

(2024) 06 JH CK 0016

Jharkhand High Court

Case No: Writ Petition (S) No. 2909 Of 2024

Mayank Kumar Singh

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision: June 19, 2024

Acts Referred:

- Constitution of India, 1950 - Article 14, 142, 226, 309

Hon'ble Judges: Dr. S.N.Pathak, J

Bench: Single Bench

Advocate: Amritansh Vats, A. Choubey, Kumar Abhishek, Sudhanshu Kr. Singh, Sanjay Piprawall, Prince Kumar

Final Decision: Dismissed

Judgement

Dr. S.N.Pathak, J

1. Heard the learned counsel for the parties at length.

Prayer

2. The petitioner has approached this Court with a direction upon the respondents, in particular respondent-JPSC, to evaluate his Optical Mark Recognition (OMR) answer sheet of General Studies (Paper-I), which relates to appointment on Class-II posts pursuant to Advertisement No. 01/2025 (Jharkhand Combined Civil Services Competitive Examination, 2023), so that he could appear in the Mains examination which is scheduled to be held from 22.06.2024 onwards, as the petitioner has obtained more marks than the cut off under the unreserved category as per his own calculation based on revised answer key uploaded by the Jharkhand Public Service Commission.

The Facts

3. Briefly stated, Advertisement No. 01/2024 was floated by the Jharkhand Public Service Commission inviting applications for Jharkhand Combined Civil Services Competitive Examination, 2023 from eligible candidates for appointment on Class-II posts. The petitioner being eligible in all respects applied for such appointment. Having found the application form of the petitioner to be in order, admit card was issued to appear on 17.03.2024 for preliminary examination for Paper-I and II i.e. General Studies. The petitioner did well and the petitioner was expecting that he might be declared successful in the preliminary examination. On 23.03.2024, the JPSC has published the model answer key and thereafter revised answer on 13.04.2024 and 16.04.2024 of both the papers. From verifying the revised answer key, petitioner came to know that he had obtained 292 marks. The final result of preliminary test was published on 22.04.2024, but name of the petitioner did not find place, though as per his calculation he has obtained more marks than the cut off. Being aggrieved, petitioner rushed to the office of JPSC and requested them to evaluate his OMR sheet properly, as he is apprehending that his OMR sheet might have been rejected on technical grounds. Upon inquiry, petitioner has been informed that an inadvertent mistake has been committed by him while bubbling the last digit of his roll number, resulting into rejection of OMR sheet. The petitioner further submitted a representation on 29.04.2024 requesting therein to evaluate his OMR sheet, as in earlier similar facts and circumstances in the 7th to 10th Civil Services Combined Examination, 2021, the OMR sheet of some of the candidates having the similar issue of bubbling, had been considered and they were given opportunity to appear in the mains examination. However, the same has yielded no fruitful result and the petitioner has been denied similar benefits. Being aggrieved, petitioner is constrained to knock the door of this Court.

Arguments advanced by learned counsel for the Petitioner.

4. Mr. Amritansh Vats, learned counsel representing the petitioner vociferously argues that the case of the petitioner for re-evaluation of his OMR answer script has not been considered by the respondent-JPSC only on hyper technical ground. Learned counsel submits that in the OMR sheet of Paper-I, the petitioner mentioned his Roll No. 23186028 in the space provided under column correctly. However he mistakably darkened wrong bubble / circle in the column of Roll Number in the OMR sheet, i.e. instead of circle '8', he darkened circle '0'. After realizing his mistake, in relation to paper-I, he corrected his mistake by darkening the correct digit '8' in the column of the OMR sheet. Learned counsel submits that the petitioner is a meritorious candidate obtaining equal marks to the topper of the examination, is being debarred from appearing in the Mains Examination due to this technical and human error, which is impermissible in the eyes of law. He submits that only on technical ground, the non-evaluation of the answer sheet of the petitioner is arbitrary, unjust and action of

the respondent-JPSC is fit to be quashed and set aside. Learned counsel refers the case of similarly situated candidate of 7th to 10th Civil Services Combined Competitive Examination, 2021, who has committed same type of mistake by bubbling wrong circle and thereafter corrected it by darkening the correct roll number, whose OMR sheet has been evaluated by JPSC whereas case of the petitioner has been denied.

