

Items No.30-66

**THE HON'BLE THE CHIEF JUSTICE HIMA KOHLI**  
**AND**  
**THE HON'BLE SRI JUSTICE B. VIJAYSEN REDDY**

**W.A.No.1369 of 2018, WP.Nos.19157, 20176, 20258,**  
**20340, 20349, 21049, 21475, 21514, 21633, 21971, 22165, 22255,**  
**22275, 22394, 22430, 22522, 22540, 22742, 22756, 22782, 22931,**  
**23005, 23014, 23162, 23290, 23390, 23689, 23968, 24090, 24765,**  
**25753, 26629, 28949, 29111, 35008 & 37484 of 2018**

**COMMON JUDGMENT:** *(Per the Hon'ble the Chief Justice Hima Kohli)*

1. The present batch of writ petitions have been placed before this Bench on the directions of the learned Single Judge with a request to reconcile the divergence of opinion expressed by two sets of Division Benches of the erstwhile Andhra Pradesh High Court, in two writ petitions, namely W.P.No.20088 of 2003 and W.P.No.28874 of 2015.
2. The dichotomy in the views expressed by the two Division Benches is founded on the scope of interference by courts exercising powers of judicial review in matters relating to incorrect/erroneous bubbling, double bubbling, absence of bubbling of the personal particulars of a candidate, appearing in written examinations conducted by the Telangana State Public Service Commission, including hall ticket number, booklet serial number, paper code and examination centre number etc. The backdrop in which the matter has been placed before this bench has been delineated in the order dated 19.07.2018, passed by the learned Single Judge in W.P.No.22540 of 2018 and the connected batch of matters, in the following words:-

*“In this batch of writ petitions, grievance is against not evaluating OMR answer sheets of petitioners in the examination conducted by the Telangana State Public Service Commission (TSPSC) pursuant to notifications issued to conduct recruitment to various categories of posts, i.e., Forest Beat Officers, Veterinary Assistants, Staff Nurse, Trained Graduate Teachers (Art), Physical Education Teachers and Secondary Grade Teachers.*

*The petitioners applied to the posts to which they are eligible and they appeared in the examinations conducted by TSPSC. On the OMR sheet, candidates are required to furnish personal details, such as Hall Ticket Number, Question Paper Series Number, Venue code, Text Booklet Series and to darken the bubbles under the relevant boxes containing respective numerical numbers.*

*Petitioners contend that their OMR answer sheets are not evaluated on the ground that against required columns of personal particulars, the petitioners have made wrong bubbling/ made double bubbling/ have kept the bubbles empty.*

*The petitioners claim that though there is wrong bubbling or double bubbling or no bubbling of entries in their personal particulars, the same ought to have been ignored and the answer scripts should have been evaluated. If they are found eligible, they should be subjected to further selection process.*

*The issue is whether the wrong bubbling, double bubbling, or no bubbling of the personal particulars, such as hall-ticket number, booklet serious number, paper code and examination centre number, would be fatal to disentitle evaluation of the answer scripts of the*

***candidates or the same can be ignored and the answer scripts should be evaluated.***

*The issue of effect of wrong bubbling in the OMR sheet regarding personal particulars, such as Hall Ticket Number, Centre Code, Paper Code, Booklet Series has come up for consideration before this Court in several cases.*

*In W.P.No.20088 of 2003 filed against the decision of the Tribunal rejecting the claim of the petitioners therein to evaluate their answers ignoring wrong bubbling, the Division Bench of this Court took the view that since the petitioners themselves committed mistake in encoding their register numbers/optional codes, they have to suffer for the same and nobody could be blamed for their mistakes and confirmed the decision of Tribunal.*

*Similar issue has come up for consideration before another Division Bench in W.P.No.28874 of 2015 arising out of the order in O.A.No.892 of 2015 passed by the Central Administrative Tribunal, Hyderabad Bench, Hyderabad, whereunder the Tribunal directed the Staff Selection Commission to evaluate papers and declare the result of the applicant therein ignoring wrong bubbling. The Division Bench noted that only on account of mistakes committed in the personal particulars, non-evaluation of answer scripts would be violating the constitutional right to seek public employment, would be subversive of merit and directed evaluation of answer scripts ignoring the mistakes committed in the personal particulars. Special Leave Petition filed against said decision is pending before the Supreme Court. Supreme Court directed to restrict consideration only to applicant.*

