2024:BHC-AUG:21522-DB

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4173 OF 2024

MAHARASHTRA PUBLIC SERVICE COMMISSION
THROUGH ITS SECRETARY
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE
SECRETARY AND OTHERS

...

Shri Mukul S. Kulkarni, Advocate for the Petitioner/ MPSC.
Shri V.M. Kagne, AGP for Respondent Nos.1 and 2/State.
Shri Ajay S. Deshpande, Advocate for Respondent No.3.
Shri V.D. Salunke a/w Shri Mayur V. Salunke, Advocates for Respondent Nos.4 and 5.

...

WITH
WRIT PETITION NO. 4191 OF 2024

BABAR SURAJ SAHEBRAO AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS

...

Shri V.D. Salunke a/w Shri Mayur V. Salunke, Advocates for the Petitioners.
Shri V.M. Kagne, AGP for Respondent Nos.1 and 2/State.
Shri Mukul S. Kulkarni, Advocate for Respondent No.3/MPSC.
Shri R.J. Nirmal, Advocate for Respondent No.4.

...

CORAM : RAVINDRA V. GHUGE
&
Y. G. KHOBRAGADE, JJ.

Reserved on : 09th September, 2024
Pronounced on : 12th September, 2024.

FINAL ORDER *(Per Ravindra V. Ghuge, J.)* :-

1. The Petitioner in the first Writ Petition No.4173/2024, is the Maharashtra Public Service Commission (herein after referred to as 'the Commission'). Respondent Nos.1 and 2, are the State Authorities. Respondent No.3 is the original Applicant in Original Application No.1042/2023, before the learned Maharashtra Administrative Tribunal at Chhatrapati Sambhajinagar (herein after referred to as 'the Tribunal'). Respondent Nos.4 and 5, were the Respondents before the Tribunal.

2. In the second Writ Petition No.4191/2024, the Petitioners were Respondent Nos.4 and 5 in Original Application No.1042/2023. The State of Maharashtra and the Commission, are the Respondents in this petition.

3. We have considered the strenuous submissions of the learned Advocates and the learned AGP. We have perused the voluminous petition paper books and the cited reports. While issuing notices, we had passed an order on 09.8.2024.

Background of the case

4. The Commission had published an advertisement dated 23.06.2022, for filling in various posts, including the posts of Sub Registrar/ Stamp Inspector (Grade I), vide a recruitment process under the advertisement. The individual Applicants and the Respondents were the candidates, who had participated in the said recruitment process. The original Applicant Yogesh Sopanrao Dawale, belongs to the Economically Weaker Section category (hereafter referred to as 'EWS'). About 78 posts were available. Six were reserved for the EWS candidates. Several candidates had applied for the preliminary examination. 975 qualified for the main exam.

5. The issue before the Tribunal was with regard to question paper-I, under Set 'C', wherein, Question No.40 was the nucleus of the controversy. In question Set No.C, Question No.40 was posed with four answer options, out of which, one option was supposed to be the right answer. Grievance of the original Applicant was that, Question No.40 had two correct answers out of the four options and this led to a confusion amongst the students, who were appearing for the said exam. Hence, the issue

was raised before the Tribunal that, the allotment of marks has suffered a discrepancy, since the model answer key prepared by the subject experts showed only one answer as being correct and three answers being wrong, when there were two answers which were actually correct and two other were wrong.

6. The result of the main examination was published on 21.12.2023. Thereafter, though the Presenting Officer before the learned Tribunal made the statement, on instructions, that no appointments would be made, the recommendations which were already forwarded by the Commission to the State Government, were accepted and acted upon by the Government, in defiance of the order of the Tribunal. The State appointed 77 candidates out of 78 posts available. Probably, one post was not filled in since one candidate (the Original Applicant) had appeared before the learned Tribunal by filing the Original Application.

