

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 13<sup>TH</sup> DAY OF JULY 2018**

**PRESENT**

**THE HON'BLE MR. JUSTICE H.G.RAMESH**

**AND**

**THE HON'BLE MR. JUSTICE P.S.DINESH KUMAR**

**I.As.No.1 to 4/2018**

**in**

**Writ Petitions No.13617-13627/2017 and**  
**Writ Petition No.14529/2017**

**IN I.A No.1/2018:**

**BETWEEN:**

RENUKAMBIKE R AND OTHERS

...PETITIONERS

**AND:**

THE STATE OF KARNATAKA AND OTHERS

... RESPONDENTS

(BY SHRI MRINAL SHANKAR FOR  
MS.SAJANTHI SAJAN POOVAYYA, ADVOCATES FOR  
APPLICANT/R-58;  
SHRI A.S.PONNANNA, AAG ALONG WITH  
SHRI I.THARANATH POOJARY, AGA FOR R-1, 2 & 4;  
SHRI P.S.RAJAGOPAL, SENIOR ADVOCATE FOR  
SHRI REUBEN JACOB, ADVOCATE FOR R3)

THIS I.A.NO.1/2018 IS FILED UNDER SECTION 151 OF CODE OF  
CIVIL PROCEDURE, 1908 R/W RULE 39 OF THE KARNATAKA HIGH  
COURT WRIT PROCEEDINGS RULES, 1977, PRAYING TO CONSIDER  
RESTORATION OF THE RESULT OF THE FINAL WRITTEN EXAMINATION

PUBLISHED ON 16.03.2013 AND DIRECT RE-INTERVIEW OF CANDIDATES WHO HAD QUALIFIED FOR THE INTERVIEW, IN ACCORDANCE WITH THE FINAL ORDER DATED 04.04.2018 PASSED BY THE HON'BLE SUPREME COURT IN CIVIL APPEAL NOS.3543-3555/2018.

**IN I.A No.2/2018:**

**BETWEEN:**

RENUKAMBIKE R AND OTHERS

...PETITIONERS

**AND:**

THE STATE OF KARNATAKA AND OTHERS

... RESPONDENTS

(BY SHRI PARVAIAH, ADVOCATE FOR APPLICANT/R-43)

THIS I.A.NO.2/2018 IS FILED UNDER SECTION 151 OF CODE OF CIVIL PROCEDURE, 1908 R/W RULE 39 OF THE KARNATAKA HIGH COURT WRIT PROCEEDINGS RULES, 1977, PRAYING TO DECIDE THE VALIDITY OR OTHERWISE OF THE WRITTEN EXAMINATION IN QUESTION, AS PER THE ORDER DATED 04.04.2018 OF THE HON'BLE SUPREME COURT OF INDIA IN CIVIL APPEAL NOS.3543-3555/2018 ARISING OUT OF S.L.P.(C) NOS.7166-7178 OF 2018.

**IN I.A No.3/2018**

**BETWEEN:**

RENUKAMBIKE R AND OTHERS

...PETITIONERS

**AND:**

THE STATE OF KARNATAKA AND OTHERS

... RESPONDENTS

**AND:**

1. SRI GOWRAV KUMAR SHETTY  
FATHER'S NAME NOT KNOWN TO THE PETITIONERS  
AGE:MAJOR, PASHU PATHI KRIPA  
KARKEE, POST GULBADY

KUNDAPUR TALUK, UDUPI DISTRICT  
KARNATAKA, KUNDAPUR, UDUPI

2. SRI NITHIN CHAKKI  
FATHER'S NAME NOT KNOWN TO THE PETITIONERS  
AGE:MAJOR, RESIDING AT 1694, 15<sup>TH</sup> MAIN  
30<sup>TH</sup> CROSS, BANASHANKARI 2<sup>ND</sup> STAGE  
BENGALURU
3. SMT ARCHANA.C  
FATHER'S NAME NOT KNOWN TO THE PETITIONERS  
AGE:MAJOR, NO.504, 3<sup>RD</sup> STAGE, 4<sup>TH</sup> BLOCK  
10<sup>TH</sup> A MAIN, WEST OF CHORD ROAD  
BASAVESHWARANAGAR, BENGALURU
4. SRI K.P.SUBBAIAH  
FATHER'S NAME NOT KNOWN TO THE PETITIONERS  
AGE:MAJOR, POST BOX NO.27, KUMTOOR VILLAGE  
SRIMANGALA POST, VIRAJPET TALUK  
SOUTH COORG, MADIKERI
5. SMT SHOBHA.A  
FATHER'S NAME NOT KNOWN TO THE PETITIONERS  
AGE:MAJOR, RESIDING AT NO.16, 9<sup>TH</sup> MAIN, 4<sup>TH</sup> CROSS  
NANJAPPA REDDY LAYOUT, BENGALURU
6. SRI MOHAN KUMAR H.R  
FATHER'S NAME NOT KNOWN TO THE PETITIONERS  
AGE:MAJOR, JSS SHABHA SHAVAN, KOLLEGAL ROAD  
T.NARASIPURA, MYSURU
7. SRI VIJAY KUMAR.S  
S/O SIDDARAMU.B  
AGE:MAJOR, RESIDING AT 150  
2<sup>ND</sup> MAIN, A1 BLOCK, 3<sup>RD</sup> STAGE  
VIJAYANAGAR, MYSURU
8. SMT SARITHA RAO  
FATHER'S NAME NOT KNOWN TO THE PETITIONERS  
AGE: MAJOR, RESIDENT OF GOVINDARAJ NAGAR  
BENGALURU

