

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH**

**ORIGINAL APPLICATION NO 245 OF 2022**

**DISTRICT : SOLAPUR**

1. Janakraj Mohan Gund,  
Occ : Student, R/at Shelgaon(R )  
Tal-Barshi, Dist-Solapur. )
2. Ajay Bapu Mankar )  
Occ : Student, R/at A-4, )  
Manjeet Residency, Padmapura, )  
Aurangabad. )...**Applicants**

**Versus**

1. The State of Maharashtra )  
Through the Chief Secretary, )  
Mantralaya, Mumbai 400 032. )
2. The Chief Secretary, )  
Home Department, [Transport], )  
Mantralaya, Mumbai 400 032. )
3. Commissioner of Transport, )  
Fountain Telecom, 7<sup>th</sup> floor, )  
M.G Road, Azad Maidan, Fort, )  
Mumbai. )

4. The Secretary, )  
Maharashtra Public Service )  
Commission, 5<sup>th</sup>, 7<sup>th</sup> & 8<sup>th</sup> floor, )  
Cooperage Telephone Exchange Bld,) )  
M.K Marg, Cooperage, )  
Mumbai 400 021. )...**Respondents**

Shri S.S Dere, learned advocate for the Applicants.

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

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

**DATE** : **01.04.2022**

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

### **J U D G M E N T**

1. The two applicants who have appeared for the examination for the post of Assistant Motor Vehicles Inspector (AMVI), which was conducted by Respondent no. 4, M.P.S.C have challenged the answer key to the extent of six questions and prayed that the Committee of Experts to be formed and to revise the second answer key.

2. Respondent no. 4, M.P.S.C has issued the advertisement on 17.2.2020 for preliminary examination for the post of AMVI-2020. The applicants appeared for the preliminary examination on 15.3.2020 and passed the preliminary examination. The result of the preliminary examination was declared on 24.8.2021.

Thereafter, Respondent no. 4, M.P.S.C issued advertisement for the Main Examination on 2.9.2021. The Main Examination was conducted on 20.11.2021. As a procedure and practice, Respondent no. 4, on 29.11.2021 issued the first answer key and objections were called. The applicant no. 1, took objections to two questions. Thereafter, Respondent no. 4 published the second/modified answer key on 22.2.2022 and objections were called to the revised answer key. The applicants found that the answers provided in the revised answer key to the six questions were incorrect. No further objections were called for. The applicants had no opportunity to submit the objections, and therefore, they have approached this Tribunal with the reliefs mentioned above.

3. Affidavit in reply dated 25.3.2022 was filed by Shri B.P Mali, Under Secretary, in the office of M.P.S.C, Respondent no.4, for interim relief. Relying on the affidavit in reply, learned C.P.O has raised the preliminary objection on the locus of applicant no. 2, Mr Ajay B. Mankar, because he has not raised any objection to any question within the stipulated time given by the Commission and therefore, he has no legitimate right to raise this objection at this stage.

4. The objection raised by the learned C.P.O on the locus of the applicant no. 2, Mr Ajay B. Mankar is not tenable because as per the case of the applicants, this is not the first answer key, but this is the revised answer key in which the answers given in the first answer key are changed and therefore the applicants did not have the objection to the first answer key.

5. Learned counsel for the applicants has taken 'A' set to identify the questions and answer key to question nos 11, 17, 76,

138, 142 and 144, which are under challenge. Learned counsel for the applicants Mr Dere has submitted that the applicants have challenged the answer key provided to Question Nos 11, 17, 76, 138, 142 and 144. Hence, they are reproduced below, showing answer given by M.P.S.C & the correct answer suggested by the applicants.

“11. A drill bit of 20 mm diameter rotating at 500 rpm with a feed rate of 0.1 mm/revolution is used to drill a through hole in a mild steel plate of 20 mm thickness. The depth of cut in this drilling operation is

- |            |           |
|------------|-----------|
| (1) 0.2 mm | (2) 10 mm |
| (3) 20 mm  | (4) 2 mm  |

17. In a centre lathe, the spindle speed will be lowest during

- |                   |                    |
|-------------------|--------------------|
| (1) Taper turning | (2) Thread cutting |
| (3) Parting off   | (4) Knurling       |

76. The free expansion process is a

- (1) constant volume process.
- (2) constant pressure process.
- (3) constant enthalpy process.
- (4) constant temperature process.

