

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 25.09.2013

+ W.P.(C) 5074/2013
MANOVIRAJ SINGH

..... Petitioner

Through: Mr. Anurag Kumar Aggarwal and
Mr. Umesh Mishra, Advs.

versus

UNIVERSITY OF DELHI AND ANR.

..... Respondent

Through: Mr. M.J.S. Rupal, Adv. for UOD

+ W.P.(C) 5424/2013 & CM 12116/2013
STUTI UPPAL AND ORS.

..... Petitioner

Through: Mr. Hem C. Vasisht and Ms.
Monalisha Choudhary, Advs.

versus

UNIVERSITY OF DELHI AND ANR.

..... Respondent

Through: Mr. M.J.S. Rupal, Adv. for UOD

CORAM:
HON'BLE MR. JUSTICE V.K.JAIN

JUDGMENT

V.K.JAIN, J. (ORAL)

The petitioner in W.P(C) No.5074/2013 as well as the petitioners in W.P(C) No.5424/2013, appeared in the entrance examination conducted by the respondent no.1 – University of Delhi for admission to its Bachelor of Management Studies (BMS) Course for the academic

year 2013-2014. The result of the said test was declared on 19.7.2013. The answer key in respect of all the test, book sets was also displayed on the website of the university on the same date. The case of the petitioners before this Court is that the answers contained in the answer key in respect of 9 numbers of questions were patently wrong answers, as a result of which, the correct answers given by them were marked 'wrong answers' and they were also given negative marking on the ground that they had given wrong answers to the questions whereas in fact the answers given by them were correct. The petitioner – Mr. Manoviraj Singh in W.P(C) No. 5074/2013 was given overall rank 1021 and the category rank of 1005. According to him, if he is given credit for the correct answers and the negative marks wrongly given to him are excluded, his overall rank would be 709 and the category rank would be 699.

2. There are as many as 11 petitioners in W.P(C) No. 5424/2013 and they also have similar grievances. According to them, had they been given credit for the correct answers and not been given the negative marks for the answers which were taken as 'wrong answers' despite actually being the correct answers, their ranks would have been much higher. Being aggrieved from denial of admission, the petitioners are before this Court seeking review of their result and directions to the university to admit them to the aforesaid course.

The petitioner no.2 in W.P(C) No.5424/2013 has taken admission in B.R. Ambedkar College, though her preference was for Shaheed Sukhdev College of Business Studies and her case is that if the correct answers are taken into consideration, on the basis of her revised rank,

she would be entitled to admission in Saheed Sukhdev College of Business Studies. The case of petitioner no.11 in W.P(C) 5424/2013 is that though during the second round of counselling he was offered admission, since the admission was not in the college of his choice, he did not accept the same. According to him, had he been given credit for the correct marks and negative marks were not given to him, his rank would have been much higher and he would have got admission in a college of his choice.

3. The writ petitions have been contested by the respondent – University of Delhi. It is stated in the counter affidavit of the university that the answers contained in the answer key were in fact correct answers except in respect of Q. Nos. 22 and 23, in respect of which there was an interchange of answers, meaning thereby that the answer for Q.No.22 was taken as answer for Q.No.23 and vice-versa. It is also the case of the university that the admissions having been closed after third round of counseling on 31.7.2013 and filling up of the seats, no fresh admission at this stage can be made. It is, however, admitted by the university that after closure of admission as many as 40 seats in various colleges have fallen vacant – 40 seats in General Category, 3 seats in OBC category and 2 seats in ST category.

4. As noted earlier, the respondent – university has conceded that the answers contained in the answer key in respect of Q.No.22 and 23 were wrong. Despite that, the marks have been awarded to the candidates on the basis of wrong answers to the aforesaid questions. This according to the learned counsel for the university happened because the mistake was noted at a later date and according to the university, this would have

made no change in the overall rank of the candidates. In my view, the plea taken by the university has no merit. It is quite possible that one or more candidates, chose a correct option in respect of both the Q.Nos.22 and 23. In their case, since the answers contained in the answer key were different from the correct answers, they would have been deprived of marks in respect of both the questions. Moreover, they would also have got negative marks for choosing incorrect options.

5. As regards Q.No.30, the learned counsel for the petitioners are not pressing the plea and, therefore, no view needs to be taken in respect of the said question. The remaining questions, answers to which is alleged to be wrong are Q.Nos.41,42,45,46,48,49 and 50.

6. Q.No.48 and the options contained in the answer key in respect of the said question reads as under:

“Question No.48. He was.....from all blame
when the guilty person came forward and owned up.

