

Court No. - 6

RESERVED
A.F.R.

Case :- WRIT - A No. - 8892 of 2022

Petitioner :- Gyan Prakash Singh

Respondent :- State of U.P. and others

Counsel for Petitioner :- Mr. Pranesh Kumar Mishra and Mr. Amit Kumar Tiwari, Advocates

Counsel for Respondent :- Mr. Gagan Mehta, Advocate

Hon'ble J.J. Munir,J.

The petitioner is aggrieved by his non-selection as an Assistant Professor in the subject of Chemistry by the Uttar Pradesh Higher Education Service Commission, Prayagraj ("the Commission" for short). Advertisement No. 50 dated 15.02.2021 was issued by the Commission inviting applications for selection of Assistant Professors, who would be appointed to aided non-government colleges, engaged in imparting higher education. The petitioner, apparently eligible for the post, applied in response. The selection was to be made through a written examination, followed by an interview of those candidates selected there. The petitioner was allotted Roll No. 5007000283 by the Commission and called to write his written examination on 30.10.2021. The petitioner appeared and participated in the written examination on the scheduled date, time and venue. It is his case that Question Booklet Series 'A' was allotted to him. The petitioner says that after he had appeared in the written examination, the provisional answer key was published by the Commission on 10.12.2021 and objections were invited to the key answers by the candidates, on or before 18.12.2021. The date for objections to the key answers was extended. The provisional answer key has been placed on record by the petitioner.

2. The petitioner had objections with regard to the answers shown in the provisional answer key to Questions Nos. 37, 38 and 44 of Question Booklet Series 'A'. He submitted objections online

to the Commission on 13.12.2021, that is to say, within time. The petitioner has also annexed his objections as Annexure No. 5 to the writ petition. The Commission issued a revised and final answer key on 11.02.2022, after considering objections by the candidates. Objections to two questions, that is to say, Questions Nos. 9 and 58 of Question Booklet Series 'A' were sustained and the questions, deleted. In consequence, common marks were allotted to all candidates, including the petitioner, in relation to the aforesaid Questions. But, the petitioner's grievance is that his answers at the written examination were evaluated without deleting the impugned key answers, to which he had objected, carried in Question Booklet Series 'A'. The result of the written examination was declared on 17.02.2022, wherein the petitioner was declared successful and called for interview. It is asserted that different cut-off marks for the purpose of interview category wise (i.e. Gen., OBC, SC etc.) were declared by the Commission. The petitioner participated in the interview on 26.03.2022 held by the Commission. The final select list (common list) was declared by the Commission on 13.05.2022 for the post of Assistant Professor in Chemistry (Subject Code 70). The final list was declared based on the marks earned in the written examination and the ensuing interview by the Commission, but the entire selection exercise was carried out without rectifying the three incorrect key answers, to which the petitioner had objected, to wit, key answers to Questions Nos. 37, 38 and 44 of Question Booklet Series 'A'.

3. It is the petitioner's case that he belongs to the Other Backward Class ("OBC" for short) Category and had applied in the relevant category for the post in question. The petitioner says that he had secured 138.72 marks in the written test in the OBC Category and the cut-off marks for the OBC Category, entitling a candidate to interview, was 134.64. It is urged that each of the

questions carried two marks. The two questions that were acknowledged as wrong on objections by other candidates, led to an addition of 2.04 marks to the petitioner's score in the written examination. It is the petitioner's assertion that he calculated his score, as per the revised answer key, comparing it to his Optical Mark Recognition ("OMR" for short) Sheet for all that he had correctly answered. It shows that he answered 68 questions correctly, to which 2.04 marks for the wrong questions were added, leading him to earn 138.72 marks in the written examination. There is some grievance made to the effect that two candidates, to wit, Naveen Prakash Verma (Roll No. 5007001169) and Sanjeev Kumar (Roll No. 5007000563) who had also applied under the OBC Category, were selected and shown at Serial No. 36 and 37 of the impugned final selection list dated 13.05.2020. But, the petitioner was arbitrarily excluded. The petitioner says that in case the three impugned answers in the answer key, to which he had objected when the provisional key was published, were rectified, upon proper determination by experts, with the aid of renowned textbooks, it would entitle him to the addition of three marks. If that were done, he would be selected.

