



2024:DHC:1083



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 11380/2023 and CM APP No. 52064/2023 and
52065/2023

OM PRAKASH VERMA Petitioner

Through: Mr. Gaurav Prakash Shah, Adv.

versus

NATIONAL TESTING AGENCY & ANR. Respondents

Through: Ms. Seema Dolo, Advocate for
Respondent No.1

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT (ORAL)

% **09.02.2024**

1. How far can a Court tinker with the answer key provided by the authority which conducts an examination? Is there a complete proscription, or is the Court only required to be cautiously circumspect? This case throws up this issue – on which the law appears to be settled – in sharp relief.

Legal Position

2. There are several judicial pronouncements on the aspect of the power of the Court to examine the correctness of answer keys, and I propose to advert to them chronologically.



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Kanpur University v. Samir Gupta¹

3. The Supreme Court commenced its decision in *Samir Gupta* by identifying the issue arising for consideration as: “if a paper-setter commits an error while indicating the correct answer to a question set by him, can the students who answer that question correctly be failed for the reason that though their answer is correct, it does not accord with the answer supplied by the paper-setter to the University as the correct answer ?”

4. The students whose answers did not accord with the published key answers² and who were, therefore, not awarded marks for the questions in issue, filed writ petitions in the High Court of Allahabad, challenging the key answers and asserting that the answers selected by them were correct. The High Court allowed the writ petitions. The Kanpur University appealed to the Supreme Court

5. Paras 6 to 17 of the judgment proceeded thus:

“6. Question 24 of the Chemistry paper reads thus:

24. The theory of electrolytic dissociation was given by

—

1. Faraday
2. Kohlrausch
3. Arrhenius
4. Ostwald.

Each question in each paper is set both in English and Hindi, not one below the other but, there are two question papers for each

¹ (1983) 4 SCC 309

² “Key answer” is an expression uniformly used by the Supreme Court to refer to the suggested correct answers as per the answer key released by the examination setter.



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subject, one of which is set in English and the other in Hindi. We do not know which is the original version and which the translation but it is common ground that one is the translation of the other.

7. The Hindi version of Question 24, as transliterated, reads thus:

24. Vidyut apaghatan ka sidhant kis vegyanik ne diya tha?

1. Faraday
2. Kohlrausch
3. Arrhenius
4. Ostwald.

8. The contention of the University, which accords with the key answer, is that the third alternative furnishes the correct answer, namely, 'Arrhenius', whether the question is read in English or in Hindi. There is no dispute that Option 3 is the correct answer to the question set in English, that is to say, that the theory of electrolytic dissociation was given by Arrhenius. The contention of the students, who are apparently very clever, is that the correct answer to the Hindi version of the question is 'Faraday', which is the first alternative. Their argument is that the English Question 24 and Hindi Question 24 do not carry the same sense and one is not the exact translation of the other. According to these well-taught students, "electrolytic" means "vidyut apaghatan", whereas "electrolytic dissociation" means 'vidyut apaghataniya viyojan'; and in the Hindi version of the question, the word 'dissociation' does not find its equivalent.

9. With their born knowledge of Hindi, the learned Judges of the Allahabad High Court have gone into the linguistic niceties with some proficiency. Their judgment shows that in Medical Sciences Glossary I, which is published by the Standing Commission for Scientific and Technical Terminology, Ministry of Education, Government of India, the Hindi equivalent of the word 'electrolysis' is given as 'vidyut apaghatana' and of the word 'dissociation' as 'viyojan'. The High Court has quoted several acknowledged textbooks in Hindi which show that though the law of 'electrolysis' was first formulated by Faraday in 1834, the theory of 'electrolytic dissociation' was evolved by Arrhenius in 1887 which is known as 'ionic-dissociation theory'. Amongst the authorities quoted by the High Court is a textbook prescribed for Intermediate classes by the 'Madhyamik Shiksha Parishad, U.P.'. The High Court has accepted the respondents' contention that there is a 'marked difference' in the English and Hindi version of Question 24.

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10. The case of the respondents is that they tickmarked the answer to Question 24 as it reads in Hindi and not as it reads in English. Whether the respondents read the Hindi question paper or the one in English is incapable of verification and there is no means of contradicting that contention. They had the option to answer the question paper as set in English or in Hindi. There is no reason to disbelieve them when they say that they read the Hindi version. Hindi is the medium of instruction in U.P., until a late stage of scholastic education. Besides, the tickmark, being a symbol, reads the same in English and Hindi.

11. In support of its contention that the English and Hindi versions of the question convey the same meaning, the University produced the opinion of two experts, Prof. R.P. Singh of the Department of Chemistry, Delhi University, and Dr B.R. Agarwal, an ex-Vice-Chancellor. These two gentlemen are undoubtedly well-versed in their speciality but the controversy turns more on the knowledge of Hindi than of Chemistry. Dr Agarwal has himself stated in his opinion that: "Even now the Hindi terminology is not so well defined as in English and the Hindi terminology for the same English concepts differs from author to author." In any event, as stated in the judgment of the High Court, the standard textbooks which the students consult, or are expected to consult, make a distinction between 'vidyut apaghatan' on the one hand and 'vidyut apaghataniya viyojan' on the other. We must, therefore, uphold the finding of the High Court that the key answer to Question 24 is correct insofar as the English version is concerned but that, the correct answer to the Hindi version of that question is the first option, namely, 'Faraday'.

12. Coming next to the Zoology paper, Question 23 reads thus:

23. Which one of the following was not present in free form at the time life originated?

1. Hydrogen
2. Oxygen
3. Water
4. Ammonia

Whereas the students assert that the second alternative, namely, 'oxygen' furnishes the correct answer to the question, the key answer shows that the correct answer is 'ammonia'. Here again, as pointed out by the High Court, the standard textbooks show that 'oxygen' was not present in free form at the time when life originated. The famous book on Biology by Claude A. Villas,



while dealing with the subject 'The Origin of Life', says: "Most authorities now agree that the earth was very hot and molten when it was first formed and that conditions consistent with life appeared on the earth only perhaps three billion years ago." Two authors of international repute, Tracy I. Starer and Robert L. Usinger, say in their book General Zoology that "At some time more than a billion years ago temperature and moisture conditions became suitable for life. There was no free oxygen, but the atmosphere contained methane, ammonia, hydrogen and water vapor." Two Indian authors, Dr Ramesh Gupta and Virbala Rastogi, have expressed the same view in their respective books Aadhunik Jantu Vigyan and Madhyamik Jantu Vigyan.

13. The University produced the opinion of Shri H.S. Vishnoi of the Department of Zoology, University of Delhi. We agree with the High Court that though Shri Vishnoi is a knowledgeable person in his speciality, he was evidently under some confusion while giving his opinion. Profundity sometimes creates confusion. In the very opening sentence of his opinion, Shri Vishnoi says: "The point is about free ammonia." That is not the point. The question which the students were asked to answer was not "about free ammonia" but which of the four alternatives was not present in free form when life originated. Shri Vishnoi has also not given specific citations from the two books to which he has referred in support of his opinion. We therefore agree with the conclusion of the High Court that the answer to Question 23 in the Zoology paper is 'oxygen' as contended for by the respondents and not 'ammonia' as stated in the key answer.