9. SMT LATHA T  
D/O KANIBASAPPA.T  
AGE:MAJOR, RESIDENT OF UTTANGI POST  
HUVINAHADAGALI TALUK  
BALLARI DISTRICT, BALLARI
10. SMT SUSHMA N  
FATHER'S NAME NOT KNOWN TO THE PETITIONERS  
AGE:MAJOR, NO.101, 1<sup>ST</sup> MAIN  
BUDIGERE ROAD, PRASHANT NAGAR  
DEVANAHALLI, BENGALURU  
BENGALURU CITY
11. SRI MADHUCHANDRA B.R  
FATHER'S NAME NOT KNOWN TO THE PETITIONERS  
AGE:MAJOR, RESIDENT OF BENDARAVADI VILLAGE  
PUTTANAPURA POST, GUNDLUPET TALUK  
CHAMARAJA NAGARA DISTRICT  
CHAMARAJANAGAR
12. SRI SHAILASHREE G KOPPAL  
D/O GUNDAPPA M.KOPPAL  
AGE:MAJOR  
YANKANCHI POST, SINDAGI, BIJAPUR  
VIJAYAPURA
13. SRI KARUNAKARA  
S/O SHANTHAIAH  
AGE:MAJOR  
HOSPETE VILLAGE, BELGODU POST  
SAKALESH PURA TALUK, HASSAN DISTRICT  
HASSAN
14. SRI K.ANJUM HAFEEZ  
FATHER'S NAME NOT KNOWN TO THE PETITIONERS  
AGE:MAJOR, RESIDENT OF 1<sup>ST</sup> CROSS  
INDIRA NAGAR, HAL 2<sup>ND</sup> STAGE, BENGALURU  
BENGALURU CITY
15. SRI GOVARDHAN GOPAL  
FATHER'S NAME NOT KNOWN TO THE PETITIONERS  
AGE:MAJOR, NO.1553, 13<sup>TH</sup> MAIN  
12<sup>TH</sup> CROSS, 2<sup>ND</sup> STAGE

BTM LAYOUT, BENGALURU  
BENGALURU CITY

16. RAVIKUMAR K.Y  
FATHER'S NAME NOT KNOWN TO THE PETITIONERS  
AGE:MAJOR  
C/O S.SANGAMESHWARAM, CFTRI LAYOUT  
1<sup>ST</sup> MAIN, 3<sup>RD</sup> CROSS, BOGADI 2<sup>ND</sup> STAGE  
MYSURU
17. SMT RAMYA C.R  
D/O RAJASHEKHARIAH S. SHARANYA  
AGE:MAJOR  
RESIDENT OF 6<sup>TH</sup> CROSS, CHANNABASAVESHWARA  
NAGAR, NEAR UPPARAHALLI WATER TANK  
TUMAKURU
18. SMT SNEHA RAJ N  
FATHER'S NAME NOT KNOWN TO THE PETITIONERS  
AGE:MAJOR  
RESIDING AT NO.156, HPO & RMS COLONY  
NEAR RTO (EAST), SHAKTHI NAGAR  
MYSURU
19. MOHAMMED MANSOOR M.R  
FATHER'S NAME NOT KNOWN TO THE PETITIONERS  
AGE:MAJOR  
MR.VILLA, SANTHOOR ROAD CROSS  
OPPOSITE KSRTC BUS DEPOT  
CHANNAPATNA TOWN, RAMANAGARA
20. SMT LALITHA L  
W/O CHANDRASHETTY B.D  
AGE:MAJOR, TEACHER  
BILEKALAHALLY, UDDEBORANAHALLI POST  
CHIKKAMAGALUR DISTRICT  
CHIKKAMAGALURU
21. SRI SHASHIDHARA H  
S/O HANUMANTHAPPA KANGUVALLI  
AGE:MAJOR  
HOSADURGA POST, CHITRADURGA