- (A) Exonerated
- (B) Extenuated
- (C) Emulated
- (D) Emanated

As per the answer key, Option-B is the correct answer whereas according to the petitioners Option-A is the correct answer. As per the website vocabulary.com, ‘exonerate’ means to declare someone not guilty of criminal charges and this word has a meaning similar to that of the word ‘acquit’. As per ‘The Chambers Thesaurus’ Dictionary, ‘exonerate means to absolve, acquit, clear, excuse, vindicate, justify,

pardon, declare innocent, discharge. On the other hand, ‘extenuate’ means to diminish, excuse, lessen, minimize, modify, qualify, soften.

The learned counsel appearing for the university has not placed before me any dictionary or book which would justify the answer contained in the answer key in respect of the aforesaid question. Therefore, in my view, ‘extenuate’ cannot be an appropriate answer to Q.No.48 and out of the options available to the candidates, ‘exonerated’ is the only possibly correct answer to this question. The university is, therefore, needs to be adopt ‘exonerated’ as the correct answer to Q.No.48.

7. Q.No.41 and the options given to the candidates read as under:

“Q.No.41. Which word has the opposite meaning of castigate?

- A. Placate
- B. Criticise
- C. Slander
- D. Praise

According to the university, Option-A is the correct answer whereas according to the petitioners, Option-D is the correct answer. The antonyms for castigate are: approve, compliment, exonerate, flatter, forgive, laud, praise, reward, aid, assist, guard, help, lose, protect and surrender.

It would thus be seen that though Option-A is one of the antonyms, placate is not the antonym for castigate. The learned counsel

for the university on the other hand has not been able to satisfy me as to how, ‘placate’ can be said to be an antonym of the word ‘castigate’. Therefore, in my view, the Option-D can be the only possible correct answer to Q.No.41 and the Option-A cannot be a correct answer to the said question.

8. Q.No.42 and the options given to the candidates read as under:

“Q.No.42. The word with the same meaning as commiserate is?

- A. Sympathise
- B. Felicitate
- C. Praise
- D. Irritate

According to the university, Option-D is the correct answer whereas according to the petitioners, Option-A is the correct answer. As per Thesaurus.com ‘sympathize’ is one of the synonyms for the word ‘commiserate’. A number of synonyms have been given on the website, but ‘irritate is not amongst those synonyms. Again, the learned counsel for the university is not in a position to satisfy me how ‘irritate’ can be said to be a synonyms of the word ‘commiserate’. Therefore, in my view, the Option-A can be the only possible correct answer to Q.No.42 and the Option-D cannot be a correct answer to the said question.

9. Q.No.45 and the options given to the candidates read as under:

“Q.No.45.Which word given below means to be ‘expressively polite and fawning’?

- A. Supercilious
- B. Querulous

- C. Obsequious
- D. Cavalier

According to the university, Option-A is the correct answer whereas according to the petitioners, Option-C is the correct answer. As per Thesaurus.com ‘obsequious’ is one of the meanings for the word ‘fawning’. However, ‘supercilious’ is not one of the synonyms of the word ‘fawning’. As per ‘The Chambers Thesaurus’ Dictionary ‘supercilious’ means arrogant, condescending, patronizing, overbearing, scornful, lofty, lordly, imperious, insolent, proud, disdainful, haughty, contemptuous. Considering the meaning and synonym of the word ‘supercilious’, it certainly cannot be synonym of even the word ‘polite’. In fact, ‘supercilious’ may be an antonym of the word ‘polite’.

Again, the learned counsel for the university is not in a position justify the answer contained in the answer key in respect of the aforesaid question. Therefore, in my view, Option-C’ is the only correct answer to this question and Option-A in any case cannot be its correct answer.

10. Q.No.46 and the options given to the candidates read as under:

“Q.No.46.Which word conveys ‘high-handedness’?”

- A. Decadence
- B. Cavalier
- C. Obstreperous
- D. Chivalry

According to the petitioners option B is the correct answer, whereas as per the answer key option C is the correct answer.

As per www.thefreedictionary.com the following are the synonyms of high-handed:

“high-handed – given to haughty disregard of others. cavalier.”

