

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5217 of 2023

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Dr. Eena Bahan Daughter of Late Ramadhar Prasad, Wife of Raj Shekhar Prasad
Resident of 8E/13, Bahadurpur Housing Colony, Kankarbagh, P.S.- New Agamkuan,
District- Patna, Bihar- 800026.

... .. Petitioner.

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Secretary, Department of Science and Technology Government of Bihar, Patna.
3. The Director, Department of Science and Technology, Government of Bihar, Patna.
4. The Bihar Public Service Commission, through the Secretary, 15 Jawahar Lal Nehru Marg, Bailey Road, Patna- 800001.
5. The Chairman, Bihar Public Service Commission, 15 Jawahar Lal Nehru Marg, Bailey Road, Patna- 800001.
6. The Secretary, Bihar Public Service Commission, 15 Jawahar Lal Nehru Marg, Bailey Road, Patna- 800001.
7. The Controller of Examination of Bihar Public Service Commission, 15 Jawahar Lal Nehru Marg, Bailey Road, Patna- 800001.
8. Mukesh Kumar Sinha, Son of Late Ramchandra Prasad, R/o Ramraji Road, Maripur, P.s. Kazimohamadpur, Dist-Muzaffarpur.
9. Biplab Goswami, S/o Tapas Kumar Goswami, R/o Arrah Bidhan Park, Malandighi, P.S. Kanksa, District Paschim Bardhaman, West Bengal.
10. Kumar Sanjay Sinha, S/o Rabi Bhushan Prasad Shrivastava, R/o 105 Sushma Sadan, P.S. Gopalganj, District Gopalganj.
11. Jyoti Gautam, D/o Prempal Singh, r/o P.S. Mundha Pandey, District Moradabad, Uttar Pradesh.

12. Manoj Das, s/o Dharendra Nath Das, r/o Vivekanand Pally, P.S. Kutti, District Paschim Bardhaman, West Bengal.

... ... Respondents.

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Constitution of India, 1950—Article 226—challenging the correctness of the key answer—onus is on the candidate to not only demonstrate that the key answer is correct, 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—petitioner has consistently filed representations and has referred to various certificates given by experts of different Universities, who have given a certificate that answer key prescribed by Commission is erroneous with respect to the questions mentioned in the certificates given by them—key (the correct answers of the questions) prepared by the question setters is checked and scrutinized by a Committee of experts—same experts of the Commission have been giving different opinions on different occasions with regard to the same questions—expert committee constituted by the Commission was not confident about the answer key suggested by them inasmuch as it has not only changed its answer key not once but two times, erroneous answer key leads to erroneous result—Court finds itself totally incapacitated to examine the veracity of an answer to a particular question as it does not have any expertise in relation to the questions being set by an examining body—materials made available by petitioner, i.e., the opinion of the renowned subject experts, requires consideration by the Commission once again so far as it relates to petitioner—writ application disposed off with observations and direction.

(Paras 28, 31 to 33)

(2018) 2 SCC 357—Relied upon.

(2020) 2 SCC 173; (2020) 20 SCC 209; (2013) 11 SCC 309; (2018) 7 SCC 254; 2021 (1) BLJ 673; (2013) 4 SCC 690; (2015) 13 SCC 744; (2005) 13 SCC 749; (2018) 8 SCC 81; (1983) 4 SCC 309—Referred to.

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10. Kumar Sanjay Sinha, S/o Rabi Bhushan Prasad Shrivastava, R/o 105 Sushma Sadan, P.S. Gopalganj, District Gopalganj.
11. Jyoti Gautam, D/o Prempal Singh, r/o P.S. Mundha Pandey, District Moradabad, Uttar Pradesh.
12. Manoj Das, s/o Dharendra Nath Das, r/o Vivekanand Pally, P.S. Kutti, District Paschim Bardhman, West Bengal.

... .. Respondents.

