of false document or false electronic record by "any person". Section 167 IPC is thus a distinct offence attracted in the fact situation given in the question, which would not be covered by the general provision of forgery under Section 463 or making of false document under Section 464 IPC and cheating under Section 420 IPC, respectively, given in options (1), (2),(3). Therefore, we do not find any reason not to accept the option (4) "None of the above", as the only correct answer.

Question No.A/84, B/78, C/73, D/81, reads thus:-

Fill in the blanks with the most appropriate option _____ of my friends advised me to take _____ taxi home.

(1) No, the

- (2) One, a
- (3) More, no article
- (4) These, some

As per the respondent, option (2) would be the correct answer which would make the sentence complete as "**One** of my friends advised me to take **a** taxi home. Some of the petitioners have relied on a book titled "English for R.J.S. Preliminary Examination" 17th Edition published by CBC publications and authored by Prof. B.K. Rastogi. Under the caption use of "Zero Article" it is stated that no article would be used before the means of transport, such as, car, bus, plane, train, bicycle etc. The respondents however contended that "one of" indicating a particular number out of a set with multiple number was its correct use of the plural form "one of my friends". Uses of indefinite article "a" is correct before taxi. It is a general grammar that "means of transportation" are not used with article but when these means are used for specific purpose, the uses of appropriate article comes into play. We do not find any fault in the approach taken by the respondent because here the means of transportation, such as, car, bus, plane, train, bicycle etc., are not being used but rather used for which they are being put to is indicated. Even if we go by the "Zero Article Rule" relied by the petitioners, the means of transport having been used as taxi, use of article "a" in the above sentence cannot be said to be inappropriate.

Question No.A/87, B/93, C/92, D/91, is the question of Hindi subject, which reads thus:-

किस स्थिति में अवतरण चिह्न का प्रयोग सामान्यतः नहीं होता है।

- (1) किसी के महत्वपूर्ण वचन उद्धृत करने में।
- (2) अप्रचलित अथवा विशेष प्रचलित शब्दों में।
- (3) व्यक्तियों के उपनामों में।
- (4) रचना का अनुवाद करते हुए।

Inverted coma in Hindi is known as "अवतरण चिह्न" (Avtaran chinha) and therefore the question is that in which of the given

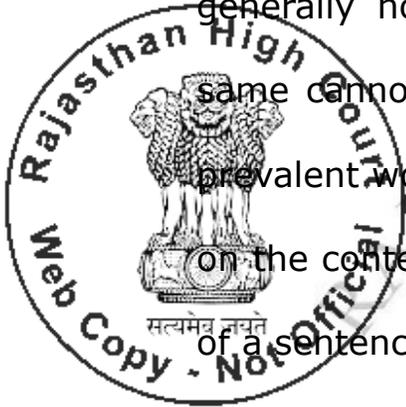
options the inverted comas are not used. As per the respondent, option (4) i.e., inverted comas are not used in the translation of a composition, is the correct answer. Whereas, according to some of the petitioners, option (2) and option (4) are both correct. Option

(2) is "अप्रचलित अथवा विशेष प्रचलित शब्दों में" (Aprachalit Athwa Vishesh Prachalit Shabdo Me).

Reliance has been placed on page 127 of the book titled "नवीन हिन्दी व्याकरण एवं रचना" (Naveen Hindi Vyakaran Evam Rachna) by the National Council of Educational Research and Training, New Delhi, (NCERT) for the Board of Secondary Education, Rajasthan, Ajmer, published by 'Rajasthan Rajya Pathyapustak Mandal, Jaipur' where mention of "अवतरण चिह्न/उद्धरण चिह्न/उपरिविराम" (Avtaran Chinha/Uddhran Chinha/Upriviram) has been made. It is stated therein that there

are two kinds of inverted comas, i.e., single and double. The question is that in which of the situations given in the options the inverted comas are generally not used and the option (2) which according to some of the petitioners is correct, refers to "अप्रचलित" (aprachalit), namely - unconventional, obsolete or outdated words or specially prevalent words. The Expert Committee has

unanimously rejected the objection. We have no reason to disagree with their decision because the question itself mentions that in which of the situations the inverted comas are generally not used. Conversely read, it would mean in which of the situations given in four options, the inverted comas are generally used. Looked at from either angle, the inverted comas are generally not used in the translation of a composition but the same cannot be said to be true of obsolete/outdated or specially prevalent words, in which inverted comas may be used, depending on the context in which such words are employed in the formation of a sentence.