*This issue was again considered by another Division Bench in W.P.No.41273 of 2016 arising out of order of APAT rejecting the claim of candidates to evaluate their answer scripts ignoring wrong bubbling. The Division Bench, following the earlier decision in W.P.No.20088 of 2003, rejected the claim of the petitioners to evaluate their answer scripts ignoring the wrong bubbling.*

*In W.P.No.3862 of 2017, the learned single Judge of this Court following the decision of Division Bench in W.P.No.20088 of 2003 and W.P.No.41273 of 2016 held that the error committed in entering wrong bubbling or double bubbling or no bubbling would disentitle evaluation of OMR sheets.*

*The very issue has again come up for consideration before another learned single Judge in W.P.No.26845 of 2017 and batch. Learned single Judge followed the decision of Division Bench in W.P.No.28874 of 2015. The learned single Judge observed that mistakes in the personal particulars cannot disentitle the candidates from evaluation of answer scripts and allowed the writ petitions. Though the decision in W.P.No.3862 of 2017 was placed before the learned single Judge, while considering the batch of cases, the learned single Judge did not consider same and has taken a different view. The learned single Judge also observed that while deciding W.P.No.20088 of 2003 and W.P.No.41273 of 2016, no ratio was laid down and there is no discussion on the principle involved, but simply affirmed the decisions taken by the Tribunal, whereas in W.P.No.28874 of 2015, the Division Bench dealt the issue in detail and assigned reasons in support*

*of its decision and therefore, that decision should be followed.*

*Further, it is pertinent to note that while the Division Bench which heard W.P.No.3708 of 2016 followed decision in W.P.No.28874 of 2015, whereas, another Division Bench which heard W.P.No.17900 of 2017 followed the decision in W.P.No.20088 of 2003.*

*In substance, there are two different views expressed by Division Benches. The Division Bench which heard W.P.No.28874 of 2015 was not appraised of decision of earlier Division Bench in W.P.No.20088 of 2003. Similarly, the Division Bench which heard W P No. 41273 of 2016 was not appraised of the view taken by Division Bench in W.P.No.28874 of 2015. Same appears to be the case when W.P.No.3708 of 2016 and W.P.No.17900 of 2017 were heard by respective Division Benches.*

*In W.P.No.3862 of 2017 learned single Judge followed decisions in W.P.No.20088 of 2003 and W.P.No.41273 of 2016, where as learned single Judge who heard W.P.No. 26845 of 2017 and batch followed decision in W.P.No. 28874 of 2015.*

*There is thus, apparent divergence of opinion expressed by Division Benches of this Court in the decisions referred to above. One view supporting the valuation, the other view opposing valuation of OMR answer sheets whenever there is mistake in bubbling against personal particulars. I am therefore of the opinion that this matter requires consideration by the Division Bench for an authoritative pronouncement on the issue, on due consideration of decisions referred to above and principles regarding valuation of answer scripts in the form of OMR sheets, which would contain*

*two different sections. The first limb of OMR sheet contains the personal particulars as mentioned above. The second limb contains the answers to the questions posed for the candidates.*

*In most of the cases forming part of this batch of writ petitions, the grievance of the petitioners is non-evaluation of their answer scripts on the ground of wrong bubbling, double bubbling, no bubbling of hall-ticket numbers. This Court is informed that whenever interim directions are issued by this Court in so far as mistakes in the hall-tickets numbers are concerned, the Telangana State Public Service Commission has evaluated the answer scripts.*

*The recruitment is at various stages i.e., verification of certificates in the ratio of 1:3 conducting of physical test etc.*

*Pending consideration of this issue by Division Bench, in order to safeguard the rival interests, I deem it appropriate to direct the Telangana State Public Service Commission to evaluate the answer scripts of candidates where the mistakes relate to bubbling of hall-ticket numbers within a period of four (4) weeks from today. If any of the petitioners secure marks more than the marks secured by last selected candidate in the respective social groups to the concerned post, to that extent the vacancies shall be remained un-filled. Subject to above, the selection process may be completed in all other respects.*

*This order is subject to further orders by the Hon'ble Division Bench.*

*Office is directed to place the matter before the Hon'ble Chief Justice for constitution of Division Bench at an early date having regard to the urgency expressed by the candidates, who appeared in the examinations*