Appearance :

For the Petitioner : Mr. Kumar Kaushik, Advocate
For the B.P.S.C. : Mr. P. K. Shahi, Sr. Advocate
Mr. Vikash Kumar, Advocate
For the State : Mr. Kameshwar Prasad Gupta, GP-10
Mr. Virendra Kumar, AC to GP-10
For the respondent nos.8 to 12 : Mr. Harsh Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
CAV JUDGMENT

Date : 30-04-2024

Heard Mr. Kumar Kaushik, learned counsel for the
petitioner, Mr. P.K. Shahi, learned senior counsel assisted by



Mr. Vikash Kumar, learned Advocate, for the Bihar Public Service Commission, Mr. Harsh Singh, learned counsel for the respondent nos.8 to 12 and Mr. Kameshwar Prasad Gupta, learned counsel for the State.

2. By the present writ application, the petitioner seeks the following reliefs:

i. For issuance of an order, direction or a writ of certiorari for quashing and setting aside the result of written examination published by the Bihar Public Service Commission on 25.03.2023 against Advertisement No.63/2020 issued for appointment of Assistant Professor in various Engineering Colleges of the Government of Bihar inasmuch the aforesaid result has been published by using an erroneous modal answer key prepared by the Respondent Commission.

ii. For issuance of an order, direction or a writ of mandamus for directing the respondent Commission to change the modal answer key in Set B to the following extent and thereafter revise the result using the correct answer key:
(a) Question No. 17 has been erroneously deleted and its correct answer is option C.



(b) Question No.20 has no correct answer and, therefore, it ought to be deleted instead of evaluating on the basis of option D.

(c) The answer of Question No.27 should be changed from option D to option A.

(d) The answer of Question No.54 should be changed from option B to option C.

iii. For issuance of an order, direction or a writ of mandamus for directing the respondent Commission to accordingly revise the result and consider the petitioner for appointment against Advertisement No.63/2020 published on 24.09.2020,

iv. For issuance of an order direction or a writ of mandamus for directing the Respondent Commission to get the answer key evaluated by a fresh body of independent experts and thereafter publish a revised result on the basis of answer key suggested by them inasmuch as the experts of the Commission have published the answer key on five occasions and have appeared to be unsure about the answer to the questions prepared by the Commission.



v. For issuance of an order, direction or an appropriate writ of restraining the respondent Commission from proceeding any further in the selection process on the basis of the impugned result published on 25.03.2023 against Advertisement No. 63/ 2020 during the pendency of the present writ application and further from precluding them from conducting interview scheduled from 11.04.2023 to 14.03.2023.

Brief facts of the case

3. The Bihar Public Service Commission (hereinafter in short referred to as the 'Commission') issued an advertisement, bearing number 63/2020, on 24.09.2020, inviting online applications from eligible candidates for appointment to the 59 vacant posts of Assistant Professor in the subject of Physics in various Government Engineering Colleges in the State of Bihar. The petitioner, who belongs to WBC category, finding herself eligible for the said post, applied for the same.

4. The said advertisement prescribed 20 marks for academic record and research performance, 40 marks for evaluation of domain knowledge and teaching skill through written examination (objective), 15 marks for interview and 25



marks for Assistant Professor engaged on contract basis with a rider that a candidate shall be eligible for five marks for every completed year subject to the maximum of 25 marks. The advertisement further prescribed that the candidates are required to secure minimum qualifying marks, which, in the case of petitioner, who is a female, was 32 percent. Since the written examination was of 40 marks, the candidates were required to secure 12.08 marks out of 40 marks.

5. The examination for the said post was conducted on 23.10.2022 in which the petitioner participated. In the examination, the petitioner was given booklet series 'B' in the subject of Physics, which contained 80 questions in all. All the questions carried equal marks and there was no provision of negative marking, hence the petitioner attempted all the questions.