138. \_\_\_\_\_ is the maximum percent defective that, for the purpose of sampling inspection, can be considered as a process average.

- |          |          |
|----------|----------|
| (1) AQL  | (2) AOQL |
| (3) LTPD | (4) ABC  |

142. Head developed by a centrifugal pump depends on

- (1) Impeller diameter and speed
- (2) Fluid density
- (3) Type of casing
- (4) All of the above

144. Multistage centrifugal pumps are used to obtain

- |                                  |                     |
|----------------------------------|---------------------|
| (1) High discharge               | (2) High head       |
| (3) High head and high discharge | (4) High efficiency |

6. The statement showing the incorrect answers by M.P.S.C and the correct answers by the students is given below:-

<b>Qut .No.</b>	<b>Incorrect answer by MPSC</b>	<b>Correct answers by students</b>
11.	(3) 20mm	(2) 10mm
17.	(1) Taper turning	(2) Threat cutting
76.	(3) constant enthalpy process	(4) constant temperature process
138.	(2) AOQL	(1) AQL
142.	(4) All of the above	(1) Impeller diameter and speed
144.	(2) High head and high discharge	(3) High head

7. In order to find out the correct answer the applicants have relied on the recognized reference books so also the answer key given in the examination of Staff Selection Commission of Junior Engineer Mechanic, U.P.S.C and the M.P.S.C itself. Learned counsel for the applicants submitted that he has relied on the following books:-

- (a) Fluid Mechanics by Foreign Author, Victor L. Streeter, E. Benjamin Wylie and Keith W. Bedford.
- (b) Indian Standard Sampling Inspection Procedures, Parr-II, published by Bureau of Indian Standards.
- (c) Engineering Metrology by R.K Jain.
- (d) Sampling Inspection by Dr Rajiv Saksena, Department of Statistics, University of Lucknow.
- (e) Hydraulics & Fluid Mechanics, including Hydraulic Machines by Dr P.N Modi and Dr S.M Seth.
- (f) Engineering Fluid Mechanics by R.J Garde and A.G Mirajgaoker.
- (g) Fluid Mechanics and Hydraulic Machines by R.K Rajput.
- (h) Elements of Workshop Technology, Vol-II, by S.K Hajara Choudhary and A.K Hazaja Chhouthary, Nirjharroy.

- (i) Metal cutting Theory and Practice by A. Bhattacharya
- (j) Course in Workshop Technology by B.S Raghuwanshi.
- (k) Refrigeration and Air Conditioning by C.P Arora.

8. Mr Dere, learned counsel for the applicants relied on the decision of the Hon'ble Supreme Court in the case of U.P.P.S.C, through its Chairman & Anr Vs. Rahul Singh & Ors, 2018 (2) SCC 357, where the issue was that the Commission constituted a committee of 26 members to consider the objections raised by the candidates. However, the Hon'ble Supreme Court in the case of Rahul Singh (supra), by referring to the judgment in the case of Ran Vijay Singh & Ors Vs. State of Uttar Pradesh & Ors, Civil Appeal No. 367/2017, dated 11<sup>th</sup> December, 2017, has reiterated in para 30 as under:-

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

(i) 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;

(ii) 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;

(iii) 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;

(iv) The Court should presume the correctness of the key answers and proceed on that assumption; and

(v) In the event of a doubt, the benefit should go to the examination authority rather than to the candidate.”

In the case of Rahul Singh, the procedure followed by U.P.P.S.C to revisit the answer key by appointing a Committee of 26 experts was not questioned or set aside by the Supreme Court. Learned counsel for the applicants has submitted that on the same lines the relief is claimed in this matter that the Committee of Experts is to be appointed by MPSC, especially regarding 6 questions.