4. A counter affidavit has been filed on behalf of the Commission, where the entire procedure for selection adopted by the Commission has been spelt out. It is averred that 2002 posts of Assistant Professor in various private-aided colleges across the State have been advertised by the Commission *vide* Advertisement dated 15.02.2021. The Commission is a specialised body to undertake such selections, constituted under the Uttar Pradesh Education Service Commission Act, 1980 (for short "the Act of 1980"). The procedure for selection by the Commission applicable in this case is governed by the Uttar Pradesh Higher Education Service Commission (Procedure for Selection of Teachers)

Regulations, 2014 (for short, “the Regulations of 2014”) and the Uttar Pradesh Higher Education (Procedure and Conduct of Business) Rules, 2014 (for short, “the Conduct of Business Rules, 2014”). It is averred that to maintain impartiality of evaluation at the interview, the result of written examination is disclosed after preparation of the final examination result. It is not available to the Interview Board. The petitioner obtained 138.78 marks in the written examination and 24 marks in the interview. He, thus, got an aggregate of 162.78 marks. The last selected candidate in the OBC Category, Sandeep Kumar, secured 165.78 marks and the last waiting-list candidate in the OBC Category, Surjit Singh, secured 162.98 marks. It is emphasized that the Commission does not have any provision for the re-evaluation of answer sheets. Various provisions under the Regulations of 2014 and the Conduct of Business Regulations, 2014 have been mentioned in the counter affidavit, all of which are directed to show that the Commission selects those who set the question paper and moderate it from amongst men of high qualification and professional experience in the relevant subject. The panel of examiners and experts, whose services are secured by the Commission, are an independent body with high professional skills in the relevant subjects. Change to a tentative answer key is only possible after the experts of the Commission opine on the matter. The Commission do not have the power to reevaluate or effect a change to the answer key of their own. It is also the Commission's case that deletion of incorrect answer(s) is done after the experts' opinion and benefit of the deleted question is given to all candidates. The formula to award marks to all candidates, after deletion of the question/ questions upon the experts' opinion, is as follows :

Total marks X total attempted right questions

Total questions – deleted questions

5. The aforesaid formula has been pleaded in Paragraph No. 24 of the counter affidavit. There is an illustration of the calculation also pleaded in Paragraph No. 25, which does need to be reproduced. It is the Commission's case that the tentative answer key was issued on 10.12.2021, to which objections were invited from the candidates. It is the Commission's further case in the counter affidavit that upon publication of the provisional answer key, candidates objected almost to every question in the booklet. The Commission have annexed the disposal of all the objections received from candidates relating to Question Booklet Series 'A' as Annexure CA-1. The opinions for accepting or rejecting an objection to the provisional key answers, are indicated in the fifth column of the report of experts, that is signed by a panel of three of them. The petitioner's objections to the three impugned answers carried in the provisional answer key have been rejected by the panel of experts appointed by the Commission *vide* their report dated 31.01.2022, have been rejected, which is on record. The reasons have been indicated in the report and also reproduced in Paragraph No. 43 of the counter affidavit.

6. It is also the Commission's case that the petitioner has nowhere demonstrated the source or material, on the basis of which he objects to the key answers to Questions Nos. 37, 38 and 44 of Question Booklet Series 'A'. It is emphasized that the entire selection process has been completed and the merit list forwarded to the Director, Higher Education, U.P. at Prayagraj for allotment of colleges.

7. In Paragraph No. 18 of the rejoinder affidavit, the petitioner has asserted that he has annexed the extract of reliable and authenticated books written by renowned authors on the subject, in support of objections to key answers relating to the three

questions, the key answers to which he impugns, as Annexure RA-1. A perusal of Annexure RA-1 shows that objections to key answer relating to Question No. 37 is based on a book titled "**Chemistry Part II Textbook for Class XII by the National Council of Educational Research and Training, 2022-23**". The objection to the key answer relating to Question No. 38 is based on the authority of a book "**Chemistry by Peter Atkins Julio Di Paula**" and further, another book "**Physical Chemistry Revised and Enlarged Seventh Edition by P.C. Rakshit**". The objection to the key answer relating to Question No. 44 is based on the authority of a book titled "**Textbook of Physical Chemistry Thermodynamics and Chemical Equilibrium (S.I. Units) Volume II by K.L. Kapoor**". The objection to the last mentioned question is further sought to be buttressed on the authority of "**Advanced Physical Chemistry [Textbook for B.Sc. (Part III and honours) and Postgraduate Courses of Indian Universities]**" by **D.N. Bajpayee** and published by S. Chand Company Private Limited, New Delhi. In Paragraph No. 20 of the rejoinder affidavit, the petitioner has stated that though he has objected to all the three impugned key answers to Questions Nos. 37, 38 and 44, with material in support, that is to say, reliable and authentic books on the subject submitted online, but has proof about his objections being supported with regard to Question No. 44 alone. It is averred in Paragraph No. 20 that despite best efforts to secure copies of the material submitted online in support of his objections *vis-a-vis* the key answers to Questions Nos. 37 and 38, the petitioner could not succeed in retrieving it on the Commission's website.

