



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

D.B. Special Appeal Writ No. 429/2022

Rajasthan Public Service Commission

----Appellant

Versus

Ankit Sharma S/o Kalyan Prasad and Ors.

----Respondents

D.B. Special Appeal Writ No. 430/2022

Rajasthan Public Service Commission

----Appellant

Versus

Khinvraj Singh S/o Sujan Singh and Ors.

----Respondents



For Appellant(s)	:	Mr. M.S. Singhvi, Advocate General assisted by Mr. Sheetanshu Sharma, Mr. Siddhant Jain, Mr. Yash Joshi and Mr. Pranav Bhansali Mr. M.F. Baig and Mr. Amit Lubhaya
For Respondent(s)	:	Mr. R.N. Mathur, Senior Counsel assisted by Mr. Shovit Jhajharia, Mr. Raghunandan Sharma with Mr. Abhinav Srivastava Mr. Ram Pratap Saini

**HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI
HON'BLE MR. JUSTICE SUDESH BANSAL**

Order

23/02/2022

1. Defects be removed within two weeks.
2. These appeals arise out of a common judgment of the learned Single Judge dated 22.02.2022. Facts may be noted from D.B. Civil Special Appeal(W) No.429/2022. The respondents-original petitioners and other petitioners had appeared in Rajasthan State and Subordinate Services Combined Competitive



Examination in response to the advertisement issued by the Rajasthan Public Service Commission (for short 'RPSC'). The examination would be held at three stages. Preliminary examination comprising of 150 objective questions with multiple choice answers consisting of 200 marks with negative marking would be conducted for initial screening of the candidates. Those who qualify would be subjected to written main examination followed by oral interviews. The preliminary examination was conducted on 27.10.2021. Model answer keys were published on 03.11.2021 inviting objections from the candidates. 939 candidates raised objections. These objections were considered by the RPSC. Result of the examination was published on 19.11.2021. Final answer key was published on 22.11.2021.

3. This exercise led to objections from various candidates. According to these candidates several questions were either incorrect or the answers to these questions were not clear or in some cases not correct. They therefore approached the Court by filing independent petitions. In all these petitions the candidates had called in question the decision of RPSC with respect to question Nos.1, 7, 31, 41, 42, 43, 45, 62, 84, 98, 105 and 122. We may record that in some cases RPSC had decided to delete the questions when it was found that either the question was not correct or more than one answer would fit the question. The candidates had also questioned some of these decisions of RPSC.

4. Learned Single Judge combined all these petitions for common consideration and disposal of by common impugned judgment dated 22.02.2022. The learned Single Judge interfered in 6 questions. Regarding question nos.1, 31, 98 and 105 the learned Judge was not satisfied with the opinion of RPSC and



required reconsideration at the hands of experts body. Regarding question no.41 the learned Judge overruled the decision of the RPSC and directed deletion of the question altogether. In question no.62 the learned Single Judge changed the correct answer from original option no.3 to option no.1.

5. This judgment the RPSC has challenged in these appeals.

Learned Advocate General stated at the outset that due to paucity of time only two appeals have been filed so far however he would instruct the RPSC to file appeals in all petitions which fully or partially stand allowed by the impugned judgment. He further stated that originally the written main examination was scheduled on 25.02.2022 and 26.02.2022 however in view of the decision of the learned Single Judge the same has been cancelled and would be rescheduled for later.

6. Appearing for RSPC learned Advocate General submitted that the learned Single Judge has committed serious error in interfering with the decision of the experts body. RPSC had entertained all objections and examined the same carefully before coming to its final conclusions. Whenever it was found necessary experts committees were formed. In cases where the questions were found to be ambiguous or no clear cut single answer was correct the RPSC decided to delete the question to avoid any injustice. In some cases even the correct answer was changed accepting the objections of the candidates. Once this exercise is completed, the scope of judicial review is extremely limited. Unless the decision of the experts body such as RPSC is tainted with malafides or suffers from material procedural irregularity or is totally irrational, this Court in exercise of writ jurisdiction would



not interfere. He has cited several decisions of Supreme Court reference to which would be made at appropriate stage.