14. Question 66 in the Botany paper has an interesting story of its own. That question reads as follows:

66. The net gain of ATP molecules in glycolysis is:

- (1) 0
- (2) 2
- (3) 4
- (4) 8

Whereas the students contended that the second alternative furnishes the correct answer, the key answer which was fed to the computer was Alternative 4. Here also, the various textbooks cited by the students tend to show that the key answer fed into the computer was not the correct answer. The High Court has copiously referred to the standard textbooks on the subject. We need not do so since, the more interesting part of this controversy is the expert opinion of Shri Arya Bhushan Gupta which was filed by



the University in the High Court. According to that opinion, the correct answer to Question 66 is neither the second option nor the fourth but the third. In other words, according to Shri Gupta, the net gain of ATP molecules in glycolysis is neither 2 as contended by the students, nor 8 as mentioned in the key answer but 4 which is nobody's case except the expert's. Thus, the case of the University is demolished by its own expert. In these circumstances, we cannot find fault with the High Court for holding that the key answer is not the correct answer to Question 66.

15. The findings of the High Court raise a question of great importance to the student community. *Normally, one would be inclined to the view, especially if one has been a paper-setter and an examiner, that the key answer furnished by the paper-setter and accepted by the University as correct, should not be allowed to be challenged.* One way of achieving it is not to publish the key answer at all. If the University had not published the key answer along with the result of the Test, no controversy would have arisen in this case. *But that is not a correct way of looking at these matters which involve the future of hundreds of students who are aspirants for admission to professional courses.* If the key answer were kept secret in this case, the remedy would have been worse than the disease because, so many students would have had to suffer the injustice in silence. The publication of the key answer has unravelled an unhappy state of affairs to which the University and the State Government must find a solution. Their sense of fairness in publishing the key answer has given them an opportunity to have a closer look at the system of examinations which they conduct. What has failed is not the computer but the human system.

16. Shri Kacker, who appears on behalf of the University, contended that no challenge should be allowed to be made to the correctness of a key answer unless, on the face of it, it is wrong. *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. The contention of the University is falsified in this case by a large number of acknowledged textbooks, which are commonly read by students in U.P. Those textbooks leave no room for doubt that the answer given by the students is correct and the key answer is incorrect.*

17. Students who have passed their Intermediate Board Examination are eligible to appear for the entrance Test for



admission to the medical colleges in U.P. Certain books are prescribed for the Intermediate Board Examination and such knowledge of the subjects as the students have is derived from what is contained in those textbooks. *Those textbooks support the case of the students fully. 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.*"

(Emphasis supplied)

6. I have deemed it appropriate to reproduced paras 6 to 17 of the decision of the Supreme Court only because this is one of those cases in which the Supreme Court approved and upheld the decision of the High Court to subject the questions under challenge to a subjective analysis, though no doubt based on textbooks and expert opinions. Three questions were under challenge: Question 24 in the Chemistry paper, Question 23 in the Zoology paper and Question 66 in the Botany paper.

7. In the case of Question 24, a peculiar situation had arisen, as the paper was provided in English and Hindi, and the correct answer, depending on whether the question was attempted in English or Hindi, was different. Read in English, Option 3 was the correct answer to the question, whereas, read in Hindi, Option 1 was the correct answer.

8. The Supreme Court observed that it was not possible to verify whether the students had answered the question after reading the English version or the Hindi version thereof.

9. Para 9 and para 11 of the judgment are, however, of greater



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significance. Para 9 notes that the High Court went deep into the question by referring to the Medical Sciences Glossary I published by the Standing Commission for Scientific and Technical Terminology, Ministry of Education, Government of India. From the said Glossary, the High Court discovered the Hindi equivalent of the word “Electrolysis” as “Vidyut Apaghatana” and of the word “Dissociation” as “Viyojan”. The High Court, thereafter, referred to several acknowledged Hindi textbooks to hold that, though the, law of electrolysis was first formulated by Faraday in 1834, the theory of electrolytic dissociation, also known as “ionic-dissociation theory”, was evolved by Arrhenius in 1887. Among the authorities quoted by the High Court was a textbook prescribed for Intermediate classes by the Madhyamik Shiksha Parishad, U.P..

10. In para 11 of the report, the Supreme Court approves the observation of the High Court that standard textbooks, which the students were expected to consult, made a distinction between “Vidyut apaghatan” and “Vidyut apaghataniya viyojan”. In this view of the matter, the Supreme Court upheld the findings of the High Court that the suggested Option 3, Arrhenius, was correct if the question was read in English whereas, if the question were to be read in Hindi, the correct answer would be “Faraday” i.e. Option 1.

11. Question 23 of the Zoology paper queried as to which of the four options provided below the question was not present in free from at the time of originating of life. The four options were Hydrogen (Option 1), Oxygen (Option 2), Water (Option 3) and Ammonia



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(Option 4). The key answer was Option 4 (Ammonia). The respondent students, however, asserted that the correct answer was not Ammonia but Option 2 (Oxygen).

12. Here again, the High Court referred to standard textbooks, to hold that Oxygen was not present in free form at the time when life originated. Reference was made to The Origin of Life, a famous textbook on biology by Claude A. Villas, which declared that as the earth was very hot and molten when it was first formed, conditions consistent with life appeared on the earth only about three billion years ago. In conjunction, the High Court referred to General Zoology by Tracy I. Starer and Rober L. Usinger, which stated that, at some time over a billion years ago, temperature and moisture conditions became suitable for life and that, at that time, there was no free oxygen, and that the atmosphere contained methane, ammonia, hydrogen and water vapour. The same view was expressed by two Indian authors, Dr. Ramesh Gupta in Aadhunik Jantu Vigyan and Virbala Rastogi in Madhyamik Jantu Vigyan.

13. Interestingly, the opinion of Shree H.S. Vishnoi, of the Department of Zoology, University of Delhi, on which the University relied, was held to be unreliable by the Supreme Court, as his opinion indicated that he was under confusion while giving it. In so observing, the Supreme Court relied on Mr. Vishnoi's observation that "the point is about free ammonia". The Supreme Court holds, in para 13 of the report, that the point was not about free ammonia, as the students were not asked about free ammonia, but about which of the



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four options below Question 23 referred to a substance which was not present in free form when life originated.

14. Following the above reasoning, the Supreme Court approved the conclusion of the High Court that the answer to Question 23 in the Zoology paper was “Oxygen”, as contended by the students, and not “Ammonia”, as stated in the answer key answer.

15. Question 66 in the Botany paper referred to the net gain of A.T.P. Molecules in Glycolysis. The options were 0 (Option 1), 2 (Option 2), 4 (Option 3) and 8 (Option 4). The answer key suggested the correct answer to be Option 4, i.e. 8. The students contended that the correct answer was Option 2, i.e. 2.