9. Learned C.P.O argued that the M.P.S.C has followed the procedure properly and she informed that 92 objections were received by M.P.S.C. All these applications were entertained by M.P.S.C by sending them to the Review Committee. The experts from the Panel who have reviewed earlier Answer Key and the Questions, were the same experts who have again reviewed the objections. Learned C.P.O submitted that fate of nearly 4000 students is involved in this process, so the M.P.S.C has taken utmost precaution in the procedure and maintaining secrecy. This application is to be dismissed, otherwise it will be an unending process.

10. We have considered the submissions of Mr Dere, the learned counsel for the applicants and Ms Swati Manchekar, learned C.P.O. We have considered the judgments of the Hon'ble Supreme Court in the case of Rahul Singh & Ors, (supra) and Ran Vijay Singh & Ors (supra). In the present case, as the procedure followed by the M.P.S.C is as per the rules and also on the basis of the Standing Order, the issue in this matter is very short in view of the settled position of law on the point of scope of judicial review in the results declared by the M.P.S.C. We have also considered the directions of the Hon'ble Supreme given in para 30 of Ran Vijay Singh's case (supra) and also the Hon'ble High Court in W.P No. 7883 of 2012, The M.P.S.C Vs. T.B Gadekar. The Judicial authority

has scope of minimum interference in the process carried out by the M.P.S.C or the Commission conducting the examination. No objections are raised by the applicants in respect of the transparency in the procedure conducted by the M.P.S.C. The publication of the first answer key itself and inviting the objections to the first answer key show that M.P.S.C has taken the candidates in confidence throughout the process. The objections raised by the candidates were also considered by the Experts on the panel of the M.P.S.C. Some answers were reviewed and they were changed and thereafter, the second answer key was published. In fact, this review itself is the cause of this Original Application. The answer to the 4 Questions, i.e. Question No. 76, 138, 142 and 144 in the second answer key are the changed answers and the applicants claim that the answers in the first answer key were the correct one and M.P.S.C should not have changed the answers. The applicants have locus to challenge the second answer key. Had the first answer key was not accepted by the M.P.S.C, then the applicants would have secured 8 more marks. 0.25 mark is deducted by way of negative marking. Thus the applicants would have secured more marks and would have been included in the select list.

11. We restrict ourselves to the procedure of the M.P.S.C. The entire procedure followed by M.P.S.C is not challenged. We point out only one step, i.e. of reviewing of the objections raised by the candidates. As per the Standing Orders dated 3.1.2011 which are produced before us and explained by learned C.P.O, the persons who reviewed the question papers and the answer key before setting the papers and the objections raised are the same persons who are treated as the concerned Experts to examine the objections of their respective questions and answers earlier assigned to them. Though these Experts undoubtedly after going



through the relevant study material or the documents supplied by the candidates, after proper scrutiny have arrived at a conclusion and gave answers to the six questions, yet they are the same Experts who have earlier reviewed the answers. Thus, it is as good as a person is sitting in appeal of his own decision. While running the administration, it is necessary for the authority to follow the principles of natural justice and the basic principle that 'nemo debet esse iudex in propria causa', means a person should not be a Judge of his own case, is not observed here.

12. We are of the view that these six questions are to be referred to the experts on the Panel of M.P.S.C who have not earlier reviewed these questions. The Committee of two Experts can be appointed and each one of them will decide and give the correct answer of these six questions. Thus considering the previous answer of the first answer key which is available, the views expressed by these two Experts will give total three answers. By applying the principle of majority, a correct answer can be selected.

13. In view of the above, we pass the following order:-

1. The Original Application is partly allowed.
2. M.P.S.C is directed to appoint team of two Experts from the panel other than the earlier Reviewing Experts of the first answer key to review the objections raised at the time of first Answer Key to the 6 questions, i.e. 11, 17, 76, 138, 142 & 144 and the objections raised by the applicants to these questions in the first answer key.

3. The majority of the view of the Experts, which includes the view of the earlier Reviewing Experts deciding the second answer key, to be upheld.
4. This exercise is to be completed by 11.4.2022. Till then MPSC is directed to hold their hands and thereafter proceed in the matter.

**Sd/-**  
**(Medha Gadgil)**  
**Member (A)**

**Sd/-**  
**(Mridula Bhatkar, J.)**  
**Chairperson**

**Place : Mumbai**  
**Date : 01.04.2022**  
**Dictation taken by : A.K. Nair.**