GAHC010031962024

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WA/61/2024

MANASH PRATIM RAJKONWAR
SON OF UMA RAJKONWAR R/O BORGURI ANNIRUDHADEB NAGAR, P.O. BORGURI SUB-POST OFFICE, P.S. TINSUKIA, DIST. TINSUKIA, PIN-786125

VERSUS

THE STATE OF ASSAM AND 6 ORS
REP. BY THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM, HOME AND POLITICAL DEPARTMENT, DISPUR, GUWAHATI-781006, ASSAM

2:THE DEPUTY INSPECTOR GENERAL OF POLICE (ADMIN)
ASSAM ULUBARI GUWAHATI-781007 ASSAM

3:THE SUPERINTENDEN OF POLICE TINSUKIA ASSAM PIN-786125

4:STATE LEVEL POLICE RECRUITMENT BOARD ASSAM
REP. BY ITS CHAIRMAN
ASSAM POLICE HOUSING CORPORATION LIMITED
REHABARI GUWAHATI-781008 ASSAM

5:THE CHAIRMAN STATE LEVEL POLICE RECRUITMENT BOARD
ASSAM POLICE HOUSING CORPORATION LIMITED
REHABARI GUWAHATI-781008 ASSAM

6:DIBRUGARH UNIVERSITY REP. BY ITS VICE CHANCELLOR
DIBRUGARH ASSAM PIN-786004

7:THE REGISTRAR DIBRUGARH UNIVERSITY DIBRUGARH
ASSAM PIN-786004

Advocate for the Petitioner : MR. K N CHOUDHURY, SR. ADV.
MR. R. J. Das, Adv.

Advocate for the Respondent : GA, ASSAM
SC Dibrugarh University

:::BEFORE:::

HON'BLE THE CHIEF JUSTICE MR. VIJAY BISHNOI

HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

Date of hearing : 09-05-2024

Date of Judgment & Order : 09-05-2024

JUDGMENT & ORDER(ORAL)

(N. Unni Krishnan Nair, J.)

Heard Mr. K. N. Choudhury, learned senior counsel, assisted by Mr. R. J. Das, learned counsel, appearing on behalf of the appellant. Also heard Mr. D. K. Sarmah, learned Addl. Senior Government Advocate, appearing on behalf of respondents No. 1 to 5; and Mr. Rajesh Mazumdar, learned standing counsel, Dibrugarh University, appearing on behalf of respondents No. 6 & 7.

2. The instant intra-Court appeal, is directed against an order, dated 19.12.2023, passed by the writ Court in WP(c)3398/2021, dismissing the same as being devoid of merit.

3. The basic facts requisite for an adjudication of the issues arising in the present appeal, is noticed as under:

The State Level Police Recruitment Board, Assam, vide an Advertisement, dated 11.04.2018, invited applications for filling-up of vacancies in the cadre of Sub-Inspector of Police(Un-Armed Branch) of Assam Police. The selection

procedure as contemplated in the said advertisement, included a written test of 100 marks to be undertaken involving 100 questions and each question bearing 1 mark each. It was also provided that there will be negative marking of ½ mark for each wrong answer.

The appellant, herein, being eligible, in terms of the eligibility criteria as stipulated in the Advertisement, dated 11.04.2018, submitted his application which was duly accepted. The appellant was, thereafter, issued with an Admit Card for appearing in the written test which was scheduled on 22.11.2020. As per the materials available on record, it is seen that the said component of the selection process was undertaken by the Dibrugarh University. The appellant appeared in the written test and thereafter, in the other components of the selection process. The result of the said selection process was declared on 15.02.2021. The name of the appellant, herein, who belongs to an OBC category, did not find mention in the select list so prepared by the authorities pursuant to the said process of recruitment.

It is the contention of the appellant that he scored a total 102.09 marks in the said recruitment process and the cut-off mark working-out for candidates belonging to the OBC category being disclosed as 103 marks, the appellant contends that his name was not included amongst the candidates selected for the post, in question, against the OBC category only on account of scoring 0.91 marks less.