Question No.A/89, B/91, C/86, D/98, reads thus:-

निम्न में से कौनसा, वचन संबंधी त्रुटि वाला वाक्य है?

- 1 महात्मा जी का दर्शन करके मैं धन्य हो गया।
- 2 श्रोताओं में कई श्रेणियों के लोग थे।
- 3 विद्रोहियों को कुत्तों की तरह घसीटा गया।
- 4 हर एक ने टोपी पहन रखी थी।

The Expert Committee has found option (1) as the only answer having the mistake in its formation and we have no reason not to accept the opinion of the Expert Committee.

Question No.A/92, B/89, C/98, D/86, reads thus:-

‘अपने घर गाँव या नगर में किसी का आदर नहीं होता’ अभिव्यक्ति हेतु निकटतम लोकोक्ति है।

- (1) घर की खॉड किरकिरी, बाहर का गुड़ मीठा
- (2) घर के पीरों को तेल का मलीदा
- (3) घर की बिल्ली घर में ही शिकार
- (4) घर आये नाग न पूजिए बामी पूजन जाय।

A total of 48 objections have been received to the model answer key given to this question, in which the objectors have

described options (1) and (4) as the correct, whereas the Expert Committee has rejected all the objections, accepting the option (2) as the only correct answer. We do not find any reason not to accept the opinion of the Expert Committee on this question.

Question No.A/93, B/95, C/93, D/100, reads thus:-

‘रोगी को बहुत घबराहट हो रही थी’। वाक्य में रेखांकित शब्द है

- (1) संज्ञा
- (2) क्रिया
- (3) क्रिया विशेषण
- (4) अव्यय



A total of 51 objections were received to the model answer key to this question, according to which (1) संज्ञा (sangya) (noun)

is the correct answer. According to respondents, use of the word "घबराहट" (ghabrahat) (nervousness) in the formation of sentence is 'abstract noun, which is what has been opined by the Expert Committee. Therefore, option (1) has rightly been taken as the correct answer.

Question No.A/94, B/96, C/90, D/96, reads thus:-

‘वह आदमी आ रहा है’, वाक्य में ‘वह’ की व्याकरणिक कोटि है:

- 1 संज्ञा
- 2 सर्वनाम
- 3 विशेषण
- 4 अव्यय

According to some of the petitioners, the Hindi word "वह" (vaha), the question translated into English means "that person is coming" and what is asked is that "वह" (vaha) (that) would fall in which of the grammatical categories. As per the decision of the respondents, based on the opinion of the Expert Committee, the

use of word "वह" (vaha) in the sentence has been made to denote the specialty of the person and therefore it is an adjective.

Ms. Mahi Yadav, learned counsel for one of the petitioners, has relied on the book "Vyavharik Samanya Hindi" (Seventh Edition) authored by Dr. Raghav Prakash and published by Pinkcity Publishers, to argue that "वह" (vaha) (that person) in the sentence

is a pronoun but in that very book, it is mentioned that sometimes pronoun can also be used as adjective. For example, "यह लड़का" (yaha ladka), "वह बात" (vaha baat) etc.

Question No.A/99, B/90, C/100, D/88, reads thus:-

निम्न में से कौनसा सही विलोम वर्ग नहीं है

- (1) भिज्ञ—अनभिज्ञ
- (2) विधवा—सधवा
- (3) वाचाल—मूक
- (4) नैसर्गिक—कृत्रिम

The question was as to which of the options are not the correct opposite words. A set of two words, has been given in all four options, asking as to which of them are not opposite words to each other. The Expert Committee rejected the objections and opined that option no.1 was the only correct answer.

As per the objections by some of the petitioners, the word "भिज्ञ" (bhigya) is opposite word of "अनभिज्ञ" (anbhigya), whereas opinion of the experts was that there is no word like "भिज्ञ" (bhigya) in Hindi. In fact the correct opposite word of "अनभिज्ञ" (anbhigya), which means "an ignorant person, is "अभिज्ञ" (abhigya), which means "a knowledgeable person".