6. On 12.11.2022, the Commission published a notice that the provisional answer key of all four sets of questions papers *inter alia* in the subject of Physics are being published. The Commission invited objection from the candidates by way of speed post before 02.11.2022. In pursuance thereof, the petitioner filed her objection by speed post on 17.11.2022, which was received well within the time and she has raised



objection with respect to the following questions:

Sl. No.	Q. No.	Option suggested by the petitioner	Option given as correct answer in the provisional answer key
1.	17	C	B
2.	26	D	B
3.	27	A	D
4.	28	No answer is correct should be deleted	B
5.	29	No answer is correct should be deleted	B
6.	36	B	A
7.	46	Question is wrong and hence should be deleted	D

7. Thereafter, the Commission published another notice on 10.11.2023, inviting second objection from the candidates and a revised second provisional answer key was published on the basis of the first objection along with the notice dated 10.11.2023. The Commission deleted two questions and the grievance of the petitioner with respect to question numbers 17, 36 and 46 was redressed. The option with respect to question numbers 17 and 36 was changed by the Commission and question no. 46 was deleted as per the objection of the petitioner. The petitioner’s grievance with respect to other question remained and some new grievances had arisen as some questions, which were corrected according to the petitioner in the first provisional answer key, had been changed in the second provisional answer key. Thus, the petitioner filed another objection through email on 13.01.2023, raising her grievance as



follows:

Sr. No.	Q. No.	By the petitioner	Provisional answer key	2 nd provisional answer key
1.	24	A and D	A	D
2.	27	A	D	D
3.	28	None is correct	B	B
4.	29	None is correct	B	B
5.	74	B	C	B

8. Thereafter, the Commission published a notification dated 19.01.2023, by which the Commission invited the candidates, who had raised objection, in its office on 21.01.2023, for a meeting with the experts. The petitioner appeared on the appointed date with evidence in support of her objection, but no physical discussion was allowed with the experts as they were not present physically in the office of the Commission rather the officials of the Commission enabled the petitioner to have a telephonic conversation with two experts one by one. The experts assured the petitioner that apart from other objections, question no. 27 will be considered. The petitioner filed a fresh representation through email on 23.01.2023, by which she produced evidence with respect to her claim on question no. 27.

9. The petitioner filed another representation on 24.01.2023 through e-mail and claimed that question no.27 may be examined afresh by the experts of the subject of Mathematics



and Physics. Thereafter, the Commission published a final answer key on 24.01.2023 in which six questions were deleted and even the questions having one correct answer were included in the list of deleted questions and some answers, which were already correct in the first provisional answer key, have been changed. Now, the grievance of the petitioner with respect to question no.74 was redressed in the final answer key as the correct answer was again restored to option 'B' as in the first provisional answer key, but the grievance of the petitioner with respect to question nos.17 and 24 remained as both the questions had one correct answer but yet they had been deleted. The grievance of the petitioner with respect to question nos.27, 28 and 29 also remained as those three questions ought to have been deleted. Thus, a fresh grievance had arisen with respect to question no.54, as the option, which was earlier correct, was changed in the final answer key from C to B. The petitioner filed another representation on 30.01.2023 along with the certificates of eminent Professors. In so far as question numbers 20, 27, 28 and 29 are concerned, the petitioner had categorically given the solved answer along with concrete evidence in her application. The application of the petitioner was received in the office of the Commission physically on the same day and it was



also sent through e-mail. The grievance raised by the petitioner in her representation was as follows:-

Sr. No.	Q. No.	Option suggested by the petitioner	Option in the final answer key
1.	17	C	Deleted
2.	20	None is correct	D
3.	27	A	D
4.	28 & 29	None is correct	B
5.	54	C	B

10. Thereafter, the petitioner filed representations on 31.01.2023 and 04.02.2023 before the Chairman of the Commission giving the opinion of one eminent Professor of Patliputra University against question nos.20, 27, 28, and 29. She filed another representation on 14.02.2023 along with a certificate of one Professor Dr. Aasheshwar Yadav in support of her claim regarding question nos.17, 20, 27, 28, 29 and 54. The Commission issued a further notice on 23.02.2023 by which the revised final answer key was published and two answers were again changed in accordance with the objection of the petitioner and question numbers 28 and 29 were deleted. Thus, total number of 8 questions were deleted and the evaluation was done against 32 questions. The rest of the objection of the petitioner was not redressed.