*conducted by TSPSC , and TSPSC and in view of the fact that the issue relates to recruitment to various categories of posts in the State Government service”.*

(emphasis added)

3. As is apparent from a perusal the above order, the learned Single Judge has highlighted the fact that while one Division Bench of the erstwhile Andhra Pradesh High Court has opined notwithstanding the mistakes committed by candidates in bubbling, double bubbling, absence of bubbling of their personal particulars in the OMR sheets relating to hall ticket number, booklet serial number, paper code and examination centre number etc., their answer scripts ought to be evaluated, another Division Bench has taken an entirely different view and had opined that erroneous/incorrect bubbling in the OMR sheets cannot be ignored and the candidates cannot insist that their answer sheets ought to be evaluated. Faced with a dichotomy of views expressed by different Benches, the learned Single Judge opined that the matter requires to be considered by a Division Bench for an authoritative pronouncement on the issue after examining the principles regarding evaluation of answers scripts in the form of OMR sheets that contains two sections; the first section deals with the personal particulars of a candidate and the second section deals with the answers furnished by the candidate to the questions posed.

4. Further, noting that in most of the cases, the candidates have raised a grievance about non-evaluation of the answer scripts on the ground that there was wrong bubbling/double bubbling or no bubbling

of the hall ticket number and that the TSPSC has evaluated the answer scripts, whenever interim directions have been issued by the court, as an interim measure, the learned Single Judge directed TSPSC to evaluate the answer scripts of the candidates where mistakes relating to bubbling of hall ticket numbers had taken place. It was also ordered that if any of the petitioners had secured more marks than the marks secured by the last selected candidate in the respective groups to the concerned posts, the said vacancies would remain unfilled to the said extent. Subject to the above, the selection process was permitted to be completed in all other respects. However, the said order was made subject to the decision taken by the Division Bench.

5. The scope of interference of the court in evaluation of answer scripts where the candidates have committed errors of wrong bubbling/double bubbling, absence of bubbling of the hall ticket numbers etc., in the OMR answer sheets is no longer an issue which is *res integra*.

6. In a judgment dated 28.08.2019, pronounced by the Supreme Court in Civil Appeal No.6669 of 2019, entitled State of Tamil Nadu and others v. G.Hemalatha and another, noting that the instructions given to candidates appearing in the examination for selection to the post of Civil Judges in the Tamil Nadu State Judicial Service had barred candidates from using a pencil in any manner and in spite of the same, the High Court in exercise of the powers under Article 226 of the Constitution of India had directed the Commission to announce

the results of the respondent/candidate therein whose Law Paper-I had been invalidated due to underlining of the answer sheet with a pencil at several places, the Supreme Court had held as follows:-

*“7. We have given our anxious consideration to the submissions made by the learned Senior Counsel for the Respondent. The Instructions issued by the Commission are mandatory, having the force of law and they have to be strictly complied with. Strict adherence to the terms and conditions of the Instructions is of paramount importance. The High Court in exercise of powers under Article 226 of the Constitution cannot modify/relax the Instructions issued by the said Commission (M. Vennila v. Tamil Nadu Public Service Commission, (2006) 3 Mad. LJ 376).*

*8. The High Court after summoning and perusing the answer sheet of the Respondent was convinced that there was infraction of the Instructions. However, the High Court granted the relief to the Respondent on a sympathetic consideration on humanitarian ground. The judgments cited by the learned Senior Counsel for the Respondent in *Taherakhatoon (D) By LRs v. Salambin Mohammad ((1999) 2 SCC 635) and Chandra Singh and Others v. State of Rajasthan and Another (2003) 6 SCC 545)* in support of her arguments that we should not entertain this appeal in the absence of any substantial questions of law are not applicable to the facts of this case.*

*9. In spite of the finding that there was no adherence to the Instructions, the High Court granted the relief, ignoring the mandatory nature of the Instructions. It cannot be that such exercise of*

*discretion should be affirmed by us, especially when such direction is in the teeth of the Instructions which are binding on the candidates taking the examinations.*

10. *In her persuasive appeal, Ms. Mohana sought to persuade us to dismiss the appeal which would enable the Respondent to compete in the selection to the post of Civil Judge. It is a well-known adage that, hard cases make bad law. In Umesh Chandra Shukla v. Union of India (1985) 3 SCC 721, Venkataramiah, J., held that:*

