

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

**ORIGINAL APPLICATION NO.1150 OF 2022
WITH
ORIGINAL APPLICATION NO.1175 OF 2022
[CORRECTED ORDER]**

O.A.No.1150/2022

1. Abasaheb Balchand Manal,)
2. Rukaiya Abbas Chaugule,)
3. Pappu Asaram Nagargoje.)
4. Rahul Shivnath Shinde.)
5. Chetan I. Patil.)
6. Rahull C. Hajare)
7. Atul Prabhakar Wanhkede)
8. Akash Arun Jaunjal)
9. Shubham Maruti Haval)
10. Akash Shivaji Kamble)
11. Amit Ashok Pujari)
12. Bhushan Bhaurao Patil)
13. Manisha Valu Daware)
14. Kamini Sunil Suryawanshi)
15. Samadhan Ashroba Kirwale)
16. Bharat Mahadevrao Solanke)
17. Yogita Shivaji Vakte)
18. Vishnu Babanrao Shinde)...**Applicants**

Vs.

1. The State of Maharashtra,)
Through Secretary,)
Home Department,)
Mantralaya, Mumbai 400 032)
2. Maharashtra Public Service)
Commission, Through its Secretary,)
5th 7th and 8th floor,)
Cooperage Telephone Exchange)
Building, Maharshi Karve Marg,)
Cooperage, Mumbai 400 021)...**RESPONDENTS.**

WITH

ORIGINAL APPLICATION NO. 1175 OF 2022

1. Pawar Ashish Darasing)

2. Bhoir Sweta Ramchandra)
3. Lavate Sairaj Vijaykumar)
4. Honwadajkar Shailesh Prakashrao)
5. Mulla Mansur Mahibub)
6. Jadhav Nilam Ramdas)
7. More Sandip Dagadu)
8. Gode Sopan Eknath)
9. Gore Ganesh Popat)
10. Madane Kiran Dadaso)
11. Gaikwad Bhausahab Yashwant)
12. Jagtap Saurabh Sunil)
13. Gadkari Pooja Prabhakar)
14. Jadhav Sandeep Rupchand)
15. Landage Manor Madhukar)
16. Pansare Sonali Subhash)
17. Chaugule Soniya Bajrang)
18. Yede Dada Balu)
19. Bulbule Vishnu Shivaji)
20. Mathwale Varsharani Shivmurtiappa)
21. Dighe Arundhati Dnyaneshwar)
22. Mokashi Rangram Subarao)
23. Kale Krushnarao Janardhan)
24. Gosavi Ajendra Balasaheb)
25. Masal Swati Ravindra)
26. Pawar Rajesh Dattatraya)
27. Wathodkar Swapnil Namdevrao)
28. Yenge Kranti Jalindar)
29. Ghuge Sunil Munjaji)
30. Khadke Amol Parashram)
31. Hajare Rahul Dileep)
32. Rathod Ashok Gema)
33. Khade Akshay Balso)
34. Masal Santosh Pandharinath)
35. Mule Chetan Moreshwar)
36. Chandshiv Rahul Sudam)
37. Makode Harshan Ambadas)
38. Bagade Nikhil Rajendra.)...**Applicants**

Vs.

- Maharashtra Public Service)
 Commission, Through its Secretary,)
 5th 7th and 8th floor,)
 Cooperage Telephone Exchange)
 Building, Maharshi Karve Marg,)
 Cooperage, Mumbai 400 021)...**RESPONDENTS**

Shri B.A Bandiwadekar, learned advocate for the Applicant in O.A 1175/2022.

Shri Trunal Tonape with Ms Nikita Anandache, i/b Shri Asim Sarode learned advocate for the applicants in O.A 1150/2022.

Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents.

CORAM : **Justice Mridula Bhatkar (Chairperson)**
Mrs Medha Gadgil (Member) (A)

DATE : **03.01.2023**

PER : **Justice Mridula Bhatkar (Chairperson)**

J U D G M E N T

1. Pursuant to the order of the Hon'ble Bombay High Court dated 8.12.2022 in W.P 14904/2022 and order dated 9.12.2022 in W.P 15246/2022, we were directed to consider question no. 48 afresh. Hence, we heard learned counsel Mr Bandiwadekar for the applicants in O.A 1175/2022 and Shri Sarode, learned counsel for the applicants in O.A 1150/2022.

2. Learned C.P.O submits that question no. 48 was not deleted, however, it was corrected after receiving the objections. It was wrongly mentioned in the earlier order of the Tribunal that it is deleted.

3. Learned counsel for the applicant Mr Bandiwadekar has pointed out to question no. 48, which is reproduced below:-

“48. Pituitary gland is endocrine gland connected to hypothalamus at the base of the brain. It secretes many hormones.