16. Here, again, the Supreme Court approved the view of the High Court that the text books cited by the students showed that the correct answer to the question was indeed “2”, i.e. Option 2. The Supreme Court did not deem it necessary to advert to the several text books on which the High Court relied. Rather, interestingly, the Supreme Court held the decision of the High Court on the basis of the expert opinion of one Shri Arya Bhushan Gupta, on which the University relied, and who opined that the correct answer was the Option 3 i.e. “4”. On the ground that the University’s own expert did not support the answer suggested in the answer key of the University, the Supreme Court did not deem it appropriate to interfere with the decision of the High Court.



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17. The decision of the Supreme Court with respect to Question 66 of the Botany paper is of some importance. The students had marked Option 2 and had contended that Option 2 was the correct answer. The University contended, *per contra*, that Option 4 was the correct answer. The High Court referred to text books to hold that Option 2 was the correct answer as contended by the students. The Supreme Court has not upheld that finding of the High Court on merits, as it holds that it was not necessary to do so. The Supreme Court has, however, not deemed it appropriate to interfere with the decision of the High Court on the ground that the University expert had opined that Option 3 was the correct answer, contrary to the University's stand that it was Option 4.

18. In other words, without a positive finding that the students stand was correct, the Supreme Court upheld the challenge of the students on the ground that the University's stand was not supported by its own expert.

19. Following the above, the Supreme Court emphasised, in paras 15 to 17 of the report, on the applicable legal principles in the above context. The normal principle that the answer key as furnished by the paper-setter and accepted by the University should be treated as correct has been noted in para 15. Para 16 proceeds to hold that this principle would be relaxed only where the suggested answer in the answer key is proved to be wrong, not by an inferential process of reasoning or rationalisation, but clearly and demonstrably wrong – in other words, so wrong that no reasonable body of men well-versed in



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the subject would regard the key answer as correct.

20. The Supreme Court has observed that the stand of the University with respect to the three questions under challenge, was falsified by a large number of acknowledged text-books, commonly read by students in U.P. These text-books, it is noted, left no room for doubt that the answers given by the students were correct and the answers in the answer key were incorrect.

21. The Supreme Court, thereafter, reiterates that, *had there been any possibility of doubt, the answer suggested in the answer key would have to be preferred. However, if the matter was beyond the realm of doubt, it would be unfair to penalise students for not giving the answer which was suggested in the answer key, and which was demonstrably wrong.*

22. One important feature of this decision, emerging from paras 20 and 22 thereof, is that the Supreme Court restricted the relief to the students who were before it and similarly situated petitioners whose petitions were pending in the High Court on the same point. A specific direction was issued that no fresh petitions raising similar challenges would be entertained by the High Court.

Manish Ujwal v. Maharishi Dayanand Saraswati University³

23. This case dealt with entrance test conducted by the Maharishi



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Dayanand Saraswati University (“the MDU”, hereinafter) for admission to medical and dental course in Colleges in Rajasthan. As in *Samir Gupta*, the students who were before the Supreme Court in *Manish Ujwal*, too, contended that the various suggested answers in the answer keys, on the basis of which their answer sheets were evaluated, were wrong. The learned Single Judge of the High Court, who was petitioned by the students, sought the opinion of experts from the Jodhpur University and the Udaipur University. With respect to six key answers, one in Physics, two in Chemistry and three in Biology, the experts were *ad idem* that the key answers were erroneous. The University also conceded this position. Where, however, there was a difference of opinion between the experts, the Supreme Court did not deem it appropriate to interfere.

24. The Supreme Court noted that nearly 30000 students had appeared in the examinations, on the basis of the results of which the first round of counselling for admission to seats in government medical and dental colleges, and towards 50% of the State quota in private colleges, had already taken place. Fresh evaluation, by feeding correct key answers to the six questions, it was noted, could possibly have an adverse impact on those who had already secured admission on the basis of the declared results by feeding incorrect options in relation to the said questions. At the same time, the Supreme Court noted that the appellants before it and the student community in general, including those who had not approached the court, could not be made to suffer on account of demonstrably incorrect key answers. Disturbing of admissions already granted as a result of the first



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counselling, on the other hand, could delay the very commencement of the course and carry the admission process beyond the cut-off date of 30 September 2005 which was inflexible, in view of the judgment of the Supreme Court in *Mridul Dhar v. UOI*⁴.

25. In that view of the matter, the Supreme Court clarified that fresh evaluation of the papers by feeding correct key answers would not affect the students who already secured admissions consequent on the first counselling on the basis of correct key answers. In so far as the students who were before it were concerned, the Supreme Court held the High Court to have committed a serious illegality in concluding that it was not possible to say, with certainty, that answers to the six questions in issue were erroneous or incorrect. The Supreme Court observed that the key answers were palpably and demonstrably erroneous. In such a case, the Supreme Court held that the students, including those who had not approached the Court, could not be made to suffer for the errors of the University. Para 10 of the report is relevant in this context and reads thus:

“10. The High Court has committed a serious illegality in coming to the conclusion that “it cannot be said with certainty that answers to the six questions given in the key answers were erroneous and incorrect”. As already noticed, *the key answers are palpably and demonstrably erroneous. In that view of the matter, the student community, whether the appellants or intervenors or even those who did not approach the High Court or this Court, cannot be made to suffer on account of errors committed by the University.* For the present, we say no more because there is nothing on record as to how this error crept up in giving the erroneous key answers and who was negligent. At the same time, however, it is necessary to note that the University and those who prepare the key answers have to be very careful and abundant caution is necessary in these matters for more than one reason. We

⁴ (2005) 2 SCC 65



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mention few of those; first and paramount reason being the welfare of the student as a wrong key answer can result in the merit being made a casualty. *One can well understand the predicament of a young student at the threshold of his or her career if despite giving correct answer, the student suffers as a result of wrong and demonstrably erroneous key answers; the second reason is that the courts are slow in interfering in educational matters which, in turn, casts a higher responsibility on the University while preparing the key answers; and thirdly, in cases of doubt, the benefit goes in favour of the University and not in favour of the students.* If this attitude of casual approach in providing key answers is adopted by the persons concerned, directions may have to be issued for taking appropriate action, including disciplinary action, against those responsible for wrong and demonstrably erroneous key answers, but we refrain from issuing such directions in the present case.”

(Emphasis supplied)

26. Following the above reasoning, the Supreme Court directed re-valuation of the six questions under challenge, by feeding the correct answers and to assign the correct marks and ranks to the students pursuant thereto, within three days. The second round of counselling was directed to be undertaken after compliance with the said directions.

Guru Nanak Dev University v. Saumil Garg⁵

27. This case dealt with the Punjab Medical Entrance Test, in which about 10000 students appeared. 200 objective questions were involved, 50 each in Physics, Chemistry, Botany and Zoology. The answers were in multiple choice form, with four options for each question.