The appellant thereafter submitted an application under the provisions of

the Right to Information Act, 2005, on 17.02.2021, seeking information with regard to the written test as conducted by the Dibrugarh University in the matter. The RTI reply was provided to the appellant on 17.03.2021. On perusal of the OMR sheet as well as the answer key published in the matter; the appellant found that with regard to the Question No. 86 of the written test; although according to him, he had marked the correct answer i.e. option 'B' but the option as given in the answer key for the said question being option 'A'; 0.5 mark was deducted from his total score in terms of the stipulations made in this connection in the Advertisement, dated 11.04.2018.

The appellant, thereafter, made necessary enquiries to ascertain the correct answer pertaining to the said Question No. 86 and on being satisfied that the option as opted by him against the said question to be correct and he having been denied his due marks therein; approached this Court by instituting a writ petition being WP(c)3398/2021, *inter alia,* praying for a declaration that the option as given against the Question No. 86 in the answer key to be wrong and for awarding to him, marks against the said Question No. 86, basing on his option.

The said writ petition was taken-up for final consideration by the learned single Judge and vide the order, 19.12.2023, the learned single Judge upon hearing the learned counsels appearing for the parties and on examining the issues arising therein; proceeded to dismiss the same holding that the said writ petition was devoid of any merit. Being aggrieved; the present intra-Court appeal has been instituted.

4. Mr. Choudhury, learned senior counsel, assisted by Mr. R. J. Das, learned counsel, appearing for the appellant, by referring to the said Question No. 86, has contended that the answer as given by the appellant against the said question, in the light of the materials as brought on record in the writ petition, was a correct answer and accordingly, the appellant could not have been denied the mark as assigned against the Question No. 86. Mr. Choudhury, learned senior counsel, has further contended that the appellant, in the event of being given 1(one) mark against the Question No. 86, he would come within the merit position for inclusion of his name against the vacancies as reserved for candidates belonging to the OBC category.

5. Mr. Choudhury, learned senior counsel, in support of the submissions made by him, has relied upon a decision of the Hon'ble Supreme Court in the case of ***High Court of Tripura through the Registrar General v. Tirtha Sarathi Mukherjee & ors.***, reported in ***(2019) 16 SCC 663.*** The learned senior counsel has submitted that with regard to the Question No. 86; this Court, can, on consideration of the materials available on record in this intra-Court appeal, determine as to whether the option as given by the appellant in the matter, was a correct option against the said question.

6. Mr. Choudhury, by taking us to the order, dated 19.12.2023, passed by the learned single Judge in the writ petition, has submitted that the conclusion as reached by the learned single Judge therein, that, in the event, the writ petition was to be allowed; it would entail a recasting of the entire select list and such recasting may deprive the candidates already appointed from their such

appointment, was so arrived at without considering the fact that during the pendency of the writ proceeding; in terms of the interim direction passed therein, 1(one) post of Sub-Inspector of Police(Un-Armed Branch) of Assam Police, as advertised vide Advertisement, dated 11.04.2018, was directed to be not filled-up. Mr. Choudhury, learned senior counsel, has further submitted that had the availability of the vacant post been noted by the learned single Judge, there would have arisen no occasion to conclude that acceptance of the prayer of the appellant would result in re-casting of the select list.

7. Mr. Choudhury, learned senior counsel, has also submitted that this Court while issuing notice in the matter on 26.02.2024, was pleased to direct that 1(one) post of Sub-Inspector of Police(Un-Armed Branch) of Assam Police as advertised vide Advertisement, dated 11.04.2018, be kept vacant.

8. It is the contention of Mr. Choudhury, learned senior counsel for the appellant that a post of Sub-Inspector of Police (Un-Armed Branch) of Assam Police involved in the process of recruitment, in issue, having been kept vacant, no disruption of the selection process would entail and in the event; this Court finds that the appellant is entitled to the mark as claimed by him, necessary direction is called-upon to be issued by this Court for appointing the appellant, herein, against the post now kept vacant.