11. Thereafter, the petitioner submitted a further representation on 24.02.2023 with respect to the remaining four



questions i.e. question nos.17, 20, 27, and 54 along with certificate of four eminent professors. The Commission issued a fresh notice dated 28.02.2023, inviting further objection with respect to question numbers 9 and 10 of Set 'A' in the revised final answer key dated 23.02.2023, which questions are equivalent to question nos. 28 and 29 of Set 'B'. The petitioner filed a fresh representation on 03.03.2023 including question numbers 28 and 29 requesting that since none of the answers are correct, they should be deleted. The petitioner also raised her objection with respect to question numbers 17, 20, 27 and 54 of Set 'B'. Lastly, the Commission published the final (third) model answer key on 17.03.2023 in which the question numbers 28 and 29 have been deleted, but the grievance of the petitioner with respect to the other four questions remained unredressed. The Commission published the result on 25.03.2023, however, the petitioner did not qualify in her category. The petitioner expects that if two out of four objections is accepted, she would qualify in the examination. Hence, this writ application.

Submissions on behalf of the petitioner

12. Mr. Kumar Kaushik, learned counsel appearing on behalf of the petitioner has, *inter alia*, contended that the Commission published the result on 25.03.2023 in which the



petitioner was not declared successful. The petitioner, as per her estimation, has answered 22 questions correctly and if two out of her four questions were to be accepted she would secure the minimum cut-off marks as per the advertisement. He further contended that the five experts have given a certificate that the answer of the Commission is erroneous. Those certificates have been issued by distinguished Professors and are contained in Annexure-16 series to the writ petition. Another certificate is contained in Annexure-22 to the writ petition enclosed with rejoinder filed on behalf of the petitioner against counter affidavit filed on behalf of the Commission. He further contended that from the aforesaid facts, it is evidently clear that experts have not objectively considered the answer key and the same is not fit to be accepted since they have changed the same answers on various occasions and have published revised answer key on four occasions after the provisional answer key was published on 22.11.2022.

12. He further contended that it is well settled law that application of an erroneous answer key leads to an erroneous result and is sufficient to vitiate the entire result. In support of his contentions, he placed reliance *inter alia* on the following judgments:



- (i) **Rajesh Kumar and others vs. The State of Bihar and others** reported in (2013) 4 SCC 690
- (ii) **Manish Ujwal and others vs. Maharishi Dayanand Saraswati University and others** reported in (2015) 13 SCC 744
- (iii) **Gurunanak Dev University vs. Swamil Garg and others** reported in (2005) 13 SCC 749
- (iv) **Rishal vs. Rajasthan Public Service Commission** reported in (2018) 8 SCC 81
- (v) **Kanpur University vs. Sameer Gupta** reported in (1983) 4 SCC 309

13. It is lastly contended that the petitioner has consistently filed representations and has referred to various certificates given by experts of different Universities, who have given a certificate that the answer key published by the Commission is erroneous with respect to the questions mentioned in the certificates given by them. The same experts of the Commission have been giving different opinions on different occasions with regard to the same questions. When they had examined the answer key of all 80 questions for the first time on 05.01.2023, yet they published two provisional answer keys and could not finalize the same. Thereafter, they



again changed some of the answers while publishing the final answer key. Even after the final answer key was published yet again two questions were deleted. Thereafter, another final answer key was published. *In toto*, five answer keys have been published by the Commission. The experts of the Commission appear to be unsure about the answer. In an examination containing multiple choice objective questions, especially in the subject of physics, one answer specifically ought to have been correct and the experts were expected to provide the correct answers of all 80 questions in one meeting. Even if other meetings were held, the fact that some answers were changed clearly discloses that the answer key furnished by the Commission is unsafe to be accepted for the purpose of public employment. It directly affects the petitioner and even those who have not approached this Hon'ble Court and affects their right to be considered for public employment guaranteed under Article 16 of the Constitution of India. Thus, it is prayed that this writ petition may be allowed.

