

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.1288 OF 2022

DISTRICT : PUNE

1. Sankolkumar Jalindar Tarhal)
2. Balesh Dasharath Bhendekar)
3. Bedare Ashok Babasaheb)
4. Harshada Sanjay Devre)
5. Suraj Vitthal Wanle)
6. Wankhade Shishir Panjabrao)
7. Sushant Sunil Ghugare)
8. Kharmate Vishal Parmeshwar)
9. Shweta Ravindra Surwade)
10. Hariram Vithal Phad)
11. Sonawane Sunil Kalyanrao)
12. Sagar Yamaji Mote)
13. Vijay Bhau Mese)
14. Dhananjay Ramdas Raut)
15. Gajanan Vinayak Suryawanshi)
16. Varad Subhash Thorat)
17. Vikram Narayan Waghmare)
18. Salunke Ganesh Dattu)
19. Nandkishor Madhavrao Kadam)
20. Supriya Ramdas Borhade)
21. Vaibhavkumar Ravindra Chougule)
22. Kartik Ratan Navghare)
23. Pravin Shankar Karnale)
24. Gawade Viraj Gajanan)
25. Khairnar Vaibhav Arun)
26. Vishal Balasaheb Gaikwad)
27. Sangram Dipak Jadhav)
28. Manohar Mallaiah Gedam)
29. Mule Chetan Moreshwar)
30. Rahul Balasaheb Fasle)
31. Jadhav Akash Balaji)
32. Khan Moh Ikram Hashmat)
33. Devayani Daulatrao Nikam)
34. Suraj Sudhakar Tambe)
35. Revadekar Kaumudi Ravindra)
36. Sagar Sanjay Pisal)
37. Amol Somnath Shirsat)
38. Nagbhusan Mahadeo Ambade)
39. Jadhav Amit Ashok)
40. Vaishali Vasantrya Mane)

41. Shweta Ramdas Patil)
42. Ajinkya Dattatraya Patil)
43. Sujay Subhash Karkhile)
44. Anjali Ashok Sangle)
45. Shinde Sudhir Suresh)
46. Gaikwad Sumit Sudam)
47. Pawar Rupesh Chandrakant)
48. Deshmukh Jayee Dilip)
49. Deshmukh Shankar Sakharam)
50. Shinde Vishal Bhaurao)
51. Gaikwad Rahul Bajirao)
52. Akshay Balaso Khade)
53. Deokar Yogesh Navnath)
54. Nivedita Vitthalrao Mule)
55. Pallavi Balaji Jadhav)
56. Rahul Mohan Gaikwad)
57. Vaibhav Bapu Gavhane)
58. Nikhil Murlidhar Daundkar)
59. Swati Ravindra Masal)
60. Thakare Nitin Dilip)
61. Rameshwar Vasanttrao Ulagadde)
62. Tejashri Mahadu Gawari)
63. Kajal Manikrao Mankar)
64. Shriram Madhav Godase)
65. Sandip Haribhau Gaware)
66. Suvarna Bhausahab Raut)
67. Vijay Sudam Kumbhar)
68. Walakh Rahul Dhansing)
69. Vinod Somaji Wakde)
70. Phulpagar Mahesh Mukesh)
71. Nitin Vishnu Gore)
72. Kangulkar Sahebrao Balaji)
73. Nilesh Ashok Doke)
74. Tilekar Someshkar Haribhau)
75. Pallavi Shinde)
76. Krishnappa Ningappa Kulgude)
77. Anuja Uday Patil)
78. Shraddha Jagdish Rathor)
79. Mayuresh Uddhav Gargade)
80. Sagar Pradip Nikhade)
81. Krashna Namdeo Wagh)
82. Jadhav Chandraprakash Jakkoji)
83. Shital Balasaheb Khade)
84. Minaxi Balanath Madhurkar)
85. Johare Premilatai Vishwanath)
86. Balaji Pandurang Jagtap)
87. Tejas Baban Jadhav)
88. Sandeep Vinayak Jagtap)

89. Wagh Avinash Hanumant)
 90. Mahesh Dadaso Sawant)
 91. Tushar Sukhdeo Bade)
 92. Ghule Shankar Bhagwan)
 93. Yadav Jayashri Ankush)
 94. Gholap Anil Raosaheb)
 95. Vaibhav Vasant Yadav)
 96. Ekade Nilesh Uddhao)
 97. Smit Santosh Salunke)
 98. Shinde Mahesh Rajaram)
 99. Mahesh Ramrao Bhosale)
 100. Rajendra Babanrao Wabale)
 101. Samrin Shafik Momin)
 102. Manikappa Guruppa Bammanage)
 103. Rajbhoj Kalyani Bhika)
 104. Deokate Sangram Subhash)
 105. Vitthal Shivaji Athare)
 106. Sujay Dnyaneshwar Dhole)
 107. Bansode Vishal Niloba)
 108. Deelip Gopichand Baviskar)
 109. Ravikiran Santosh Wazurkar)
 110. Swapnil Raosaheb Khemnar)
 111. Swapnil Dadaso Pawar)
 112. Nishad Prakash Pande)
 113. Mahadev Gurunath Khed)
 114. Nilesh Shivaji Patil)
 115. Vinayak Namdeo Rathod)
 116. Handal Appasaheb Baban)
 117. Yuvraj Vinayakrao Deshmukh)
 118. Akash Vijay Sawant)
 119. Amol Nagorao Totewad)
 120. Unhavane Chetan Vilas) **....APPLICANTS**

C/o. Mr. Sachin S. Gite, Advocate for the Applicants.

VERSUS

The Secretary,)
 Maharashtra Public Service Commission,)
 5th and 7th floor, Cooprej Telephone)
 Exchange Bldg, Mahashi Karve Marg.)
 Cooprej, Mumbai 400 021) **...RESPONDENT**

Mr. Sachin S. Gite, learned Advocate for Applicants.

Ms. S.P. Manchekar, learned Chief Presenting Officer for Respondents.

3. We have passed the order dated 15.12.2022 earlier in respect of Question No.48 in O.A.Nos.1145, 1150, 1175 of 2022. Learned Advocate submits that he adopts the same arguments. Hence, we reproduce the said order.

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. So far as para no. 8 of the order of this Tribunal is concern, in view of the submissions made by the learned counsel for the applicants, objection was raised by the applicant no.17 in O.A 1145/2022, but not in O.A 1150/2022. Further Question No. 48 was not deleted. In view of this paragraph no. 8 is to be corrected.

9. Learned counsel Mr. Gite 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 using such terminology in vague manner will prove detrimental in exercising the fundamental right to access justice. Learned Counsel Mr. Gite has submitted the grievances of the applicants who are appearing for the examination and they in fact questioned the knowledge and experience of the Expertise. However, we cannot go deep into that 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.**

10. 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.

11. 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.”

12. 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.

13. In respect of the two text books relied on by the learned counsel for the applicants, we do not have knowledge whether there are any other text books which 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.

14. 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 other (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 decision 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.”

15. In view of the above, Original Application stands dismissed.

Sd/-

**(Medha Gadgil)
Member (A)**

Sd/-

**(Mridula Bhatkar, J.)
Chairperson**

prk