Controversial Question

6. The learned Advocate for the original Applicant, Shri A.S. Deshpande, has brought to our notice that the subject experts had prepared a set of answer keys. When the said answer

keys were found to be riddled with mistakes, the subject experts prepared a second Set of answer key (with corrections). This Set of answer key also contains mistakes, is the contention of the learned Advocate.

7. He, therefore, raises a question as regards the competency of the subject experts and further adds that the names of the subject experts were tendered in a sealed envelope before the learned Tribunal. However, the learned Tribunal had not opened the said envelope to peruse the names of the subject experts. In these matters before us, we have not called for the names of the subject experts and we have not shown any inclination towards opening the sealed envelope containing their names, which was tendered to the learned Tribunal.

8. We are reproducing the suspect Question No.40 along with the four options (answers), in Marathi as well as in English, as follows :-

> *"40.* खालीलपैकी कोणते वि*धान* असत्य आहे*?*
> *(1)* संविधानाच्या भाग - ४ मध्ये मूलभूत कर्तव्ये दिलेली आहेत.
> *(2)* ४२ व्या घटनादुरुस्ती नंतर मूलभूत कर्तव्ये भारताच्या राज्यघटनेत समाविष्ट केली गेली.

(3) २००२ मध्ये ८२ व्या घटना दुरुस्ती कायद्यानंतर, आणखी एक मूलभूत कर्तव्य जोडले गेले.
(4) लोकप्रतिनिधीत्व कायदा सन १९५१ मध्ये अधिनियमित करण्यात आला.

Which of the following statement is false?
(1) Fundamental Duties are given in Part IV of the Constitution.
(2) After the 42nd Constitutional Amendment Fundamental Duties have been added to the Constitution of India.
(3) In 2002, after the 82nd Constitution Amendment Act, another Fundamental Duty was added.
(4) The Representation of People Act was enacted in the year 1951."

9. We had, therefore, observed in paragraph Nos.4, 5, 6 and 8 of our order dated 09.08.2024, as under:-

"4. Part IV of the Constitution of India pertains to Articles 36 to 51. Part IV-A carries the title "Fundamental Duties". Article 51A was introduced with the introduction of Part IV-A, vide the 42nd Amendment to the Constitution of India w.e.f. 03/01/1977. Apparently, Answer No.1, suggesting "Fundamental Duties are given in Part IV of the Constitution" is also a correct answer, in view of the peculiar nature of the Question. Since Option 1 is a false statement, the answer to the Question No.40 would be correct. Same is the case with Option No.3. The Petitioner/Maharashtra Public Service Commission (MPSC) suggested Option 3 to be the correct answer to Question No.40, losing sight of Option No.1, which could also be a correct answer to Question No.40.

5. The case of the MPSC before the Maharashtra Administrative Tribunal, Chhatrapati Sambhajinagar (Tribunal), as well as before us is that, it is only Option No.3, which is the correct answer to Question No.40. The learned Advocates appearing before us, who have perused

Chapter IV-A of the Constitution of India, submit as Officers of the Court that, Option No.1 as well as Option No.3, would be the correct answer to Question No.40. The learned Advocates for the Original Applicants submit that, no Examinee could be divested of half mark for a correct answer and consequentially, deduction of a half mark by holding that Option No.1 is a wrong answer, has caused grave prejudice to the examinees.

6. The learned Advocate for the Petitioner/MPSC submits that the State Government, relying upon the official result of the examination and recommendations, has appointed the candidates in order of merit, on 15/03/2024. Naturally, all these Appointees are under training/probation in the above facts and circumstances of this case.

7. .....

8. The learned Advocate for the Petitioner/MPSC submits that the State Government has made 77 appointments to the post of Sub-Registrar and Stamp Inspector, Group (B), out of 78 posts. The learned Advocate Shri. Salunke representing the Appointed candidates, and who are the Petitioners before us in Writ Petition No.4191/2024, submits that, two Petitioners have already joined employment."

