

24.04.2024
Court No.13
Item Nos.2 to 20
AP

WPA 13548 of 2022
Yesmina Khatun
Vs.
The State of West Bengal and Ors.
With
WPA 16162 of 2022
Bobai Ghosh
Vs.
The State of West Bengal and Ors.
With
WPA 19903 of 2022
Chandrendu Singha
Vs.
The State of West Bengal and Ors.
With
WPA 19905 of 2022
Nur Selim Mondal
Vs.
The State of West Bengal and Ors.
With
WPA 19907 of 2022
Nasim Banu
Vs.
The State of West Bengal and Ors.
With
WPA 19909 of 2022
Nabarun Ghosh
Vs.
The State of West Bengal and Ors.
With
WPA 19911 of 2022
Lipika Mandal
Vs.
The State of West Bengal and Ors.
With
WPA 19913 of 2022
Suman Mondal
Vs.
The State of West Bengal and Ors.
With
WPA 19915 of 2022
Susmita Mondal
Vs.
The State of West Bengal and Ors.
With
WPA 19995 of 2022
Riya Banerjee
Vs.
The State of West Bengal and Ors.
With
WPA 19999 of 2022
Nila Mandal Mudi

Vs.
 The State of West Bengal and Ors.
 With
 WPA 20002 of 2022
 Rakhal Mathuri
 Vs.
 The State of West Bengal and Ors.
 With
 WPA 23627 of 2022
 Sampa Shit (Pal)
 Vs.
 The State of West Bengal and Ors.
 With
 WPA 23166 of 2022
 Prasanta Pal & Ors.
 Vs.
 The State of West Bengal and Ors.
 With
 WPA 26877 of 2022
 Suchita Mondal & Ors.
 Vs.
 The State of West Bengal and Ors.
 With
 WPA 7531 of 2023
 Babli Sarkar & Ors.
 Vs.
 The State of West Bengal and Ors.
 With
 WPA 26913 of 2023
 Papan Ghosh & Ors.
 Vs.
 The State of West Bengal and Ors.
 With
 WPA 21695 of 2023
 Supriyo Chowdhury & Ors.
 Vs.
 The State of West Bengal and Ors.
 With
 WPA 22481 of 2023
 Wasim Akhtar
 Vs.
 The State of West Bengal and Ors.

Mr. Sudipta Dasgupta,
 Ms. Dipa Acharyya,
 Mr. Arka Nandi
 Mr. Sutirtha Nayek
 Ms. Shalini Ghosh

... for the petitioners in Item Nos.2 to 14.

Mr. Firdous Samim,
 Ms. Gopa Biswas,
 Ms. Payel Shome,
 Ms. Sampriiti Saha,
 Ms. Purba Mukherjee,

Mr. Avijit Kar,
Ms. Mohona Das

....for the petitioners in Item Nos.15 to 20.

Mr. Subir Sanyal
Mr. Saikat Banerjee,
Mr. Ratul Biswas,
Mr. Kaushik Chowdhury

... for the WBBPE in all the matters.

Mr. Arindam Chattopadhyay,
Ms. Lipika Chatterjee

... for the State in WPA 13548 of 2022 &
WPA 16162 of 2022.

Mr. Biswabrata Basu Mallick,
Mr. Sayan Ganguly

... for the State in WPA 19903 of 2022 &
WPA 23627 of 2022.

Mr. Biswabrata Basu Mallick,
Mr. Sanjib Das

... for the State in WPA 19909 of 2022

Mr. Biswabrata Basu Mallick,
Mr. Joydip Banerjee

... for the State in WPA 19913 of 2022

Mr. Pantu Deb Roy,
Mr. Pannalal Bandopadhyay

..for the State in WPA 19915 of 2022

Mr. Sirsanya Bandopadhyay
Mr. Ritesh Kr. Ganguly

..for the State in WPA 23166 of 2022, WPA 26877 of
2022, WPA 7531 of 2023, WPA 26913 of 2023

1. The following order shall not cover Item No.20 i.e. WPA 22481 of 2023 (Wasim Akhtar Vs. The State of West Bengal and Ors.). The same is adjourned and be listed on 25th April, 2024.