28. The key answers to 21 questions were challenged by the



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students. The High Court appointed the CBSE to examine the correctness of the impugned key answers. The CBSE opined that 10 of the key answers were incorrect. The High Court, in the judgment under challenge before the Supreme Court, concluded that all 200 key answers deserved to be re-examined. Even while so holding, the High Court did not deem it appropriate to cancel the entire entrance test. The High Court directed that all 200 key answers would be examined by an independent agency, and the answers given by the students re-valuated on the basis of a report by the said agency as to the correct key answers. The Chairman, CBSE, was directed to examine the key answers on the basis of the expert opinion. The Punjab University was also permitted to appoint one expert for each of the subjects and the petitioners were also given liberty to appoint one expert in each subject to assist the expert appointed by the CBSE. The revised/corrected answer key, it was held, would be one which was approved by the majority of the experts so appointed.

29. The University appealed to the Supreme Court.

30. The Supreme Court, in para 6 of the report, observed, at the very outset, that, out of four options suggested for each question, only one could be correct.

31. The Supreme Court called for a report from the CBSE and the Delhi University on the correctness of the 10 key answers which were found by the CBSE to be incorrect. The report indicated that the



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CBSE and the Delhi University were *ad idem* regarding eight of the key answers.

32. Following this, in para 9 of the report, the Supreme Court observes that “insofar as the aforesaid eight questions are concerned, namely, questions, 36, 49, 109, 110, 128, 165, 167 and 168, there can be no doubt that the key answers provided by the appellant University are demonstrably erroneous”. Insofar as the key answers to remaining two questions, 41 and 152, which the CBSE expert team had earlier found to be erroneous, were concerned, the Supreme Court gave the benefit of doubt to the examining body.

33. The Supreme Court disapproved the decision of the High Court to direct re-consideration of the correctness of the key answers in respect of all 200 questions.

34. According to the Supreme Court, the interests of the students was sufficiently safeguarded if the University were directed to re-evaluate the answers to the eight questions regarding the incorrectness of the key answers in respect of which the experts of the CBSE and the Delhi University were *ad idem*. The University was directed to reevaluate the answers on the basis of the opinion of the experts of the CBSE and the Delhi University and not on the basis of the key answers suggested by the Punjab University.

35. Para 12 of the report addresses another issue which may arise in more than one case. Seven of the questions were so vague that they



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were incapable of having any answer. The University granted marks in respect of the said questions to all students irrespective of whether they had, or had not, attended the question. The Supreme Court disapproved this course of action. It held that it was palpably unjustifiable to award marks in respect of a question which was not attempted by a student. Instead, held the Supreme Court, it was reasonable only to give credit in respect of the said vague questions to those who have attempted them. In respect of such students, the Supreme Court held that, the questions, to the extent the students had attempted them, were not to be treated as part of the question paper. The Supreme Court gave an illustration to explain its position. The total marks in the question paper were 800. Each question carried four marks. The Supreme Court held that, if a particular student had attempted all the seven vague questions, he would be entitled to be marked out of 772, i.e. 800 less 28 marks relatable to the seven vague questions attempted by the student. Similarly, if a student would have attempted three of the seven vague questions, he would be marked out of 800 less 12, i.e. 788.

36. The University was, therefore, directed to re-evaluate the answer keys on the basis of the above principles.

Himachal Pradesh Public Service Commission v. Mukesh Thakur⁶

37. This case dealt with an examination for recruitment to the Himachal Pradesh Judicial Services (HPJS), conducted by the HPPSC.

⁶ (2010) 6 SCC 759



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Though this case did not involve, directly, any question of challenge to answer keys, some observations in the judgment are relevant.

38. The challenge, which travelled upto the Supreme Court, was by Respondent 1 (before the Supreme Court), who was not found eligible to be called for interview as he had failed to secure 45% in the Civil Law-II paper, though he had secured 50% marks in aggregate. The HPPSC contended that there was no provision for revaluation in the HP Judicial Service Rules, 2004 or in the HP Judicial Service (Syllabus and Allocation of Marks) Regulations, 2005. The Regulations, it was submitted required the candidate to secure 90 qualifying marks, which had not been secured by Respondent 1.

39. The High Court directed that the answer sheet of Respondent 1 be referred to another examiner of the rank of Reader in Law of the Himachal Pradesh University for revaluation. Said examiner awarded Respondent 1 199 marks. Based on the examiner's opinion, the High Court directed the HPPSC to issue a letter of appointment to Respondent 1.

40. The HPPSC appealed to the Supreme Court.

41. The Supreme Court noted, at the outset, that the Regulations did not contain any provision for revaluation. Thereafter, in para 15, the Supreme Court extracted the following observations of the High Court:

“We perused answers to Questions 5(a) and 5(b) and found that the petitioner has attempted both these answers correctly and the



answer to Question 5(b) was as complete as it could be. Despite the petitioner having attempted a better answer to Question 5(b) than the answer to Question 5(a), the petitioner has been awarded 6 marks out of 10 in answer to Question 5(b) whereas he has been awarded 8 marks in answer to Question 5(a). Similarly in answer to Questions 8(a) and 8(b) the petitioner has fared better in attempting an answer to Question 8(b) rather than answer to Question 8(a) and yet he got 4 marks out of 10 marks in answer to Question 8(b) whereas he got 5 marks out of 10 marks in answer to Question 8(a).””

42. The Supreme Court categorically held that the court cannot assume the task of the statutory authorities. As such, it was not permissible for the High Court to examine the question paper and answer sheet by itself, particularly when the HPPSC had assessed the *inter se* merit of the candidates. Any discrepancy in framing of question or evaluation of answer, it was noted, would apply to all candidates and not merely Respondent 1. The Supreme Court observed that it was purely a matter of chance that the paper before the High Court was one relating to Law and that, it had been one relating to Physics, Chemistry or Mathematics, it was doubtful whether the High Court would have embarked on the exercise of itself assessing the correctness of the answers provided by Respondent 1.

43. On this basis, the Supreme Court held that the High Court had adopted an impermissible course of action.

44. Relying on its earlier decision in *Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupesh Kumarsheth*⁷, the Supreme Court held that no direction for re-

⁷ (1984) 4 SCC 27



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evaluation could be issued where there was no provision of re-evaluation in the applicable rules or guidelines. It further held, significantly, that a provision in the Rules or Regulations, to the effect that there would be no re-checking/verification/re-evaluation was not amenable to challenge unless it was in violation of some statutory provision.

Rajesh Kumar v. State of Bihar⁸

45. This case, again, pertained to recruitment to the post of Junior Engineer (Civil) in the open merit category, consequent on an examination held by the Bihar State Staff Selection Commission (Bihar SSSC). The petitioner before the High Court challenged the suggested answers in the “model answer key” prepared by the Bihar SSSC. A Single Judge of the High Court referred the model answer key to two experts associated with the NIT, Patna. The experts found several of the key answers to be wrong.

46. Based on the experts’ view, the Single Judge held that 41 model answers were wrong, two questions were wrong and two others were repeated. The learned Single Judge, therefore, cancelled the entire examination as well as all appointments made on this basis.