10. The issue raised before the Tribunal, was answered vide the impugned judgment delivered by the Tribunal on 21.03.2024, by concluding in paragraph Nos.15, 16 and 17, which read thus:-

"15. In spite of the fact that error occurred on part of MPSC is apparent, the question arises, to what extent indulgence may be caused by this Tribunal. The applicant seems to be the

only candidate who has approached the Tribunal. The learned C.P.O. submitted that M.P.S.C. has not provided any information that any other petition on the subject matter is pending or decided by the Principal Bench at Mumbai or Bench at Nagpur. As has been argued by the learned counsel, the applicant has approached this Tribunal since his chance of sure selection has been jeopardized because of the error committed by M.P.S.C. May the applicant, be only candidate, when the error committed by M.P.S.C. is beyond the realm of doubt, it appear to us that it would be unjust and unfair to adopt the 'let go' approach. Considered from the applicant's perspective it may be a life-time opportunity for him and he cannot be deprived of that.

16. The next question arises what order can be passed in the facts and circumstances, which have come on record? The dispute is in respect of only one question, which we have reproduced hereinabove. The stand taken by the M.P.S.C. that the answer option No. 3 was the only correct answer is already disapproved by us. We have also held that out of 04, 02 answer options i.e. 01 and 03 are false statements. In the circumstances, if any candidate has marked option 01 as the correct answer, he must have been given 02 marks for correctly answering the said question. As is the case of the applicant, though he has correctly chosen the first option to be the correct answer and marked it, the M.P.S.C. has held the said answer wrong and for giving wrong answer has awarded the applicant minus 05 marks when the applicant was expecting 02 marks for correctly answering the question. This is the point of deadlock.

17. As observed by the Hon'ble Supreme

Court in the case of Ran Vijay Singh (cited supra) way out for such an impasse is to exclude the suspect or offending question. It appears to us that in the instant matter the aforesaid can be the only solution. The marks of the candidates thus will have to be re-counted excluding the marks awarded to the said question, which would also include the minus marks. The further question immediately arises whether the marks scored by all the candidates who had appeared for the examination requires recounting? Considering the facts in the present matter recounting of the marks of all the candidates may not be required. We have already noted that the applicant is the only candidate who seems to have raised the dispute. The applicant is admittedly making his claim against the seat reserved for EWS candidates. Competition of the applicant is with the candidates belonging to EWS category. According to him, he is the highest scorer candidate in EWS category. As such, if the direction is given for recounting of the marks scored by the candidates coming from EWS category excluding the marks scored by the said candidates in an answer to the disputed question, that would serve the purpose. According to us, such direction would meet the ends of justice. Hence, the following order: -

ORDER

1. The MPSC (Respondent No. 3) is directed to recount the marks scored by the candidates who have applied for the post of Sub-Registrar/Stamp Inspector (Grade-1) in pursuance of advertisement No. 33/2023 dated 14.08.2023 for the seats reserved for EWS category in the mains examination held for the said post on 07.10.2023 by excluding the marks awarded to question No. 40 in Question Paper

Set 'C' and for the same question in the question paper sets 'A', 'B' and 'D' and prepare the select list afresh in order of merit for the said category and issue order of appointments accordingly in order of merit.

2. The aforesaid exercise is to be carried out within 03 weeks from the date of this order.

3. The Original Application stands allowed in the aforesaid terms. No order as to costs.

4. Since the O.A. has been allowed and disposed of the Misc. Application also stands disposed of."

Analysis and Conclusion

11. The issue before us is as to whether, the Tribunal has wrongly restricted recounting of the marks scored by the candidates, who have applied for the post of Sub Registrar/ Stamp Inspector (Grade I), only to the extent of the seats reserved for the EWS category in the main examination, by excluding the marks awarded to Question No.40 in question paper Set C and for the same question in question paper Sets A, B and D, with the further direction to prepare the select list afresh in order of merit for the said category and issue orders of appointments.