9. Per contra, Mr. Mazumdar, learned standing counsel, Dibrugarh University, has submitted that in the answer key as published with regard to the question involved in the matter i.e. Question No. 86; the correct answer was determined

as option 'A'. The appellant, herein, having opted for option 'B' as his answer, the same in the light of the determination made in the answer key, was treated to be wrong and accordingly, 0.5 mark was deducted from the total marks scored by the appellant in the written test on account of the prescriptions made in this connection in the said Advertisement, dated 11.04.2018.

10. Mr. Mazumdar, learned standing counsel, Dibrugarh University, has also contended that the correct answer as figuring in the answer key was so determined, by referring to the official website of the Government of Assam, wherein, the States situated towards the eastern side of Assam, have been shown to be the States of Manipur and Nagaland, and Nagaland not being an option against the Question No. 86; Manipur was determined to be the correct option for the above question. Accordingly, it is submitted that the same being a determination made on the basis of the reliable material and by a person having competence in the matter; this Court would be slow to interfere with the said determination so made with regard to the correct option against the Question No. 86.

11. With a view to persuade this Court and also to support the submissions as made by him in the matter; Mr. Mazumdar, learned standing counsel, Dibrugarh University, has relied upon a decision of the Rajasthan High Court in the case of ***Prema Ram Patel v State of Rajasthan,*** reported in ***2024 Legal Eagle (RAJ) 649,*** wherein, upon noticing the decisions of the Hon'ble Supreme Court of India available on the issue; the High Court had concluded that the answer key as published by the Examiner should be assumed to be correct unless it is

proved to be wrong albeit the same should not be held to be wrong by an inferential process of reasoning or by a process of rationalization.

12. We have considered the submissions as advanced in the matter by the learned counsels appearing for the parties and also perused the materials available on record.

13. The dispute involved, pertains to the correct answer in relation to Question No. 86 as was included in the question paper pertaining to the written test conducted pursuant to the Advertisement, dated 11.04.2018, more particularly, in Part-III (General Knowledge) Segment of the said written test. The said question being relevant, is extracted hereinbelow:

"***86. Assam shares inter-State boundary on eastern side with***

(A) Manipur ***(B) Arunachal Pradesh***

(C) Meghalaya ***(D) Tripura"***

14. In the answer key as published by the Dibrugarh University against the Question No. 86; the correct option was denoted as option 'A' i.e. Manipur. However, the appellant, herein, had marked option 'B' i.e. Arunachal Pradesh to be the correct answer with regard to the said question.

15. The learned single Judge on being posed with the said issue; proceeded to conclude, upon examination of the rival contentions as was advanced in the writ proceedings, that the option as given in the answer key cannot be said to be a

glaring defect requiring this Court in exercise of the power of judicial review to replace such a decision arrived at in the matter, moreso, when it cannot be said that the answer is absolutely incorrect or that the same reflects a glaring mistake apparent on the face of it.

16. The learned single Judge further proceeded to hold that when an option is given in the matter as Manipur and Arunachal Pradesh and the major portion towards the eastern side of the State of Assam being covered by Manipur and Nagaland and Nagaland not being a part of the options; the determination of Manipur as the correct answer by the expert cannot be subjected to a judicial review in the given facts of the case.

17. The learned single Judge further held that in the event, the contention of the petitioner was accepted, it would be required to recast the entire select list. Such recasting of the select list would also have the effect of depriving a candidate or candidates from his/their appointment. It was further held that in the absence of the selected candidates, more particularly, those selected candidates belonging to the OBC category being impleaded as party respondents in the said writ petition; such course of action would not be permissible.