22. SMT SHAILA.N  
FATHER'S NAME NOT KNOWN TO THE PETITIONERS  
AGE:MAJOR  
GOVT., PU COLLEGE, I.D.HALLI  
MADHUGIRI TALUK, TUMAKUR DISTRICT  
TUMAKURU
23. SMT HEMAVATHI R  
FATHER'S NAME NOT KNOWN TO THE PETITIONERS  
AGE:MAJOR  
NO.70/2, FLAT NO.008, SLV ENCLAVE  
ASHWATHNAGAR, THANISANDRA  
BENGALURU
24. ADARASH G  
S/O S.GANGADHARIAH  
GANGA NILAYA, 3<sup>RD</sup> MAIN  
BASAVESHWARA EXTENSION  
KYATHASANDRA, TUMAKURU
25. SOMASHEKAR K.S  
S/O LATE SRINIVASA.V  
4<sup>TH</sup> CROSS, KOLAR DISTRICT  
KOLAR
26. PRADEEPA R  
51, VENKATESHWARA NILAYA  
34/1, ATTIGUPPE, 2<sup>ND</sup> MAIN  
VIJAYANAGAR 2<sup>ND</sup> STAGE, BANGALORE SOUTH  
BENGALURU CITY
27. RESHMA K.S  
#233/H, 4<sup>TH</sup> MAIN, NETHAJI NAGAR  
MYSURU
28. NEELABAI LAMANI  
D/O KRISHNAPPA LAMANI  
TSS ROAD, NEW MARKET YARD  
SIRSI, UTTARA KANNADA DISTRICT
29. SRI VENKTESHAPPA.S  
FATHER'S NAME NOT KNOWN TO THE PETITIONERS  
AGE:MAJOR

RESIDENT OF HOLLAMBALLI VILLAGE  
SHAHPURA POST, KOLAR TALUK  
KOLAR DISTRICT, KOLAR

30. PRADEEP KUMAR H.S  
S/O SATHYANARAYANA  
TIMBER MERCHANT, KARIGOWDA  
COLONY, B.M.ROAD, HASSAN
31. MAHADEVA SWAMY T.P  
DOOR NO.355, KALIDASA ROAD  
VIVEKANANDA NAGAR  
T.NARASIPURA TOWN, MYSORE
32. NETHRAVATHI C.M  
W/O PRABHAKAR G.M  
#5450/AS, 1<sup>ST</sup> FLOOR, SHIVA KRUPA  
(NEAR VIVEKANANDA RESIDENTIAL SCHOOL)  
BARIASHANKARI LAYOUT, VIDYA NAGAR  
DAVANAGERE
33. HARIPRASADA T.V  
S/O VENKATAPPA GALIHALLY  
HOSKERE POST, MADHUGIRI TALUK  
TUMAKUR DISTRICT, TUMAKURU
34. JAYID ALI RAJASAB JAMADAR  
C/O KOHINOOR BEKARY, HARUGERI  
RAIBAG TALUK, BELGAUM DISTRICT  
BELGAUM
35. SADANANDA K.C  
S/O CHANDREGOWDA  
K.R.KODTHALLY, ADAGUR POST  
BELUR, HASSAN
36. GEETHA D.M  
NO.12, 23<sup>RD</sup> CROSS, 1<sup>ST</sup> MAIN  
MARUTHI NAGAR, VENKATALA  
BANGALORE NORTH, BANGALORE  
BENGALURU CITY

37. NAGARATHNA S.L  
W/O B.S.LOKESH  
S/O SHEKARAPPA BETTADAHALLI  
TARIKERE, CHIKKAMAGALURU  
CHIKKAMAGALURU
38. LAXMI ASHTAGI  
HOME NO.449, AT KALKHAMB  
MUCHANDI POST, BELGAUM
39. MANJUNATHA REDDY D.L  
#61, 4<sup>TH</sup> CROSS, KODIHALLI  
BENGALURU CITY
40. NAZEERAMAD KANAVALLI  
MARUTHI NAGAR, 1<sup>ST</sup> MAIN  
NEAR CHOLAMARADI, RANEBENNUR  
HAVERI
41. HARISH T  
C/O S.N.SANGAMESHWARAN  
#130, CFTRI LAYOUT, 1<sup>ST</sup> MAIN  
3<sup>RD</sup> CROSS, BHOGADI 2<sup>ND</sup> STAGE  
MYSURU
42. G.S.SRIVIDYA  
NO.21/6/117, TEACHERS COLONY  
HINDUPUR  
ANANTHAPUR-515 201  
ANDHRA PRADESH

...RESPONDENTS

(BY SHRI P.N.RAJESHWARA, ADVOCATE FOR 42 APPLICANTS)

THIS I.A.NO.3/2018 IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA, 1950, PRAYING TO DIRECT THE KPSC TO REDO THE INTERVIEW BASED ON THE ELIGIBILITY LIST PUBLISHED ON 03.11.2011 CONSEQUENTLY FORWARD THE SELECTION LIST TO THE GOVERNMENT.