12. Naturally, the contention before us is whether, this Court should go into Question No.40 in question Set C and itself

enter into an exercise of taking a decision as to which answer can be deemed to be a correct answer? We have no intention of entering into such exercise for reasons more than one. Firstly, though the question pertains to our field and the correct answers can be easily deduced, we are not expected to do so. Secondly, this Court is advantageously guided by the judgment of the Honourable Supreme Court in ***Ran Vijay Singh and others vs. State of UP and others, (2018) 2 SCC 357***, more particularly paragraph Nos.30 to 38, which read as under:-

> *"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 scrutinize 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.

33. *The facts of the case before us indicate that in the first instance the learned Single Judge took it upon himself to actually ascertain the correctness of the key answers to seven questions. This was completely beyond his jurisdiction and as decided by this Court on several occasions, the exercise carried out was impermissible. Fortunately, the Division Bench did not repeat the error but in a sense, endorsed the view of the learned Single Judge, by not considering the decisions of this Court but sending four key answers for consideration by a one-man Expert Committee.*

34. *Having come to the conclusion that the High Court (the learned Single Judge as well as the Division Bench) ought to have been far more circumspect in interfering and deciding on the correctness of the key answers, the situation today is that there is a third evaluation of the*

answer sheets and a third set of results is now ready for declaration. Given this scenario, the options before us are to nullify the entire re-evaluation process and depend on the result declared on 14th September, 2010 or to go by the third set of results. Cancelling the examination is not an option. Whichever option is chosen, there will be some candidates who are likely to suffer and lose their jobs while some might be entitled to consideration for employment.

35. *Having weighed the options before us, we are of opinion that the middle path is perhaps the best path to be taken under the circumstances of the case. The middle path is to declare the third set of results since the Board has undertaken a massive exercise under the directions of the High Court and yet protect those candidates may now be declared unsuccessful but are working as Trained Graduate Teachers a result of the first or the second declaration of results. It is also possible that consequent upon the third declaration of results some new candidates might get selected and should that happen, they will need to be accommodated since they were erroneously not selected on earlier occasions.*

36. *The learned Counsel for the Appellants contended before us that in case her clients are not selected after the third declaration of results, they will be seriously prejudiced having worked as Trained Graduate Teachers for several years. However, with the middle path that we have chosen their services will be protected and, therefore, there is no cause for any grievance by any of the Appellants. Similarly, those who have not been selected but unfortunately left out they will be accommodated.*

37. As a result of our discussion and taking into consideration all the possibilities that might arise, we issue the following directions:

37.1 The results prepared by the Board consequent upon the decision dated 2nd November, 2015 of the High Court should be declared by the Board within two weeks from today.

37.2 Candidates appointed and working as Trained Graduate Teachers pursuant to the declaration of results on the earlier occasions, if found unsuccessful on the third declaration of results, should not be removed from service but should be allowed to continue.

37.3 Candidates now selected for appointment as Trained Graduate Teachers (after the third declaration of results) should be appointed by the State by creating supernumerary posts. However, these newly appointed Trained Graduate Teachers will not be entitled to any consequential benefits.

38. Before concluding, we must express our deep anguish with the turn of events whereby the learned Single Judge entertained a batch of writ petitions, out of which these appeals have arisen, even though several similar writ petitions had earlier been dismissed by other learned Single Judge(s). Respect for the view taken by a coordinate Bench is an essential element of judicial discipline. A judge might have a difference of opinion with another judge, but that does not give him or her any right to ignore the contrary view. In the event of a difference of opinion, the procedure sanctified by time must be adhered to so that there is demonstrated respect for the rule of law."

13. It is for the sake of brevity that we are observing that some of the examinees had opted for one of the correct answer (option No.1), which was also a correct answer. However, option No.3, was declared by the subject experts to be the correct answer. Such examinees were treated as having tendered a wrong answer and besides losing two marks for that one question, going by the negative marking pattern, another half mark was deducted from the marks scored by such examinees. As such, these examinees lost a total of two and half marks on account of the error committed by the Commission.

14. Per contra, those candidates who had opted for the second correct answer which was option No.3 and which was declared by the subject experts to be the correct answer, were awarded two marks. Naturally, they did not suffer any deduction.