5. Mr. Amritansh Vats, learned counsel submits that considering this type of hyper technical nature of mistake, the candidate cannot be penalised for a trivial careless mistake by not darkening one block in the OMR sheet correctly. The Government of Jharkhand has also come out with a resolution contained in Memo No. 3143 dated 13.9.2016, wherein the Committee has resolved the issues of syllabus and examination pattern of Civil Services Combined Competitive Examinations conducted by the Jharkhand Public Service Commission. It was also resolved that Jharkhand Public Service Commission shall ensure that no application form /answer sheet of any candidate participating in the Mains Examination shall be rejected merely on technical ground. Learned counsel submits that despite the said clear cut resolution which has got approval of His Excellency the Governor of Jharkhand, case of the petitioner has not been considered and as such the same needs interference by this Court in order to save future of a meritorious candidate. Learned counsel also refers the letter dated 17.5.2024 issued by the Union Public Service Commission, by which the Union Public Service Commission is of the view that discrepancy arising out due to wrong entries in the Roll Nos. / darkening of corresponding bubbles etc. do not result in rejection of OMR sheets.

6. Mr. Amritansh Vats, learned counsel appearing for the petitioner further argues that similar nature of issue fell for consideration before the Hon'ble Apex Court in the case of **Vashist Narayan Kumar Vs. The State of Bihar & Ors.**, reported in **(2024) 1 SCR 1**, wherein the Hon'ble Apex Court was of the view that such type of error cannot be said to be so grave as to constitute wrong or misleading information. The exception for trivial errors or omissions is for the reason that law does not concern itself with trifle. It was also observed by the Hon'ble Apex Court that this principle is recognised in the legal maxim-De minimis non curat lex. It is further contended that it is a trivial error which appears to be a genuine and bona fide mistake and it will be unjust to penalise the petitioner by evaluating the OMR answer script.

7. To buttress his arguments, learned counsel further places reliance upon the judgments in the case of **Ashis Kumar Bharti & Anr. Vs. State of Jharkhand & Ors.**, decided in Civil Appeal No. 2951 of 2018 and **Ajay Kumar Vs. Union of India & Ors.**, reported in 2016 SCC OnLine Del 4330.

8. Relying on the aforesaid facts and judicial pronouncements, learned counsel pleads for sympathetic approach and prays for a direction to the Jharkhand Public Service

Commission to evaluate his OMR sheet, as he obtained more marks than the cut off, as per his calculation based on the revised answer key uploaded by the respondent-Commission.

Arguments advanced by learned counsel for Respondent-JPSC

9. Mr. Sanjay Piprawall, learned counsel appearing for the respondent-JPSC vehemently opposes the contentions raised by the learned counsel for the petitioner and submits that the case of the petitioner is fit to be rejected outrightly in view of the very terms and conditions mentioned in the admit card itself. Emphasizing the very terms and conditions mentioned in clauses 3 and 4 of the admit card, learned counsel submits that it was mentioned therein that answer sheet will be processed by Electronic device. Invalidation of answer sheet due to incomplete / incorrect filling up of relevant circle of Roll Number and Question Booklet series in the OMR Answer Sheet shall result in cancellation of candidature. Any deficiency in filling up OMR Answer sheet shall be the sole responsibility of the candidates. Further caution was indicated that care should be taken in filling up the roll number, examination paper number, question booklet serial number and that complete filling up will be the sole responsibility of the candidate. It was also mentioned that Roll Number, Registration Number, Question Booklet Series etc. (in word or number or both as required) must be furnished on the respective column at OMR Answer Sheet. Learned counsel submits that E-Admit card was issued to the petitioner and after going through the instructions in the admit card, he appeared in the preliminary examination, but he has not correctly shadowed the Roll Number in the OMR sheet of Paper-I and therefore, his OMR answer script has not been evaluated by the OMR scanning machine.

10. Mr. Sanjay Piprawall, further submits that terms and conditions as mentioned in the instruction on the admit card are mandatory in nature and the same cannot be relaxed. He submits that instructions are meant to ensure fairness in the examination and evaluation of answer sheets and that no attempt should be made to identify the candidate by any means and therefore, for the sake of maintaining purity of the examination process, the OMR answer sheets are checked by scanning machine and no manual process is involved.

