IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2025

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.6634 of 2025
and
W.M.P.No.7277 of 2025

Dr.J.Dharani .. Petitioner

Vs.

1.The State of Tamil Nadu
Rep. by its Secretary,
Health and Family Department,
Fort St. George,
Chennai – 9.

2.Director of Medical & Rural Health Services,
D.M.S. Buildings,
359, Anna Salai,
Teynampet, Chennai – 600 006.

3.The Medical Services Recruitment Board,
Rep. by its Member Secretary,
7th Floor, D.M.S. Buildings,
359, Anna Salai,
Teynampet, Chennai – 600 006. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first respondent toward 9 marks more, for the question Nos.20, 22, 23, 49, 57, 64, 70, 83 and 98

(total nine questions) in the Main paper of the Written Examination conducted for the post of the Assistant Surgeon (General) in the scale of pay of Rs.56100/- to 1,77,500/- as per the Notification No. 01/MRB/2024 dated 15.03.2024 issued by the respondents, to enable the petitioner to get selected for the said post, if she is otherwise found eligible.

For Petitioner .. Mr.T.Mathi

For Respondents .. Mr.J.Ravindran,
Additional Advocate General
Assisted by Mr.L.Murugavel

ORDER

This Writ Petition has been filed in the nature of a Mandamus seeking a direction against the 1st respondent, the Secretary, Health and Family Department, Chennai, to grant 9 marks to the petitioner for the questions which the petitioner had answered, according to her, correctly for the main written examination conducted for the post of Assistant Surgeon (General), which was held consequent to Notification No.01/MRB/2024 dated 15.03.2024 issued by the respondents.

2.The petitioner had qualified herself as MBBS doctor and had also completed a course from the Tamil Nadu Dr.M.G.R. Medical University,

Guindy, Chennai and had also registered herself with Tamil Nadu Medical Council. It is therefore held out that the petitioner has more than required knowledge in the medical field and therefore, would be able to answer the questions, which are put and tender the correct answers for them. The petitioner had applied for the post of Assistant Surgeon (General) and was also permitted to write the main written examination. In that particular examination questions would be put up and there would be four separate choices and the candidate will have to chose the correct choice.

3.It is also to be noted that in questions of such nature, the paper is set such that each one of the four questions could be probably correct, but the skill and knowledge of the candidate is tested to find out not the probable answer but the exact correct answer out of the four choices. It could not be stated that other three answers are totally wrong and way off the mark. They could also relate to the question, they could be similar in nature, but the answers are not exactly apt or correct. There is an underlying difference among each one of the four choices. The questions are set only in that particular manner.

4.The petitioner herein had raised for discussion her answers as given for question Nos.20, 22, 23, 49, 57, 64, 70, 83 and 98. But however, during the course of arguments, the learned counsel for the petitioner had restricted himself to calling upon this Court to re-examine the key answers as given only for question Nos.20, 64, 70, 83 and 98 alone. It is not known why the other questions namely, 22, 23, 49, 57 had been left out during the course of arguments. When a challenge is made to the answers as projected by the respondents for totally 9 questions and arguments are advanced only with respect to 5 questions, and the challenge of 4 questions is dropped, a presumption could also be drawn that the petitioner had come to Court by choosing random questions with the hope that some of them could be examined in a different light by the Court than the what had been shown as the key answers.

5.In the matters objective type questions are put up to the candidates, there must be definiteness in the answers given and definiteness in the assertion that particular answer alone is correct and none other is correct. When in the affidavit, challenge is made to 9 separate questions but arguments are advanced only with respect to 5 questions, a thought process

occurs in the mind, to probe the reason why 5 questions alone have been restricted during the course of arguments, and not 7 or 8 even, and not even 2 or not even 1. A touch of arbitrariness, therefore has entered into the field during the course of arguments. But, let me not hold that as against the petitioner herein. The petitioner questions the correctness of the key answers as given for question Nos.20, 64, 70, 83 and 98.