8. Heard Mr. Pranesh Kumar Mishra along with Mr. Amit Kumar Tiwari, learned Counsel for the petitioner and Mr. Gagan Mehta, learned Counsel appearing for respondents nos. 2 and 3.

9. It would be apposite to refer to the provisional key answers relating to the three questions published by the Commission, the candidates' objection and the disposal thereof by the Commission's experts *vide* their report dated 31.01.2022. It would be convenient to extract the same, as shown in tabular form in Paragraph No. 43 of the counter affidavit, which, for the record of it, has not been denied in Paragraph No. 23 of the rejoinder affidavit. The questions to which key answers have been impugned, the objections thereto and the disposal of the objections by the expert committee, is shown below :

Sl. No.	Ques. Nos.	Ques.	Ans. as per key	Candidates Ans.	Expert opinion
1.	37	फेहलिंग बिलयन A एवं B से क्रिया कर ऐल्ट्रिहाइड लाल रंग उत्पन्न करते हैं। लाल रंग की उत्पत्ति का कारण है? (A) Cu^{+1} आयन (B) Cu^{+2} आयन (C) Cu (D) Cu^{+1} एवं Cu^{+2} आयनों का असमानुपातन	D	A & B/ प्रश्न गलत	इस प्रश्न का आयोग द्वारा दिया गया उत्तर (D) गलत है। जबकि उत्तर (A) सही है। अभ्यर्थी की आपत्ति का संज्ञान लिया गया। स्रोत: Vogel's Textbook of Practical Organic Chemistry.
2.	38	निम्नलिखित में से किस अभिक्रिया हेतु ΔG° का मान धनात्मक है? (A) प्रकाश संश्लेषण (B) आक्सीजन को ओजोनीकरण (C) अमोनिया का निर्माण (D) उपरोक्त सभी	D	A, B & C / प्रश्न गलत	इस प्रश्न का दिया गया उत्तर (D) सही है। अभ्यर्थी की आपत्ति का संज्ञान लिया गया। सम्बन्धित सभी आपत्ति निराधार है एवं निरस्त किये जाने योग्य है। स्रोत: Explanation Attached.
3.	44	एक रासायनिक अभिक्रिया होने में एन्थैल्पी (ΔS) दोनों का मान कम होता है। यह क्रिया स्वेच्छया गति करेगी यदि— (A) $\Delta H = T\Delta S$ (B) $\Delta H > T\Delta S$ (C) $\Delta H < T\Delta S$ (D) उपरोक्त सभी	C	A & B/ प्रश्न गलत	इस प्रश्न का दिया गया उत्तर (C) सही है। अभ्यर्थी की आपत्ति का संज्ञान लिया गया। सम्बन्धित सभी आपत्ति निराधार है एवं निरस्त किये जाने योग्य है। स्रोत: Dr. S. P. Jauhar book

10. It must be remarked that the law regarding revaluation of an

answer booklet or script and the selection of an answer key is fairly well settled by now. So far as revaluation of an answer sheet or script is concerned, the examining body has no right to reevaluate, unless the statute provides for it. However, if the statute is silent about the power of revaluation or scrutiny of an answer sheet or a script, the Court may permit revaluation or scrutiny, if the key answer is palpably and on the face of it, wrong or absurd, and that too, in exceptional cases. So far as the correctness of the key answers is concerned, there is a presumption about their correctness and the benefit of doubt regarding the key answers, goes to the examination authority, rather than the candidate. In this regard, reference may be made to the holding of the Supreme Court in **Ran Vijay Singh and others v. State of Uttar Pradesh and others, (2018) 2 SCC 357**, where it is observed:

"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."