11. In reply to the submissions of learned counsel for the petitioner that there was a resolution of the State Government not to reject the OMR sheet on technical ground, Mr. Sanjay Piprawall submits that the said resolution was issued in the year 2016 and the same was with respect to 6th Combined Civil Services Examination and the instant selection process is governed by the Jharkhand Combined Civil Services Examination Rule, 2021, which has been framed in exercise of power under the proviso to Article 309 of the Constitution of India and this resolution is not binding in the instant selection process. However, it has been provided in Rule 31 of the said Rules, 2021 that

the Commission shall take necessary care that the answer sheet of such candidates, who have appeared in the Mains Examination shall not be cancelled / rejected due to technical reasons. But case of the petitioner is not covered under the provisions of Rule 31 of the said Rules, 2021, as the petitioner is not a candidate who has appeared in the Mains Examination.

12. Learned counsel submits that in plethora of judgments rendered by the Hon'ble Apex Court as well as by this Court and several other Courts, it has been held that instructions given to the candidates are mandatory having force of law and it cannot be relaxed. Reliance has been placed on the following judgments:-

(i) **Jharkhand Public Service Commission & Anr. Vs. Hulash Nayak & Ors.**, decided in L.P.A. No. 392 of 2022 passed by this Court;

(ii) **Mishra Somesh Kumar Shiv Kumar Vs. The State of Jharkhand & Ors.**, decided in L.P.A. No. 55 of 2017.

(iii) **J & K Board of Professional Entrance Examination & ors. Vs. Pankaj Sharma & Anr.**, decided in Civil Appeal No. 7158 of 2019.

13. Placing much reliance on the aforesaid judgments, learned counsel reiterates his stand that as the petitioner has incorrectly darkened the relevant circle of roll number and since the OMR answer sheet are processed electronically through OMR scanning machine and the machine could not read the OMR sheet of the petitioner, the petitioner has been declared unsuccessful. Now it is not open to the respondent-Commission to make any correction in the OMR sheet for its re-evaluation by the OMR scan machine, as it will amount to interpolation with the OMR sheet of the petitioner. It is not possible for the Commission to reappraise the OMR Sheets/answer sheets manually of any candidate on such grounds of technical mistake since lacs of students appear in the examination and such reappraisal on any ground may lead to delay in publication of result and further to conduct mains examination. Lastly learned counsel argues that if case of the petitioner is allowed, then it would open the flood gate and chances of various representations on such ground would increase and may further lead to tinkering in the OMR sheets of the candidates. Hence, no interference is warranted in the instant writ petition, as the petitioner himself has committed mistake and a candidate who is not careful, has to suffer.

Findings of the Court.

14. I have considered rival submissions made by the learned counsel for the parties across the Bar and perused the materials available on record. Before delving deep into the matter, it would be apt to examine the issues involved in the writ petition, which are as under:-

(i) Whether the error committed by the petitioner is trivial in nature which needs to be ignored?

(ii) Whether rejection of candidature of petitioner was on hyper technical ground?

(iii) Whether sympathy has any role to play in such type of cases in which the rejection has been done on the mandatory requirement of the terms and conditions mentioned in the admit card?

(iv) Whether process of electronic scanning by machine can be equated with that of manual evaluation of the OMR sheet?

15. The facts are not in dispute that the petitioner has admittedly committed mistake in darkening the bubble on the OMR answer script with respect to his roll number, which resulted in his answer-sheet not evaluated by the scanning machine. The instructions on the admit card read as under:-

“3. Answer sheet will be processed by Electronic device. Invalidation of Answer sheet due to incomplete / incorrect filling of relevant circle of Roll No. and Question Booklet Series in the OMR Answer Sheet shall result in cancellation of candidature. Any deficiency in filling up OMR Answer Sheet shall be the sole responsibility of the candidates. Please do not writ or mark on this Answer sheet outside the demarcated areas. It will invalidate your Answer Sheet. Candidates are advised to read the instruction carefully, given in the cover and back page of the question Booklet and Back side of his OMR Sheet before attempting the questions.

