IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S). No. 5111 of 2021

Kumari Kanchan Mehta Petitioner.

Versus

- 1. The State of Jharkhand through Chief Secretary, Govt. of Jharkhand, Ranchi
- 2. Chairman, Jharkhand Public Service Commission, Ranchi.
- 3. Secretary, Jharkhand Public Service Commission, Ranchi.
- 4. Controller of Examination, Jharkhand Public Service Commission, Ranchi.

...... Respondents.

CORAM: THE HON'BLE MR. JUSTICE DR. S.N.PATHAK (Through: Video Conferencing)

For the Petitioner: Mr. Anil Kumar, Advocate

For the State : Mr. Gaurav Abhishek, AC to AG For the JPSC : Mr. Sanjoy Piprawall, Advocate

06/24.01.2022 Heard Mr. Anil Kumar, learned counsel appearing for the petitioner and Mr. Sanjoy Piprawall, learned counsel for the respondent-JPSC as well as Mr. Gaurav Abhishek, learned counsel for the respondent-State.

Petitioner has approached this Court with the following prayers:

- i) For a direction to the respondents to consider the candidature of the petitioner for the Main Exam in pursuant to Advt. No. 01/2021 as she has scored the marks equal to cut-off marks fixed by the Commission in Preliminary Test.
- ii) For a direction to the respondents to allow the petitioner to appear in the Main Exam declaring her qualified for admission to the Main Exam as she has secured equivalent cut-off marks fixed by the Commission.
- iii) For a direction to the respondents that during the pendency of writ petition the petitioner may be allowed to fill-up the Main Exam Application form and allot the Roll No. for the same.
- iv) For direction upon the respondents to dispose of the representation dated 02.12.2021 (Annexure-8) filed by the petitioner forwarding her grievance to the respondents.

As per the factual matrix, an Advertisement was floated by JPSC being Advt. No. 01/2021, dated 08.02.2021, inviting applications for Jharkhand Combined Civil Services Preliminary Examination-2021. In pursuant to the aforesaid advertisement, petitioner applied online application under Backward Classes (Annexure-II) fulfilling all the criteria as prescribed in the said advertisement. After scrutiny of the application

form, the petitioner was allotted Roll No. 52180069 for appearing in the Preliminary Examinations scheduled to be held on 19.09.2021 and the petitioner accordingly appeared in the said examination at the allotted centre. As per the procedure and guidelines of the JPSC, the respondent-JPSC published the model answers/ answer keys of both the papers on 21.09.2021 and thereafter, it was modified on 08.10.2021 and 10.10.2021 through press communique. Thereafter, the respondent-JPSC published the result of Preliminary Examination on 01.11.2021, where the name of the petitioner did not figure in the list of successful candidates to appear in the Main Examination.

As the petitioner was not qualified in the Preliminary Examination and the date of Main Examination is fixed for 28.01.2022, the petitioner has knocked the door of this Court for redressal of the grievances as mentioned in the prayer portion of the instant writ application.

Mr. Anil Kumar, learned counsel appearing for the petitioner vociferously argues that as per the model answers published by the JPSC, petitioner had calculated her marks and found that she has obtained 126 marks in Paper-I and 126 marks in Paper-II, total of which comes to 252. It has been further argued that as per the cut-off marks published by the JPSC, the last selected candidates in BC-II category has secured 252 marks and since, petitioner has also secured exactly the same marks i.e. 252 marks as per her own calculation, she ought to have been declared successful and her name ought to have been reflected in the list of successful candidates for appearing in the Main Examination under BC-II category. It has been further argued that it is the apprehension of the petitioner that though all the answers attempted by the petitioner were marked correctly in the OMR sheet and further she has also matched the same with the model answer-sheet published by the JPSC but it appears that due to some fault or mistake committed by the OMR-scanning machine, the total marks obtained by the petitioner has been shown to be 250 in place 252, which is totally wrong. Learned counsel further argues due to the fault on the part of respondent-JPSC, the petitioner cannot be allowed to suffer. Learned counsel submits that a direction be given to the respondent-JPSC to come-out with reply as to which of the questions attempted by the petitioner were wrongly answered/ marked and how the marks of the petitioner though calculated by her as 252 has been shown as 250 by the JPSC. Learned counsel further argues that from perusal of the counter-affidavit nowhere it has been mentioned that as to how petitioner has secured 252 marks, as the petitioner has answered all the attempted questions correctly and same was found to be correct as per the model answer/ answer key provided by the JPSC. Lastly, it has been argued that during the pendency of the writ petition, petitioner may be provided opportunity to appear in the Main Examination, as she has secured 252 marks, as per her own calculation.