11. Again, the question arose before the Supreme Court in **Uttar Pradesh Public Service Commission through its Chairman and another v. Rahul Singh and another, (2018) 7 SCC 254**.

Following the law laid down earlier by their Lordships in **Kanpur University, through Vice-Chancellor and others v. Samir Gupta and others, (1983) 4 SCC 309** and **Ran Vijay Singh (supra)** it was held in **Rahul Singh (supra)**:

"12. The law is well settled 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 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 answers. In *Kanpur University case [Kanpur University v. Samir Gupta, (1983) 4 SCC 309]* , the Court recommended a system of:

- (1) moderation;
- (2) avoiding ambiguity in the questions;
- (3) prompt decisions be taken to exclude suspected questions and no marks be assigned to such questions.

13. As far as the present case is concerned, even before publishing the first list of key answers the Commission had got the key answers moderated by two Expert Committees. Thereafter, objections were invited and a 26-member Committee was constituted to verify the objections and after this exercise the Committee recommended that 5 questions be deleted and in 2 questions, key answers be changed. It can be presumed that these Committees consisted of experts in various subjects for which the examinees were tested. Judges cannot take on the role of experts in academic matters. Unless, the candidate demonstrates that the key answers are patently wrong on the face of it, the courts cannot enter into the academic field, weigh the pros and cons of the arguments given by both sides and then come to the conclusion as to which of the answers is better or more correct."

12. Of much relevance, again, is guidance of the Supreme Court in **High Court of Tripura v. Tirtha Sarathi Mukherjee and others, (2019) 2 Scale 708**, where it has been opined by their Lordships:

"23. In this case we have already noted that the writ petition was filed challenging the results and seeking re-valuation. The writ petition came to be dismissed [*Tirtha Sarathi Mukherjee v. High Court of Gauhati, 2012 SCC OnLine Gau 899 : (2014) 1 Gau LR 811*] in the year 2012 by the High Court. The special leave petition was dismissed [*Tirtha Sarathi Mukherjee v. High Court of Gauhati, 2013 SCC OnLine SC 1396*] in the year 2013. The review petition is filed after nearly 5 years. In the interregnum, there were supervening development in the form of fresh selection. While it may be true that the delay in filing the review petition may have been condoned, it does not mean that the

Court where it exercises its discretionary jurisdiction under Article 226 is to become oblivious to the subsequent development and the impact of passage of time. Even in the judgment of this Court in *Ran Vijay Singh v. Rahul Singh* [*Ran Vijay Singh v. State of U.P.*, (2018) 2 SCC 357 : (2018) 1 SCC (L&S) 297] which according to the first respondent forms the basis of the High Court's interference though does not expressly stated so, what the Court has laid down is that the Court may permit re-valuation inter alia 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 on the commission of material error. It may not be correct to characterise the case as a rare or exceptional case when the first respondent approaches the Court with a delay of nearly 5 years allowing subsequent events to overtake him and the Court. We feel that this aspect was not fully appreciated by the High Court.

24. The review, it must be noted is not a re-hearing of the main matter. A review would lie only on detection without much debate of an error apparent. Was this such a case? It is here that we must notice the argument of the appellant relating to question in Paper III of the examination alone, engaging the attention of the Court for the reason that the first respondent pressed this aspect alone before the High Court. The judgment [*Tirtha Sarathi Mukherjee v. High Court of Gauhati*, 2012 SCC OnLine Gau 899 : (2014) 1 Gau LR 811] of the High Court in the writ petition appears to bear out this submission of the appellant. The issue relating to the anomaly in the evaluation of Paper III has been discussed threadbare in the judgment. The view of the High Court has not been disturbed by this Court. Despite this the High Court in the impugned judgment [*Tirtha Sarathi Mukherjee v. High Court of Gauhati*, 2018 SCC OnLine Gau 2060] has proceeded to take up the plea relating to questions in Part I and Part II and proceeded to consider the review petition and granted relief that too after the passage of nearly 5 years. This suffices to allow the present appeal.