- (a) It is called as master endocrine gland.
- (b) Its anterior part is neurohypophysis and posterior is

adenohypophysis.

(c) Oxytocin and Vasopressin are secreted by posterior pituitary.

(d) STH, JTSH, ACTH are secreted by adenohypophysis.

Which of the statements given above is/are correct?

(1) (a), (c) and (d) (2) Only (a) and (c)

(3) Only (d) (4) Only (b) and (d)

4. Learned counsel for the applicants has submitted that in the first answer key published on 25.8.2022, answer (1) was shown correct and that was the same answer opted by the applicants. They did not raise any objection. However, in the revised answer key which was published on 2.11.2022, the correct answer was shown as (2), i.e. only (a) & (c). Learned counsel for the applicants submitted that the material on which the applicants are relying is widely circulated by the Government of Maharashtra for the 12th Standard examination.

5. Learned counsel for the applicants relied on page 114, i.e. Maharashtra State Bureau of Textbook Production and Curriculum Research, Pune. He further relied on pages 117, 118 and 119. The relevant portion is reproduced below:-

“The pituitary gland is the smallest gland. It is a pea sized reddish-grey coloured gland. It controls almost all other endocrine glands, hence earlier it was called the master endocrine gland. It is located just below the hypothalamus and is attached to it by a stalk called infundibulum or hypophyseal stalk. Pituitary gland remains lodged in a bony depression called sella turcica of the sphenoid bone. Pituitary gland consists of two lobes called anterior lobe (Adenohypophysis). Both the lobes develop from different parts of embryo. Hence, it has dual origin.

Adenohypophysis is an outgrowth from the roof of buccal cavity. This outgrowth is called Rathke's pouch. It grows upward towards the brain. The neurohypophysis

grows as a downward extension of hypothalamus. The two outgrowths together form the pituitary gland. The connection of Rathke's pouch with pituitary gland is lost in embryo. Intermediate lobe (Pars intermedia) is a small reduced part lying in the left between the anterior and posterior lobe.

“The hormones of adenohypophysis are as follows:-

1. Somatotropin/Somatotropic Hormone /STH /Growth hormone/GH :

This hormone stimulates growth and development of all tissues by accelerating protein synthesis and cell division. Highest secretion of GH is seen till puberty and then its secretion becomes low. However, it is continuously secreted throughout life for repair and replacement of body tissue or cells.

Improper secretion of growth hormone produces various disorders. Hyposecretion of growth hormone since childhood results in stunted physical growth and the condition is called pituitary dwarfism.

Hypersecretion of growth hormone in childhood causes Gigantism a condition of overgrowth. The individual attains abnormal height. When the pituitary gland produces excess growth hormone in middle aged adults, it results in disproportionate growth causing disfigurement and enlargement of bones of nose, lower jaw, hands, fingers and feet. The condition is called Acromegaly.

2. Thyrotropin/Thyroid stimulating Hormone / TSH: Its primary action is to stimulate the thyroid gland for secretion of the hormone thyroxine.

3. Adreno corticotropic hormone / ACTH / Adrenocorticotropin : It stimulates adrenal cortex to produce and secrete its hormones. It maintains functioning of adrenal cortex.

4. Prolactin/Luteotropin/Mammotropin: Prolactin is unique among pituitary hormones as it is under predominant inhibitory control from hypothalamus. Prolactin activates growth of breasts during pregnancy (mammotropin) and stimulates the milk production and secretion of milk (lactogenic) by mammary gland after child birth.

6. In support of his submission, learned counsel for the applicants relied on the following judgments of the Hon'ble Supreme Court:-

- (i) **KANPUR UNIVERSITY, THROUGH VICE-CHANCELLOR & ORS Vs. SAMIR GUPTA & ORS, (1983) 4 SCC 309.**
- (ii) **RAN VIJAY SINGH & ORS, Vs. STATE OF UTTAR PRADESH & ORS, (2018) 2 SCC 357.**
- (iii) **U.P.P.S.C, through its Chairman & Anr Vs. Rahul Singh & Anr, Civil Appeal No. 5838/2018 (Arising out of SLP (C) No 12472/2018).**

7. Learned C.P.O relied on the judgment of the Hon'ble Bombay High Court dated 4th October, 2022 in Writ Petition No. 8882 of 2022, M.P.S.C Vs. Janakraj M. Gund & Ors.