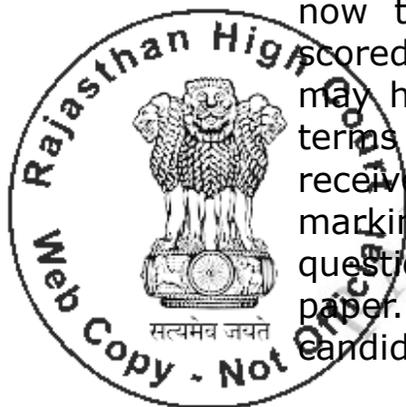
The book titled "व्यावहारिक सामान्य हिन्दी" (Vyavharik Samanya Hindi) (Seventh Edition) authored by Dr. Raghav Prakash, which is published by Pink City Publishers, Jaipur, contains Chapter, namely, "विलोम शब्द" (Vilom Shabd) (Antonyms) at page 251, and the opposite word of "अभिज्ञ" (Abhigya) is given "अनभिज्ञ" (Anbhigya).



A Division Bench of the Delhi High Court in **Gunjan Sinha Jain Vs. Registrar General, High Court of Delhi, W.P. (C) No.449/2012** dealt with a similar dispute pertaining to the preliminary examination conducted for recruitment to Delhi Judicial Service. The High Court on examination of the disputed questions directed 12 questions to be removed from the purview of consideration for the purposes of re-evaluation. While rejecting the objection to the correctness of answer key of other 7 questions, the Delhi High Court directed that minimum qualifying mark would undergo a change as the minimum qualifying marks for general candidates was 120 (60% of 200) and for reserved candidates it was 110 (55% of 200) and because of the direction so issued that 12 questions be removed from the purview of consideration for the purposes of re-evaluation, the minimum qualifying marks would also change and the same would become 112.8 (60% of 188) for general candidates and 103.4 (55% of 188) for the reserved categories. In those facts, the High Court held as under:-

"80. We now come to the second condition which stipulates that the number of candidates to be admitted to the main examination (written) should not be more than ten times the total number of vacancies of each category advertised. Let us take the case of general

vacancies which were advertised as 23 in number. Ten times 23 would mean that up to 230 general candidates could qualify. But, as mentioned above, 235 general candidates have already been declared as qualified for taking the Main Examination (Written). We are, therefore, faced with a problem. If we strictly follow this condition then there is no scope for any other candidates (other than the 235 who have been declared qualified) to qualify. But, that would be unfair to them as the question paper itself, as we have seen above, was not free from faults. Hypothetically speaking, a candidate may have left the 12 questions, which are now to be removed, and, therefore, he would have scored a zero for those questions. What is worse, he may have answered all those 12 questions wrongly (in terms of the Answer Key) and, therefore, he would have received minus (-) 3 marks because of 25% negative marking. And, all this, for no fault on his part as the 12 questions ought not to have been there in the question paper. Therefore, it would be unfair to shut out such candidates on the basis of the second condition.



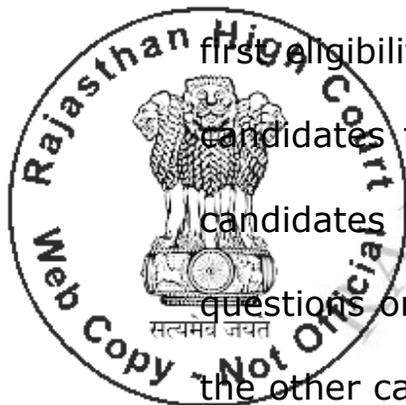
81. We must harmonize the requirement of the second condition with the requirement of not disturbing the candidates who have been declared as qualified as also with the requirement of justice, fairness and equity insofar as the other candidates are concerned. We feel that this would be possible:

- (1) by re-evaluating the OMR answer sheets of all the general category candidates on the lines summarized in the table set out above;
- (2) by selecting the top 230 candidates in order of merit subject to the minimum qualifying marks of 112.8; and
- (3) by adding the names of those candidates, if any, who were earlier declared as qualified but do not find a place in the top 230 candidates after re-evaluation.