47. In appeal, the Division Bench of the High Court held that the model answer in respect of 45 questions, out of 100, were wrong. It was further held that there was no justification to cancel the entire



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examination in the absence of any allegation of corruption or malpractice in other question papers. The Division Bench, therefore, modified the order of the Single Judge by directing a fresh examination to be held only for the Civil Engineering paper, to which the impugned questions were limited.

48. In para 15 of its judgment, the Supreme Court, taking note of the fact that, apart from other errors, as many as 45 answers, in the model answer key, out of a total of 100, were found to be erroneous, upheld the decision of the High Court that the entire question paper thereby stood vitiated, as the errors were bound to affect the result of the entire examination qua every candidate, irrespective of whether he was, or was not, a party to the proceedings. All appointments made on the basis of such an erroneous model answer keys were also correctly held to be vitiated.

49. The Supreme Court, however, reversed the decision of the High Court to the extent it directed holding of a fresh examination. It held that, if the model answer key was defective, the most natural and logical way of correcting the situation was to correct the model answer key and get the answer scripts re-evaluated on the basis of the corrected model answer key. No compelling reason for directing a fresh examination was, therefore, found to exist, especially where there was no allegation of malpractice, fraud or corrupt motives.

50. Finally, the Supreme Court held that persons who appeared in the examination and whose answers to the questions in dispute were in



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sync with the suggested answers in the model answer key and who, on the basis of the said answers, had obtained selection and appointment, and had served the State for years, thereafter, ought not to be disturbed.

51. While, therefore, permitting re-evaluation on the basis of the corrected model answer key, the Supreme Court held that the candidates who were found to be entitled to be appointed on the basis of their merit, following such re-evaluation, would be so appointed according to their inter-set position in the merit list.

Ran Vijay Singh v. State of U.P.⁹

52. This case, again, dealt with recruitment to public services by the Uttar Pradesh Secondary Education Services Selection Board (UPSESSB).

53. 36000 candidates underwent the written examination held by the UPSESSB for recruitment to the post of Trained Graduate Teachers in Social Science. The written examination was based on multiple choice answers to be marked on OMR sheets. Some of the unsuccessful candidates challenged the key answers in respect of seven questions.

54. A learned Single Judge of the High Court of Allahabad personally examined the said seven questions and arrived at a

⁹ (2018) 2 SCC 357



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conclusion that the key answers were incorrect.

55. Following this, the learned Single Judge, vide his final judgment, directed re-examination of the answer sheets of the 77 writ petitioners before him. In so holding and directing, the learned Single Judge relied on the judgment of the Supreme Court in ***Manish Ujwal***.

56. The judgment of the learned Single Judge was affirmed by the Division Bench of the High Court in appeal. The matter was ultimately carried to the Supreme Court.

57. The Supreme Court, in the opening para 18 of its analysis, held, significantly, as under:

“18. A complete hands-off or no-interference approach was neither suggested in ***Mukesh Thakur*** nor has it been suggested in any other decision of this Court – *the case law developed over the years admits of interference in the results of an examination but in rare and exceptional cases and to a very limited extent.*”

(Emphasis supplied)

58. Even while thus holding that no hands-off approach was advisable, interference with the results of an examination, by a Court, had to be limited to rare and exceptional situations, and to a very limited extent. In these situations, the onus was on the candidate to clearly demonstrate that the key answer was incorrect, without any need to resort to any inferential process or reasoning. The burden was held to be heavy, and constitutional courts were required to be cautious in entertaining a plea to challenge the correctness of a key answer.



59. After some reasoning, the Supreme Court, in para 30, laid down the following principles, of which the present case would be concerned only with the principles in para 30.4 and 30.5:

“30.1. If a statute, Rule or Regulation governing an examination permits the re-evaluation of an answer sheet or scrutiny of an answer sheet as a matter of right, then the authority conducting the examination may permit it;

30.2. If a statute, Rule or Regulation governing an examination does not permit re-evaluation or scrutiny of an answer sheet (as distinct from prohibiting it) then the court may permit re-evaluation or scrutiny only if it is demonstrated very clearly, without any “inferential process of reasoning or by a process of rationalisation” and only in rare or exceptional cases that a material error has been committed;

30.3. The court should not at all re-evaluate or scrutinise the answer sheets of a candidate—it has no expertise in the matter and academic matters are best left to academics;

30.4. The court should presume the correctness of the key answers and proceed on that assumption; and

30.5. In the event of a doubt, the benefit should go to the examination authority rather than to the candidate.”

60. The decision is further relevant only to the limited extent that it holds that the learned Single Judge of the High Court was completely in error in re-evaluating the correctness of the answer key himself in respect of seven questions.

Rishal v. Rajasthan Public Service Commission¹⁰

61. This case, again, dealt with recruitment to the post of school lecturers via an examination conducted by the Rajasthan Public



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Service Commission (“the RPSC”). Several candidates submitted objections to the key answers in the model answer key. Finally, the RPSC declared the result on 22 September 2016, against which several writ petitions were filed, challenging various answers in the final answer key.

62. Accepting the report of an expert committee, the learned Single Judge of the High Court rejected the challenge, by the petitioners, to the model answer key, and, accordingly, dismissed the writ petitions. Writ appeals preferred against the said decision were also dismissed by the Division Bench of the High Court.

63. The matter was carried to the Supreme Court.

64. The Supreme Court, at the outset, noted the decisions in *Samir Gupta*, *Manish Ujwal*, *Guru Nanak Dev University* and *Rajesh Kumar*. Thereafter, in para 19 of the report, the Supreme Court observed that publication of key answers was a step to achieve transparency and to give an opportunity to candidate to assess the correctness of their answers, which, in turn, helped to achieve fairness and perfection in the process. As such, the Supreme Court has clearly approved the practice of providing an answer key and inviting objections before publishing the final result.

65. Thereafter, in paras 21 to 24, of the report, the Supreme Court held thus:

“21. By our order dated 2-4-2018, we have directed to supply the report of the Expert Committee to all the parties. The copies of



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the report have been supplied. During the course of hearing, the learned counsel for the appellants submitted that substantial grievances raised in these appeals have been redressed by the Expert Committee. The representations made by the appellants have been substantially accepted as noted above. However, the learned counsel for the appellants have contended that certain answers given by the Expert Committee are still not correct. Before us certain questions have been pointed out which according to the appellants have not been satisfactorily dealt with by the Expert Committee. It shall suffice to refer to Question 58 of Paper I. The learned counsel for the appellants submit that the Expert Committee has accepted Option 4 as correct option whereas correct option is Option 3. The learned counsel for the appellants to make his point home has placed before us the following chart:

<i>Question No. 58</i>	<i>Option Answers</i>	<i>RPSC Answer</i>	<i>Expert Report (p. 15)</i>	<i>Petitioner Answer</i>	<i>Evidence in support</i>
Minimum number of working hours per week for the teacher in RTE Act, 2009 is	(1) 35 teaching plus preparation hours (2) 40 teaching plus preparation hours (3) 45 teaching hours (4) 45 teaching plus preparation hours	Option 4	Option 4	Option 3	1. The RTE Act specifies that “ <i>Minimum number of working hours per week for the teacher : Forty-five including preparation hours</i> ” 2. RPSC asked same question in School Lecturer Exam, 2013 and considered “ <i>45 teaching hours</i> ” as correct answer. Expert Committee has itself at p. 15 quoted the RTE Act, 2009 quoted the minimum teaching hours as “ <i>45 teaching including preparation hours</i> ”

22. At the time of hearing on 24-4-2018, at the first blush, we also observed that there may be substance in what is contended by

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the learned counsel for the appellants with regard to Question 21, however, when we thoroughly examined the question and its answer given by the Expert Committee, we are inclined to agree with the answer given by the Expert Committee. The reason for our accepting the opinion of the Expert Committee is as follows: Question 58 which was asked was: “Minimum number of working hours per week for the teacher in the RTE Act, 2009 is”.