7. On the other hand learned senior counsel Mr. R.N. Mathur led the arguments on behalf of the original petitioners some of whom are appearing on caveat. He submitted that the learned Single Judge has examined all the concerned questions carefully and when it was found that the decision of RPSC was wholly incorrect, interference is made. In majority of the cases the direction is only for reconsideration by the experts committee. The learned Single Judge has thus shown great restraint. He clarified that some of the petitioners are in the process of filing appeals against the same judgment of the learned Single Judge to the extent their challenge has been rejected. He submitted that there is no total ban on interference in the decisions of the experts body. The scope of writ jurisdiction is wide. Judicial review is not and cannot be shutout altogether. Howsoever narrow the scope, the present case passes the required test of judicial restraint. He also relied on certain decisions.

8. It would be appropriate to reproduce every question where the learned Single Judge has caused interference and the discussion of the learned Single Judge for such decision regarding the concerned questions:-

"Question no.1:

1. Which of the following statement regarding Ruma Devi is not true?

- (1) She is known in the field of Handicrafts.
- (2) She was brought-up in the village Jasrapur (Khetari).
- (3) She was felicitated with `Nari Shakti Award' by the President of India in 2018.
- (4) She played a major role in providing employment to Thousands of Woman.



RPSC has chosen the option no.2 as the correct answer whereas, as per the petitioners, option no.2 as also option no.3 represents the correct answer.

Drawing attention of this Court towards the excerpt downloaded from the official YouTube channel website of the President of India, learned counsels submitted that Ruma Devi was presented Nari Shakti Puraskar-2018 on the International Women's Day, i.e., on 8.3.2019. They submit that though the award was for the year 2018; but, it was awarded in the year 2019. They, therefore, prayed that the question needs to be deleted.

Mr. Amit Lubhaya submits that the expert opinion is based on press release dated 7.9.2018 issued by the Ministry of Women and Child Development on its official website as also an information contained in the book in the name of "Rajasthan Ka Itihas, Sanskriti, Parampara and Virasat" edited by Dr. Hukam Chand Jain and Dr. Narayan Lal Mali published by the Rajasthan Hindi Granth Academy. With regard to information available on the official YouTube channel website of the President of India, he submits that it reflects presentation of award **on** 8.3.2019 and not **in** 2019, a vital difference which, as per the counsel, goes to the root of the matter.

The official YouTube channel of the President of India reflects that Nari Shakti Puraskar was presented to Ruma Devi on 8.3.2019, i.e., on International Women's Day. The contention raised by the learned counsel for the Commission that the official website of the President of India shows presentation of the award on 8.3.2019 and not in 2019, deserves to be rejected being absurd. No reason has been assigned by the expert committee to disagree with the objections raised by the candidates based on official YouTube website of the President of India. However, since the experts have also relied upon a press release issued by the Ministry of Women and Child Development on its official website as also an information available in the book published by the Rajasthan Hindi Granth Academy, this Court, instead of directing deletion of the question, deems it just and proper to remit the matter back to the expert committee to consider it afresh vide reasoned opinion.

Question no.31:

Which one of the following is not basic element of the citizen charter?

- (1) Description of services being provided by department or the agency.



- (2) Promotion of various methods to get benefit from the service available.
- (3) To expect any public record.
- (4) Provision for the inspection of the agency's work.

As per RPSC, the correct answer is option no.4 whereas, as per petitioners', the option no.3 represents the correct answer.

Learned counsels relying upon a book published by the Rajasthan Hindi Granth Academy approved by the Education Ministry, Central Government in the name of Rajasthan: Prashasnik Avem Rajnitik Vyavastha (Administrative and Political System) by Dr. Janak Singh Meena wherein, option no.3, i.e., "To expect any public record", has not been shown to be part of basic element of the citizen charter, submitted that expert opinion is erroneous.