**IN I.A No.4/2018****BETWEEN:**

RENUKAMBIKE R AND OTHERS

...PETITIONERS

(BY MS.KSHAMA NARAGUND AND  
SHRI VIKRAM PHADKE, ADVOCATES FOR  
SHRI MUZAMIL MUSHTAQ SHAH, ADVOCATE FOR APPLICANTS/  
P5, P7, P8, P11 & P12)

**AND:**

THE STATE OF KARNATAKA AND OTHERS

... RESPONDENTS

(BY SHRI A.S.PONNANNA, AAG ALONG WITH  
SHRI I.THARANATH POOJARY, AGA FOR R-1, 2 & 4  
SHRI P.S.RAJAGOPAL, SENIOR ADVOCATE FOR  
SHRI REUBEN JACOB, ADVOCATE FOR R3  
SHRI B.M.ARUN, ADVOCATE FOR R-23)

THIS I.A.NO.4/2018 IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA READ WITH SECTION 151 OF CODE OF CIVIL PROCEDURE, 1908, PRAYING TO ALLOW THIS APPLICATION BY SETTING ASIDE THE PROCESS OF SELECTION FOR 2011 KPSC GAZETTED PROBATIONERS EXAMINATIONS AND BY DIRECTING THE RESPONDENTS TO INITIATE THE PROCESS OF RECRUITMENT AFRESH IN ACCORDANCE WITH THE RECOMMENDATIONS OF HOTA COMMITTEE AND RULES MADE THEREUNDER.

THESE I.As.NO.1 TO 4/2018 IN WRIT PETITIONS NO.13617-13627/2017 AND WRIT PETITION NO.14529/2017 HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 12.06.2018, COMING ON FOR PRONOUNCEMENT OF ORDERS, THIS DAY, **P.S. DINESH KUMAR, J.**, PRONOUNCED THE FOLLOWING:-

ORDER

These four interlocutory applications have been filed after disposal of Civil Appeals No.3543-3555/2018 by the Hon'ble Supreme Court on 04.04.2018.

**2.** The Hon'ble Supreme Court of India in the aforesaid Civil Appeals has directed as follows:-

*"8. Learned Counsel for some of the parties submitted that the written examination is not vitiated by any irregularity and the same can be sustained. Interviews can be held again.*

*9. Since this contention does not appear to have been raised before the High Court we permit this contention to be now raised by either of the parties by moving the High Court within two weeks from today. If such an application is moved, the High Court may examine the same on merits. If the High Court finds that the written examination is free from any blemish, the High Court may consider restoration of the result of the written examination and further selection process to be conducted. It will also be open to the High Court to direct re-evaluation of scripts of all the candidates or to sustain the cancellation of result of the written examination so that fresh selection can be held. We do not express any opinion on merits of the rival contentions which will be open to be gone into by the High Court. The High Court may take a decision in the matter at the earliest preferably within a period of three months from the date the High Court is moved."*

**3.** I.A.No.1/2018 is filed by respondent No.58 with a prayer to restore results of final written examination published on 16.03.2013 by the Karnataka Public Service Commission ['KPSC' for short] and to direct fresh interviews of the candidates, who qualified in the said results.

**4.** I.A.No.2/2018 is filed by respondent No.43 with a prayer to decide the validity or otherwise of the written examination as per the order passed by the Apex Court.

**5.** I.A.No.3/2018 is filed by respondents No.5, 11, 22, 38, 40-42, 47-49, 51, 52, 55, 59, 78, 84, 88, 92, 93, 102, 124, 129, 152, 181, 192, 196, 197, 208, 210, 240, 272, 284, 290, 297, 303, 320, 322, 325, 327, 344, 361 & 362 (42 applicants) with a prayer to direct the KPSC to redo the interview based on eligibility list published on 03.11.2011.

**6.** I.A.No.4/2018 is filed by a petitioner (Srinivas.T-Petitioner No.12) in W.Ps.No.13617-13627/2017 & W.P.No.14529/2017 with a prayer to set-aside the selection

for 2011 Gazetted Probationers and to direct the respondents to initiate recruitment process afresh in accordance with recommendations of 'Hota Committee' report.

