

**HON'BLE MR. JUSTICE ARUN BHANSALI****Order****27/05/2022**

These writ petitions have been filed by the petitioners seeking to question the revised answer key issued by the Rajasthan Subordinate and Ministerial Service Selection Board ('the Board') for recruitment to the post of Patwari pursuant to the advertisement dated 17.01.2020, preparation of a fresh answer key considering the objections raised by the petitioners for the disputed questions/erroneous answers based on the material produced by them and reevaluation of the answer-sheets and issuance of a fresh select list of provisionally selected candidates.

It is, *inter-alia*, indicated in the petitions that Advertisement No.3/2019 was issued by the Board inviting online applications for direct recruitment on the post of Patwari, competitive written examination was held in four shifts pursuant to the advertisement on 23.10.2021; the preliminary answer key was issued by the Board on 23.10.2021 and a press-note was published, whereby online objections towards preliminary answer key were called from the candidates with their respective supporting materials. The final answer key was issued by the Board on 25.01.2022 on the basis of decision taken by the Expert Committee on the objections raised by the candidates and list of two times provisionally selected candidates was issued for the purpose of verification of documents and credentials of the candidates.

The petitioners have questioned the validity of large number of questions/final answers and/or the deletion of particular

questions, based on the opinion of the Expert Committee. During the course of submissions, the petitioners confined their submissions to Questions No.76 and 86 of Question Booklet Series-104A, Questions No.141 (Master Question Booklet Question No.43) and 15 ((Master Question Booklet Question No.65) of Question Booklet Series-104B, Questions No.135 and 141 of Question Booklet Series-104C and Questions No.69, 76 and 98 of Question Booklet Series-104D.

The Board, which had appeared on Caveat, was directed to produce the experts' opinion on the questions alongwith supporting material for perusal of the Court, which has been produced by the Board.

Learned counsel for the parties were heard on various questions.

The petitioners have filed extracts from books/material seeking to support their contentions in relation to the validity of the questions/ answers and the decision of the expert committee thereon.

It would be appropriate to reproduce the disputed questions, the final answer based on decision of the expert committee and view of the expert committee:-

**Question No.76 of Question Booklet Series-104A:**

**76.** From the given pairs of words you have to select the pair which is related in the same way as the words of the first pair.

Music : Guitar : \_\_\_\_\_ : \_\_\_\_\_

- (A) Water : Tank                      (B) Pen : Pencil  
(C) Nose : Face                      (D) Word : Word Processor

Final Answer based on decision of the expert committee: **(A)**

**View of the Expert Committee:** Initially the answer was (D). The Expert Committee opined that option (A) is more appropriate than option (D) because word processor is a computer programme generally used to write or process words, but as Music Comes from Guitar, water comes from Tank.

**Question No.86 of Question Booklet Series-104A:**

**86.** Input : more fight cats cough sough acts idea.

Which of the following steps would be the last step for this input?

- (A) III (B) IV  
(C) V (D) VI

Final Answer based on decision of the expert committee: **(C)**

**View of the Expert Committee:** The Experts, after indicating various steps, came to the conclusion with regard to correct answer by indicating as under:

“More fight cats cough sough acts idea  
Step:

- I. Cough more fight cats sough acts idea  
II. Cough fight sought more cats acts idea  
III. Cough fight sough acts more cats idea  
IV. Cough fight sough acts cats more idea  
V. Cough fight sough acts cats idea more”

**Question No.43 in Master Question Booklet (Question**

**No.141 Question Booklet Series-104B):**

141. व्याकरण की दृष्टि से निम्न में कौन सा शुद्ध वाक्य है?

- (A) मैंने इस काम में बड़ी अशुद्धि की।  
(B) लड़का मिठाई लेकर भागता हुआ घर आया।  
(C) मैं अपनी बात के स्पष्टीकरण के लिए तैयार हूँ।  
(D) राम का वीर-गाथा रामायण में है।

Final Answer based on decision of the expert committee: **(A)** [As per Master Booklet]

**Question No.65 in Master Question Booklet (Question No.15 Question Booklet Series-104B):**

15. The survey was conducted under the government of U.P.

- (A) Definitely true                      (B) Data inadequate  
(C) Probably true                        (D) Probably false

Final Answer based on decision of the expert committee: **(A)** [As per Master Booklet].

Qua both these questions, the petitioners claim that the answers must be different from what was indicated in the preliminary answer key, and the final answer key, however, as the petitioners had not raised any objection qua the preliminary answer key itself, though the answer now claimed by them is different from the preliminary answer key itself, despite grant of the opportunity, in absence of any objection to the preliminary answer key, the plea raised by the petitioners now cannot be countenanced, as the objections as raised were not before the Expert Committee.

