

CWP No.2891 of 2016 (O&M)

[1]

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.2891 of 2016 (O&M)
Date of decision:18.04.2017**

Priya Mann

...Petitioner

Versus

University Grants Commission and another

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Rahul Sharma-I, Advocate,
for the petitioner.

Mr. Salil Sabhlok, Advocate,
for respondent No.1.

Mr. Harsh Aggarwal, Advocate,
for respondent No.2.

Rakesh Kumar Jain, J.

The petitioner has prayed for the issuance of a writ in the nature of *certiorari* for quashing the revised answer key dated 30.12.2015 of the UGC- NET December, 2014 insofar as it declares correct answers to question nos.26, 42 and 46 in Paper II (English) to be 'D', 'C' and 'A' respectively and question no.23 in Paper-I (Set Z) to be 'D'. She has also prayed for issuance of a writ in the nature of *mandamus*, directing the respondents to revise the answer key to the aforesaid questions and, thereafter, declare her result as “qualified” for eligibility for appointment as Assistant Professor.

According to the petitioner, the Government of India, vide its notification dated 22.07.1988, entrusted the task for determining the eligibility for lectureship to the University Grants Commission. The National

Educational Testing Bureau of University Grants Commission (UGC) accordingly conducts the National Eligibility Test (NET) to determine eligibility for lectureship in order to ensure minimum standards for the entrants in the teaching profession and research. The said test is conducted twice in a year, generally in the months of June and December in Humanities (including languages), Social Sciences, Forensic Science, Environmental Sciences, Computer Science and Applications and Electronic Science. The Central Board of Secondary Education (CBSE) conducted the NET on behalf of the UGC on 28.12.2014 for determining the eligibility of Indian Nationals for appointment as Assistant Professors in Universities and Colleges. The NET conducted in December 2014 was consisted of three papers of only objective type questions. Paper-I was of general nature, consisted of 60 multiple choice questions of 2 marks each, out of which a candidate was required to answer any 50 questions, Paper-II was consisted of 50 objective type questions of 2 marks each based on the subject selected by the candidate and Paper-III was consisted of 75 objective type questions of 2 marks each from the subject selected by the candidate. In order to be successful in the NET exam, the General Category candidate was first required to obtain minimum marks separately in Paper-I (40/40%), Paper-II (40/40%) and Paper-III (75/50%) and, thereafter, a merit list was to be prepared subject-wise and category-wise using the aggregate marks of all the three papers secured by all the candidates, who have obtained the minimum marks. Lastly, the top 15% candidates (for each subject and category) from the merit list so prepared were to be declared NET qualified for eligibility for appointment as Assistant Professor.

It is submitted that the petitioner, being fully eligible, appeared in

the NET exam, result of which was declared on 15.06.2015. She secured 202 marks out of total 350 marks and was not declared as “qualified” being eligible for appointment as Assistant Professor. The petitioner was shown to have secured 57.71% marks, whereas the cut-off percentage was 58.86%. The petitioner was, thus, required to obtain 206 marks (two more questions have to be corrected) for the purpose of qualifying the NET. It is submitted that the petitioner found the answer key to 4 questions as incorrect and, thus, submitted her grievance in respect of the following questions and the answer key provided by the respondents:-

“(A) Paper II-[English] Question No.26

Question No.26.- How many legends of good women could Chaucer complete in his The Legend of Good Women?

(A) Six (B) Seven (C) Eight (D) Nine

Answer as per the Answer Key – (D) Nine

Answer as per the petitioner and her justification thereof-

(C) Eight

The petitioner cited five authorities/books wherein it was stated that Chaucer had completed only 8 legends, while the 9th one was left incomplete.

(B) Paper II-[English] Question No.46

Question No.46.- Identify Petrarch's sonnet sequence from among the following:

(A) Rime Sparse (B) Astrophel and Stella (C) Amoretti
(D) Delia

Answer as per the Answer Key – (A) Rime Sparse

Answer as per the petitioner and her justification thereof-

(B) Astrophel and Stella

The petitioner cited three authorities/books to contend that (i) Astrophel and Stella was a famous Petrarchan sonnet sequence and that (ii) Petrarch's Sonnet Sequence was titled 'Rime Sparse' and not 'Rime Sparse' and, therefore, the answer could not have been 'A'.

(C) Paper II-[English] Question No.42

Question No.42.- In Jeremy Collier's 1698 pamphlet attacking the immorality and profaneness of the English stage, who among the following was the principal target?

- (A) William Congreve (B) John Dryden
(C) John Vanbrugh (D) William Wycherley

Answer as per the Answer Key – (C) John Vanbrugh

Answer as per the petitioner and her justification thereof-

(D) William Wycherley

The petitioner cited seven authorities/books wherein it was stated that Jeremy Collier's main target was William Wycherley.

(D) Paper I-[Test Booklet Code 'Z'] Question No.23

Question No.23.- A smart classroom is a teaching space which has

- (i) Smart portion with a touch panel control system.
(ii) PC/Laptop connection and DVD/VCR player.
(iii) Document camera and specialized software.
(iv) Projector and screen.

Select the correct answer from the codes given below:

- (A) (i) and (ii) only
(B) (ii) and (iv) only
(C) (i), (ii) and (iii) only
(D) (i), (ii), (iii) and (iv)

Answer as per the Answer Key – (D) (i), (ii), (iii) and (iv)

Answer as per the petitioner and her justification thereof-

(B) (ii) and (iv) only.

The petitioner cited five authorities/books wherein it was stated that the equipment required for a smart class is PC, Projector, Internet, DVD and Smart Board.”