**7.** Thus, in substance, I.As.No.1 and 3/2018 are filed to uphold the results of written examination and to direct fresh viva voce, I.A.No.2/2018 to decide the validity of written examination and I.A.No.4/2018 to direct the KPSC to initiate fresh recruitment process.

**8.** We have heard Ms.Kshama Naragund and Shri Vikram Phadke, learned Advocates for applicants/petitioners No.5, 7, 8, 11 and 12 in I.A.No.4/2018; Shri P.S.Rajagopal, learned Senior Advocate for KPSC; Shri A.S.Ponnanna, learned Additional Advocate General for the State; Shri Mrinal Shankar, learned Advocate for respondent No.58 in I.A.No.1/2018; Shri Parvaiah, learned Advocate for respondent No.43

(Pushpalatha.G) in I.A.No.2/2018 and Shri B.M.Arun, learned Advocate for respondent No.23 (Supriya Banagar B).

**9.** Learned Advocates appearing on behalf of the applicants seeking a direction to the KPSC to conduct fresh viva voce, mainly argued that:

- the results of the written examination are not vitiated in any manner;
- the CID report has dealt with the marks obtained in the interview only; and
- therefore, justice would be sub-served by sustaining the marks obtained in the written examination and directing the KPSC to hold fresh interviews.

**10.** Ms.Kshama, learned Advocate, arguing on behalf of applicants in I.A.No.4/2018, contended that, the entire process of selection has been vitiated, and it includes the results of written examination also.

**11.** Shri P.S.Rajagopal, learned Senior Advocate, argued that there is variance in the interim investigation report and the Charge Sheet submitted by the CID. Therefore, that portion of indictment, which has been dropped in the Charge Sheet cannot be considered. He submitted that, re-evaluation of the answer scripts should be ordered.

**12.** In the conspectus of pleadings in the interlocutory applications and rival submissions of learned advocates for the parties, following points arise for our consideration:-

- (i) Whether the results of written examination are vitiated?
- (ii) Whether fresh viva voce can be ordered, if the evaluation of answer scripts are not vitiated?
- (iii) Whether fresh evaluation of answer scripts can be ordered, if written examination results are vitiated?

**Re-Point (i): Whether the results of written examination are vitiated?**

**13.** Undisputed facts of the case are, an interim investigation report was submitted by the Director General of Police, CID, Special Unit and Economic Offences to the Chief Secretary, Government of Karnataka, under a letter dated 10.09.2013. After going through the said report, the State Government, vide their order dated 15.10.2013 annulled the evaluation of written examination and personality test; and further, called upon the KPSC to redo the exercise from the stage of written examination (main). The KPSC, took a stand that such direction by the State Government is without jurisdiction and *non est* and published provisional selection list on 05.03.2014; and final selection list on 21.03.2014, gazetted on 22.03.2014.

**14.** The Karnataka Administrative Tribunal ('KAT' for short) has recorded in paragraph No.35 of the impugned order dated 19.10.2016 that the Investigation Officer has

submitted the Charge Sheet before the XXIII Additional City Civil and Sessions Judge (Special Court) in Spl. Case No.311/2014 on 12.05.2014 and the trial in the said case is under progress.

**15.** The State Government on 14.08.2014, have withdrawn requisitions dated 09.03.2011, 25.04.2011, 04.10.2011, 19.10.2011 and 09.02.2012; and ordered closure of recruitment process.

**16.** During the course of arguments, it was strenuously contended by the learned Advocates for the applicants in I.As.No.1 and 3/2018 and Shri P.S.Rajagopal, learned Senior Advocate for the KPSC that, the results of written examination are not vitiated. On the other hand, it was vehemently argued by Ms.Kshama, learned Advocate for the applicants in I.A.No.4/2018 that the entire selection process including evaluation of answer scripts is vitiated. Adverting to the contents of the interim investigation report



in detail, she submitted that there are several irregularities in evaluation of answer scripts. We have carefully gone through the interim investigation report, wherein following irregularities have been recorded:

- that, although KPSC had enough evaluators from different Universities and Authorities, they chose to call outside evaluators arbitrarily;
- that, English Medium answer scripts were evaluated by Kannada Medium evaluators and vice versa;
- that, answer scripts were evaluated by teachers of different subjects:
  - (i) though 10 evaluators were available, all answer scripts in the 'Rural Development' subject were evaluated by Economics teachers;
  - (ii) all answer scripts of Anthropology-2 were evaluated by 'Sociology Professors';
- to evaluate 633 answer scripts of Anthropology-1 subject, only 5 out of 18 empanelled evaluators were called. Out of them, 3 retired Professors were utilized;