25. Despite all this we would also make a few observations on the merits of the matter."

13. The above principles that have been laid down by the Supreme Court would show that the Court should generally keep its hands off, where it is a question of the correctness of key answers based on expert opinion in matters of public examination. Key answers are to be presumed correct, particularly once affirmed upon objection by a panel of experts accomplished in the subject, appointed by a selection authority, invested with the power of selection by Statute. The Court cannot be led into becoming a Court of Appeal from the expert's opinion relating to the answer key, on which evaluation is to be done for a public examination. It is

only in cases of palpable absurdity or manifest error demonstrable, without an elaborate process of technical reasoning in the relevant subject, that the Court may, in very rare cases, where convinced seek independent expert opinion to rectify an erroneous key. There could still be a few subjects or matters where the key answer may be so palpably wrong that the Court cannot ignore it. Here, that is not the case. The subject involved is an intricate science, that is to say, Physical Chemistry and lot of understanding of the subject would go into deciphering the error that the petitioner says exists, in the three impugned key answers.

14. It is of utmost importance that in the writ petition, no basis or source of the objections to the three impugned key answers has been disclosed by the petitioner. If there were any seriousness about the objections that the petitioner takes, he would have annexed in the writ petition those authentic sources, which could be extracts from reputed treatises or textbooks on the subject, with their complete reference, to support his objections. It is in response to the respondents' objection raised *vide* Paragraph No. 35 of the counter affidavit that the petitioner has not demonstrated the source of his objections to the impugned key answers, that in the rejoinder affidavit, some xerox copies of textbooks have been annexed by the petitioner to substantiate his objections.

15. The matter does not rest there. The petitioner accepts the fact that the material in support of the objections that he submitted online to the Commission is available on the website *vis-à-vis* the answer to Question No. 44 alone. There is no retrieval from the Commission's website of the material filed by the petitioner to support his objections to the key answers to Questions Nos. 37 and 38. This Court cannot go into this dispute whether, in fact, before the Commission, along with his objections to the three

impugned key answers, the petitioner had annexed necessary material furnishing the academic basis for the objections. The Court has to proceed on the premise that before the Commission, objections to Question No. 44 alone carried necessary material of whatever worth, in support. From the disposal of the objections by the panel of experts shown in Paragraph No. 43 of the counter affidavit, this Court finds that the objection to Question No. 37 has been accepted by the panel of experts and the answer given in the provisional answer key to Booklet Series 'A', being 'D' has been rectified to 'A'. The correct answer, upon due consideration of objections to question No. 37, besides 38 and 44 of Booklet Series-A, has been published in the revised and final answer key on 11.02.2022. The answer-sheets have been evaluated on the basis of the final answer key.

16. The submission of the learned Counsel for the petitioner that the opinion of the expert committee appointed by the Commission, on the basis of which the final answer key has been drawn up, is not supported by any reputed or authentic Textbook, or Treaties to judge the correctness of the three impugned key answers, does not appear to be tenable. A perusal of the report of the expert committee shows that the provisional answer key, upon publication, was scrutinized with reference to the candidates' objections, including the petitioner.

17. So far as the key answer to question No. 37 of Booklet Series-A is concerned, the expert committee has opined the answer given in the provisional answer key to be wrong and chosen the right answer as 'A' instead of 'D', given in the provisional key. The basis of the opinion is a certain **Vogel's Textbook of Organic Chemistry**. This correction to the provisional answer key by the Expert Committee does not uphold the

petitioner's objection. The petitioner would, thus, be incorrect still.

18. In so far as questions Nos. 38 and 44 are concerned, the provisional key indicated the correct option for question No. 38 of Booklet Series-A as 'D' and for No. 44 as 'C'. The expert committee has rejected the objections to the answers indicated in the provisional answer key and affirmed the same. In case of question No. 38 of Booklet Series-A, the answer option given has been justified on the basis of an explanation attached by the committee of experts. A perusal of the expert committee's report dated 31.01.2022 annexed to the counter affidavit shows that the committee comprised of three Professors, to wit, Professor Indra Prasad Tripathi, Professor and Head Department of Chemistry, Faculty of Science, Mahatma Gandhi, Chitrakoot, Satna, Madhya Pradesh; Professor Rana Krishnapal Singh, Professor, Department of Chemistry and Vice-Chancellor, Dr. Shakuntala Mishra, Rastriya Punarvas Vishwa Vidyalaya, Lucknow and Professor Krishna Bihari Pandey, Former Professor, Vice-Chancellor. The name of Professor, Krishna Bihari Pandey's University, where he taught, or whereof he was the Vice-Chancellor, no doubt, does not appear in the report. But, given the profile of the three experts, this Court has no reason to doubt that they are experts in their field and upon their attention being drawn to fallacies in the provisional answer key, would have carefully scrutinized the objections to exclude wrong as well as ambiguous answers.