18. The conclusions as reached by the learned single Judge in the order, dated 19.12.2023, passed in WP(c)3398/2021, is extracted hereinbelow for ready reference:

"***12. There is no dispute that the State of Assam is bordered by Arunachal Pradesh in North; in the East by Nagaland, Arunachal Pradesh and Manipur. Annexure-12 (Map of Assam) annexed to this writ petition, it clearly shown that the majority portion of the State of Arunachal Pradesh is situated in the Northern boundary of Assam and a small portion is covered in the Eastern side. The major portion of the Eastern boundary, as discernible from the Annexure-12, is covered by the State of Nagaland and the State of Manipur. The options were given as (a). Manipur (b) Arunachal Pradesh (c). Maghalaya and (d) Tripura to the question No. 86. Meghalaya and Tripura are not at all in the Eastern boundary of Assam, whereas, Manipur is in the Eastern boundary. Therefore, decision of the question setter to treat the Manipur to be the correct answer out of the option of Arunachal Pradesh, Tripura and Meghalaya cannot be said to be a glaring defect and this Court in exercise of its power of judicial review cannot replace such decision, moreso, when the same relates to a decision relating to question and answer in examination.***

13. The answer keys has been finalized by University and such decision of the University should not be interfered in exercise of the power of judicial review, when it cannot be said that the answer is absolutely incorrect or that it is a glaring mistake apparent on the face of it. There may be some confusion/ dispute regarding actual Eastern boundary but for the purpose of answering the question. However, when there is an option of Manipur and Arunachal Pradesh and major portion in the Eastern boundary is covered by Manipur and Nagaland and Nagaland is not an option, such determination of expert cannot be a subject matter of judicial review in the given facts of the present case inasmuch as determination revolves around correctness of an answer to a question in a competitive examination, not to any dispute regarding actual boundary.

14. This Court also finds force in the argument of Mr. Mazumdar, learned Standing Counsel representing the University that in the event the contention of the writ petitioner is allowed, the entire select list is to be recasted and on such recasting, they may be deprived from their appointment. Such course of action shall also not be permissible in absence of those selected candidates more particularly, those selected candidates belonging to the OBC category candidates. On this count also, the writ petition fails."

19. In view of the rival contentions coming on record, the issue that would now arise for consideration in the present *lis* by this Court is as to whether the option as given in the answer key against the Question No. 86, has been demonstrated by the appellant to be erroneous. A further issue that would also arise is as to whether in the event; it is found that 2 views are possible with regard to the correct answer against the Question No. 86 and in such an

eventuality, which of the 2 views is required to be maintained by this Court.

20. It is a settled position of law that the answer key is to be assumed to be correct unless it is proved to be wrong and that it should not be held to be wrong by an inferential process of reasoning or by a process of rationalization. The said answer key must be clearly demonstrated to be wrong by the person questioning it. In other words, the onus is on the person so disputing the answer key to clearly demonstrate that the option as given therein, is incorrect and that too, without an inferential process of reasoning or after a process of rationalization.

21. The burden on the person so disputing the answer key is rather heavy and the Courts would be extremely cautious in entertaining a plea challenging the correctness of the option as given in the answer key. In this connection, reference is made to a decision of the Hon'ble Supreme Court in the case of ***Ran Vijay Singh & ors. v. State of Uttar Pradesh & ors.***, reported in ***(2018) 2 SCC 357,*** wherein the Hon'ble Supreme Court after considering the decisions available in the matter, proceeded to draw the following conclusions:

> "***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."

The Hon'ble Supreme Court further proceeded to lay down, in the above-noted case, as follows:

"***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."

22. The decision in the case of ***Ran Vijay Singh***(supra) was approved by the Hon'ble Supreme Court in the case of ***Vikesh Kumar Gupta v. State of Rajasthan,*** reported in ***(2021) 2 SCC 309***, wherein it was further laid down that the Court should not re-evaluate or scrutinise the answer sheets of a candidate as it has no expertise in the matter and the academic matters are best left to academics.

23. The decision of the Hon'ble Supreme Court in the case of ***Tirtha Sarathi Mukherjee***(supra), as relied by Mr. Choudhury, learned senior counsel for the appellant, in support of his submissions, has also categorically mandated that even when grave injustice may be occasioned to a candidate in certain circumstances wherein it turns out that despite giving the correct answer, no marks were awarded and the Court is left with no doubt that a re-evaluation is called for; has cautioned that such a course of action must necessarily be confined to a case where there is no dispute about the correctness of the answer and further, if there is any dispute, that doubt should be resolved in favour of the examining body rather than in favour of the candidates.