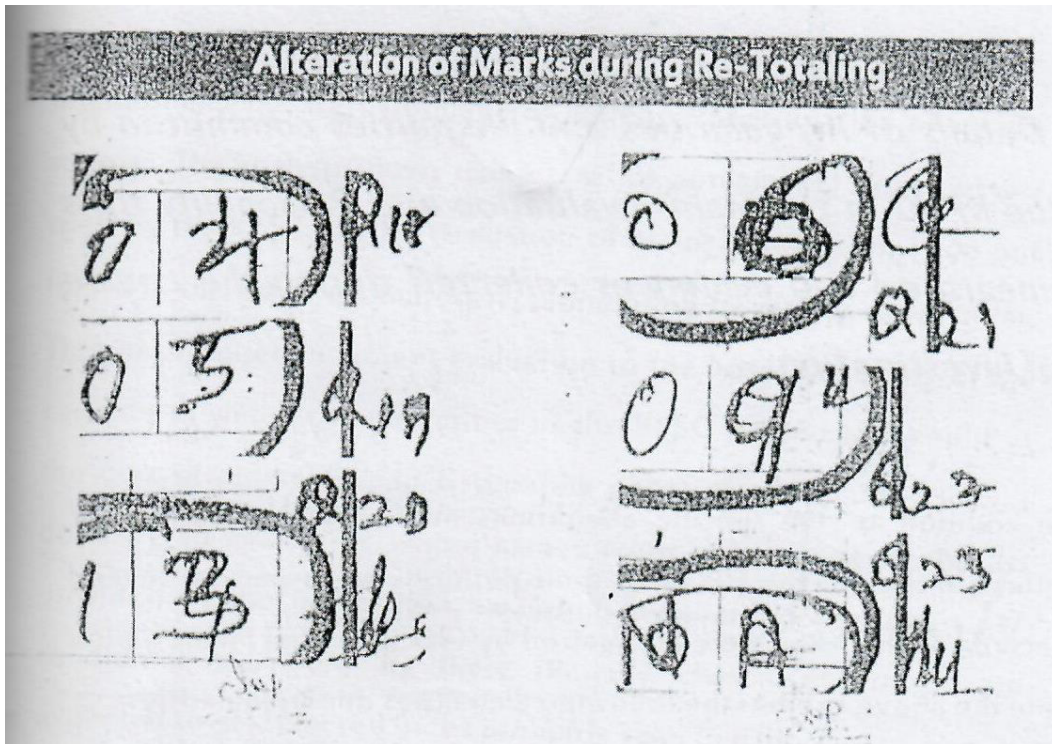
- to evaluate answer scripts in Chemistry subject, none of the 1047 available Professors were called, but answer scripts were evaluated by only 2 retired Professors;
- that, whenever, there is difference of more than 45 marks between the 1<sup>st</sup> and 2<sup>nd</sup> evaluator, the answer scripts are evaluated by a 3<sup>rd</sup> evaluator. In the case of Physics, Geology, Chemistry and Electrical Engineering subjects, only 2 evaluators each were utilized, although, several others were available in the list;
- that, over-writing of marks was found in tabulation and re-totalling of marks by using different ink and the same is corroborated by FSL report;
- that, the re-totalling work was attended to, by 30 employees of KPSC. Marks obtained by 320 candidates out of 929 were found to be increased in re-totalling;
- that, as per KPSC (Functions) (Amendment) Rules, 1986, 60 days time is required to be given to apply for re-totalling after declaration of results. In the instant case, KPSC gave only 12 days to apply for re-totalling;

- that following candidates, who were benefited in re-totalling were found to be in touch with KPSC members;

Table No.16

SI No	NAME	REG No	MARKS OBTAINED IN MAINS	MARKS AFTER RE-TOTALING	INTER VIEW MARKS	CONTACT DETAILS
2	VASUDEV	17623	977.50	986	145	1 out going call to H.D.Patil(Member). 2 outgoing calls to Gopi Krishna (Gonal Bhemappa PA).
5	GOPAL	16950	892	895	150	8 outgoing calls to Kanniram (member). 6 incoming calls from Kannirm (member). 9 outgoing sms to Kanniram (member).
7	SHANKARANAND BANASHANKARI	14371	961.50	968	70	1 outgoing sms to Gonal Bheemappa.