*“13.... exercise of such power of moderation is likely to create a feeling of distrust in the process of selection to public appointments which is intended to be fair and impartial. It may also result in the violation of the principle of equality and may lead to arbitrariness. The cases pointed out by the High Court are no doubt hard cases, but hard cases cannot be allowed to make bad law. In the circumstances, we lean in favour of a strict construction of the Rules and hold that the High Court had no such power under the Rules.*

11. *Roberts, CJ. In Caperton v. A.T. Massey (556 U.S. 868 (2009)) held that:*

*“Extreme cases often test the bounds of established legal principles. There is a cost to yielding to the desire to correct the extreme case, rather than adhering to the legal principle. That cost has been demonstrated so often that it is captured in a legal aphorism: “Hard cases make bad law.”*

12. *After giving a thoughtful consideration, we are afraid that we cannot approve the judgment of the High Court as any order in favour of the candidate who has violated the mandatory Instructions would be laying*

*down bad law. The other submission made by Ms. Mohana that an order can be passed by us under Article 142 of the Constitution which shall not be treated as a precedent also does not appeal to us.*

*13. In view of the aforementioned, the judgment of the High Court is set aside and the appeal is allowed”.*

(emphasis added)

7. The aforesaid decision makes it amply clear that the High Court could not have overlooked the mandatory nature of instructions issued by the Commission that would be binding on all candidates and that a hard case does not make a good law. In other words, sympathy or empathy for a candidate who has contravened the instructions cannot translate into a positive order in his/her favour. Once an instruction has been issued by the Commission, then the same will have to be treated as mandatory in nature and require strict compliance, without any exception.

8. In the above context, we may usefully refer to a judgment of the Division Bench of the Allahabad High Court in Special Appeal No.90 of 2018, entitled Jai Karan Singh and others v. State of Uttar Pradesh, where the appellants therein, who had appeared in the Uttar Pradesh Teachers' Eligibility Test, 2017 had sought directions for evaluating their answer sheets and it was argued on their behalf that mentioning of invalid registration numbers and/or roll numbers or invalid language could not be held against them and that the Examination Regulatory Authority ought to be directed to manually examine the

OMR answer scripts and rectify the mistakes committed by the candidates. Aggrieved by the dismissal of their writ petitions by the learned Single Judge, the candidates had preferred appeals before the Division Bench which were dismissed with the following reasoning:-

*“It is, therefore, clear that including TET as a minimum qualification for a person to be eligible for appointment as a teacher is to improve the performance standard. We have before us writ petitioners who have not even been able to currently fill their registration number, roll number in the OMR Answer Sheet and it is their teachers who are not insisting that a direction should be issued by the court to ignore the mistakes committed by them and direct the examining body to conduct a manual check of all the OMR Answer Sheets.*

*To examine the issue that have been raised before the court by the candidates more by the way of sympathy than on any legal principle it needs to be remembered that the examining body had informed the candidates time and again the necessity of filling the information accurately in the OMR Answer Sheet with a clear instruction that their OMR Answer Sheet would not be evaluated if any mistake is committed. At the cost of repetition, we reiterate that the candidates had been informed when the advertisement was issued on 21.08.2017 that they should visit the website of the Board for ascertaining the procedure that was requested to be followed for filling up the information in the OMR Answer Sheet. We have referred to the relevant provisions contained in the guidelines uploaded on the website and we have no manner of doubt that complete information was provided to the candidates for filling*

*the OMR Answer Sheet, particularly with regard to the entries relating to registration number, roll number, question booklet series and the language attempted. The candidate were made aware that in case there was any mistake in the information provided by them, the OMR Answer Sheet would not be evaluated and no representation in this regard would be accepted. Not only this, detailed information was also contained in the admit card which the candidates had to download. The information contained in the admit card has been reproduced above. The candidates were clearly informed that the OMR Answer Sheet would not be evaluated through any electronic scanning process and incorrect entries in the OMR Answer Sheet would render the Answer Sheet invalid. Candidates were also informed that if they darkened more than one circle, the answer would be treated as wrong and that the candidate must also indicate roll number, registration number, question booklet series in the space provided in the OMR Answer Sheet. This apart, the question booklet that was provided to the candidates also contained important instructions on the first page and the last page. These instructions have been reproduced above. The last page also provided in detail the manner of filling the entries relating to registration number, roll number, question booklet series and the language attempted. In fact, a sample registration number was indicated to highlight the manner in which the entries were requested to be filled. The same set of instructions were contained in the OMR Answer Sheet. Thus, instructions were repeatedly given to the candidates during the process of filling the application from ONLINE in the admit card and at the time of examination regarding the manner in which the*

