

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.23068 of 2013

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1. Raj Kumar S/O Mahendra Sharma Resident Of At & P.O. Barhiya, Ward No. 9, P.S- Barhiya, Near Pokhar Road, District- Lakhisarai, Bihar.
 2. Ratnesh Kumar S/O Sri Chandeshwar Choudhary Resident Of At Chhajan North Tola, P.O- Chhajan Harishankar, P.S- Kudhani, District- Muzaffarpur, Bihar
 3. Chakrapani Himanshu S/O Sri Subodh Prasad Yadav Resident Of At Shreerampur, Post- Akbarnagar, P.S- Akbarnagar, District- Bhagalpur, Bihar.
 4. Binay Kumar Pandey S/O Sri Braj Kishore Pandey At+ P.O- Prashast Dih, Sabour, District- Bhagalpur, Bihar.
 5. Shammi Kesh Roy S/O Sri Shivshankar Roy At Bharat Rasalpur, P.S- Nathnagar, District- Bhagalpur, Bihar.

.... Petitioner/s

Versus

1. University Grants Commission, National Education Testing (Net) Bureau, Campus, University Of Delhi, Benito Juarez Marg, New Delhi- 110021 Through Its Chairman.
2. Chairman, University Grants Commission, National Education Testing (Net) Bureau, South Campus, University Of Delhi, Benito Juarez Marg, New Delhi- 110021.
3. Director, University Grants Commission, National Education Testing (Net) Bureau, South Campus, University Of Delhi, Benito Juarez Marg, New Delhi- 110021
4. Head, National Education Testing (Net) Bureau, University, Grants Commission, South Campus, University Of Delhi, Benito, Juarez Marge, New Delhi- 110021.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manish Kumar, Adv.

For the Respondent/s : Mr. Deepak Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 16-02-2016

Heard learned counsel for the petitioners and counsel for the University Grants Commission.

Out of the five writ petitioners, the petitioner nos. 1 & 3 have already cleared the U.G.C. Net Examination for the post of Junior Research Fellowship in the subject of law which is an essential

requirement for being appointed to the post of Lecturer in the present educational policy. The writ application, as against the petitioner nos. 1 & 3, has become infructuous as they have cleared the Net Examination.

Presently, the cases of petitioner nos. 2, 4 & 5 have to be gone into. All petitioners have appeared in the examination but they could not clear the same on account of having obtained less qualifying marks. After the result, only petitioner no.5 has raised objection stating therein that certain answers, relating to some questions, which have been provided in the master answer-key, are incorrectly bracketed. Examples have been given with regard to question nos. 11, 18, 21, 22 & 23 in Paper-II and question nos. 9, 10, 39, 53, 61 and 64 in Paper-III.

Learned counsel for the petitioners has drawn attention of this Court towards certain questions such as question no.21 where the question was "Adultery by a Hindu husband is" and as per the U.G.C., option "D" is the right answer but, as per the petitioner, option "C" i.e. "Ground of judicial separation" will be the correct answer and not "D". Similarly, some other questions have also been pointed in Paper-III such as question no. 61 where the question is "State which of the following statements is incorrect?" and as per the U.G.C. the right answer was option "D" i.e. "The breach of duty, which results in liability in tort, is redressable by an action for unliquidated damages." and as per the learned counsel for the petitioner, option "D" is not a



correct answer and in fact option “C” is the correct answer i.e. “The duty, breach of which results in liability in tort, is towards some person in particular.” In support of his contention, he has placed reliance on text book Law of Torts by R.K. Bangia that deals with the law of torts where the definition of tort has been given and it has been mentioned there that tortious liability arises from the breach of a duty primarily fixed by the law, this duty is towards persons generally and its breach is redressible by any action for unliquidated damages as per Salmond and Winfield. As per claim of the petitioner, the answers which have been bracketed by the U.G.C. is wrong and the correct answer is given by Salmond and Winfield. He has also placed reliance on the judgment of this Court in the case of *Dhananjay Kumar Mishra & Ors. Vs. The Bihar Staff Selection Commission & Ors.* reported in 2013(4) PLJR 168 and that has been affirmed by the Division Bench of this Court in the case of *Kumod Kumar & Ors. Vs. Bihar Staff Selection Commission & Ors.* reported in 2015(3) PLJR 693 where the Court has also found certain answers to be wrong and the entire result was held up and a direction was given to constitute Expert Committee to verify the answers and examine the answer-book of the candidate.

As per the claim of the petitioners, the petitioner no.5 is short by 4 marks. The petitioner nos. 2 & 4 are short by 14 marks and 10 marks respectively and even if two questions goes in favour of the

petitioner nos. 2 & 4, it will hardly give any relief to them so much so that they have not raised any objection after publication of the result. The petitioner no.5 is the only person who has raised objection with certain answer in the multiple choice answers as stated herein above. So the relief is only confined to the petitioner no.5 only.

Let the University Grant Commission appoint an Expert Committee to examine the objection raised by the petitioner no.5 vis-à-vis answer that has been given in the master answer-key and if it is found that the answers corresponding to question given in the answer-key are not the correct answer then it should be rectified and also verified as to whether the petitioner no.5 has given answer as per the corrected master answer-sheet and if the petitioner no.5 gets four marks, it goes without saying that the University Gran Commission will take a decision in accordance with law. The Expert Committee should be manned by the persons other than those who were earlier member of the Expert Committee.

It is, however, made clear that this order is only confined to the petitioner no.5 and will not be of any benefit to any third party.

(Shivaji Pandey, J)

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