15. This created three set of examinees, as under:-

(i) The first set comprised of the examinees who neither opted for option No.1, nor option No.3.

(ii) The second set of examinees comprised of those

who opted for option No.1, which was also a correct answer, but ended up in losing two and half marks, under the negative marking pattern. The sole Applicant before the Tribunal belonged to this set. There could be a few more, who have neither approached the Tribunal, nor this Court.

(iii) The third set comprised of examinees, who opted for option No.3, which was the second correct answer and which was declared to be the correct answer key by the subject experts. Hence, they scored two marks.

View of the Hon'ble Supreme Court in Ran Vijay (supra)

16. In ***Ran Vijay Singh (supra)***, the Honourable Supreme Court has held in paragraph No.30 that "*the law on the subject is therefore, quite clear and we only propose to highlight a few significant conclusions*."

17. We have considered the highlighted conclusions by the Honourable Supreme Court in paragraph No.30.1 to 30.5 and one more resolution set out in paragraph No.31, for dealing with the fact situation emerging from the litigation before us. At the outset, the first two options were put to the Commission and we

are informed by Shri Kulkarni, the learned Advocate for the Commission, on instructions, that the Rules of the Commission applicable to such examinations, do not permit re-evaluation and the Authority conducting the examination does not permit re-evaluation.

18. With regard to the scope of this Court in directing re-evaluation or scrutiny of answer sheets, Shri Kulkarni has rightly stated that though the Court may order re-evaluation, it would foist an onerous task on the Commission of conducting re-evaluation of all those students who were posed with Question No.40, keeping in view that it had two correct answers and, therefore, the second set of examinees as illustrated in paragraph No.15 above, would be benefited as their answers (option No.1) would also be deemed to be a correct answer, which would fetch them two marks for the correct answer and restore the half mark deducted for an incorrect answer.

19. While we are guided by the conclusions of the Honourable Supreme Court set out in paragraph No.30.4 and 30.5, in the backdrop of a herculean task that would be foisted

on the Commission if re-evaluation was to be ordered, it is evident that the Honourable Supreme Court desires, in such situations, that the Court should presume the correctness of the answer key and proceed on that presumption since the benefit would go to the Examination Authority rather than to the candidates. However, any other option, as suggested by the Honourable Supreme Court, is also available, if it casts a lesser burden on the Commission.

20. In paragraph No.31 of ***Ran Vijay Singh (supra)***, the Honourable Supreme Court noted that the entire examination process does not deserve to be derailed only because some candidates are disappointed or perceive some injustice having been caused to them by an erroneous question or answer. All candidates have to suffer equally, though some might suffer more, but that cannot be helped since mathematical precision will not always be possible. One way out of such an impasse would be to exclude the suspect or offending question.

21. In the above backdrop, the learned Advocate for the Commission is instructed, under a written communication dated

04.09.2024, to inform this Court that since option No.1 and option No.3 are correct answers to Question No.40 and since the subject experts recorded only option No.3 to be the correct answer vide their answer key, the Commission is willing to delete the said Question No.40 in the light of the observations of the Honourable Supreme Court in paragraph No.31 of ***Ran Vijay Singh (supra)***. On this submission, we called upon the learned Advocate to inform us as to whether, this could be a cumbersome task for the Commission. The answer was that it would be a huge task for the Examination Authority to re-evaluate the answer sheets of all those candidates, who have attempted Question No.40. By deleting the said question, all the three sets of examinees (illustrations set out in paragraph No.15, herein above), will have to be re-evaluated.

22. In view of the above, we will have to assess as to which option, as prescribed by the Honourable Supreme Court, would foist minimal burden on the Commission and result in altering the results, which in turn may cause retraction of the appointment orders, already issued to 77 candidates. We had posed questions to the learned Advocates on all the six option

[paragraph Nos.30.1 to 30.5 and 31 of ***Ran Vijay Singh (supra)***]. Divergent views were expressed by the learned Advocates, Shri Deshpande, for the original Applicant, and by the learned Advocate Shri Salunke, for the appointed candidates. Each of them addressed us keeping in focus the cases of their individual clients.