24. Noticing the decision of the Court in the case of ***Ran Vijay Singh***(supra); the Hon'ble Supreme Court in the case of ***Tirtha Sarathi Mukherjee***(supra), further proceeded to hold that the Court, may permit re-evaluation, *inter alia,* if it is demonstrated very clearly that without any inferential process of reasoning

or by a process of rationalization and only in a rare or exceptional case, on the commission of a material error.

25. The relevant observations of the Hon'ble Supreme Court in the case of ***Tirtha Sarathi Mukherjee***(supra), is extracted hereinbelow for ready reference:

> "***20. The question however arises whether even if there is no legal right to demand re-valuation as of right could there arise circumstances which leave the Court in any doubt at all. A grave injustice may be occasioned to a writ applicant in certain circumstances. The case may arise where even though there is no provision for re-valuation it turns out that despite giving the correct answer no marks are awarded. No doubt this must be confined to a case where there is no dispute about the correctness of the answer. Further, if there is any doubt, the doubt should be resolved in favour of the examining body rather than in favour of the candidate. The wide power under Article 226 may continue to be available even though there is no provision for re-valuation in a situation where a candidate despite having giving correct answer and about which there cannot be even the slightest manner of doubt, he is treated as having given the wrong answer and consequently the candidate is found disentitled to any marks.***
>
> ***23. In this case we have already noted that the writ petition was filed challenging the results and seeking re-valuation. The writ petition came to be dismissed in the year 2012 by the High Court. The special leave petition was dismissed in the year 2013. The review petition is filed after nearly 5 years. In the interregnum, there were supervening development in the form of fresh selection. While it may be true that the delay in filing the review petition may have been condoned, it does not mean that the Court where it exercises its discretionary jurisdiction under Article 226 is to become oblivious to the subsequent development and the impact of passage of time. Even in the judgment of this Court in Ran Vijay Singh v. Rahul Singh which according to the first respondent forms the basis of the High Court's interference though does not expressly stated so, what the Court has laid down is that the Court may permit re-valuation inter alia only if it is demonstrated very clearly without any inferential process of reasoning or by a process of rationalisation and only in rare or exceptional cases on the commission of material error. It may not be correct to characterise the case as a rare or exceptional case when the first respondent approaches the Court with a delay of nearly 5 years allowing subsequent events to overtake him and the Court. We feel that this aspect was not fully appreciated by the High Court."***

26. This Court is to examine as to whether the option as given in the answer key against the Question No. 86, on the face of it, is erroneous.

27. Mr. Choudhury, learned senior counsel for the appellant, has strenuously argued that in the light of the materials as brought on record in the present proceeding; the option as chosen by the appellant against the Question No. 86 cannot be held to be wrong and the answer key having not provided for the option as chosen by the appellant; the answer key insofar as it concern the answer to the Question No. 86 is concerned, must be held to be erroneous.

28. A perusal of the Question No. 86 and the options as provided against the same; it cannot be held that the option 'A' i.e. Manipur as denoted to be the correct answer against the Question No. 86 in the answer key, is erroneous. As contended by the examining authority, 2(two) States predominantly falling on the eastern side of the State of Assam happens to be Manipur and Nagaland and Nagaland not being incorporated as one of the answers to Question No. 86; the examiner having denoted option 'A' i.e. Manipur to be the correct answer; such determination being based on cogent materials and reasoning, the said choice of the right answer against the Question No. 86 cannot be held to be 'palpably and demonstrably erroneous'.

29. The option as chosen by the examining authority to be the correct answer against the Question No. 86 cannot be under any circumstances, be held to be erroneous in-as-much as the said option is a valid possible answer against the Question No. 86.

30. In view of the said position, the option as determined by the examining authority to be correct answer against the Question No. 86 being not possible to be held to be erroneous; this Court would not be in a position to interfere with such determination made in the matter by the examining authority. As evident from the judgments rendered by the Hon'ble Supreme Court as noted hereinabove; this Court would be in a position to extend its indulgence in a disputed question/answer in the event, the same is demonstrated to be 'palpably and demonstrably erroneous', which conclusion in the facts and circumstances of the present case, is not permissible to be drawn.