Submissions on behalf of the Commission

14. Mr. P.K. Shahi, learned senior counsel, appearing for the Commission has, *inter alia*, submitted that the questions in preliminary test consists of 80 objective type questions of



subjects. The answer-sheets are OMR type like other objective tests had multiple choice alternative answers for each question, out of which only one answer would be correct answer. The question paper of Physics was set by the setter. In order to ensure that the candidates do not resort to plagiarism, the question paper was printed in A, B, C and D series. However, the seriatim in each of the four series jumbled up and arranged in such a manner that the sequence of each question in one series varies from that of the other series.

15. It is further submitted that the first page of question booklet contains detailed instructions. Each of the candidates was required to read the said instructions and follow it while attempting to answer the same. On 12.11.2022, the Commission published a notice in daily newspaper and in its website intimating the candidates that the provisional answers of the question booklet series A, B, C and D will be available on the official website of the Commission from 12.11.2022 and it was further informed that if any candidate have any objection with regard to provisional answers of any question, they can submit their objection/suggestion supported by reliable source/evidence to the Commission by 21.11.2022 till 5 p.m.

16. It is further submitted that as per the norms of the



Commission, the key (the correct answers of the questions) prepared by the question setters is checked and scrutinized by a Committee of experts. The expert committee was constituted to evaluate the key answers given by the question setters and objection/suggestions submitted to the Commission by the candidates.

17. It is further submitted that to satisfy the objections/suggestions of the candidates, the Commission has constituted the expert committee which has not only examined the key answer one time but three times and thereafter, the final result was published. There is no iota of doubt that the Commission, in order to maintain the transparency in the examination, at the first instance, published the model answer key given by the question setter, invited objection/suggestion to it and upon consideration of objections/suggestions received by the expert committee published the provisional answer key and again invited objection/suggestion to the provisional answer key. The petitioner submitted her objection to the model answer key and to the provisional answer key of series 'B'. The expert committee upheld her objection/suggestion. The petitioner is down below in her category and her prayer for fresh evaluation of answer key by another expert committee is fit to be rejected



in view of the law laid down by the Hon'ble Apex Court in the case of **Ran Vijay Singh and Others vs. State of Uttar Pradesh and Others** reported in **(2018) 2 SCC 357**, in the case of **Uttar Pradesh Public Service Commission vs. Rahul Singh & Ors.** reported in **(2018) 7 SCC 254** and in the case of **Bihar Public Service Commission vs. Ashish Kumar Pathak & Ors.** reported in **2021 (I) BLJ 673**.

18. Mr. Shahi, learned senior counsel, summing up his arguments, lastly submitted that the Commission had taken all steps to maintain transparency in the examination and thereafter the result was published. The petitioner, who could not succeed in the examination, has filed the present writ application in order to relaunch the whole process, which should not be allowed.

Submissions on behalf of respondent nos.8 to 12

19. By order dated 14.09.2023, respondent nos. 8 to 12 have been added as intervenor respondents to this writ application and they have been represented through Mr. Harsh Singh, learned Advocate.

20. Mr. Harsh Singh, learned counsel for the respondent nos.8 to 12, opposing the prayer made by the petitioner, has submitted that respondent nos.8 to 12 had applied



pursuant to the advertisement issued by the Commission and were declared successful in the written examination and were called for interview on various dates in the month of April, 2023 in which they appeared and having performed very well are optimistic of being successful in the final outcome of the selection process.