2. The other writ petitions i.e. WPA 20750 of 2022, WPA 5464 of 2021, WPA 19607 of 2022 and WPA 23494 of 2022, that were mentioned earlier and have mistakenly not been listed, shall by consent of the

parties also be treated on the days list and be covered by the following order.

3. This Court had made certain observations yesterday in these matters. Submissions have been heard on behalf of two sets of writ petitioners represented by Mr. Sudipta Dasgupta and Mr. Firdous Samim respectively. Counsel for the Board, Mr. Subir Sanyal along with Mr. Saikat Banerjee have also been heard.

4. The disputed questions common to all the petitions relate to series CXN containing 150 questions. This Court had proposed yesterday that the same shall be referred to an independent expert.

5. Mr. Subir Sanyal appearing for the Board has raised certain objections. He argues that the answer keys to the disputed questions should not be reopened, as they are common to all candidates. It is not as if different candidates have been given different questions. The answer keys prepared by the expert of the Board should not and cannot be disturbed.

6. He further submits that an opinion between experts may differ. Hence the reference to a third party expert by this Court should not be done.

7. It is finally argued that the Board has objection to the experts of Visva Bharati University being engaged as the third party expert.

8. This Court has carefully considered the submissions of the Board. While it is true that opinions of experts may differ, science, geography and history as they stand today cannot change. The answer key suggested by the Board has to be clear and leading to only one correct answer. Whenever there is a possibility of two answers to a question such question and answer set by the board are open to judicial review.

9. As already found in some cases that the answer keys in Urdu were wrong. The said questions are not subject matter of the instant writ petition as already indicated above. This Court has prima facie also found vagueness in some questions.

10. These are sufficient reasons to refer the matter to an independent expert for opinion by a writ court. After all, the careers of candidates seeking employment, is at stake.

11. As for the selection of the University i.e. Visva Bharati University is concerned, this Court has earlier proposed names of several other Universities. The objection to Visva Bharati University by the Board, since it is a centrally governed University cannot be sustained. The control of an institution by either the centre or the State cannot have any bearing on the subject matter in issue i.e. the correctness of answer key to the questions framed by the board.

12. In the above circumstances, this Court is of the view that the writ petitioners shall furnish a list of common disputed questions under the CXN series to learned counsel for the Board by day after tomorrow. The reasons according to the petitioners why the answer key of the Board is incorrect along with supporting documents shall also be furnished to the counsel for the Board.

13. The Board in its turn shall obtain the opinion of its own experts on the answer keys given. The experts of the Board may justify the answer keys given by them. They may also, if found necessary, admit any mistake in their answer keys. It shall also be examined by the experts of the Board as well as the writ petitioners as to whether any questions were vague and not explicit or clear.

14. The Board as well as the writ petitioners shall thereafter independently and in addition to the above submit their respective list, opinions and views to the Vice Chancellor of the Visva Bharati University at Santiniketan. The Vice Chancellor of the Visva Bharati University shall appoint a committee of his own choice to look into the matter and give opinion on the following issues:-

(a) As to whether any question was vague whereby it is possible for a reasonable student to get confused as regards the correct answers.

(b) If the question is clear, as to whether the answer keys given by the Board are plausible and only correct answer key.

(c) Whether more than one answer keys, would correctly or substantially answer the question.

(d) The correct answer in the opinion of the experts to the question whether within the choices given by the Board or otherwise.

15. The Vice Chancellor of the Visva Bharati University shall submit a report before the Registrar General of this Court within a period of one month from the date of receipt of the aforesaid from the Board as well as the writ petitioners.

16. Upon receipt by the Registrar General of this Court of the opinion of the Vice Chancellor of the Visva Bharati University, all parties to these writ petitions shall be entitled to obtain copies of the opinion at their own cost.

17. List the matter on 11th June, 2024.

18. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)