On the other hand, Mr. Sanjoy Piprawall, learned counsel appearing for the respondent-JPSC vehemently opposes the contention of petitioner's counsel and submits that the petitioner has secured 250 marks whereas, the last selected candidate under BC-II category, which the petitioner belongs, has secured 252 marks and as such, rightly her result was not published and her name was not included in the select list and as such, there is no illegality or any infirmity on the part of the respondent-JPSC. Learned counsel further argues that even accepting the arguments advanced by learned counsel for the petitioner that wrong calculation was done by the JPSC while calculating the marks of the petitioner, it was always open for the petitioner to file an appropriate application before the JPSC for recalculation/re-totaling of her marks. However, without exhausting the said remedy, the petitioner has approached this Court and raises the said contention in the writ petition only. Learned counsel further argues that issue regarding model answer-sheets have already been decided by this Court in case of Aashish Kumar Chaurasiya Vs. State of Jharkhand & Ors. (W.P.S. No. 568 of 2018) wherein this Court, after hearing the parties dismissed the said writ petition. Learned counsel further argues that in view of the legal propositions settled by this Court and affirmed by the Division Bench in LPA No. 297 of 2018 (Sanchit Kumar Singh & Anr. Vs. State of Jharkhand & Ors.), no interference is warranted in the instant writ application.

Be that as it may, from the arguments advanced by learned counsel for the parties, this Court is of the considered view that no case for interference is made out as the issue involved in this writ petition has already been set at rest, which is no more res *integra*. The same issue fell for consideration before this Court in Aashish Kumar Chaurasiya Vs. State of Jharkhand & Ors. (W.P.S. No. 568 of 2018) and the legal proposition settled by this Court has been affirmed by the Division Bench of this Court in LPA No. 297 of 2018 (Sanchit Kumar Singh & Anr. Vs. State of Jharkhand & Ors.).

The Hon'ble Apex Court in case of Ran Vijay Singh & Ors. Vs., State of U.P. & Ors, reported in (2018) 2 SCC 357, has held as under:-

"31. On our part we may add that sympathy or compassion does not play any role in the matter of directing or not directing re-evaluation of an answer sheet. If an error is committed by the examination authority, the complete body of candidates suffers. The entire examination process does not deserve to be derailed only because some candidates are disappointed or

dissatisfied or perceive some injustice having been caused to them by an erroneous question or an erroneous answer. All candidates suffer equally, though some might suffer more but that cannot be helped since mathematical precision is not always possible. This Court has shown one way out of an impasse – exclude the suspect or offending question."

The contention of learned counsel for the petitioner is not acceptable to this Court for the following facts and reasons:

- The petitioner admittedly has not filed any application before the respondent-JPSC for scrutiny of her marks obtained in Preliminary Examination. In absence of the same, the JPSC was not obliged to make any scrutiny of the marks obtained by the petitioner.
- ii) There is no provision for re-evaluation of the answer-sheets and as per the guidelines and rules of the JPSC and the State, re-evaluation of the answer-sheet is not permissible.
- iii) It is mere apprehension of the petitioner that she has secured 252 marks in the Preliminary Examination. Though the petitioner is raising objection with regard to authenticity of OMR-Scanning Machine but the fact remains that the same OMR-scanning machine was used for scanning/ evaluation of answersheets of all the candidates who appeared in the Preliminary Examination conducted by the JPSC and as such, no prejudice was caused to the petitioner.
- iv) The OMR sheets are electronically checked for the purpose of ensuring minimum human intervention so as to ensure secrecy and credibility of the entire examination process. When the OMR answer sheets are read electronically, any mistake committed by the candidate could be detected and its treatment is electronically fed i.e. in case of any discripency in the particulars of the candidates indicated in the OMR answer sheet, same are not to be evaluated.

The Hon'ble Rajasthan High Court dealing with the similar issue in case of Union of India & Ors. Vs. Jagdish Chandra Jat (D.B. CW No. 12323 of 2020) vide its order dated 19.08.2021 has held as under:

"............ however, in case the correction of said mistake is permitted, the same would surely compromise the secrecy of the OMR answer-sheet and the evaluation process inasmuch as on a request be made to permit correction, the OMR answer sheet would have to be taken-out from the

entire lot, the same would be corrected, resulting in identification of the OMR answer-sheet with respect to a particular candidate and a possibility of further tinkering with the OMR answer sheet cannot be ruled out.

The Hon'ble Court has further observed that:

"the respondent may be one candidate, however, in a given examination there may be several such candidates who may claim to have committed some mistake in indicating the particulars and if it is held as a matter of principle that such mistakes in OMR sheets must be permitted to be corrected, the same would lead to chaos inasmuch as all such candidates would be required to be permitted to make correction, exposing the entire lot of OMR answer-sheets, which consequence cannot be permitted."

v) Petitioner, at this stage, since has not obtained marks equal to or more than the cut-off marks, cannot be permitted to appear in the Main Examination.

As a sequitur of the aforesaid observation, rules, guidelines, legal propositions and judicial pronouncements, the writ petition being devoid of any merit is hereby dismissed.

(Dr. S.N. Pathak, J.)

Kunal/