4. All other information i.e. Roll No., Registration No., Question Booklet Series etc (in word or number or both as required) must be furnished on the respective column at OMR Answer Sheet as per instruction given in the OMR Answer Sheet.”

16. From perusal of the instructions quoted above, it is as clear as day that the candidates were forewarned about taking care while filling up the OMR answer script. The reasons are not far to understand for the candidates, because the OMR answer sheets are electronically checked for the purpose of ensuring minimum human intervention so as to ensure secrecy and

credibility of the entire examination process. The sanctity of the instructions issued for the conduct of examination and consequence of their violation has been dealt with by the Hon’ble Supreme Court in the case of State of Tamil Nadu & Ors. Vs. G. Hemalathaa & Anr. (supra), wherein it has been held that instructions issued by the Commission are mandatory having force of law and they have to be strictly complied with and it has also been held that strict adherence to the terms and conditions of the instructions are of paramount importance. The relevant paragraphs-8 to 13 are

quoted herein below:-

“8. 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 Commission [M. Vennila v. T.N. Public Service Commission, 2006 SCC OnLine Mad 465 : (2006) 3 Mad LJ 376] .

9. 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 v. SalambinMohammad [Taherakhatoon v. Sa lambin Mohammad, (1999) 2 SCC 635] and Chandra Singh v. State of Rajasthan [Chandra Singh v. State of Rajasthan, (2003) 6 SCC 545 : 2003 SCC (L&S) 951] 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.

10. 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 said 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.

11. 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 [Umesh Chandra Shukla v. Union of India, (1985) 3 SCC 721 : 1985 SCC (L&S) 919] , Venkataramiah, J., held that : (SCC p. 735, para 13)

“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.”

12. Roberts, C.J. in *Caperton v. A.T. Massey Coal Co. Inc.* [*Caperton v. A.T. Massey Coal Co. Inc.*, 2009 SCC OnLine US SC 65 : 556 US 868 (2009)] held that : (SCC OnLine US SC) “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”.”

13. 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.

17. Similar issue fell for consideration before the Division Bench of the Allahabad High Court in the case of **Jai Karan Singh Vs. State of U.P. & Ors.** (supra), decided in Special Appeal No. 90 of 2018 and the same was affirmed by the Hon’ble Apex Court in S.L.A. (C) No. 19089 of 2018. The Division Bench has been observed at page-12, as follows:-

“... 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 correctly fill their Registration Number, Roll Number in the OMR Answer Sheet and it is these teachers who are now 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 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 filing the information accurately in the OMR Answer Sheets 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 August 2017 that they should visit the Website of the Board for the ascertaining procedure that was required to be followed for filling up the information in the OMR Answer Sheet.”

18. Further, similar issue fell for consideration before the Rajasthan High Court in the case of **Union of India & Ors. Vs. Jagdish Chandra Jat**, reported in 2021 SCC OnLine Raj 4368 (supra), wherein, the Rajasthan High Court has been pleased to dismiss the original application filed by the applicant, by which the Tribunal has directed to evaluate the OMR answer sheet, as the applicant was found to have secured cut off marks or more marks than the persons appointed, despite the fact that the applicant

has incorrectly darkened the wrong bubble / circle in the column of roll number in the OMR sheet. The Rajasthan High Court relying on the ratio laid down by the Hon'ble Apex Court in various cases including in the case of

G. Hemlathaa (supra) was of the view that wrong indication of roll number by darkening the wrong bubble by the respondent was apparently fatal. This judgment of the Rajasthan High Court has been affirmed by the Hon'ble Apex Court in S.L.A. (C) No. 16738 of 2021.

19. Similar issue also fell for consideration before this Court in the case of **Aditya Isha Prachi Tirkey Vs. The Jharkhand Public Service Commission & Ors.** (supra), reported in **2022 SCC OnLine Jhar 28** wherein it has been observed in paragraphs-8 and 9, which reads thus:-

“ At this stage this Court cannot direct the Commission to correct the same because it would amount to manipulation in the OMR Sheet. A candidate is supposed to follow the instructions and such mistakes are not expected by the aspirants appearing in the State Civil Service Examination. May be the petitioner has not intentionally darkened digit 6 instead of 8, but sympathy has no place in the eyes of law. The law will prevail in view of the terms and conditions as mentioned in the Advertisement, Admit Card and that of the Rules framed by the JPSC. The Hon'ble Apex Court in the case of Ram Vijay Singh & Ors. State of Uttar Pradesh & Ors., reported in (2018) 2 SCC 357, wherein, taking into consideration its previous decisions, including the one in Manish Ujwal's case (2005) 13 SCC 744, the law was laid down by the Hon'ble Apex Court as follows:-

“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.”