*entries were required to be filled in the OMR Answer Sheet.*

*It is keeping in mind the aforesaid instructions provided to the candidates that the court has to examine whether the candidates can insist, even if they have not accurately filled the roll number, registration number, question booklet series and language attempted that the mistakes should be ignored and the Examining Body should conduct a manual check of their OMR Answer Sheet with the information provided by them earlier so that the results can be declared.*

*To appreciate this issue, the court has to take into consideration that 2,76,636 candidates had appeared at the primary level examination and 5,31,712 candidates had appeared at the upper primary level. Thus, as many as 7.5 lakh candidates had appeared at the examination. The number of candidates who had not been able to correctly fill either the Registration Number or Roll Number or Booklet Series or Language attempted is 72,676.*

*As noted above, the purpose of using the OMR answer sheet and then evaluating the result through a scanner is not only to reduce the time taken for holding of the examination and declaring the result but also obviate any human error in the evaluation. The officers of the agency who had appeared before the court had explained in detail the procedure that was adopted by them. They stated the information provided by the candidates at any time of submission of the ONLINE application form are stored in the database and, thereafter, when the OMR Answer Sheet are scanned and the result is prepared, the same is matched with the*

*entries made for the registration number, roll number, question booklet series and language attempted with information stored in the database and it is also when two set of information match that the result is declared and, if they do not match the result is not declared.*

*The writ petitioners had admittedly given incorrect information in the OMR Answer Sheet relating to either the registration number, roll number, question booklet series and the language attempted and this is why their results have not been declared. The manual check can be conducted but the large issue before the court is whether such a direction should be given at all. **In our opinion, it is for the examining body to work out a method for the recruitment process and the manner in which Answer Sheets is evaluated and once clear instructions has been given to the candidates that incorrect information related to registration number, roll number, question booklet series and language attempted would lead to non-declaration of the result, the examining body should not be directed to conduct a manual check of 72,876 OMR Answer Sheets. This would take substantial time and ultimately result in causing delay in the declaration of the result. It is this delay that was sought to be eliminated by requesting the candidates to give answers in the OMR Answer Sheet so that they could be scanned by electronic means.***

*The error committed by the candidates cannot be said to be minor in nature. It is the **Registration Number, Roll Number that determines identity of the candidates. The candidates who appeared in the examination were mature students and were to be appointed as Assistant Teachers in institution. They***

*should have read the instructions that was issued time and again and should have correctly filled the entries relating to Roll Number, Registration Number, Question Booklet Series and Language attempted. The entries were, however inaccurately filled as a result of which the scanner has not been able to process the result”.*

(emphasis added)

9. For arriving at the aforesaid decision and declining to give any relief to the candidates, who had furnished incorrect/incomplete information relating to registration number, roll number, question booklet series, language etc., the Division Bench of the Allahabad High Court had cited judgment dated 30.05.2013 in Special Appeal No.834 of 2013, entitled Ram Manohar Yadav v. State of U.P., judgment dated 18.02.2014 in Special Appeal Defective No.117 of 2014, entitled Km. richa Pandey v. Examination Regulatory Authority and another and judgment dated 05.02.2014 in Special Appeal Defective Appeal No.123 of 2014, entitled Arti Verma v. State of U.P.

10. Pertinently, a challenge laid by the aggrieved candidates the captioned decision in J.Karan Singh (supra) and others before the Supreme Court in Special Leave to Appeal (C) No.19089 of 2018, was dismissed at the stage of admission itself vide order dated 06.08.2018.