31. At this stage; it is to be noted that the appellant has not endeavoured to demonstrate that the answer as determined by the examining authority to be erroneous but has only raised a contention that the option as chosen by him, was also correct. Basing on such projection made by the appellant, it would not be open for this Court to interfere with the determination as made by the examining authority. Further, all the candidates participating in the recruitment process were also subjected to the same question, without any discrimination.

32. Having noted that said option as given in the answer key against the Question No. 86 to be not erroneous, would bring this Court to examine the issue as to the procedure required to be followed in the event, there can arise two views with regard to correct option against the Question No. 86.

33. The said issue need not detain this Court any further in-as-much as in the event, the view as canvassed by the appellant in the present proceeding as well

as the view available of the examining authority as revealed from the determination made by it in the answer key of the correct answer against the Question No. 86, although would on the face of it, reveal 2(two) possible views; this Court by following the decision of the Hon'ble Supreme Court in the case of ***Ran Vijay Singh***(supra), in such an eventuality, ought to accept the determination as made in the matter by the examining authority by giving the benefit of doubt to it, moreso, when it has been concluded by this Court that the option as determined by the examining authority in the answer key against Question No. 86, by the examining authority to be not erroneous.

34. In this connection, a reference is made to the decision of the Hon'ble Supreme Court in the case of ***W.B. Central School Service Commission v. Abdul Halim***, reported in ***(2019) 18 SCC 39***, wherein, it has been held, as under:

> "***30. In exercise of its power of judicial review, the Court is to see whether the decision impugned is vitiated by an apparent error of law. The test to determine whether a decision is vitiated by error apparent on the face of the record is whether the error is self-evident on the face of the record or whether the error requires examination or argument to establish it. If an error has to be established by a process of reasoning, on points where there may reasonably be two opinions, it cannot be said to be an error on the face of the record, as held by this Court in Satyanarayan Laxminarayan Hegde v. Millikarjun Bhavanappa Tirumale. If the provision of a statutory rule is reasonably capable of two or more constructions and one construction has been adopted, the decision would not be open to interference by the writ court. It is only an obvious misinterpretation of a relevant statutory provision, or ignorance or disregard thereof, or a decision founded on reasons which are clearly wrong in law, which can be corrected by the writ court by issuance of writ of certiorari.***
>
> ***31. The sweep of power under Article 226 may be wide enough to quash unreasonable orders. If a decision is so arbitrary and capricious that no reasonable person could have ever arrived at it, the same is liable to be struck down by a writ court. If the decision cannot rationally be supported by the materials on record, the same may be regarded as perverse.***

32. However, the power of the Court to examine the reasonableness of an order of the authorities does not enable the Court to look into the sufficiency of the grounds in support of a decision to examine the merits of the decision, sitting as if in appeal over the decision. The test is not what the Court considers reasonable or unreasonable but a decision which the Court thinks that no reasonable person could have taken, which has led to manifest injustice. The writ court does not interfere, because a decision is not perfect."

35. Applying the ratio as available in the case of ***Abdul Halim***(supra) to the facts of the present case; it is clear that the option as determined by the examining authority in the answer key against the Question No. 86 being a reasonable one; this Court in exercise of its power of judicial review, would not proceed to overturn such determination, moreso, when the same is not vitiated by any error apparent on the face of the record.