9. If the contention of the learned Senior Counsel is accepted regarding re-evaluation of the OMR sheet, it will amount to opening flood gate and a blanket order has to be issued regarding entertaining of those candidates, who have made incorrect entry in violation of clause 4 of the terms and conditions as

mentioned in the admit card. This Court sitting under Article 226 of the Constitution of India cannot interfere in such matters. No interference is warranted in this writ petition."

20. Further the Division Bench of this Court in the case of **Jharkhand Public Service Commission & Ors. Vs. Hulash Nayak & Ors**, decided in L.P.A. No. 392 of 2022 and other analogues appeals, relying on various judgments including its earlier judgments in the cases of **Ajit Kumar Gope & Ors. Vs. The Chairman, Jharkhand Public Service Commission & Ors**, [LPA No. 144 of 2014] and in the case of **Mishra Samesh Kumar Shiv Kumar Vs. The State of Jharkhand & Ors**, decided in L.P.A. No. 55 of 2017, was of the view that **"filling up OMR sheets as per given instructions was mandatory and such instructions have the force of law and errors committed by the candidates in filling up the circles of the digits of the roll number leading to rejection of such OMR sheets would lead to rejection of candidature of such candidates and no mandamus can be issued to correct the OMR sheets manually. Such OMR sheets suffer from fatal defects and are not capable of being evaluated through the electronic devise meant for examining such OMR sheets."**

21. In the matter of appointment, the selection process has to be conducted strictly in accordance with the stipulated selection procedure. There cannot be any relaxation in the terms and conditions. Law is well settled that that selection process has to be completed strictly in terms of the criteria mentioned in the Rules, as held by the Hon'ble Supreme Court in the case of **Bedanga Talukdar -Vs- Saifudaullah Khan and Ors** reported in (2011) 12 SCC page 85. Paragraph-29 and 32 of the Judgment rendered in the case of **Bedanga Talukdar Vs. Saifudaullah Khan and others** reported in (2011) 12 SCC 85, reads as under:

"29. We have considered the entire matter in detail. In our opinion, it is too well settled to need any further reiteration that all appointments to public office have to be made in conformity with Article 14 of the Constitution of India. In other words, there must be no arbitrariness resulting from any undue favour being shown to any candidate. Therefore, the selection process has to be conducted strictly in accordance with the stipulated selection procedure. Consequently, when a particular schedule is mentioned in an advertisement, the same has to be scrupulously maintained. There cannot be any relaxation in the terms and conditions of the advertisement unless such a power is specifically reserved. Such a power could be reserved in the relevant statutory rules. Even if power of relaxation is provided in the rules, it must still be mentioned in the advertisement. In the absence of such power in the rules, it could still be provided in the advertisement. However, the power of relaxation, if exercised, has to be given due publicity. This would be necessary to ensure that those candidates who become eligible due to the relaxation, are afforded an equal opportunity to apply

and compete. Relaxation of any condition in advertisement without due publication would be contrary to the mandate of equality contained in Articles 14 and 16 of the Constitution of India."

32. In the fact of such conclusions, we have little hesitation in concluding that the conclusion recorded by the High Court is contrary to the facts and materials on the record. It is settled law that there can be no relaxation in the terms and conditions contained in the advertisement unless the power of relaxation is duly reserved in the relevant rules and/or in the advertisement. Even if there is a power of relaxation in the rules, the same would still have to be specifically indicated in the advertisement. In the present case, no such rule has been brought to our notice. In such circumstances, the High Court could not have issued the impugned direction to consider the claim of Respondent 1 on the basis of identity card submitted after the selection process was over, with the publication of the select list."