6.Let me also be very candid in pointing out that the petitioner had written the examination to be selected as Assistant Surgeon (General) and the basic qualification was eligibility to practise as a medical professional. This Court is not an expert in any of the fields touching upon a medical professional and not even on individual subjects relating to medicine. But however, the Court has been called upon to examine the correctness of the key answers projected.

7.The Hon'ble Supreme Court in situations like this had placed a word of caution on Courts in assuming the role of an expert in a field in which the Court is evidently and admittedly not an expert.

8.The learned Additional Advocate General appearing for the respondents was also quite emphatic in placing such caution while examining the correctness of the key answers provided. In this connection, reliance had been placed on a pronouncement of the Hon'ble Supreme Court in this regard.

9.In ***(2010) 8 SCC 372, Basavaiah (Dr.) Vs. Dr.H.L.Ramesh and others***, the Hon'ble Supreme Court was examining the re-visitation of an exercise of an Expert Committee in the matter of appointment for the post of header in Sericulture. It is also to be noted that the contesting parties were holding doctorate degrees in the said subject. The Hon'ble Supreme Court had held as follows:

> *"**37.** In All India Council for Technical Education v. Surinder Kumar Dhawan [(2009) 11 SCC 726] again the legal position has been reiterated that it is a rule of prudence that courts should hesitate to dislodge decisions of academic bodies.*
>
> ***38.** We have dealt with the aforesaid judgments to reiterate and reaffirm the legal position that in the academic matters, the courts have a very limited role particularly when no mala fides have been alleged against the experts constituting*

the Selection Committee. It would normally be prudent, wholesome and safe for the courts to leave the decisions to the academicians and experts. As a matter of principle, the courts should never make an endeavour to sit in appeal over the decisions of the experts. The courts must realise and appreciate its constraints and limitations in academic matters.

39. *In the impugned judgment, the High Court has ignored the consistent legal position. They were expected to abide by the discipline of the precedents of the courts. Consequently, we are constrained to set aside the impugned judgment of the Division Bench of the High Court and restore the judgment of the Single Judge of the High Court."*

10.In the extract referred *supra*, the Hon'ble Supreme Court had also frowned upon the practice of the High Courts to ignore consistent legal position. The consistent legal position was that, in academic matters, the Courts have a very limited role particularly when no malafide had been alleged against the experts constituting the Selection Committee. It had also been held that it would only be prudent and safe for the Courts to leave the decision to the academicians. A word of caution had been held out that the Courts should not endeavour to sit in appeal over the decisions of the experts. As a matter of fact, it had been stated that the Court should

appreciate its constraints and limitations in academic matters.

11.This is all the more true when the Court is examining questions relating to medical field in which as very frankly admitted, this Court is neither an expert nor has even a basic fundamental knowledge about the various aspects raised in the questions.

12.The learned Additional Advocate General placed further reliance on the judgment of the Hon'ble Supreme Court reported in ***(2018) 2 SCC 357, Ran Vijay Singh and Others Vs. State of Uttar Pradesh and Others***, wherein against the Hon'ble Supreme Court was examining the challenge to a recruitment process in an examination conducted by the U.P Secondary Education Services Selection Board. The Hon'ble Supreme Court was also concerned with revaluation by the court of the key answers. It had been held as follows:

> *"**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.*

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.

32. *It is rather unfortunate that despite several decisions of this Court, some of which have been discussed above, there is interference by the courts in the result of examinations. This places the examination authorities in an unenviable position where they are under scrutiny and not the candidates. Additionally, a massive and sometimes prolonged examination exercise concludes with an air of uncertainty. While there is no doubt that candidates put in a tremendous effort in preparing for an examination, it must not be forgotten that even the examination authorities put in equally great efforts to successfully conduct an examination. The enormity of the task might reveal some lapse at a later stage, but the court must consider the internal checks and balances put in place by the examination authorities before interfering with the efforts put in by the candidates who have successfully participated in the examination and the examination authorities. The present appeals are a classic example of the consequence of such interference where there is no finality to the result of the examinations even after a lapse of eight years. Apart from the examination authorities even the candidates are left wondering about the certainty or otherwise of the result of the examination — whether they have passed or not; whether their result will be*

approved or disapproved by the court; whether they will get admission in a college or university or not; and whether they will get recruited or not. This unsatisfactory situation does not work to anybody's advantage and such a state of uncertainty results in confusion being worse confounded. The overall and larger impact of all this is that public interest suffers."