“high-handed

Adjective dictatorial, domineering, overbearing, arbitrary, oppressive, autocratic, bossy (informal), imperious, tyrannical, despotic, peremptory”

Obstreperous is not one of the synonyms of the word “high-handedness”. A perusal of The Chambers Thesaurus would show that Obstreperous means:

“Obstreperous adj – disorderly, unruly, tumultuous, unmanageable, undisciplined, wild, uncontrolled, out of hand, noisy, loud, boisterous, clamorous, raucous, riotous, rip-roaring, tempestuous, rowdy, rough, turbulent, uproarious, vociferous”

Considering the meaning given to the word ‘Obstreperous’ in The Chambers Thesaurus, it would be difficult to say that ‘Obstreperous’ cannot be a correct synonym of the word ‘high-handedness’. Since, the answer contained in the answer key of the University is one of the possible correct answers to the questions, the Court would not be justified in interfering with the answer chosen by the University as the correct answer to the question. Therefore, I am not inclined to substitute the answer in respect of question No.46 contained in the answer key.

11. Q.No.49 and the options given to the candidates read as under:

“Q.No.49.Which word given below has an opposite meaning to ‘convivial’?”

- A. Petty.
- B. Hostile.
- C. Obtuse.
- D. Jovial.

According to the petitioners, the correct answer is option B, whereas as per the answer key, the correct answer is option A.

As per www.antonymswords.com one of the antonyms of ‘Hostile’ is ‘Convivial’. Conversely ‘hostile’ will also be an antonym of ‘convivial’. On the other hand, ‘petty’ as per The Chambers Thesaurus means:

“**Petty** adj

1. Minor, unimportant, insignificant, inconsequential, inessential, trivial, secondary, lesser, small, little, slight, trifling, paltry, inconsiderable, negligible

Colloq. Measly, grotty, piffling, piddling, no great shakes”

It is obvious from the meaning of the word ‘petty’ that ‘petty’ cannot be an antonym of the word ‘convivial’. Again the learned counsel for the University is not able to justify the answer contained in the answer key in respect of this question. Therefore, the answer contained in the answer needs to be substituted by ‘hostile’, which is the only possible correct answer to the question.

12. Q.No.50 and the options given to the candidates read as under:

“Q.No.50.Which word given below has an opposite meaning to ‘intrepid’?”

- A. Timid.
- B. Banal.
- C. Honest.
- D. Integrity.

According to the petitioner, correct answer is option A, whereas the correct answer according to the University is option B.

As per www.thesaurus.com one of the antonyms for 'intrepid' is 'timid'.

“Antonyms of Intrepid

Afraid, Cowardly, Fearful, Meek, Timid.”

Therefore, the option A which according to the petitioner is the correct answer is certainly a right answer. On the other hand, the word 'Banal' as per the Chambers Thesaurus means:

“**banal** adj.

Trite, commonplace, ordinary, everyday, mundane, humdrum, boring, dull, unimaginative, nondescript, bland, hackneyed, clichéd, stock, stereotyped, stale, overused, threadbare, tired, unoriginal, inane, wearing thin, empty, vapid

Colloq. Corny”

It is quite clear from the meaning of the word 'banal' that it cannot be an antonym of the word 'intrepid'. Therefore, the answer contained in the answer key of the University cannot be a possible correct answer to the question and out of the options given to the candidates, option A, i.e., Timid, can be the only correct answer to the

question. Therefore, the answer in respect of the aforesaid question also needs substitution.

13. It would, thus, be seen that the answers contained in the answer key in respect of question Nos.22, 23, 41, 42, 45, 48, 49 & 50 need substitution by correct answers in terms of the answers stated hereinabove.

14. The next question which comes up for consideration is as to whether any relief can be granted to the petitioner at this stage when all the three counseling were held and the admissions were closed on 31.7.2013 after filling all the seats available in the BMS course of the University. In my view, it would be highly unfair and unreasonable to the candidates if they are made to suffer on account of the mistakes committed by the University while identifying answers to the questions given to the students. It was the duty of the University to ensure that the answers contained in the answer key are the only possible correct answers out of the options made available to the candidates. As noted hereinabove, the answers in respect of question Nos.22, 23, 41, 42, 45, 48, 49 & 50 cannot be one of the possible correct answers to the questions under consideration. Admittedly, at least, the petitioner in WP (C) No.5074/2013 had represented the University complaining that the answers contained in the answer key were not the correct answers. Despite that, no attempt was made by the University to substitute the wrong answer by the correct answer and thereafter re-compute the results of the candidates.