**Question No.135 of Question Booklet Series-104C:**

135. Where is the cave of 'Saint Peepa'?

- (A) Peepar                                  (B) Toda  
(C) Dhanera                                (D) Gagron

Final Answer based on decision of the expert committee: **(D)**

**View of the Expert Committee:** The Expert Committee referring to राजस्थान का इतिहास एवं संस्कृति कक्षा 10 and राजस्थान-इतिहास एवं संस्कृति एनसाइक्लापीडिया by Dr. Hukamchand Jain and Narayan Mali, came to the conclusion that correct answer is (D).

Though the petitioners have also placed on record certain material in support of their contentions that answer "B" is correct, however, as the Expert Committee has after taking into consideration the material, as noticed herein before, and the material produced by the petitioners, have come to a particular conclusion, there is apparently no reason for this Court to substitute its opinion.

**Question No.141 of Question Booklet Series-104C:**

141. Jogi caste of Alwar district play which of the following instrument?

- (A) Rabaj (B) Bhapang  
(C) Sarangi (D) Jantar

Final Answer based on decision of the expert committee: **(B)**

The petitioners have claimed that answer "C" is the correct answer, however, they did not raise any objection to the preliminary answer key, which answer has been maintained in the final answer key by the Expert based on the material i.e. musical repertoire of Jogi community of the Eastern Rajasthan. In absence of any objections raised to the preliminary answer key, which answer has been maintained, the petitioners cannot be heard in this regard.

**Question No.69 of Question Booklet Series-104D:**

69. An Excel Workbook is a collection of

- (A) Charts (B) Worksheets  
(C) Charts and Worksheets (D) None of these

Final Answer based on decision of the expert committee: **(B)**

The Expert Committee has relied on NCERT Book Computerized Accounting System Class 12<sup>th</sup> with the indication as under: -

"A file in excel is known as a workbook. A workbook is a collection of number of worksheets."

It appears that the Expert Committee has misconstrued the question itself as the question related to the 'excel workbook', whereas the material indicated, pertains to a file in Excel only. The material produced by the petitioners published by Vardhman Mahaveer Open University, Kota indicates answer "C", which material apparently has not been considered by the Expert Committee and, therefore, the same requires a re-look.

**Question No.76 of Question Booklet Series-104D:**

76. In the following letter series, some of the letters are missing which are given in that order as one of the alternatives below it.

Choose the correct alternative. a \_ bca \_ bcab \_ ca - bc

- (A) abca                      (B) aaba  
(C) bacb                      (D) baba

Final Answer based on decision of the expert committee: **Deleted**

Counsel for the petitioners made objections regarding deletion of the question, however, failed to produce any material in support of the challenge laid, as such plea raised by the counsel for the petitioners cannot be countenanced.

**Question No.98 of Question Booklet Series-104D:**

98. If 'water' is called 'food', 'food' is called 'tree', 'tree' is called 'sky', 'sky' is called 'wall', on which of the following grows a fruit?

- (A) Water                      (B) Food  
(C) Tree                        D) None of these

Final Answer based on decision of the expert committee: **(B)**

No material was produced by the respondents in support of the above change of the option. Learned counsel for the respondent Board fairly conceded that the Board will re-consider the option, as indicated, taking into consideration the objections raised in the petition in this regard.

From overall consideration of all the questions regarding which the petitioners have raised objections, except for Question No.69 of Question Booklet Series-104D and Question No.98 of Question Booklet Series-104D, regarding which the counsel appearing for the Board himself conceded that same required reconsideration, the petitioners have failed to make out any case for interference.

This Court in Phoosgir & Ors. vs. State of Rajasthan & Ors. : S.B. Civil Writ Petition No.17265/2021 and other connected matters decided on 23.03.2022, in a recruitment related to Agriculture Supervisor, came to the following conclusion: -

"From the above, it is apparent that the expert committee has thoroughly examined the objections as raised by the petitioners and have reached to a particular conclusion. The petitioners have made submissions based on the material produced by them in support of their claim in relation to each question and the expert committee has referred to / relied on material in support of the conclusion arrived at by them. As out of two materials produced by the petitioners and considered by the expert committee, which material should be relied on, essentially is in the domain of the expert committee and this Court, possibly cannot after the expert committee has arrived at a particular conclusion, opine otherwise, unless the decision made thereon is found to be wholly arbitrary and/ or contrary to the material relied on, which in the present case does not appear to be the case.

The parameters for exercise of the jurisdiction by this Court, qua the expert committee opinion, have been repeatedly laid down by the Hon'ble Supreme Court and Division bench of this Court.

The principle laid down by the Hon'ble Supreme Court, the latest being in the case of Vikesh Kumar Gupta & Anr. v. State of Rajasthan & Ors. : (2021) 2 SCC 309 as followed by the Division Bench in Rajkamal Basitha v. Rajasthan High Court, Jodhpur & Ors. : D.B.C.W.P. No.11347/2021, decided on 21.02.2022 (at Jaipur Bench) is well settled. The Division Bench in the case of Rajkamal Basitha (supra) observed as under :-

"It is well settled through series of judgments of the Supreme Court that the judicial review of the decision of the examining body be it in the field of education or in the recruitment to the public employment, is extremely limited. Particularly when the examination is being conducted by an expert body and disputed questions are scanned by specially constituted expert committee, the Courts are extremely slow in interfering with the decisions of such bodies. Unless it is pointed out that there is a glaring error or an irrational decision has been rendered the Court in exercise of its writ jurisdiction under Articles 226 and 227 of the Constitution of India would not interfere."

