

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

**ORIGINAL APPLICATION NO.1145 OF 2022 WITH
ORIGINAL APPLICATION NO.1150 OF 2022 WITH
ORIGINAL APPLICATION NO.1175 OF 2022**

DISTRICT: PUNE

1) ORIGINAL APPLICATION NO. 1145 OF 2022

Kunal Ravindra Bhavsar & 55 Ors)
Address for service of notice)
Shri Asim Sarode,)
Advocate, Flat No. 2, Neeltaara Apartment,)
Lane No.3, Behind Gupte Hospital,)
Bhandarkar Road, Pune 411 004.)...**Applicants**

Versus

1. The State of Maharashtra)
Through the Secretary,)
Home Department, Mantralaya,)
Mumbai 400 032.)
2. Maharashtra Public Service Commission,)
Through its Secretary, 5th, 7th & 8th floor,)
Cooperage Telephone Exchange Building,)
M.K Marg, Cooperage,)
Mumbai 400 021.)...**Respondents**

2) ORIGINAL APPLICATION NO. 1150 OF 2022

Abasaheb Balchand Manal & 17 Ors.)
Address for service of notice)
Shri Asim Sarode,)
Advocate, Flat No. 2, Neeltaara Apartment,)
Lane No.3, Behind Gupte Hospital,)
Bhandarkar Road, Pune 411 004.)...**Applicants**

Versus

1. The State of Maharashtra)
Through the Secretary,)
Home Department, Mantralaya,)
Mumbai 400 032.)

2. Maharashtra Public Service Commission,)
 Through its Secretary, 5th, 7th & 8th floor,)
 Cooperage Telephone Exchange Building,)
 M.K Marg, Cooperage,)
 Mumbai 400 021.)...**Respondents**

3) ORIGINAL APPLICATION NO. 1175 OF 2022

Pawar Ashish Darasing & 37 ors)
 Address for service of notice)
 Shri B.A Bandiwadekar,)
 Advocate, having office at 9, Ram Kripa,)
 Lt. Dilip Gupte Marg, Mahim,)
 Mumbai 400 016.)...**Applicants**

Versus

The Secretary)
 Maharashtra Public Service Commission,)
 Having Office at Cooperage Telephone)
 Nigam Building, M.K Marg, Cooperage,)
 Mumbai 400 021.)...**Respondents**

Shri Asim Saroda, learned Advocate for the Applicant along with Shri Trunal Tonape and Ms. Nikita Anandache, learned Advocate for the Applicant in O.A. No.1145/2022 & 1150/2022.

Shri Bhushan A. Bandiwadekar, learned Advocate for the Applicant in O.A. No.1175/2022.

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

**CORAM : JUSTICE MRIDULA R. BHATKAR, CHAIRPERSON
 MS. MEDHA GADGIL, MEMBER (A)**

DATE : 24.11.2022.

PER : JUSTICE MRIDULA R. BHATKAR, CHAIRPERSON

ORDER

- 1) Learned Advocate for the Applicant submits that O.A. No.1145 of 2022 is also to be tagged along with this matter.
- 2) At this stage, learned Advocate for the Applicant seeks permission to amend prayer Clause No.10 in O.A. No.1150/22. He wants to challenge question No. 34,45,18,16,68,42,76 along with question No.48, 89 & 20 answer key are also challenged. Thus total 10 nos. of questions in the answer key is challenged in Paper I.
- 3) In O.A. No. 1145/2022 answer to question No.48, 89 & 20 are challenged whereas in O.A. No.1150/2022 along with question no. 48,89 & 20 answer to question No. 34,45,18,16,68,42,76 are also challenged. This is State Service Preliminary Examination.
- 4) Shri B.A. Bandiwadekar, learned Advocate for the Applicant in O.A. No.1175 of 2022 has also challenged similar answer key to Question No.48, 89 & 20. Hence, all these three O.As are taken together.
- 5) Learned Advocate for the Applicant submits that examination was conducted on 21.08.2022. 1st answer key was published on 25.08.2022 and the objections were invited on 29.08.2022. Thereafter, 2nd revised answer key was published on 02.11.2022 and on 04.11.2022 results were declared. From 11.11.2022 to 28.11.2022 the Applicants have to fill form for the Main Examination. The Applicants found that their names are not appearing in the merit list and they are shown not qualified in view of the cut of marks in the respective categories. The Applicants did not raise the objection to question no.48 because in the 1st answer key it was correctly answered as per the say of the Applicants. Question No.48 is in respect of Pituitary gland.

6) Shri B.A. Bandiwadekar, learned Advocate for the Applicant in O.A. No.1175 of 2022 has relied on Judgment of Hon'ble Supreme Court in ***Rahul Singh and Another V/s. Uttar Pradesh Public Service Commission & Another (2018) 7 SCC 254.***

7) **For question No.20 at Pg 257:-**

Q. Which of the following factors are included in chemical environment?

- (a) Temperature and soil
- (b) Water and soil
- (c) Vegetation and water
- (d) Human functions and Biological components

Which of the statements given above is/are correct?

Answer Options:

- (1) Only (a) and (b)
- (2) Only (b)
- (3) Only (c) and (d)
- (4) None of the above.

Applicants has opted answer 2 whereas MPSC states option 4 is the correct answer.