23. Thus, answer had to indicate the number of working hours. Notification has been issued under the RTE Act where minimum teaching hours for a week is mentioned as: “45 teaching including preparation hours”. Thus, minimum number of working hours per week has been provided as 45 which figure includes both teaching and preparation hours. The statutory provision uses the word teaching including preparation hours whereas answer uses the words teaching plus preparation hours. There is no dispute that Figure 45 is a correct figure, only issue is with regard to whether Option 3 is correct or Option 4. Option 3 mentions “45 teaching hours”. Answer 3 is obviously not according to the statutory prescription which provides “45 teaching including preparation hours”. Correct answer, thus, is Option 4 which mentions “45 teaching plus preparation hours”. Instead of using the word including as used in statutory provision the answer uses word plus. When Figure 45 includes teaching as well as preparation hours the use of words “teaching plus preparation hours” connotes the same meaning. We, thus do not find any substance in the above submission.

24. The learned counsel for the appellants have also pointed out several other questions in Paper 1 which according to the learned counsel for the appellants have not been correctly answered by the Expert Committee. We have considered few more questions as pointed out and perused the answers given by the Expert Committee and we are of the view that no error can be found with the answers of the Expert Committee with regard to three more questions which have been pointed out before us. The Expert Committee, constituted to validation of answer key, has gone through every objection raised by the appellants and has satisfactorily answered the same. The Commission has also accepted the report of the Expert Committee and has proceeded to revise the result of 311 appellants before us. We, thus, are of the view that report of the Expert Committee which has been accepted by the Commission need to be implemented.”

(Italics in original; Underscoring supplied)



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66. Thus, *Rishal* was yet another case in which the Supreme Court satisfied itself regarding the subjective merits of the challenge, by the appellants, to the answer keys, albeit after obtaining the opinion of experts.

***U.P.P.S.C. v. Rahul Singh*¹¹**

67. This, again, was a case relating to recruitment to vacancies in the UP State Subordinate Services, via an examination consisting of two papers, of which the General Studies I paper was subject matter of controversy. As in all other cases, the respondents before the Supreme Court instituted writ petitions in the High Court, alleging that some of the key answers were incorrect and that some others had more than one correct answer. Needless to say, the paper was set in Multiple Choice Questions (MCQ) format. There were 150 questions in all.

68. 962 objections were received to the answer key. A committee of 26 experts examined the objections. On the basis of its recommendations, 5 questions were deleted and the answers of 2 questions were changed. The result was, therefore, declared out of 145 questions.

69. The respondents, in their writ petitions, challenged the final answer keys in respect of 14 questions. The High Court examined the questions and rejected the challenge in respect of 11 questions, accepted the challenge in respect of 1 question (thereby differing with

¹¹ (2018) 7 SCC 254



the UPPSC and its experts), held that one question had to be deleted, and that, in a fourth, there were two correct answers.

70. The UPPSC appealed to the Supreme Court.

71. After considering the decisions in *Samir Gupta* and *Ran Vijay Singh*, the Supreme Court allowed the appeals, reasoning thus:

“12. The law is well settled that the onus is on the candidate to not only demonstrate that the key answer is incorrect but also that it is a glaring mistake which is totally apparent and no inferential process or reasoning is required to show that the key answer is wrong. The constitutional courts must exercise great restraint in such matters and should be reluctant to entertain a plea challenging the correctness of the key answers. In *Kanpur University v. Samir Gupta*, the Court recommended a system of:

- (1) moderation;
- (2) avoiding ambiguity in the questions;
- (3) prompt decisions be taken to exclude suspected questions and no marks be assigned to such questions.

13. As far as the present case is concerned, even before publishing the first list of key answers the Commission had got the key answers moderated by two Expert Committees. Thereafter, objections were invited and a 26-member Committee was constituted to verify the objections and after this exercise the Committee recommended that 5 questions be deleted and in 2 questions, key answers be changed. It can be presumed that these Committees consisted of experts in various subjects for which the examinees were tested. *Judges cannot take on the role of experts in academic matters. Unless, the candidate demonstrates that the key answers are patently wrong on the face of it, the courts cannot enter into the academic field, weigh the pros and cons of the arguments given by both sides and then come to the conclusion as to which of the answers is better or more correct.*

14. *In the present case, we find that all the three questions needed a long process of reasoning and the High Court itself has noticed that the stand of the Commission is also supported by certain textbooks. When there are conflicting views, then the court must bow down to the opinion of the experts. Judges are not and cannot be experts in all fields and, therefore, they must exercise*



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great restraint and should not overstep their jurisdiction to upset the opinion of the experts.

15. *In view of the above discussion, we are clearly of the view that the High Court overstepped its jurisdiction by giving the directions which amounted to setting aside the decision of experts in the field. As far as the objection of the appellant Rahul Singh is concerned, after going through the question on which he raised an objection, we ourselves are of the prima facie view that the answer given by the Commission is correct."*

(Emphasis supplied)

72. *Rahul Singh*, therefore, again advocates the circumspect approach.

The takeaway

73. The following takeaway emerges:

(i) Circumspection is the general rule, especially where experts have considered the objections raised to the answer key.

(ii) It is, however, equally the rule that there is no absolute proscription against Courts examining the challenge to the key answers, even where experts have opined. The law does not commend, or even recommend, a “hands off” approach.

(iii) In an appropriate case, the Court can even examine, for itself, the correctness of the key answers under challenge, in which process the Court is also empowered to refer to



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authoritative textbooks on the subject, especially those which form part of the students' curriculum.

(iv) Where the question is simple, and not admitting of any complexity, and can command only one answer, which is apparent to the Court, the Court is not proscribed from taking a view based on its own perception of the question – to take an extreme example, the sum of two and two. That, however, would have to be in a rare case in which the answer is so apparent that there can be no doubt about it, and not one where the opinion of someone with greater expertise would help, or where there is ambiguity.

(v) In any case, the guiding principle is that the general rule against accepting the suggested answer key stands relaxed only where the suggested answer is proved to be wrong, not by an inferential process of reasoning or rationalisation, but clearly and demonstrably wrong, in that no reasonable body of men well-versed in the subject would regard the key answer as correct.