11. The issue relating to wrong bubbling/non-filling/shading of mandatory fields in the OMR sheets of candidates who had participated in the written examination conducted for a recruitment to

the post of Head Constable (Ministerial) had come up for consideration in a batch of writ petitions before the High Court of Delhi and was dismissed by a Division Bench, vide judgment dated 06.03.2018, passed in W.P. (C) No.8318 of 2017 and batch, authored by one of us (Hima Kohli, J) with the following observations:-

*“12. As noted above, in the present case, over 74,000 applicants had submitted applications for participating in the examination process and about 54,000 candidates had appeared in the first phase of the examination. The respondents have rejected 9746 candidates due to wrong filling/non-filling/shading mandatory fields in their OMR sheets. The rejected lot includes the petitioners herein as in some cases, they had submitted application forms with OBC certificates but had shaded the oval of ‘General’ category, whereas in other cases they had shaded both ‘General’ and ‘OBC’ categories in their OMR sheets and so on and so forth.*

*13. This being the position, we find merit in the stand taken by the learned counsel for the respondents that it is impracticable to expect the BSF to overlook the specific instructions issued to the candidates who had participated in the written examination. The “Instructions for Marking” states as below:*

**“INSTRUCTIONS FOR MARKING**

- 1. Use BLUE or BLACK Ball Point Pen Only.*
- 2. You have to fill and shade your name, Roll No., Date of Birth, Mode, Religion, Category and Question Booklet Series Code & Sex because information are essential for evaluation of the Answer Sheet. Circle as printed against each should be shaded correctly, otherwise candidate*

*shall be declared fail for which candidate will be himself responsible for such mistakes.*

*3. Completely darken the ovals so that the number inside the ovals is not visible.*

*4. Darken only one circle for each question as shown in the example below. Marking should be dark and the circle is to be filled in completely as shown in the example below.*

*5. No change/cutting/overwriting is permitted. Correction fluid should not be used, hence the ovals should be filled carefully.*

*6. Mark your answer only in the space provided. Please do not make any stray marks on this Answer Sheet.*

*7. Each question carry one mark and no mark will be deducted for wrong answer.*

*8. Rough work must not be done on this Answer Sheet. Use Rough Sheets provided at the end of the Question Booklet for Rough Work.”*

*14. A glance at the aforesaid instructions issued to the candidates for purposes of marking the OMR sheets shows that explicit directions were given to the candidates to fill and shade their names, roll numbers, date of birth, mode, religion, category, question booklet number & code and sex. All the candidates were informed that the aforesaid information would be essential to evaluate their answer sheets and if the circle as printed against each category is not shaded correctly, then a candidate shall be declared as failed and he would be responsible for such a mistake. The second page of the OMR sheet, on which “Instructions for Marking” were printed, is prefaced with a certificate required to be signed by the candidate declaring inter alia that he had*

*read and understood the instructions set out down below the sheet.*

*15. In the teeth of the aforesaid clear instructions, the petitioners cannot be heard to state that their candidatures were rejected on technical grounds which could not be an impediment in qualifying them for the second phase and that the respondents ought to have condoned their inadvertent mistakes.*

*16. If the aforesaid submission made by the learned counsels for the petitioners is accepted, then, in our opinion, it would open a Pandora's box more so when the candidature of almost 10,000 candidates stationed all over the country who are similarly situated, were rejected by the respondents due to wrong filling/non-filling/non-shading mandatory fields in the OMR sheets. The present case is one where thousands of applicants had applied to the respondent to participate in the first phase of the examination. If the court heeds the submission made by the petitioners herein, then it will have a serious impact on the respondents who will have to re-do the entire results by picking up the answer sheets of each candidate whose candidature has been rejected due to technical errors in filling up the OMR sheets and then arrange a second phase of examination for the subject post by incurring further expenditure and making requisite arrangements all over again not only for a handful of petitioners before us, but for almost 10,000 similarly placed candidates located all over the country. This process could take several months to complete and shall have the effect of delaying the entire selection process of appointing Head Constables (Ministerial) in the BSF,*

thereby causing administrative delays and adversely affecting the efficiency of the force.

***17. Another consideration that has weighed with this court for declining the request of the petitioners is that not only had the entire process of the examination concluded by the time they had approached the court for relief, if any relief is granted to any of them at this belated stage, it would have a cascading effect as other similarly placed candidates who shall start knocking at the doors of the court asking for similar relief, which is impermissible.***

*18. We are therefore of the opinion that if the respondents are called upon to accept incomplete OMR sheets of the petitioners, it shall bring the entire examination process to a grinding halt which is not in the larger public interest. More so, when other candidates who have been disqualified by the respondents for the same reason, have reconciled themselves to their fate being mindful of the “Instructions for Marking” printed in the OMR sheets, and conscious of the fact that they had committed mistakes in fulfilling the procedural formalities prescribed by the BSF at the time of filling up the OMR sheets. The petitioners herein cannot be permitted to steal a march over them merely because they have approached the court for relief and that too belatedly, whereas the others have not.”*