36. This Court would also, at this stage; note the conclusions reached by the Rajasthan High Court in the case of ***Prema Ram Patel***(supra) under similar circumstances, the said conclusions being relevant are extracted hereinbelow:

"***20. Therefore, as long as all the candidates who sat in the examination, are treated equally viz-a-viz the system of evaluation in place, sans discrimination, then no grievance qua the impugned examination subsists. It is well settled law that in academic matters, the experts word is the last word. The court neither has the requisite expertise nor infrastructure to go into the correctness of such decisions. As a result, the court cannot sit in judgment over those findings of experts and examine the material on record and arrive at its own conclusions as a court of appeal. It is also not possible in such circumstances to go on appointing committees, especially when the experts have duly analyzed the objections received from the candidates/petitioners and thereafter, released the final answer key dated 20.10.2023. An unending litigation for employment in public posts, in connection with which, the career trajectory of so many young individuals is coherently tied up with, cannot be permitted to be in abeyance for so long, that the end result subsumes and overshadows the duress and hardship faced by the litigants. Moreover, even as per the salutary rule as endorsed in Ran Vijay Singh (Supra), in the event of doubt, the benefit ought to go to the examination authority rather than to the candidates perceiving injustice.***

21. As a result, the answer key should be assumed to be correct unless it is proved to be wrong, albeit the same should not be held to be wrong by an inferential process of reasoning or by a process of rationalization. It must be clearly demonstrated to be wrong, that is to say, it must be such as no reasonable body of men well-versed in the particular subject would regard as correct. However, such was not the case in the facts and circumstances of the present case, as demonstrated above. If it is a case of doubt, unquestionably the answer -key must be preferred and only if it is beyond the realm of doubt, the possibility of judicial review must be entertained. In this regard, reliance can be placed upon the dictum of this Court, as previously enunciated in Surjan Lal Dhawan(Supra). The view as noted above, has also been reiterated by the Hon'ble Apex Court in a catena of judgments namely Rahul Singh (Supra), Arun Kumar(Supra) and Mukesh Thakur(Supra) and Tajvir Singh Sodhi(Supra) and also, the Division Bench of this Court headed by the Hon'ble Chief Justice Mr. M.M. Srivastava as enunciated in Kavita Bhargava(Supra).”

The above conclusions are noted with approval.

37. Having concluded that the option as determined by the examining authority in the answer key against the Question No. 86, to be a correct one and the same to be not suffering from any error would now bring this Court to consider the submissions as advanced by Mr. Choudhury, learned senior counsel, that in the event, the option as chosen by the appellant against the Question No. 86 being a possible option, the appellant is granted 1(one) mark for the same, given the fact that 1(one) post of Sub-Inspector of Police(Un-Armed Branch) of Assam Police has been kept vacant out of the posts involved in the recruitment process in question, there would arise no necessity for interfering with the selections already made and the petitioner can be directed to be adjusted against the post now kept vacant by the orders of this Court.

38. The said contention of Mr. Choudhhury, learned senior counsel for the appellant, has been noted by this Court, only to be rejected in-as-much as in

the event, this Court proceeds to conclude that the option as chosen by the appellant is also a possible option and he has to be given marks then in such an eventuality, the said benefit has to be extended to all the candidates exercising similar option in the written test. The said course of action if so adopted would mandate a recasting of the select list by now also granting marks to the candidates who had given similar option like the appellant. The said process may result in an interference being made with the selection of the candidates already appointed against the posts, in question, the selected candidates not being made party respondents, either, in the writ proceeding, or, in the present proceeding, it would not be open for this Court to venture to make the said consideration in-as-much as the same may result in adverse civil consequences upon the already appointed candidates. Accordingly, the said contention of the appellant does not merit acceptance.

39. Accordingly, in view of the said discussions; it being apparent that the appellant has failed to demonstrate that the option as given by the examining authority in the answer key against the Question No. 86 was to be 'palpably and demonstrably erroneous' and the option so determined in the matter by the examining authority being a possible one; this Court is not in a position to accept the submissions as advanced by the appellant in this intra-Court appeal.

40. Accordingly, we are of the considered view that the conclusions as arrived at in the matter by the learned single Judge in the order, dated 19.12.2023, in the connected writ petition; does not call for any interference and the same, accordingly, is required to be upheld.

41. In the above view of the matter; this intra-Court appeal is held to be bereft of any merit and the same, accordingly, stands dismissed. However, there shall be no order as to costs. Interim order, if any, stands vacated.

JUDGE **CHIEF JUSTICE**

Comparing Assistant