(vi) Another guiding principle, which the Court was required to bear in mind in such cases, is that, where it was beyond doubt that the key answer was wrong, it would be unfair to penalize students for not giving the suggested, demonstrably wrong answer. Any refusal on the part of the Court to



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interfere, even in such a case, would amount to a serious illegality.

(vii) Where questions were unacceptably vague, the principle advocated in *Saumil Garg* is required to be followed. Any student who attempted all or some of said vague questions would be entitled to be marked out of a total after deleting the marks assigned to the questions which she, or he, had attempted.

(viii) Even where a large number of key answers were found to be incorrect – as in *Rajesh Kumar*, which involved 45 wrong key answers out of 100 – it would not be justifiable to direct cancellation and reholding of the examination. Re-evaluation of the papers on the basis of the corrected answer keys would still be the only correct approach.

(ix) Interference has, therefore, to be only in “rare and exceptional cases”, and to a “very limited extent”.

(x) In the event of doubt, the benefit of doubt would go to the examining authority, not to the candidate.

(xi) The general principle is that relief cannot be restricted to the candidates who approached the Court, but must be extended to all who are similarly situated. While so doing, the Court can



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direct that the re-evaluation, or revaluation, would not result in any negative impact on candidates who had attempted the disputed questions and whose answers corresponded to the suggested answer key.

74. With this understanding of the law, one may now turn to the facts.

Facts

75. The petitioner is a Research Scholar, enrolled in the Ph.D programme of the Department of Hindi, University of Delhi. He applied for participation in the UGC-NET¹² conducted in June 2023 by the National Testing Agency (NTA). He was allotted an application number and underwent the UGC-NET on 17 June 2023.

76. Of the several questions which were posed during the UGC-NET, the reliefs in the writ petition pertain to Questions 20087 and 20094. However, Mr. Shah, learned counsel for the petitioner candidly acknowledged that Question 20094 was essentially a question which involved a subjective view regarding which, therefore, scope of interference by Courts was necessarily limited. He, therefore, restricts his relief to Question 20087.

77. Question 20087, in its Devanagari and translated forms, read thus:



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In Devanagari

‘नीचे दो कथन दिए गए हैं:

कथन-I : 'रोज' उर्फ 'गैंग्रीन' कहानी के अनुसार मालती के पति का नाम विश्वेश्वर है और वे एक छोटे से रेलवे स्टेशन के स्टेशन मास्टर हैं।

कथन-II : 'चीफ की दावत' कहानी में चीफ के आग्रह पर माँ ने एक पुराना टप्पा 'दो पत्तर अनारा दें'..... गाकर सुनाया

उपरोक्त कथन के आलोक में नीचे दिए गए विकल्पों में से सबसे उपयुक्त उत्तर का चयन कीजिए:

- 1 कथन I और II दोनों सही हैं
- 2 कथन I और II दोनों सही हैं
- 3 कथन I सही है, लेकिन कथन II गलत है
- 4 कथन I गलत है, लेकिन कथन II सही है

English Translation

“Two statements are given below:

Statement I – As per the story *Rose Urf Gangrine* the name of husband of Malti is Visheshwar and he is the Station Master of a small railway station.

Statement II – In the story of '*Chief ki Dawat*' the mother sang an old tappa – “do patte anara dein...”.

Mark the most suitable answers for above-mentioned statements

1. Both the statements are correct.
2. Both the statements are correct.
3. Statement I is correct whereas Statement II is incorrect.
4. Statement I is incorrect whereas Statement II is correct.

78. The petitioner chose Option 2.

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79. It is obvious Question 20087 is elementary. It cannot admit of two possible correct answers. It consists of two statements. The first relates to the name and occupation of the husband of a character named Malti in a story “*Rose Urf Gangrine*”. The statement suggests that the name of the husband of Malti was Visheshwar and that he was a station master.

80. According to the NTA, the correct option, below Question 20087, was Option 4, which states that Statement I is incorrect but Statement II is correct. The petitioner does not dispute that Statement I is incorrect. To that extent, the petitioner and respondent are *ad idem*. Malti’s husband’s name, points out the petitioner, was Maheshwar, not Vishweshwar, and he was a doctor, not a station master.

81. Statement I in Question 20087 was, therefore, incorrect. As I have noted, there is no dispute on this point.

82. Option 4 below Question 20087, however, also asserts that *Statement II is correct*.

83. It is here that the petitioner joins issue. According to the petitioner, *Statement II is also incorrect*. Thus, submits the petitioner, the NTA is wrong in its assertion that Option 4 is the correct option – actually, none of the options are correct, as Statements I and II are *both incorrect*.



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84. The NTA asserts, however, that Option 4 is correct.

Analysis

85. Examination of this aspect does not involve any kind of reasoning. The question relates to the song which was sung by the mother in the story “*Chief Ki Dawat*” written by Bhisham Sahni.

86. The suggestion in Statement II was that the mother sang the song “*do pattar anaran de*”. This suggestion, submits the petitioner, is incorrect, as “*do pattar anaran de*” was the song which the mother was asked to sing, but she actually sang the song “*Hariya ni maye., hariya ni bhaine, hariya te bhagi bhariya hai*”.

87. Mr. Shah has handed over, across the bar, a page of the work “*Chief Ki Dawat*” which contains the following:

“मैं क्या गाऊँ, बेटा। मुझे क्या आता है?
वाह! कोई बढ़िया टप्पे सुना दो। दो पत्तर अनारों दे...

देसी अफ़सर और उनकी स्त्रियों ने इस सुझाव पर तालियाँ पीटी। माँ कभी दीन
दृष्टि से बेटे के चेहरे को देखतीं, कभी पास खड़ी बहू के चेहरे को।

इतने में बेटे ने गंभीर आदेश-भरे लिहाज में कहा, “माँ!

इसके बाद हाँ या ना सवाल ही न उठता था। माँ बैठ गई और क्षीण, दुर्बल,
लरज़ती आवाज़ में एक पुराना विवाह का गीत गाने लगीं –

हरिया नी माये, हरिया नी भैणे
हरिया ते भागी भरिया है!

देसी स्त्रियाँ खिलखिला के हँस उठीं। तीन पंक्तियाँ गा के माँ चुप हो गई।”

Translated into English

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“What should I sing, son? What do I know?”

Wow! Tell me some good songs. Give me two pomegranate seeds...

The native officers and their wives applauded this suggestion. Sometimes the mother would look at her son's face with humble eyes, sometimes at the face of her daughter-in-law standing nearby.

Meanwhile the son said in a serious commanding tone, "Mother!"

After this the question of yes or no did not arise. Mother sat down and started singing an old wedding song in a weak, weak, trembling voice –

Hariya ni maaye, Hariya ni bhaine
Hariya te bhaagi bhariya hai!

The native women burst out laughing. Mother became silent after singing three lines.”

88. It is clear, from the above extract, that the mother was asked to sing the song “*do pattar anaran de*” but actually sang the song “*Hariya ni maye, hariya ni bhaine, hariya te bhagi bhariya hai*”.