21. It is further submitted that the final model answer key, on the basis of which the impugned result has been declared, was published after affording as many as five opportunities to the candidates to submit their respective objections including an opportunity of hearing, as admitted in the writ petition as well. A candidate, who has participated in the selection process, can not turn around and challenge the same inasmuch as before the publication of the result of the written examination adequate opportunities were given to the candidates to file their objections/suggestions through representations as well as hearings were afforded, which, admittedly, was availed by the petitioner and was duly considered on the basis of which the answer key were revised and it was finalized by the experts after several rounds of scrutiny.

22. It is further submitted that having taken a chance



and thereafter being declared unsuccessful, the petitioner can not be permitted to turn around the same selection process in which she participated without any demur and only because the final outcome was not to the liking of the petitioner, she challenged the same. At no stage she has objected to the constitution of the expert committee or repeated reviews by the same set of experts in different rounds of scrutiny, rather the petitioner willfully participated in anticipation of a favourable outcome. There is no specific pleading with regard to number of marks obtained by the petitioner and the cut-off marks of petitioner's category and the number of marks by which the petitioner missed the cut-off.

23. It is further submitted that the petitioner can not claim as a matter of right for another round of scrutiny inasmuch as the law is no longer *res integra* that a writ petition can not be filed for creation of a right but only for redressal of infringement of a vested right, which is absent in the present case. The petitioner has failed to demonstrate that the answer key/questions were so patently wrong that no reasonable man, well versed in the subject, would deem them to be correct. To buttress his submission, Mr. Harsh Singh relied upon the judgment of the Hon'ble Apex Court in the case of **Anupal**



Singh vs. State of U.P. reported in **(2020) 2 SCC 173**, in **Ramjit Singh Kardam vs. Sanjeev Kumar** reported in **(2020) 20 SCC 209** and in **Ramesh Chandra Sah vs. Anil Joshi** reported in **(2013) 11 SCC 309**. Accordingly, it is submitted that the writ petition has no merit and the same may be dismissed.

Conclusion and Analysis

24. This Court has considered the detailed arguments addressed by Mr. Kumar Kaushik, for the petitioner, as also of Mr. P.K. Shahi, learned senior counsel for the Commission and Mr. Harsh Singh for the intervenor-respondents, carefully scrutinized the materials available on record brought by the respective parties and also considered the judgments relied upon by the respective parties.

25. It is beyond cavil that a Court under Article 226 of the Constitution is limited and circumscribed in exercise of its jurisdiction in respect of examination and its results for the reason that the Court is neither an expert of the subject matter nor it has any wherewithal to, subjectively or objectively, evaluate or assess the correctness or otherwise of the answers. The Court is also denuded of the expertise to comment upon or make any independent assessment of whether the analysis and conclusions reached by subject matter experts are correct or not.



26. Although there are catena of judgments passed by the Hon'ble Supreme Court as well as the learned Division Bench and the Coordinate Benches of this Court, in my considered opinion, the law as evolved has been concluded into certain propositions, duly summarized by the Hon'ble Supreme Court in the case of *Ran Vijay Singh Vs. State of U.P.*, reported in *(2018) 2 SCC 357* in paragraph-30, which is reproduced herein below:

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 scrutinise 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.

(emphasis underlined)

27. Apart from that, a number of judgments have held that only when the Court is convinced that the answer key is “*demonstrably wrong*”, the Court may exercise its power of judicial review. If the subject matter expert is able to give an analysis, which appears to be reasonably intertwined with the subject itself, the Court’s would be loath in interfering with such conclusion. Though, there is no absolute bar for such proposition and may depend on the peculiar facts of each case.

28. It is well settled principle of law that the onus is on the candidate to not only demonstrate that the key answer is correct, 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 answer.