19. So far as the last answer impugned, that is to say, answer to question No. 44 of Booklet Series-A is concerned, the objection thereto has been rejected by the expert committee founding its opinion on a Textbook by Dr. S.B. Jauhar.

20. The learned Counsel for the petitioner has very persuasively argued and made an admirable effort to allure this Court into

understanding a little bit of Physical Chemistry. He has elaborated upon scientific reasoning to prove the final key answers to questions Nos. 37, 38 and 44 of Booklet Series-A wrong. Unfortunately, for the petitioner, it is beyond this Court's ken to directly engage in the understanding of Advanced Physical Chemistry. The law, of much binding precedent, also does not permit us to undertake that inquiry. The petitioner's submission in this regard, therefore, cannot be accepted.

21. As a last ditch of effort, it was pointed out by the learned Counsel for the petitioner that in a similar matter in Writ-A No. 3372 of 2022, another learned Single Judge of this Court *vide* order dated 05.05.2022 at the instance of the eleven petitioners there, has referred for opinion the correctness of the final answer key *vis-a-vis* questions Nos. 38, 41, 44, 45, 82 and 84 of Booklet Series-A to two experts, who may be nominated by the Vice-Chancellor of the Banaras Hindu University from amongst the Senior Teachers of the Physical Chemistry Department. The Court had reserved judgment in this case on 10.06.2022, but noticing the aforesaid feature, the case was posted for further hearing on 01.12.2022. On 13.12.2022, it was brought to the Court's notice that experts from the Banaras Hindu University have submitted a report dated 01.12.2022, which is at variance with regard to the key answers approved by the expert committee of the Commission, *vis-a-vis* questions Nos. 38 and 84 of Booklet Series-A.

22. The attention of the Court has been drawn to the order passed by the learned Judge on 18.11.2022 in Writ-A No. 3372 of 2022, which records the aforesaid fact, granting time to the Commission to file a supplementary counter affidavit. At the further hearing on 13.12.2022, the learned Counsel for parties have placed an order dated 02.12.2022 passed in Writ-A No. 3372 of

2022, where it has been remarked by the learned Single Judge that keeping in mind the principle that outside expert's opinion may not prevail over the expert's opinion of the Examining Body, the Counsel for the Commission may file a response within two weeks. The Commission has been required to refer the matter to its experts together with the report from the Banaras Hindu University, before a final stand was taken about the correctness of the key answers to the six questions involved in the aforesaid writ petition. It must be noted that here of all those questions, questions Nos. 38 and 44 are relevant; in fact, 38 alone, because the experts from the Banaras Hindu University have differed with the Commission's expert committee. The hearing of Writ-A No. 3372 of 2022 has been adjourned to 13.01.2023. In the circumstances, this Court did not find it feasible to adjourn the hearing of the matter and judgment was reserved.

23. It is trite that the Commission cannot be held bound by the report of an outside expert committee unless the Commission itself, that is to say, their own experts are *ad idem* with the opinion of the outside expert appointed by the Court. Or else, the Court, if it be within the Court's understanding, a factor that would depend on many circumstances, is of opinion that the report of the outside experts shows the key answers approved by the Committee to be palpably wrong without a detailed process of reasoning, may extend relief by holding the answer key to be wrong.

24. This course has not been adopted in this petition and there is no reason for this Court to await the outcome of the Commission's response in another matter, may be involving the same issue with regard to one question. This Court is of opinion that the exigencies of an examination to select candidates to public posts cannot be kept indefinitely under the shadow of uncertainty nor can it be

made to vary endlessly as that would impede timely selection to public posts with finality attached to the process.

25. This Court is of opinion that in the overall circumstances, there have been sufficient safeguards observed by the Commission in scrutinizing the probity of their answer key, on the basis of which selections have been held. These should not be exposed to a lingering uncertainty. As a parting remark, it must be noted that even if there is some doubt about the key answer to one or the other of the impugned answers, on account of some material based on an outside expert's opinion, the doubt has to be resolved in favour of the examining body, as held in **Ran Vijay Singh**.

26. In the totality of circumstances, this Court finds no merits in the present writ petition. It **fails** and is **dismissed**.

Order Date :- 20.12.2022

Anoop / I. Batabyal

(J.J. Munir, J.)