Per contra, Shri Amit submitted that the expert opinion is based on "citizen charter", a handbook by the Government of India wherein, "Details of Business Transacted by the Organisation", is stated to be a component of citizen charter which is co-related to option no.3. He submitted that in support of their opinion, the experts have also relied upon an excerpt from the "Vividh Adhikar and Nagarik Adhikar Patra" wherein, it has been stated that "किसी लोक अभिलेख की अपेक्षा करना" (To expect any public record) is not part of the basic element which is co-related to option no.4, i.e., provision for the inspection of agency's work. He, therefore, submitted that option chosen by the RPSC is the correct answer.

As per the book in the name of Rajasthan: Prashasnik Avem Rajnitik Vyavastha (Administrative and Political System) published by the Rajasthan Granth Academy, all other options except option no.3 are part of the basic element of the citizen charter. The expert opinion neither sounds to be logical nor, based on authentic material. By no yardstick, the right of "Details of Business Transacted by the Organisation" as enumerated as one of the basic component of citizen charter in the hand book can be related with option no.3, i.e., To expect any public record. Rather, as per excerpt relied upon by experts, a part of "Vividh Adhikar and Nagarik Adhikar Patra", the option "किसी लोक अभिलेख की अपेक्षा करना" (To expect any public record) has been treated to be part of Right to Information Act and not as the basic element as Mr. Amit has admitted during the course of arguments that the note endorsed against clause 4 of the excerpt is in the



handwriting of the expert. The note reads as under:

“(4)किसी लोक अभिलेख की अपेक्षा करना; (सुनवाई अधिकार अधिनियम के तहत, मूल तत्व में शामिल नहीं)”

Thus, the expert opinion suffers from an error apparent on its face.

In view thereof, this Court thinks it just and proper to remit the matter back to the expert committee to consider it afresh in the light of aforesaid observations and the material available on record/fresh material.

Question no.62:

The second highest percentage of Scheduled tribe population in Rajasthan is found in (2011)-

- (1) Banswara District
- (2) Pratapgarh District
- (3) Dungarpur District
- (4) Dausa District

As per RPSC, option no.3 is the correct answer whereas, petitioners' rely on option no.1.

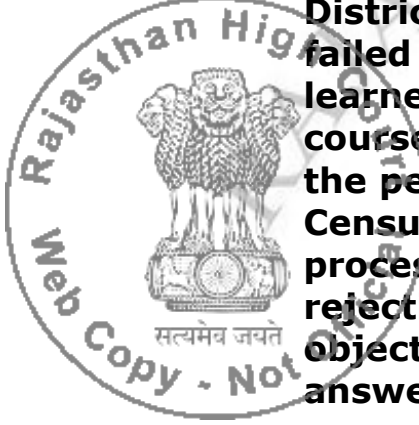
Learned counsels for petitioners, drawing attention of this Court towards chart 1.14 of the Statistical Year Book, Rajasthan-2020 published by the Directorate of Economic and Statistics, Statistics Department, submitted that the highest percentage of total State Scheduled Tribe population by residence in Udaipur is 16.5%, in Banswara 14.9% and at third place, in Dungarpur 10.6%. Referring to Table 17.16 of the Geography of Rajasthan by Shri H.M. Saxena, learned counsels submitted that therein the 'Banswara', has been shown to have highest Scheduled Tribe population percentage in its total population, i.e., District wise, Dungarpur appears at no.2 with Pratapgarh at no.3 and Udaipur at no.4. They submitted that since the question related to the second highest percentage of Scheduled Tribe population in Rajasthan, the option chosen by the RPSC, i.e., Dungarpur is incorrect as it has second highest percentage of Scheduled Tribe population District wise and not State wise.