13.It had thus seen that very categorically it had again been upheld by the Hon'ble Supreme Court that the Courts should be extremely cautious in assuming the role of an expert in re-evaluating and scrutinizing the answer sheets of the candidates particularly when the Court has no expertise in the matter and when academic matters are left best to academicians.

14.The learned Additional Advocate General further reinforced his arguments by placing reliance on the judgment of the Hon'ble Supreme Court reported in ***(2018) 7 SCC 254, Uttar Pradesh Public Service Commission through its Chairman and Another Vs. Rahul Singh and Another***, wherein again the Hon'ble Supreme Court held as follows:

*"**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."

15.The position of law is clear. The role of the Court to re-evaluate and re-examine and re-scrutinize the correctness of the answers as projected by the respondents is extremely narrow.

16.However, this Court had entered upon an exercise to call upon the respondents to produce the expert opinion given with respect to the correctness of the answers of the questions relating to which disputes have been raised. The respondents were able to produce the said details with respect to each one of the questions which had been raised by the petitioner

herein. The details were with respect to the decision of the expert. The name of the expert who actually set the question paper had been disclosed. In each one of the questions, it is seen that a different expert had set that particular question. Thereafter, the question had been reduced in writing. Thereafter, the answer as per the key that had been given. The name of the expert who was deputed to take a decision for the objective tracker was also given. This expert was different from the expert who actually set the question paper.

17.It is thus seen that not only were the questions examined but also the answers were examined to determine the correct choice out of the four possible choices for that particular question. The key answer is given and then in a brief paragraph, the justification is given as to why that particular key answer is correct. It was not just a personal opinion of the expert to that particular key answer, but the reference material or material from which the expert was able to get the correct key answer was also given.

18.These are all part of records. Unless the Court were to impute malafide on the part of the expert who set the question paper, that a particular question was set to favour a particular candidate and the Court

were to further impute malafide on the part of the expert who evaluated the question and also identified the correct answer and more importantly, if the Court were to doubt whether the particular study material on the basis of which the answer was cross verified does not relate to the issue at all, the Court should not embark on a journey to question the correctness of the opinion of the expert and the correctness of the fact stated in the reference book and the correctness of the question viz-a-viz the correctness / choice.

19.The learned Additional Advocate General had produced all the relevant details with respect to each one of the question put forth during the course of arguments and I must respect the expert's opinion that atleast with respect to question Nos.20, 64, 70, 83 and 98 the key answers as given by them are correct. That justification is further reinforced by the source material on the basis of which such justification had been given.

20.The learned counsel for the petitioner placed reliance on further reference materials. It would be extremely dicey for this Court to contradict two separate materials. As pointed out by the learned Additional Advocate General, it is not a question of choosing a similar answer or a probably

correct answer but the correct answer. This also indicates choosing the correct reference material. There are books on medicine and theories on medicine but, not all books could be termed as written by experts. It is the specific book in which the correct answer is given with clarity, which could be relied on by the expert and it had apparently been relied on in this case also.

21.I hold that the challenge to these questions should necessarily fail as it is beyond the scope of judicial review to examine the correctness or otherwise of the key answers, even if it is to be taken that the answers as projected by the petitioners are also be probably correct. As stated by the Hon'ble Supreme Court, the Courts should leen in favour of the opinion given by the expert who had considerable time, material and had access to various reference books before the correct answer was chosen. The Court has also satisfied itself that for each one of the questions necessary expert opinion had been obtained and necessary reference books had also been examined.

22.With the above reasonings, this Writ Petition stands dismissed. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

26.02.2025

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Index:Yes/No
Internet:Yes/No

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C.V.KARTHIKEYAN,J.

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