- that, over-written and interpolated marks in re-totalling is confirmed in the FSL report, which is clear from following depiction:



- that, some of the candidates were in touch with the evaluators. The Cell Phone numbers, the call details and the SMS details are recorded in the investigation report between page numbers 103 and 108;
- that, the investigating officers have got answer scripts evaluated from independent teachers from Bengaluru and Mysuru Universities, who held positions of Associate Professors and Professors. Perusal of tabular column Nos.29 to 39 contained between Page Nos.87 and 101 of the investigation

report shows that in several cases, the difference in marks is very high and the highest being +225% in excess of the final marks obtained by the candidates;

- that, a candidate by name Abhishek Hegde, son of Assistant Secretary of KPSC, who had scored only 236 marks in preliminary tests, obtained 995 marks in the main examination and 115 marks in personality list. His mother was in touch with KPSC members and their Private Secretaries, who were not directly connected to her in her official work.

**17.** Based on the above findings with regard to evaluation of answer scripts recorded in the preliminary report coupled with irregularities found in conducting the viva voce, the Government have passed the impugned order dated 14.08.2014 withdrawing their requisition and directing closure of recruitment process.

**18.** We now proceed to consider the argument with regard to variance in preliminary investigation report and the charge sheet. It was urged by Sri Rajagopal and learned

advocates supporting validity of written examination that the CID has given up several allegations contained in its preliminary report while filing the charge sheet. Therefore, those indictments given up by the CID cannot be considered to decide the present issue with regard to correctness of marks obtained in the written examination or to direct fresh evaluation of answer scripts or to conduct fresh viva voce.

**19.** It is pertinent to note that CID has submitted the charge sheet on 12.05.2014 in Spl. Case No.311/2014 and the State Government have withdrawn the requisitions and ordered for closure of recruitment process on 14.08.2014, nearly three months after submission of the charge sheet. The State Government have clearly recorded in their order that they have taken into consideration the preliminary investigation report, opinions tendered by the learned Advocate General and the Law Department.

**20.** Thus, the State Government have taken a conscious decision to close the entire recruitment process based on the preliminary report and opinions tendered by the learned Advocate General and the Law Department, even though the charge sheet was very much available with them.

**21.** It is also relevant to note that the Governor of Karnataka has addressed a letter on 14.05.2014 to the President of India to initiate action to remove Dr.Mangala Sridhar, Member, KPSC, from her office. The said letter reads as follows:

GOVERNOR  
KARNATAKA

RAJ BHAVAN  
BANGALORE  
14<sup>th</sup> MAY, 2014

*D.O.No.GS 19 EST 2014*

*Respected Rashtrapatiji*

*Sub: Reference under Article 317 (1) of the Constitution of India for removal of Dr.Mangala Sridhar, Member, Karnataka Public Service Commission.*

*Dr. Mangala Sridhar who was appointed as a member of the Karnataka Public Service Commission for a period of six years assumed charge on*

*28.11.2012 and her term is due to expire on 27.11.2018.*

*Dr. Mythri H.P.S who appeared for the gazetted probationers examination 2011 gave petitions to the Advocate General of Karnataka on 24.05.2013 and 28.05.2013 making allegations of corruption against Dr.Mangala Sridhar and her PA Ashok Kumar. Another person by name Gangadharaiah also made a petition to Advocate General on 27.05.2013 alleging manipulations by the then Chairman of the Karnataka Public Service Commission Sri Gonal Bhimappa and other officials resulting in large scale malpractices in the selection process of gazetted probationers. The Advocate General, among other things advised the Government to direct a comprehensive enquiry/ investigation in to the allegations made regarding the entire process of selection. On the basis of the opinion of the Advocate General, a complaint was filed on 22.06.2013 in Vidhana Soudha Police Station for offences u/s 120(B), 418, 420 and 465 of the Penal Code and Section 7 of the Prevention of Corruption Act, 1988 against Dr. Mangala Sridhar, Member and Sri Gonal Bheemappa, Chairman, Karnataka Public Service Commission and six other. The Government ordered a CID investigation which after a detailed investigation has prepared a report meant to be forwarded to the court wherein it is stated that offences u/s120(B), 119, 166, 167, 418, 420, 465 and 468 of the Code and under Sections 7, 8, 9 and*



13 of the Prevention of Corruption Act, 1988, appear to have been made out against Dr. Mangala Sridhar and seven others.

3. When the file was presented to me seeking sanction to prosecute Dr. Mangala Sridhar and the then Chairman, Sri Gonal Bheemappa, I advised the State Government to make a proposal for reference under Article 317 of the Constitution of India.

4. Dr. Mangala Sridhar is facing serious allegations of corruption and malpractices in the selection process of gazette probationers 2011 which are also confirmed during the investigation held by CID, Karnataka. Thus her conduct attracts clause (1) of Article 317 of the Constitution of India.