Shri Amit submitted that relying on the Scheduled Tribe population and decadal change as also percentage of Scheduled Tribes to total population : 2011-2012 by residence as per Census-2011, the expert committee has found that Dungarpur



has second highest percentage of Scheduled Tribe population in Rajasthan.

The Court finds merit in the objections raised by the petitioners as the expert committee has relied upon the data which reflects percentage of the Scheduled Tribes in a district out of its total population, i.e., District wise whereas, in the question, the second highest percentage of Scheduled Tribe population in Rajasthan was asked which, as per the Census-2011, is option no.1, i.e. Banswara District. The learned counsel for the Commission failed to meet the reasoning assigned by the learned counsel for the petitioners during the course of arguments. The objections raised by the petitioners are duly supported by the data of Census-2011 which requires no inferential process of reasoning. In view thereof, while rejecting expert opinion, the Court accepts the objections. Option no.1 is held to be the correct answer.



Question no.98:

How much has the global average temperature risen in the last century?

- | | |
|------------------|------------------|
| (1) 3.0 degree F | (2) 1.8 degree F |
| (3) 3.4 degree F | (4) 2.4 degree F |

As per RPSC, option no.2 is correct one whereas, as per petitioners, the question itself is required to be deleted as none of the options is correct.

Learned counsels for petitioners, in support of their submission, relied upon 'Biology' book for Class-XII published by the National Council of Educational Research and Training which states that in last century, there has been an increase in global average temperature to 0.6 degree centigrade. They contended that the expert committee has relied upon unauthenticated material including NOAA Climate.gov, a private NGO website.

Shri Amit submitted that as per Columbia University Press, Newyork Publication in the name of 'Climate Change', in the last century, the global average temperature has risen by about 1 degree centigrade (1.8 degree Fahrenheit). He also relied upon an article in the name of "Climate Change: Global Temperature" available on the NOAA Climate.gov website which, as per the learned counsel, is a website of international repute. He submitted that since the question pertains to global average rise in the temperature, the expert



committee has rightly relied upon an international publication.

As per the NCERT Biology book for Class-XII, the increase in global average temperature in the last century has been 0.6 degree centigrade which, in Fahrenheit comes to 1.08 degree. The material relied upon by the expert committee does not categorically state about average increase in global temperature in the last century to the tune of 1.8 degree Fahrenheit, the option chosen by it as the correct answer. Learned counsel for the respondent has relied upon following observations from the article "Climate Change" by the Columbia University Press:-

"Global warming began in earnest at the beginning of the twentieth century. Since, 1880, global mean surface air temperature increased by about 1 degree C (1.8 degree F), a rate of change for higher than natural temperature changes in the Pleistocene or Holocene before the advent of the industrial age."

This Court is not satisfied that it anywhere says about rise in global average temperature in the last century by about 1.8 degree Fahrenheit; rather, it speaks of such increase in temperature since 1880. Further, it does not prescribe the exact period which was taken into consideration for making this observation.

As per Mr. Amit, the expert committee has also placed reliance upon following excerpt from the "Climate Change" in their support:

"Averaged across land and ocean, the 2020 surface temperature was 1.76 degree F (0.98 degree Celsius) warmer than the twentieth-century average of 57.0 degree F (13.9. degree C) and 2.14 degree F (1.19 degree C) warmer than the pre-industrial period (1880-1900)."

Again, this observation available on a NGO website in the name of Climate.gov does not support the expert opinion.

The learned counsel for the respondent has relied upon an observation in the same Article, i.e., "Climate Change" available on page 278 of its reply (S.B. Civil Writ Petition No.14175/2021, which reads as under:

"The roughly 2-degree Fahrenheit (1 degree centigrade) increase in global average surface temperature that has occurred since the pre-industrial era (1880-1900) might seem small,



but it means a significant increase in accumulated heat.”

This Court is at loss to understand as to how it supports/ leads to a conclusion that option no.2, i.e., 1.8 degree Fahrenheit is the correct answer to the question.