(emphasis added)

12. For arriving at the aforesaid conclusion, strength was drawn from the ruling of the Supreme Court in Ran Vijay Singh v. State of Uttar Pradesh, reported as (2018) 2 SCC 357, where it was 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”.*

(emphasis added)

13. Even in the instant batch of petitions, the process of recruitment had commenced in the early part of the year 2017, when the respondent No.2/Telangana State Public Service Commission had issued notifications inviting applications for direct recruitment to several posts, including those of Forest Beat Officers, Veterinary Assistants, Staff Nurse, Trained Graduate Teachers (Art), Physical Education Teachers and Secondary Grade Teachers. The written examinations were conducted in the second half of the year 2017 and the merit list was declared in the middle of the year, 2018. On discovering that their names did not find mention in the merit list, the petitioners had filed the subject writ petitions, on which an interim order was passed on 19.07.2018. In this entire process that had commenced with the issuance of the notifications in the year 2017, by now, four years have elapsed. The future of the candidates who were declared as successful in the merit list, have been kept on hold by virtue of the interim order passed on 19.07.2018, being the last selected candidates in the respective social groups of the several posts.

14. We have been informed that approximately 40 to 60 vacancies have remained unfilled since the TSPSC was directed to evaluate the answer scripts of those petitioners who had committed errors regarding bubbling of the hall ticket numbers etc and the said

vacancies were directed to be kept unfilled in the event the marks secured by such petitioners were found to be more than the marks secured by the last selected candidate. Intervention applications have also been filed by such last selected candidates and learned counsel appearing for them have submitted that the careers of their clients have been put in cold storage for the past four years for no fault of theirs only on account of the pendency of the present writ petitions. This has caused immense hardship to the said candidates who even after clearing the examinations conducted in their respective categories of posts, have not been issued letters of appointment only on account of the petitioners herein having approached the court for relief, when admittedly, the error in correctly filling up the OMR answer scrips lies entirely at their door.

15. The submission made by learned counsel for the petitioners that the errors committed by the petitioners of wrong bubbling/double bubbling and/or absence of bubbling in the hall ticket numbers are *bona fide* errors and can be easily corrected, is untenable. Tough as it may sound, compassion or generosity of the heart has no place in public examinations conducted by an Examination Regulatory Authority like the TSPSC. The petitioners ought to have carefully read the instructions issued by the TSPSC and correctly filled in their personal details, hall ticket number etc., in the OMR sheet, as mandated. Once it is admitted that the entries made were inaccurate due to which the answer sheets of the petitioners were not evaluated

and in view of the fact that evaluation in such cases is an electronic process undertaken through scanners, with no human intervention, we are of the opinion that no directions can be issued to the TSPSC to conduct manual scanning of the weeded out answer scrips to collate and declare the results of the petitioners.

16. The dichotomy in the decisions of the two Division Benches of the combined High Court of Andhra Pradesh in W.P.No.20088 of 2003 and W.P.No.28874 of 2015 stands adequately answered in the light of the view expressed by the Supreme Court in G.Hemalatha (supra) wherein emphasis has been laid on a strict construction of the rules and of forbearance by the High Courts in exercising extraordinary powers under Article 226 of the Constitution of India to modify and/or relax the instructions issued by the Examining Authority, which would result in violating the instructions issued to candidates participating in public examinations.

17. In view of the above discussion, the present petitions are dismissed, along with the pending applications, if any. The respondent/TSPSC is directed to take immediate steps to issue letters of appointment in favour of the successful candidates in their respective categories to the posts that have remained unfilled in view of the interim order dated 19.07.2018.

18. For the very same reasons as stated above, TSPSC succeeds in W.A.No.1369 of 2018 and the impugned order dated 05.03.2018, passed in W.P.No.6841 of 2018, is quashed and set aside.

W.A.No.1369 of 2018 is allowed along with the pending applications,  
if any, with no order as to costs.

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**HIMA KOHLI, CJ**

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**B.VIJAYSEN REDDY, J**

19.07.2021

*Note: LR copy be marked.  
(By order)  
Lrkm/Pln*