In this manner, all persons who could legitimately claim to be in the top 230 would be included and all those who were earlier declared as having qualified would also retain their declared status. Although, the final number of qualified candidates may exceed the figure of 230, this is the only way, according to us, to harmonize the rules with the competing claims of the candidates in a just and fair manner. A similar exercise would also have to be conducted in respect of each of the reserved categories. The entire exercise be completed by the respondents within a period of two weeks. Consequently, the Main Examination (Written) would also have to be re-scheduled and, to give enough time for preparation, we feel that it should not be earlier than the 26.05.2012."

Aforesaid judgment of the Delhi High Court was subjected to challenge in **Civil Appeal No.4794/2012 - Pallav Mongia Vs. Registrar General, Delhi High Court**. The Supreme Court examined the question of fresh short-listing consequent to deletion of some questions or correction of the model answer key in respect of few. Taking note of the fact that the candidates in the first eligibility list had not been excluded from the list of eligible candidates for appearing in the mains examination, even if such candidates had come down in rank in view of deletion of some questions or change in the model answer key, it was directed that the other candidates, who upon re-evaluation pursuant to deletion of questions and modification of the model answer key had secured more mark than the last candidate allowed to appear in the main examination vide revised list, would also qualify and will be included in the eligibility list.

In **Anjali Goswami and Others Vs. Registrar General, Delhi High Court**, supra, the Delhi High Court was dealing with the challenge to correctness of the alleged errors in the questions/answer keys of the preliminary examination of Delhi Judicial Services, which according to the petitioners therein were demonstrably and palpably wrong. The High Court administration informed the Court about the decision of the Examination Committee to delete two questions and award one bonus mark to all the candidates who appeared in the examination and revise answer keys in respect of one of the questions. The Delhi High Court, while deciding the writ petition, found that there were two correct answers to a question, one of which was accepted as



correct by the Examination Committee. It therefore directed to award one mark to the candidates who had opted for the other option as the correct answer. The Delhi High Court however in the concluding part of the judgment directed that if, as a consequence of the aforesaid exercise, any of the petitioners meet the eligibility for being permitted to take the main examination and they also rank within the 10 times number of vacancies advertised, they should be permitted to do so.

A Division Bench of the Delhi High Court in its judgment dated 09.05.2016 in a set of two writ petitions, leading being one

Writ Petition (C) No.3453/2016 - Sumit Kumar Vs. High

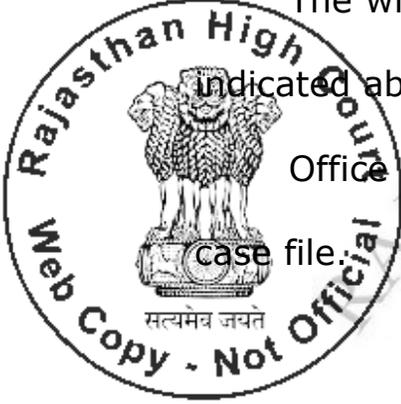
Court of Delhi and Another, was also dealing with challenge to some of the questions and answer-key in the Delhi Judicial (Preliminary) Examination held on 20.12.2015. The Delhi High Court directed deletion of four questions in the multiple choice question paper and re-computation of marks and consequently fresh preparation of the eligibility list in accordance with the ratio of the judgment in **Gunjan Sinha Jain Vs. Registrar General, High Court of Delhi**, supra, of Delhi High Court and that of the Supreme Court in **Pallav Mongia Vs. Registrar General, Delhi High Court**, supra.

In view of the discussion made above, present writ petitions deserve to partly succeed, only to the extent of Question A/66, B/62, C/55, D/66, with direction to the respondents to delete that question from the question-paper booklet and keeping in view the ratio of judgment of the Supreme Court in **Pallav Mongia Vs. Registrar General, Delhi High Court**, supra, recompute the marks so as to prepare fresh list of eligible candidates, by

including all such candidates therein, who secure more marks than the last candidate originally allowed to appear in the main examination and apart from originally allowed candidates, also permit the candidates newly included in the eligibility list, to appear in the main examination, for recruitment to Civil Judge Cadre. Ordered accordingly.

The writ petitions are accordingly partly allowed in the terms indicated above. There shall be no order as to costs.

Office to place a copy of this judgment in each connected case file.



(NARENDRA SINGH DHADDHA),J

(MOHAMMAD RAFIQ),J

//Jaiman//