In the aforesaid circumstances, this Court is not satisfied that the expert opinion is based on any authenticated/standard material. The learned counsel for the respondent even failed to satisfy this Court that material relied upon by the expert committee supports its opinion as to option no.2 being correct. No reason has been assigned by the expert committee to disagree with the NCERT book of Biology subject of Class-XII. In view thereof, the matter requires reconsideration.

Question no.105:

Solar observatory in Rajasthan is situated at-

- (1) Udaipur (2) Jaipur
(3) Ajmer (4) Jodhpur

The RPSC has deleted the question whereas, petitioners rely on option no.1 as correct answer.

Learned counsels for petitioners submitted that relying on some private and unauthenticated website, the respondent has deleted the question holding the Jantar Mantar, Jaipur to be one of the correct options, which is not substantiated otherwise. They submitted that in the recruitment examination of RAS/RTS-2018, the respondent itself has found “Udaipur” as the only place in the State of Rajasthan where the Solar Observatory is situated and therefore, it does not lie in their mouth to change their stand and say that it is established both at Udaipur as also at Jaipur. They contended that a co-ordinate bench of this Court has, vide judgement dated 10.12.2018 passed in S.B. Civil Writ Petition No.25338/2018; Jitendra Kumar Bakotia & Ors. vs. State of Rajasthan and Ors. and other connected matters, upheld the expert opinion and the order dated 10.12.2018 has attained finality. They submitted that in view thereof, the petitioners were under legitimate expectation that the respondent-RPSC would adhere to its earlier stand. They submitted that in a book with title “Rajasthan Ka Itihas Avam Sanskriti” published by the Rajasthan Board of Secondary Education, Ajmer for Class-X, the Jantar Mantar has been shown to be an Astronomical Observatory only and not as Solar Observatory. They also relied upon the information available on the website of United Nations Education Scientific and Cultural Organisation (UNESCO) as also the information



available on the official website of Rajasthan Tourism Department, in support of their submissions.

Learned counsel for RPSC submitted that the expert committee has opined its deletion in view of the fact that two options, i.e., (1) Udaipur and (2) Jaipur represent the correct answer. He submits that the expert committee has relied upon the authentic material including a publication-“Ancient Observatories-Timeless Knowledge” by the Stanford Seller Centre. He submitted that this Court has, vide its judgement dated 10.12.2018, while considering the same question asked in RAS/RTS Examination-2018, did not agree with option, i.e. Udaipur chosen by the RPSC and referred the matter back for reconsideration by the expert committee.

When asked pointedly, none of the parties could answer as to what a solar observatory is exactly. They all admitted that the word “solar observatory” has not been defined in any of the English Dictionary of repute. Learned counsel for the Commission was also at loss to convey the meaning of ‘solar observatory’, i.e., whether it is related to study of Sun or study of time based on Sun. Learned counsel for the petitioners, relying upon its definition available on the Wikipedia, submitted that a solar observatory is an observatory that specializes in monitoring the Sun. However, the Wikipedia not being an authorised source, this Court is not inclined to go by this definition. In the “Rajasthan Ka Itihas and Sanskriti”, a Class X book published by the Rajasthan Board of Secondary Education, Ajmer, the Jantar Mantar, Jaipur has been classified as one of the five Astronomical Observatories established by Maharaja Sawai Jai Singh-II. Similarly, the official website of the UNESCO as also the official website of the Rajasthan Tourism Department have reckoned the Jantar Mantar, Jaipur as an astronomical observatory whereas, as per the official government website, i.e., museumrajasthan.gov.in, the Jantar Mantar, Jaipur is one of the five solar observatories founded by Maharaja Sawai Jai Singh. Thus, there is conflicting opinion available in the standard book/official websites of different government bodies/organisations.