29. It is not in dispute that in pursuance of the



advertisement issued by the Commission on 24.09.2020, petitioner finding herself eligible applied for the post of Assistant Professor of Physics. The examination for the said post was conducted on 23.10.2022. The preliminary test consisted of 80 objective type questions of the subject concerned. The question paper was printed in four series i.e. A, B, C and D series. However, the serials in each of the four series jumbled up and arranged in such a manner that the sequence of each question in one series varies from that of the other series. No doubt, it was set by the expert of the subject concerned i.e. of Physics, however, as per the norms of the Commission, the key (correct answers of the questions) prepared by the question setters was checked and scrutinized by a committee of experts.

30. It is not in dispute that the petitioner has consistently filed representations and has referred to various certificates given by experts of different Universities, who have given a certificate that the answer key prescribed by the Commission is erroneous with respect to the questions mentioned in the certificates given by them. The same experts of the Commission have been giving different opinions on different occasions with regard to the same questions. For the



first time, on 05.01.2023, they had examined the answer key of all 80 questions, yet they published two provisional answer keys and could not finalize the same. Thereafter, they again changed some of the answers while publishing the final answer key. Even after the final answer key was published, yet again two questions were deleted. Thereafter, another final answer key was published. *In toto*, five answer keys have been published by the Commission, as per the averment of the petitioner and three times as per the averment of the Commission. The experts of the Commission appear to be not sure about the answer. In an examination containing multiple choice objective questions, especially in the subject of physics, one answer specifically ought to have been correct and the experts were expected to provide the correct answers of all 80 questions in one meeting. Even if other meetings were held, the fact that some answers were changed clearly discloses that the answer key furnished by the Commission cannot be said to be safe to be accepted for the purpose of public employment.

31. After going through the pleadings of the parties, it appears that the expert committee constituted by the Commission was not confident about the answer key suggested by them inasmuch as it has not only changed its answer key not



once but two times. It cannot be denied that erroneous answer key leads to erroneous result. This Court finds itself totally incapacitated to examine the veracity of an answer to a particular question as it does not have any expertise in relation to the questions being set by an examining body. In my considered opinion, a particular Judge may have a particular knowledge relating to a particular subject, however, that knowledge would not be sufficient to cast doubt about the answer key with regard to a particular question. The petitioner has brought on record several certificates of eminent professors along with the reasoning why the particular answer is wrong or right.

32. At this stage, this court is compelled to notice the fact that while preparing the key answers, the expert of the Commissions themselves could not reach to conclusive answer to many questions, leading to review of the same and resulting into publication of subsequent model key answers twice over more particularly based on the materials made available by the petitioner. The materials made available by the petitioner, i.e., the opinion of the renowned subject experts, requires consideration by the Commission once again so far as it relates to the petitioner.



33. Considering the facts and circumstances of the case and the discussions made in the foregoing paragraphs, this Court finds it expedient in the interest of justice to direct as follows: -

- (i) The Commission is directed to constitute a fresh Committee consisting of five subject experts of Indian Institute of Technology (I.I.T.), Patna and N.I.T., Patna, who would be obliged to find the definite answers of the question numbers 17, 20, 27 and 54 of Set B. In case, there is no unanimity amongst the members of the committee, the majority view with reasoning for reaching such conclusion shall prevail.
- (ii) The whole proceedings of the said expert committee shall be reduced in writing to be placed before the Commission.
- (iii) The Commission shall, without affecting the whole process undergone, consider the case of the petitioner depending upon the outcome of the report of the expert committee. If the case of the petitioner finds support from the expert



committee, she shall be considered to be called to appear at the interview.

(iv) The whole exercise shall be confined to the case of the petitioner only.

(v) The whole exercise must be concluded within a period of ten days from the date of receipt/ production of a copy of this judgment.

(v) The interim order dated 18.04.2023 shall automatically vacated once the aforesaid directions are implemented.

34. This writ application stands disposed of with the aforesaid observations and directions.

(Anjani Kumar Sharan, J)

Trivedi/-

AFR/NAFR	AFR
CAV DATE	21.03.2024
Uploading Date	30.04.2024
Transmission Date	NA