Undisputedly it will not be appropriate for the Court to interfere with the admissions that have already been made by the University

particularly when it is not known who are the candidates, who on the basis of correct answers would not have got admission and such candidates are not parties to the writ petition. But since as many as 45 seats have now become available on account of withdrawal by various candidates who were granted admissions by the University and there is no statutory prohibition against grant of admission after 31.7.2013, the University, in my view should re-work the result of all the candidates who appeared in the aforesaid examination, after substituting the wrong answers by the correct answers in respect of question Nos.22, 23, 41, 42, 45, 48, 49 & 50 in terms of this order and thereafter, fill up those seats out of the candidates who are willing to take admission at this stage but such admissions need to be made strictly in the order of merit which shall be re-worked on the basis of the correct answers.

15. In Kanpur University, through Vice-Chancellor and Ors. vs. Samir Gupta and Ors. (1983)4 SCC 309, while considering challenge to correctness of key answers, the Apex Court, *inter alia*, held as under:-

“16. We agree that the key-answer should 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 rationalisation. 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.....

17.....If this were a case of doubt, we would have unquestionably preferred the key answer. But if the matter is beyond the realm of doubt, it would be unfair to penalise the students for not giving an answer which accords with the key answer, that is to say, with an answer which is

demonstrated to be wrong.”

In the aforesaid case, Supreme Court confirmed the direction given by the High Court for re-assessment to certain questions on the ground that the answers provided in the answer key were wrong.

Manish Ujwal and Ors. vs. Maharishi Dayanand Saraswati University and Ors. (2005) 13 SCC 744, some of the candidates, who appeared in the entrance test, disputed correctness of the answers to certain question in Physics, Chemistry and Biology. The High Court sought expert opinion from Jodhpur University and Udaipur University with respect to answers to the aforesaid questions. The unanimous opinion of the experts in respect of six questions was that the answers, notified by the University to those questions were erroneous. However, despite that no relief to the petitioners was granted by the High Court. Setting aside the decision of High Court, the Apex Court took the view that the student community could not be made to suffer on account of errors committed by the University. In this regard, the Court observed that first and paramount reason being the welfare of the students, wrong key answer can result in the merit being made a casualty.

In D.P.S. Chawla v. Union of India & Ors. 184(2011) DLT 96, a Division Bench of this Court found that the answer, contained in the answer key in respect of one question, was wrong. The Court, accordingly, enhanced the marks secured by the petitioner in the first paper from 49% to 50%, thereby declaring him successful in the examination and eligible for promotion.

In Gunjan Sinha Jain vs. Registrar General, High Court Of Delhi, W.P.(C) No. 449/2012 and connected matters, decided on 09.04.2012, a Division Bench of this Court found certain answers contained in the

answer key in respect of Delhi Judicial Service Examination to be incorrect and accordingly substituted those incorrect answers by what the Court felt were correct answers.

16. For the reasons stated hereinabove, the writ petitions are disposed of with the following directions:

- i. the respondent – Delhi University shall re-work the results of all the candidates who appeared in BMS Entrance Examination – 2013 in terms of this order, within one (1) week from today and shall immediately thereafter display the revised results on its website.
- ii. Within ten (10) days from today, the respondent-University shall issue public notice requiring candidates five times the number of seats available in each category, who were not offered admission during the previous counseling, to attend counseling on a date which the University may fix in this regard for the purpose of making admission to the seats which have since fallen vacant. The aforesaid notice shall also be displayed on the website of the University.
- iii. Petitioner No.2 in WP (C) No.5424/2013 who has taken admission in B.R. Ambedkar college which was not her first preference, as well as petitioner No.11 in the aforesaid writ petition who did not take admission since the college offered to him was not the college of his choice shall also be entitled to participate in the aforesaid admission process on the basis of their revised merit. In case, they get admission against vacant seats, the seats vacated by them shall be offered to the other candidates participating in the admission process.

iv. The entire admission process shall be completed by the University as expeditiously as possible so as to avoid any loss of seats to the candidates.

v. The candidates who were called for the third round of counseling but did not appear for the said counseling shall not be entitled to participate in the admission process. However, those candidates who despite participation in the third round of counseling were not offered any admission in the said counseling shall be entitled to participate in the admission process.

vi. The University shall make it clear to the candidates that mere admission at a late stage shall not entitle them to any exemption/relaxation in the matter of attendance as per Rules of the University. If, however, there is a provision in the Rules of the University for any relaxation in the attendance requirement, they can request the University for grant of such relaxation and if made such request shall be considered by the University as per its rules and norms.

The writ petitions stand disposed of.

Dasti under the signatures of the Court Master.

V.K. JAIN, J

SEPTEMBER 25, 2013/rd