There is another important aspect of the matter. In the last RAS/RTS Examination-2018, the same question was asked wherein, the RPSC has chosen ‘Udaipur’ as the only place where the solar observatory in Rajasthan is situated. The answer key was assailed by way of S.B. Civil Writ

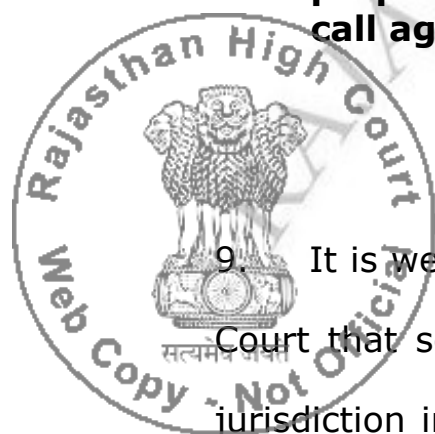




Petition No.25338/2018 wherein, a coordinate bench of this Court vide its judgement dated 10.12.2018 remanded the question back to the expert committee for its reconsideration but, none of the parties could specify as to what happened thereafter. Although, the petitioners have contended that the experts maintained their earlier opinion, i.e., Udaipur but, there is no material on record to substantiate the same.

In view thereof, this Court deems it just and proper to direct the expert committee to take a call again on this question."

(Emphasis supplied is by us)



9. It is well settled through series of judgments of the Supreme Court that scope of interference by the Court in exercise of writ jurisdiction in the decisions of the expert examining bodies be it in the field of education or public employment is necessarily limited and such interference should be kept to the minimum. In case of **Ran Vijay Singh and Ors. Vs. State of Uttar Pradesh and Ors., reported in (2018) 2 SCC 357**, a two Judge Bench of the Supreme Court referred to large number of earlier decisions and culled out the broad principles applicable in such situations. Following observations may be noted:-

30. The law on the subject is therefore, quite clear and we only propose to highlight a few significant conclusions. They are:

30.1. If a statute, Rule or Regulation governing an examination permits the re-evaluation of an answer sheet or scrutiny of an answer sheet as a matter of right, then the authority conducting the examination may permit it;

30.2. If a statute, Rule or Regulation governing an examination does not permit re-evaluation or scrutiny of an answer sheet (as distinct from prohibiting it) then the Court may permit re-evaluation or scrutiny only if it is demonstrated very clearly, without any "inferential process of reasoning or by a process of rationalisation" and



only in rare or exceptional cases that a material error has been committed;

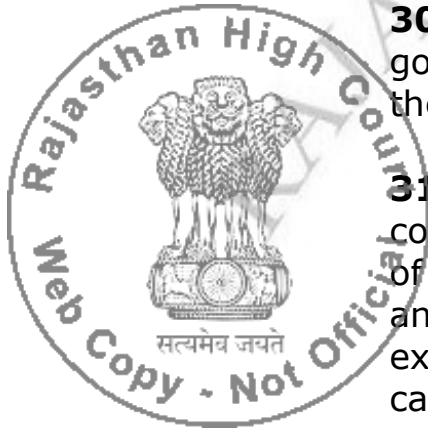
30.3. The Court should not at all re-evaluate or scrutinize the answer sheets of a candidate – it has no expertise in the matter and academic matters are best left to academics;

30.4. The Court should presume the correctness of the key answers and proceed on that assumption; and

30.5. In the event of a doubt, the benefit should go to the examination authority rather than to the candidate.

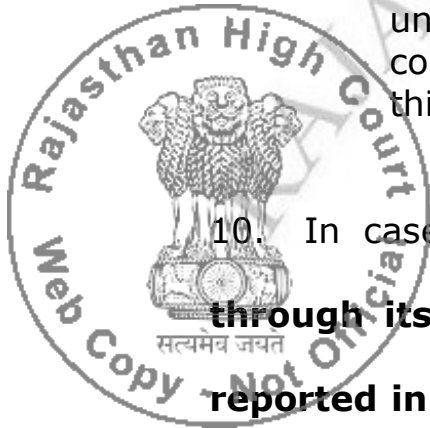
31. On our part we may add that sympathy or compassion does not play any role in the matter of directing or not directing re-evaluation of an answer sheet. If an error is committed by the examination authority, the complete body of candidates suffers. The entire examination process does not deserve to be derailed only because some candidates are disappointed or dissatisfied or perceive some injustice having been caused to them by an erroneous question or an erroneous answer. All candidates suffer equally, though some might suffer more but that cannot be helped since mathematical precision is not always possible. This Court has shown one way out of an impasse – exclude the suspect or offending question.