For question No.34 at Pg 276:-

Q. Which of the following statements is/are correct about National Commission for Scheduled Tribes (NCST)?

- (a) It is a constitutional body which came into existence in 2004.
- (b) Its function is to inquire into specific complaints with respect to the deprivation of rights and safeguards of Scheduled Tribes.
- (c) It works to improve literacy rate of Tribal community.
- (d) Its functions is to facilitate women empowerment of Tribal women.

Answer Options:

- (2) Only (a) (2) Only (a) and (b)
 (3) Only (a), (b) and (c) (4) All of the above.

Applicants has opted answer 2 whereas MPSC states option 4 is the correct answer.

For question No.45 at Pg 325:-

Q. Which of the following substances are components of soil?

- (a) Stones and sand.
 (b) Fine and soil and decomposed matter
 (c) Chemical substances
 (d) Colour substances (Dyes)

Answer Options:

- (1) Only (c) and (d) (2) Only (a) and (b)
 (3) (a), (b), (c) and (d) (4) None of (a), (b), (c) and (d)

Applicants has opted answer 2 whereas MPSC states option 3 is the correct answer.

For question No.18 at Pg 373:-

Q. What is Alpha, Beta and Gamma Diversity?

- (a) Richness of species.
 (b) Simpson's Diversity Index
 (c) For measuring biodiversity over geographical scale
 (d) Whittaker (1972) suggest these terms.

Which of the statements given above is/are correct?

Answer Options:

- (1) Only (c) and (b) (2) Only (b)
 (3) Only (c) (4) Only (c) and (d)

Applicants has opted answer 4 whereas MPSC states option 3 is the correct answer.

For question No.16 at Pg 388:-

Q. In India, which of the following has become a hot-spot with reference to threats to biodiversity?

Answer Options:

- (a) Northwestern India
- (b) Deccan Plateau
- (c) Northeastern India
- (d) Western India

Applicants has opted answer 3 & 4 whereas MPSC states option 3 is the correct answer.

For question No.68 at Pg 423:-

Q. Consider the following statements and choose the correct option:

- (a) The subject, 'Co-operative Societies' has been included in the Constitution of India by the 97th Amendment in 2011.
- (b) The right to establish 'Co-operative Societies' is given to Article 19(1)(c).
- (c) The first law related to Co-operative Societies in India was passed in the tenure of Lord Curzon.

Answer Options:

- (1) (a) and (c) are correct
- (2) (b) and (c) are correct
- (3) (a) and (b) are correct
- (4) All these three statements are correct

Applicants submit that no correct option is available in the question paper whereas MPSC states option 3 is the correct

answer in 1st key; however, they marked option 4 as a correct answer in 2nd key.

For question No.42 at Pg 432:-

Q. Which of the following plant hormone is responsible for senescence?

Answer Options:

- (a) Auxin
- (b) Cytokinin
- (c) Ethylene
- (d) Absciscic Acid

Applicants has opted answer 3 & 4 whereas MPSC states that option (4) is the correct answer in the 1st key; however they deleted the question in 2nd answer key.

8) For question No.20, learned C.P.O. informed that no objection was raised by any of the Applicants and also question no.48 has been deleted by the MPSC and they have power to delete.

9) **For question No. 89 at Pg 236:-**

Q. After passing away of Dr. Babasaheb Ambedkar, who from the followers of Dr. Ambedkar, became members of the Congress?

- (a) R.D. Bhandare
- (b) Rajabhau Bhole
- (c) Dadasaheb Rupwate
- (d) Bapusaheb Rajbhoj

Answer Options:

- (1) Only (a), (c), (d)
- (2) Only (a), (b), (c)
- (3) Only (a), (b), (d)
- (4) (a), (b), (c), (d)

Applicants has opted answer 4 whereas MPSC states option 2 is the correct answer.

10) Learned Advocate for the Applicants have referred to Book Dr. Ambedkar and Untouchability (Analyzing and Fighting Caste) written by Christophe Jaffrelot.

11) Learned C.P.O. has pointed out that the question is after demise of Dr. Ambedkar, who from the followers of Dr. Ambedkar, became members of the Congress?

12) Learned C.P.O. further submits as the objections were invited the answer given in the answer key were referred and reconsidered by the Expert and for some questions, answer key is changed and in some question answer is retained. Table is on record.

13) The Hon'ble Supreme Court in the case of **Rahul Singh** held 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. It further held that the constitutional courts must exercise great restraint in such matter and should be reluctant to entertain a plea challenging the correctness of the key answers.

14) We have considered these submissions and questions. We wanted to find if there are any glaring mistakes. But, however, we are of the view that question and answer pointed out by learned Advocate for the Applicant and which are produced, we are unable to see any glaring mistake in this question. We did not find any exceptional circumstances. We rely on the Judgment of Hon'ble High Court in **W.P. No.8832 of 2022 (Maharashtra Public Service Commission v/s. Janakraj Mohan Gund and Ors.) decided on 04.10.2022** that we cannot send to second expert when the answer key is considered and reconsidered by the Expert. We cannot say that the Expert did not apply his mind.

15) Hence, in view of considering relief prayed by the Applicant interim relief is rejected. Therefore, as the prayer for grant of Interim relief is refused nothing, remains in the O.A. and the same is dismissed.

Sd/-
(Medha Gadgil)
Member (A)

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

Place: Mumbai
Date: 24.11.2022.
Dictation taken by: N.M. Naik.