23. Upon examining their submissions in the light of ***Ran Vijay Singh (supra)***, in paragraph Nos.30, 31 and 32, we are guided by the observations of the Honourable Supreme Court in paragraph No.32 viz. "……. *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…… ”

24. In view of the above, we have the following options before us, as a resolution causing minimal burden to the Commission, in this matter:-

(a) We find that the deletion of Question No.40 [read paragraph No.31 in ***Ran Vijay Singh (supra)***] would result in compelling the Commission to carryout re-evaluation of all those candidates, who have attempted Question No.40 in question Set Nos. A to D. This would be a herculean task and eventually would lead to change of marks and which would have a cascading effect on the appointments already made while filling in 77 posts. Most of these appointed candidates are not before us.

(b) Any re-evaluation would have the same effect as in option (a) set out herein above. [see paragraph No.30.1 and 30.2 in ***Ran Vijay Singh (supra)***].

(c) The least impact that would be created is by following the conclusion of the Honourable Supreme Court in clause No.30.4 in ***Ran Vijay Singh (supra)***, which is, to presume the correctness of the answer key and proceed on that assumption.

25. Our justification in opting for this option [paragraph 30.4 in ***Ran Vijay Singh (supra)***], is thus:

(a) The answer key (answer option No.3), is the right answer to Question No.40. By following this option, there is no requirement for re-evaluation. If re-evaluation is done, it would not only lead to modifying the marks of each candidate, but would also change the merit list, thereby resulting in retracting/ canceling the appointment orders already issued to 77 candidates.

(b) These affected candidates are not before the Court.

(c) Taking into view the huge burden that would be cast on the Commission, if we opt for any other option leading to re-evaluation, change in the select list and cause cancellation of few appointment orders.

(d) Therefore, we are of the view that the conclusion of the Honourable Supreme Court in clause No.30.4 of the ***Ran Vijay Singh (supra)***, would cause least upheaval in the calculations of marks, the merit list and the appointment orders of the candidates, since, the results already declared, would remain unchanged.

26. In view of our conclusion as above, we do not find that the learned Tribunal was justified in directing that the results of only those candidates belonging to the EWS category, who had applied for the post of Sub Registrar/ Stamp Inspector (Grade I) for the said reserved EWS category, alone, should be reviewed with the direction to recount their marks by excluding Question No.40 in question paper sets A to D. This would tantamount to being discriminatory and would lead to an unfair situation. Such a direction to be made applicable selectively for the candidates who applied through the EWS category, is not in consonance with the ratio laid down by the Honourable Supreme Court in ***Ran Vijay Singh (supra)***.

27. In view of the above, **both the Writ Petitions are allowed.** The impugned judgment delivered by the learned Tribunal dated 21.03.2024, stands quashed and set aside and Original Application No.1042/2023, stands rejected. Rule is made absolute, accordingly.

28. Before parting, we deem it appropriate to advert to the serious grievance voiced by the learned Advocate Shri A.S. Deshpande. He submits that the MPSC/ Commission must

seriously consider only competent persons as subject experts. The first answer key Set, had several mistakes. When grievances were received by the Commission, the subject experts had to again prepare a corrected second answer key Set, which is at issue before us. According to Shri Deshpande, several mistakes again crept into the second answer key Set. He is justified in submitting that this is not expected from the subject experts when the Commission spends a huge amount on their remuneration. The least that can be said is that the subject experts cannot repeatedly commit mistakes.

29. We join the learned Advocate Shri Deshpande in his astonishment, on repeated mistakes being committed by the subject experts and we deem it appropriate to direct the Commission to ensure that, only such persons should be nominated as subject experts, who would seriously embark upon the task of preparing flawless answer key Sets.

kps **(Y. G. KHOBRAGADE, J.)** **(RAVINDRA V. GHUGE, J.)**