5. Therefore, I request your goodselves to initiate action under clause (1) of Article 317 of the Constitution of India for removal of Dr. Mangala Sridhar from the office of the member of the Karnataka Public Service Commission.

With warm regards,

Your sincerely,

Sd/-  
(H.R.BHARDWAJ)

Shri Pranab Mukherjee,  
Hon'ble President of India,  
Rashtrapati Bhavan,  
New Delhi - 110004.

(emphasis supplied)

**22.** It is important to note that the Governor has also made a reference to the 'charge sheet' in his letter to the President of India stating that the CID has prepared final report meant to be forwarded to the Court alleging offences punishable under Sections 120 (B), 119, 166, 167, 418, 120, 465 and 468 IPC, Sections 7, 8, 9 and 13 of Prevention of Corruption Act.

**23.** Further, on the very day, namely 14.05.2014, simultaneously with recommending removal of Dr.Mangala Sridhar, the Governor has issued a notification suspending her from the office of the member of KPSC.

**24.** It is noteworthy that the letter addressed by the Governor to the President of India and the order of suspension are passed three months prior to the date of final notification withdrawing the requisitions and directing closure of selection process.

**25.** It is therefore reasonable to infer that Government and the Governor had full knowledge of the charge sheet. Yet, in their wisdom they proceeded further in the matter based on the opinions tendered by learned Advocate General and the Law Department and ordered closure of recruitment process.

**26.** In our order dated March 9, 2018, we have dealt with the scope and ambit of judicial review by adverting to the judgment of Hon'ble Supreme Court in the case of *Heinz India Private Limited and another Vs. State of Uttar Pradesh and others* reported in (2012) 5 SCC 443. We deem it appropriate to revisit the same and particularly the following paragraph:

*"66. That the court dealing with the exercise of power of judicial review does not substitute its judgment for that of the legislature or executive or their agents as to matters within the province of either, and that the court does not supplant "the feel of the expert" by its own review, is also fairly well settled by the decisions of this Court. In all such cases judicial examination is confined to finding out whether the findings of fact have a reasonable basis on evidence and whether such findings are consistent with the laws of the land."*

**27.** We were appalled as we went through the outrageous and scandalous revelations from the preliminary report, a portion of which we have reproduced in earlier paragraphs. The irregularities in evaluation of answer scripts is shockingly disgraceful and shakes the confidence upon the 'Public Service Commission', a Constitutional body meant to act in aid of efficient and smooth functioning of the administration by recommending recruitment of 'most able' candidates to run the Government. Countrymen place faith and confidence in Constitutional functionaries. Revelation of the kind, found in the preliminary investigation report erodes public confidence and there should be no compromise with regard to righteous discharge of their

noble functions by following the doctrine of '*zero tolerance*' against infraction and dereliction of whatsoever kind.

**28.** Thus, a careful analysis of facts on hand leads to an inference that the entire process of evaluation of answer scripts is vitiated due to interference by interested persons.

**29.** Further, as noticed herein above, the Government took a conscious decision to direct closure of recruitment process, three months after the charge sheet was filed. In the light of factual matrices of malpractices recorded in the preliminary report, we are of the view that the claim of KPSC that there was no irregularity in evaluation of answer scripts is factually incorrect. Hence, we are unable to persuade ourselves to accept the argument of Shri P.S.Rajagopal.

**30.** For the reasons recorded above, we answer the point No.(i) in the **affirmative** and record our finding that results of written examination are vitiated.

***Re-Point (ii): Whether fresh viva voce can be ordered, if the evaluation of answer scripts are not vitiated?***

**31.** While answering point No.(i), we have recorded that the results of written examination are vitiated. In view of the said finding, we answer this point in the **negative** and record that fresh 'viva voce' cannot be ordered on the basis of existing results of written examination.

***Re-point (iii): Whether fresh evaluation of answer scripts can be ordered, if written examination results are vitiated?***

**32.** While considering this option, it is necessary to take note of following aspects:

- that recruitment process in question is for Gazetted Probationers, 2011;
- that the preliminary written examination was conducted on 22.04.2012;
- that the written examination (main) was conducted between 15.12.2012 and 06.01.2013;

- reckoned from any angle, nearly 8 years have elapsed from the designated year of recruitment and 5½ years from the date of written examination.

**33.** Thus, keeping in view the facts of this case and the time lapse, we are of the clear opinion that, it is not a fit case to direct re-evaluation of answer scripts.

**34.** In the result, we **dismiss** all interlocutory applications namely, I.As.No.1 to 4/2018.

In the facts and circumstances of the case, we make no order as to costs.

**Sd/-  
JUDGE**

**Sd/-  
JUDGE**

Jm/cp\*