32. It is rather unfortunate that despite several decisions of this Court, some of which have been discussed above, there is interference by the Courts in the result of examinations. This places the examination authorities in an unenviable position where they are under scrutiny and not the candidates. Additionally, a massive and sometimes prolonged examination exercise concludes with an air of uncertainty. While there is no doubt that candidates put in a tremendous effort in preparing for an examination, it must not be forgotten that even the examination authorities put in equally great efforts to successfully conduct an examination. The enormity of the task might reveal some lapse at a later stage, but the Court must consider the internal checks and balances put in place by the examination authorities before interfering with the efforts put in by the candidates who have successfully participated in the examination and the examination authorities. The present appeals are a classic example of the consequence of such





interference where there is no finality to the result of the examinations even after a lapse of eight years. Apart from the examination authorities even the candidates are left wondering about the certainty or otherwise of the result of the examination – whether they have passed or not; whether their result will be approved or disapproved by the Court; whether they will get admission in a college or University or not; and whether they will get recruited or not. This unsatisfactory situation does not work to anybody's advantage and such a state of uncertainty results in confusion being worse confounded. The overall and larger impact of all this is that public interest suffers."



10. In case of **Uttar Pradesh Public Service Commission, through its Chairman and Anr. Vs. Rahul Singh and Anr., reported in (2018) 7 SCC 254**, another two Judge Bench of the

Supreme Court after referring to the decision in the case of **Ran**

Vijay Singh (supra) observed as under:-

12. The law is well settled that the onus is on the candidate to not only demonstrate that the key answer is incorrect but also that it is a glaring mistake which is totally apparent and no inferential process or reasoning is required to show that the key answer is wrong. The Constitutional Courts must exercise great restraint in such matters and should be reluctant to entertain a plea challenging the correctness of the key answers. In Kanpur University case, the Court recommended a system of:

- (1) moderation;
- (2) avoiding ambiguity in the questions;
- (3) prompt decisions be taken to exclude suspected questions and no marks be assigned to such questions.

11. The emphasis in the said judgment of **Rahul Singh (supra)** was that not only the onus is on the candidates to demonstrate that the key answer is incorrect, but also that it is a glaring mistake which is totally apparent and no inferential process or reasoning is required to show that the key answer is wrong.



12. More recently in the case of **Vikesh Kumar Gupta and Ors. Vs. State Of Rajasthan and Ors., reported in (2021) 2 SCC 309**, the Supreme Court after referring to decision in case of **Ran Vijay Singh (supra)** had observed as under:-

"16. In view of the above law laid down by this Court, it was not open to the Division Bench to have examined the correctness of the questions and the answer key to come to a conclusion different from that of the Expert Committee in its judgment dated 12.03.2019. Reliance was placed by the Appellants on *Richal & Ors. v. Rajasthan Public Service Commission*¹⁰ In the said judgment, this Court interfered with the selection process only after obtaining the opinion of an expert committee but did not enter into the correctness of the questions and answers by itself. Therefore, the said judgment is not relevant for adjudication of the dispute in this case.