22. The contention of learned counsel for the petitioner is based on the judgment in the case **Vashisth Narayan Kumar** (supra) that the mistake committed by the candidate was minor and technical, so as to penalise the petitioner by not evaluating the OMR answer sheet. This contention of the petitioner is not tenable, for the reason that in case the said correction of mistake is permitted, the same would surely compromise the secrecy of the OMR answer sheet and the evaluation process, inasmuch as, on request if correction is allowed to stand, the OMR sheet would have to be taken out from the entire lot, resulting in identification of the OMR answer sheet with respect to a particular candidate and a possibility of further tinkering with the OMR sheet cannot be ruled out. Even also, the judgment relied by learned counsel for the petitioner to the case of **Vashisth Narayan Kumar** (supra) is not applicable to the instant case. The facts of both the cases are totally different and in that case, the background was focused as the appellant was from downtrodden segment of the society and was a candidate of Constable and had not filled-up the online application form by himself rather the same was filled-up by a person in the cyber café. It is not a case of darkening / circling the OMR sheet. It is a case of filling up the online application form, in which date of birth was wrongly mentioned as 18.12.1997, instead of 08.12.1997.

23. However, the case in hand, the petitioner being the aspirant of State Civil Services is supposed to follow the instructions and it is not expected from a candidate appearing in the Civil Services Examination to commit such mistake by darkening the wrong circle in the column of his roll number. Hence, the case of **Vashisth Narayan Kumar** (supra) vis-à-vis the present one is totally different and ratio laid down therein is of no help to the petitioner.

24. The further contention of learned counsel for the petitioner relying on the said judgment in the case of Vashist Narayan Kumar (supra) that the error committed by the petitioner is trivial in nature and as such, relying on the legal maxim *non curat lex* (law does not concern itself with trifles), the same should be ignored and a direction be given to the respondents for evaluation of the answer sheet is not all acceptable to this Court on the ground that if it is directed to evaluate the answer sheet of the petitioner, the same would lead to chaos, as all such candidates like the petitioner then would be required to be permitted to make corrections, exposing the entire lots of OMR answer sheets, which consequence cannot be permitted. The judgment relied upon by learned counsel for the petitioner in the case of Aashis Kumar Bharti (supra) is also of no help to the petitioner, as the said judgment has been passed by the Hon'ble Supreme Court in special facts of that case.

25. Further contention of learned counsel for the petitioner relying on the resolution of the State Government is also not tenable in view of the specific terms and conditions mentioned in the admit card. Rightly it is contended by learned counsel for the respondent-JPSC that the said resolution is not applicable to the present selection process. The present selection process is governed by Jharkhand Combined Civil Services Examination Rules, 2021. Rule 31 thereof provides that the Commission shall take necessary care that the answer sheet of such candidates who have appeared in the Mains Examination shall not be cancelled / rejected due to technical reason. The present case is related to preliminary test and not the Mains examination. Even if the petitioner was having any grievance related to the terms and conditions mentioned in the admit card and not in consonance with the resolution of the State Government dated 13.04.2016, he was supposed to challenge the same before appropriate forum. Likewise, the letter issued by the Union Public Service Commission is also of no help to the petitioner, as the Rules and Regulations of the Union Public Service Commission in holding the examinations are not binding on the Jharkhand Public Service Commission. Here in the instant case, it is the rules, terms and conditions of the State Government as well as Jharkhand Public Service Commission, which is applicable.

26. In view of discussions made herein above, it can comfortably be said that the error committed by the petitioner in darkening the wrong circle in the column of roll number in OMR sheet of Paper-I, which determines the identity of the petitioner, cannot be said to be minor in nature. The petitioner, who appeared in the examination was a mature student and was to be appointed as Deputy Collector, Dy. Superintendent of Police and other high ranking officers of the State Government and it was expected from him to read the instructions very carefully before bubbling the OMR sheet relating to his roll number, registration number etc. The entry was made inaccurately, due to which the scanner machine could not read the same resulting into rejection of his candidature. The sympathy or compassion has no role to play in such type of cases and hence, the

plea of leniency and sympathetic consideration is not accepted to this Court.

Accordingly, the issues framed for adjudication of the matter are decided against the petitioner.

27. As a sequitur to the aforesaid rules, regulations, guidelines and judicial pronouncements, this Court finds no merit in the writ petition worth interference. The writ petition being devoid of any merit, the same is hereby dismissed.