Prior to that in RPSC v. Pankaj Raj : D.B.S.A.W. No.697/2019, decided on 29.05.2019 (at Jaipur Bench), the Division Bench while setting aside the judgment of the learned Single, inter-alia, observed as under :-

"The impugned judgment in this Court's opinion is clearly erroneous inasmuch as the court has unwittingly donned the robe of the decision maker: to wit, that of an expert, in art, in concluding that one of the choices was defective (question No.11) and that the RPSC's explanation about a misprint was irrelevant, because the answer was wrongly given. These conclusions the court cannot arrive at, as they amount to primary decision making- a task which cannot be undertaken under Article 226. The impugned judgment also overlooked the salutary rule that in the event of doubt, "the benefit ought to go to the examination authority rather than to the candidate" (Ran Vijay, supra)."

In another Division Bench judgment in Jagdish Kumar Choudhary & Ors. v. Rajasthan Public Service Commission : D.B.S.A.W. No.447/2020, decided on 21.10.2021, a case where the learned Single Judge had interfered with the decision of the expert committee, it was observed by the Division Bench as under:-

"In our view, the learned Single Judge ought not to have interfered with the final conclusion of the expert body duly constituted by the Rajasthan Public Service Commission having expertise in the field. It is not necessary to refer to large number of decisions of this Court as well as of Supreme Court which essentially lay down that the interference by the High Court in matters of education and other technical fields should be kept to the minimum. Short reference to the decision of the

Supreme Court in the case of Richal & Ors. Vs. Rajasthan Public Service Commission & Ors. [2018 (8) SCC 81] would be sufficient."

Very recently, when the learned Single Judge interfered with the decision made by the expert committee, in relation to the Rajasthan State & Subordinate Services Combined Competitive Examination held by the RPSC, the Division Bench in RPSC v. Ankit Sharma : D.B.S.A.W. No.429/2022, in its order dated 23.02.2022, after referring to the judgments in Ran Vijay Singh v. State of U.P. & Ors. : (2018) 2 SCC 357, UPPSC v. Rahul Singh : (2018) 7 SCC 254, Vikesh Kumar Gupta (supra), Bihar Staff Selection Commission & Ors. v. Arun Kumar & Ors. : (2020) 6 SCC 362, inter-alia, observed while staying the order of the learned Single Judge, as under :-

"14. We have referred to the consistent trend of the case law coming from the Supreme Court on the subject. Broadly the approach in such situation is that the scope of judicial review against expert's opinion is extremely limited. There is a requirement of finality to the process of public employment. This is not to suggest that judicial review is completely shutout; it cannot be. However unless the situation presents a clear cut, black and white, open and shut choice of the decision of the expert body being palpably wrong, the Court would not interfere.

An element of tolerance to the minor error or calibration is discernible since achieving certainty and finality is also important.

The finality and perfection are sworn enemies.

15. With this legal clarity if we revert back to the questions with respect to which the learned Judge objected to the conclusions of RPSC, none of these questions would prima facie pass the muster of extremely high threshold provided by the Supreme Court in series of judgments noted above. In all cases the learned Single Judge has gone on at considerable length to discuss the view point of the petitioners and material produced by them in support of their contentions, what the expert committee had taken into account and why in the opinion of the learned Judge such conclusions were wrong. At this stage we are not inclined to go into these questions threadbare since we do not propose and we cannot decide these appeals finally. Nevertheless we have strong prima facie belief that the learned Judge had exceeded the scope of writ jurisdiction in the present case. No legal or factual malafides are demonstrated nor procedural illegality established.

It may be that in some cases there is a grey area. That by itself would not be sufficient for the writ court to overturn the decision of the expert's body."

The Special Leave Petition filed against the Division Bench order came to be rejected by the Hon'ble Supreme Court on 14.03.2022."

The above observations and the principle laid down therein, apply with all force to the present case as well.

In view of above factual and legal position, wherein except for Questions No.69 and 98 of Question Booklet Series-104D, wherein for question No.98 of Booklet Series-104D, counsel for the Board himself has conceded , none of the objections raised by the candidates fall within the parameters as laid down by the Hon'ble Supreme Court and Division Bench of this Court and, therefore, except for the two questions, no case for interference is made out.

Consequently, the writ petitions are partly allowed. The respondent Board is directed to get Questions No.69 and 98 of Booklet Series-104D and the said questions which are differently numbered in other Booklet Series, re-examined by the Experts, other than those, who had already examined the questions on the earlier occasion and based on their conclusion, amend the final answer key and give effect to the marks obtained by the candidates and other consequential changes in the result. The objections raised in relation to rest of the questions are rejected.

**(ARUN BHANSALI),J**

DJ/-