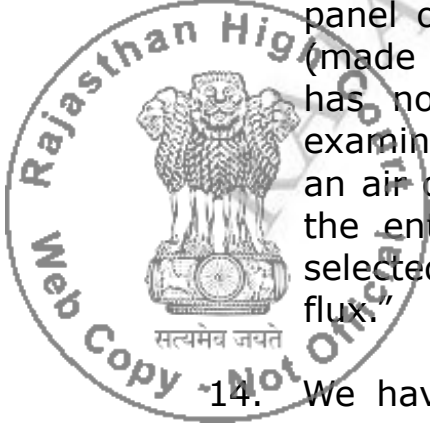
17. A perusal of the above judgments would make it clear that courts should be very slow in interfering with expert opinion in academic matters. In any event, assessment of the questions by the courts itself to arrive at correct answers is not permissible. The delay in finalization of appointments to public posts is mainly caused due to pendency of cases challenging selections pending in courts for a long period of time. The cascading effect of delay in appointments is the continuance of those appointed on temporary basis and their claims for regularization. The other consequence resulting from delayed appointments to public posts is the serious damage caused to administration due to lack of sufficient personnel."

13. In case of **Bihar Staff Selection Commission and Ors. Vs. Arun Kumar and Ors., reported in (2020) 6 SCC 362** inevitable reference was made to the decision in the case of **Ran Vijay Singh (supra)**. Further observations were made as under:-

"26. Given the clear declaration of law in the judgments of this court, we are of the opinion that the unilateral exercise of re-valuation undertaken by the High Court (both by the single judge and the Division Bench) has not solved, but rather contributed to the chaos. No rule or regulation was shown by any party during the hearing, which justified the approach that was adopted. The BSSC, in our opinion, acted



correctly in the first instance, in referring the answers to a panel of experts. If there were justifiable doubts about the recommendations of that panel, the least that should have been done, was to require the BSSC to refer the disputed or doubtful questions to another expert panel. That was not done; the "corrections" indicated by the single judge were accepted by the BSSC; several candidates who made it to the select list freshly drawn up pursuant to his directions, were appointed. The Division Bench, thereafter undertook the entire exercise afresh, compounding the matter further by not referring the disputed questions to any panel of experts. We are left reiterating the lament, (made in Ran Vijay) that the High Court's interference has not resulted in finality "to the result of the examinations" despite a long lapse of time. There is an air of uncertainty about the entire selection - nay, the entire cadre, because the inter se seniority of selected (and appointed) candidates is in a state of flux."



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.

16. We have taken into account the decisions cited by Mr. Mathur for the original petitioners in case of **Richal and Ors. Vs. Rajasthan Public Service Commission and Ors., reported in (2018) 8 SCC 81**. We do not find any observations of the Supreme Court contrary to the legal principles we have culled out from various judgments. In fact this judgment also supports the same trend, only distinction being that in the said case Supreme Court itself had constituted an expert committee for reconsideration of the questions and answers. Likewise in case of **Kanpur University, through Vice-Chancellor and Ors. Vs. Samir Gupta and Ors. and other connected matters, reported in (1983) 4 SCC 309** there is no ratio laid down which runs counter to the principles we have discussed hereinabove. Perhaps counsel for the respondents is relying on the observations of the Supreme Court to the effect that correctness of answers



should be ascertained from standard and prescribed text-books and not merely on the basis of inferences.

17. We are at a loss to understand how repeatedly and consistently in almost every public examination without exception the question papers and answer keys set by the expert bodies run into such unfortunate legal controversies. Surely we cannot blame the petitioners for filing frivolous petitions since such expert bodies themselves are forced to delete several questions and in some cases change the originally published correct answer as has happened in the present case also. This is the most avoidable situation.

18. Be that as it may we find that the appellants have made out a strong *prima facie* case not only for further hearing of the appeals but also for staying the judgment of the learned Single Judge. Under the circumstances impugned judgment is stayed. Resultantly it would be open for RPSC to conduct written main examination on the rescheduled date.

19. Let there be notice to all the respondents, returnable on 23.03.2022.

(SUDESH BANSAL),J

(AKIL KURESHI),CJ

KAMLESH KUMAR /c-1-2

सत्यमेव जयते