8. Learned counsel Mr Sarode for the applicants has submitted that the State Services Preliminary Examination is equivalent to the standard of Degree Examination and not above that. Learned counsel further submitted that any person having knowledge of Degree level can assess the question, answer and their correctness. Learned counsel for the applicants submitted that the candidates are remediless when all the Judicial Fora including the Tribunal, High Court and Supreme Court are saying that they have no powers to correct what experts have said. Learned counsel for the applicants submitted that in the Civil Services Examination 2021 the Experts have deleted seven questions and eight questions from Maharashtra Secondary Services Group-B Combined Preliminary Examination-2021. These questions were framed by the Experts and deleted by the Experts. On this background, the complaints made by the candidate to the M.P.S.C are arguable complaints and disposing their objections by just saying that we are not Experts amounts to denial of the Constitutional right to have remedy. Learned counsel further submitted that there is need to appoint an independent expert committee in order to scrutinize and determine which is the correct answers to the questions against which objection have been raised by the applicants. On this background

learned counsel submitted that there is no legal definition in law to narrate what is 'glaring mistake' and using such terminology in vague manner will prove detrimental in exercising the fundamental right to access justice. The counsel in all the applications in fact have questioned the knowledge, experience and authority of the Experts. However, we cannot go deep into who should be an expert as that is the issue which is to be looked into and decided either by M.P.S.C or the State Government under the law. However, we are bound by the guidelines laid down by the Hon'ble Supreme Court in the case of **RAN VIJAY SINGH (supra)** and **Hon'ble High Court in Writ Petition No. 8882 of 2022, M.P.S.C Vs. Janakraj M.Gund & Ors.**

9. In **KANPUR UNIVERSITY's case (supra)**, the students appearing for M.B.B.S Examination have challenged the answer key. The Hon'ble Supreme Court held that it is a good practice to provide the answer key and normally it is presumed that the answers given in the key are correct and if at all it is challenged then it can be ascertained on the basis of the text books prescribed by the State and thereafter the revaluation of the question papers can be directed to the body conducting the examinations.

10. In the case of **RAN VIJAY SINGH's case (supra)**, the Hon'ble Supreme Court referred to the decision in the case of **KANPUR UNIVERSITY Vs. SAMIR GUPTA.**

"19. In Kanpur University v. Samir Gupta, this Court took the view that:

"16.....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 rationalization. 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.”

In other words, the onus is on the candidate to clearly demonstrate that the key answer is incorrect and that too without any inferential process or reasoning. The burden on the candidate is therefore rather heavy and the constitutional courts must be extremely cautious in entertaining a plea challenging the correctness of a key answer. To prevent such challenges, this Court recommended a few steps to be taken by the examination authorities and among them are (i) establishing a system of moderation, (ii) avoid any ambiguity in the questions, including those that might be caused by translation; and (iii) prompt decision be taken to exclude the suspect question and no marks be assigned to it.”

The Hon’ble Court further observed as under:-

“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 rationalization” and only in rare or exceptional cases that a material error has been committed.”

11. We have considered the above decision of the Hon’ble Supreme Court in **RAN VIJAY SINGH’s case (supra)** wherein it is observed that exception is carved out directing reevaluation of an answer sheet or scrutiny of an answer sheet and court may permit

it only if it is demonstrated very clearly without any inferential process of reasoning or by a process of rationalization and only in rare or exceptional cases that a material error has been committed. However, it is not shown in the present case.

12. In respect of the two text books relied on by the learned counsel for the applicants, we do not have knowledge whether besides these books any other text books can be considered authentic. We are not experts in the subject in Biology so it cannot be considered as an exception. The questions which were pointed out by the learned counsel for the applicants were reproduced and considered at the relevant time when we decided all the three Original Applications on 24.11.2022. Moreover, we cannot go further and stretch our powers in respect of correcting the answer keys.

13. We rely on the judgment of the Hon'ble High Court in **Writ Petition No. 8882 of 2022, M.P.S.C Vs. Janakraj M.Gund & Ors**, wherein the Hon'ble High Court held:-

“17. In our view principles laid down by the Supreme Court in the case of Ran Vijay Singh and others (supra) clearly apply to the facts of this case though the Tribunal has recorded various findings in favour of the petitioner and has chosen to doubt the correctness of the answer keys given by the experts and has interfered with the decisions taken by the experts by directing the petitioner to appoint another expert who has earlier not seen those questions with the direction to give the correct answers of the said six questions. In our view, the Tribunal could not have gone into the correctness of the answer keys suggested by the experts in their field.”

14. As per the order of the Hon'ble High Court, the link which the M.P.S.C was supposed to be opened for the applicants, was opened yesterday. However, as we have rejected the Original Applications, there is no point for the M.P.S.C in keeping the link open hence forth.

15. In view of the above, Original Applications stand dismissed.

Sd/-
(Medha Gadgil)
Member (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai
Date : 03.01.2023
Dictation taken by : A.K. Nair.