89. This position is, in fact, clarified by the use of the words “माँ बैठ गई और क्षीण, दुर्बल, लरज़ती आवाज़ में एक पुराना विवाह का गीत गाने लगीं” (“Mother sat down and *started singing an old wedding song* in a weak, weak, trembling voice”). The use of the words “started singing *an old wedding song*” itself makes it clear that the song that the mother sang was not the song that her son requested her to sing.

90. Mr. Shah has also handed across the bar a book containing the story “*Chief Ki Dawat*” and I have had the occasion to go through it.



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As a matter of fact, the only reference, in the story, to the song “*do pattar anaran de*” is in the passages reproduced in paras 16 *supra*. Said passages clearly reveal that, though the mother was asked to sing “*do pattar anaran de*”, she actually sang “*Hariya ni maye, hariya ni bhaine, hariya te bhagi bhariya hai*”.

91. Option 4 below Question 20087 cannot, therefore, be the correct option, irrespective of what the experts feel, as Statements I and II are *both* incorrect.

92. The above view was expressed by me, *prima facie*, in my order dated 5 February 2024 and Ms. Seema Dolo, who appears for NTA, was directed to obtain instructions on the aspect.

93. Today, Ms. Dolo appears and submits that her instructions are to state that there is no infirmity in the final answer keys with respect to question 20087 and that, in fact, Option 4 is the correct option against that question. The instructions which have been conveyed to Ms. Seema Dolo, and which she conveys to the Court – and which I, frankly, find somewhat surprising – is that there is nothing to indicate that the mother *refused* the request to sing “*do pattar anaran de*”. After all, submits Ms. Dolo on instructions, the mother *was* asked to sing the song.

94. To a query from the Court as to whether she desired to place this stand on affidavit, Ms. Dolo submits that this is all that she has been instructed to submit and that, as this is the only controversy in



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issue, the Court may note her submission and proceed to decide the matter.

95. The only reference to the songs is contained in the passages from “*Chief Ki Dawat*” extracted in para 16 *supra*. In the said passage, there is a reference of *a request being made* to the mother to sing a song and of the mother *having sung* a particular song. A plain reading of the passage reveals that the mother was asked to sing an old tappa song - “*do pattar anaran de*” and whereas the mother is stated to have sung the song “*Hariya ni maye., hariya ni bhaine, hariya te bhagi bhariya hai.*”

96. To my mind, accepting Ms. Dolo’s submission would amount to rewriting Bhisham Sahni’s story and I am the last person who would hazard to do so, especially for a litterateur of the stature of Bhisham Sahni. The story is clear. There is no possibility of two views. The mother was asked to sing song X. She sang song Y. Option 4 below Question 20087 states that she sang song X. It is obviously incorrect. The suggestion of Ms Dolo that, *perhaps*, “*Do pattar anare dein*” and “*Hariya ni maaye ...*” were the same song does not flow from anything contained in the story “*Chief Ki Daawat*”.

97. The student cannot be expected to answer factual questions such as Question 20087 on presumptions. The story is clear on what the mother was *asked to sing*, and what she *sang*.

98. Apparently, when the question was set, some confusion appears



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to have arisen. Be that as it may, there is nothing in the story “*Chief Ki Dawat*” to indicate that the mother ever sang “*do pattar anaran de*”. Statement II which states positively that the mother sang “*do pattar anaran de*”, is, therefore, an incorrect statement in the context of the story “*Chief Ki Dawat*” as penned by Bhisham Sahni. Option 4, in the choice of options below Question 20087 is, therefore, clearly the wrong option.

No correct option provided

99. As is obvious from a reading of the suggested optional answers below Question 20087, suggested Options 1 and 2 are identical. Both read: “Both the statements are correct”.

100. This, by itself, is a serious infirmity in the question, as it is not permissible to provide two identical options in multiple choice questions.¹³ In a question paper which is on multiple choice basis, and especially a paper which relates to a prestigious examination such as the UGC-NET, all efforts have to be taken to ensure that there is no ambiguity either in the questions or in the suggested choices of answers. If, of the four choices of answers provided under a question, two are identical, the students attempting the question are bound to be thrown into a state of confusion. This single infirmity may, in fact, be sufficient, even by itself, to invalidate Question 20087 and either to entitle all students, who had attempted the question, to be granted the

¹³ This said, it may be possible that, in some particular peculiar situations, two identical choices are consciously given, to test, for example, how observant a candidate is. The NTA does not seek to contend, however, that this is one such case.



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2 marks assigned to it, or for Question 20087 not to be taken into account while assessing the total. As the latter option would reduce the total number of marks in the examination, the more appropriate option would be that all students are assigned the marks which the question carries.

101. Of the options actually provided below Question 20087, it is clear that none is correct, as, in fact, Statements I and II were *both incorrect*, and there is no such option.

102. The petitioner claims to have marked Option 2 as Options 1 and 2 were identical and the petitioner submits that he was of the opinion that probably there was a typing mistake in Option 2, which should have read “both the statements are *incorrect*”. It is also pointed out in the writ petition that, in other similar questions in the question paper, the Option 1 was that “both the statements are correct” and Option 2 was that “both the statements are incorrect”.

103. The petitioner, clearly, cannot be faulted in having thought so.

104. In any event, if none of the answers to Question 20087 are actually correct, the petitioner cannot be refused marks for the question, as the answer key itself is incorrect. This would apply, however, not only to the petitioner, but to all who attempted Question 20087.

105. In arriving at its decision, this Court has not had to enter into



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any detailed process of examination or reasoning. There is no element of subjectivity whatsoever involved. There is no possibility of two views in the matter. The question was clearly whether, in the story “*Chief Ki Dawat*”, the mother sang “*do pattar anaran de*”. The story is before the Court. The Court has read it. There is nothing in the story to indicate that the mother sang the song “*do pattar anaran de*” though she was asked to sing it. Rather the story indicates that she sang, instead, another song which was “*Hariya ni maye., hariya ni bhaine, hariya te bhagi bhariya hai*”.

106. This, therefore, is not one of those cases in which the Court should not interfere by adopting a hands off approach. The error in the finalized answer key to Question 20087 is so clear that refusing the prayer of the petitioner, with respect to the said answer, would amount to doing complete injustice.

107. Accordingly, the petitioner would be entitled to have his final result *qua* the UGC-NET June 2023 corrected by awarding him 2 marks for his answer to question 20087.

108. This benefit cannot, however, enure only to the advantage of the petitioner, but must extend to all candidates who attempted Question 20087, in view of the law contained in the decisions cited *supra*, especially as none of the suggested options below the Question is correct.

109. The respondents, therefore, are directed to rework the final



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results of all candidates who attempted Question 20087 and award 2 marks against the question to all such candidates.

110. The reconsidered final result of the petitioner is directed to be communicated to the petitioner within a period of four weeks from today.

111. The writ petition stands allowed to the above extent.

C.HARI SHANKAR, J

FEBRUARY 9, 2024/yg

Click here to check corrigendum, if any