It is submitted that the petitioner did not receive any response from the respondents rather the final answer key was published on 30.12.2015, in which the petitioner found that the answers to all the aforesaid 4 questions remained unchanged. It is further submitted that in regard to Question No.35 in Paper III

(English), a revision has been made and all the answers were declared to be correct on account of the name of play by Oscar Wilde having been mis-spelled, in which the play 'Salome' by Oscar Wilde was inadvertently mis-spelled as 'Salonie' but the same benefit was not extended to the petitioner in respect of Question No.46 of Paper II (English) where Petrarch's sonnet sequence was mis-spelled as 'Rine Sparse' instead of 'Rime Sparse'.

Counsel for the petitioner has submitted that the answer to Question No.26 in the answer key as 'D' is wrong because the petitioner has referred to five authorities/books wherein it has been stated that Chaucer had completed only 8 legends, while the 9th was left incomplete. Similarly, it is submitted that the answer to Question No.42 of Paper II (English) is also wrong as per the authorities/books submitted by the petitioner.

On the other hand, counsel for the respondent-CBSE has submitted that the UGC-NET was held in December, 2014, whereas the present petition has been filed in February, 2016 and in between, 3 more NET examinations have already been held, therefore, the writ petition is highly belated. It is further submitted that the CBSE was only entrusted the job of conducting the NET but the experts were appointed by the UGC. It is also submitted that the answer key of all the three subjects (Paper I, II and III) and recorded images of the responses marked by the candidates on OMR sheets of UGC-NET December, 2014 was uploaded on the website www.cbse.net.nic.in from 16.12.2015 to 23.02.2015 and the candidates were allowed to challenge the answer key(s) of all the subjects and recorded images of responses marked by them on OMR sheets through the link available on the website latest by 23.02.2015 but the petitioner did not object to any of the answers of Paper I, II and III and, thus, the result was declared on 15.06.2015. Thereafter, the notification dated 16.06.2015 was also issued,

informing the candidates that if they have any grievance with regard to answer key even after the declaration of result, they may send written request as per prescribed performa uploaded on the website to the Executive Director, CBSE, supporting their stand with proof from standard books, literature along with demand draft of ₹5,000/-. In view of the aforesaid notification dated 16.06.2015, the petitioner did not challenge Question No.23 of Paper-I and Question Nos.26, 42 and 46 of Paper-II, whereas other students from all over India had challenged numerous questions including Question Nos.44 & 46 of Paper-I, Question Nos.12, 13, 16, 21, 24, 26, 28, 43 & 48 of Paper-III of their sets. All the challenged questions were put to the subject experts and ultimately correction was made in the answer of Question No.44 (Set W), Question No.26 (Set X), Question No.13 (Set Y), Question No.02 (Set Z) of paper-I and Question No.33 of Paper-II (English). After revision of the answer key, the answer sheet of the petitioner and other students was re-evaluated but no change was found in the result of the petitioner, whereas there was a change in the result of other students all over India and the revised result was declared on 31.12.2015. It is further submitted that since the experts appointed by the CBSE have already reviewed the answer key on the basis of feedback received from the candidates, therefore, there is no scope for interference. In this regard, reliance has been placed to two decisions of the Delhi High Court in the cases of **Atul Kumar Verma vs. Union of India and another**, W.P. (C) No.5719/2015, decided on 13.07.2015 and **Master Gautam Bathla vs. Central Board of Secondary Education**, W.P. (C) No.4323/2013, decided 10.07.2013 and two decisions of this Court in the cases of **Sahil Soni vs. Central Board of Secondary Education**, CWP No.14946 of 2013, decided on 13.08.2013 and **Sukhdeep Singh vs. Union of India and others**, CWP No.13562 of 2014, decided on 26.08.2014.

It is further submitted that as regards Question No.35 in Paper-III (English), the question itself was mis-spelled as 'Salonie' as a play written by Oscar Wilde, whereas it was 'Salome' and since there was no play by the name 'Salonie' written by Oscar Wilde, therefore, the CBSE decided to give benefit to all the students and kept everybody at par but there is no parity between Question No.35 of Paper-III (English) and Question No.46 of Paper-II (English) as in Question No.46 of Paper-II (English), there was no typing error in the question and the correct answer was option (A) 'Rime Sparse', which was wrongly printed as 'Rine Sparse' but in fact 'Sparse' was a more homely name. It is further submitted that since the petitioner has only relied upon certain books and not produced any expert opinion, therefore, his request cannot be acceded to at this belated stage.

I have heard learned counsel for the parties and examined the available record with their able assistance.

Insofar as claim of the petitioner regarding parity of Question No.46 in Paper-II (English) and Question No.35 in Paper-III (English) is concerned, I am in agreement with the reasoning given by the respondents that there is a vast difference between 'Salonie' and 'Salome' especially when Oscar Wilde has not written any play in the name of 'Salonie', whereas there is only typographical mistake of the word 'n' instead of 'm' in 'Rime Sparse' which has been typed as 'Rine Sparse' and it is alleged that Sparse is a more homely name and can easily be identified, therefore, the contention of the petitioner in this regard is rejected.

Insofar as the other questions are concerned, the petitioner has only placed reliance on certain books and not on the expert report(s), therefore, no benefit can be given to the petitioner as held by this Court and Delhi High Court in various pronouncements, referred to above, relied upon by the respondents.

Moreover, in between UGC-NET December, 2014 and filing of the present writ petition, 3 more UGC-NET examinations have already been held, whereas the final result of UGC-NET December, 2014 was declared on 30.12.2015 and the petitioner had approached this Court on 10.02.2016 belatedly.

Thus, keeping in view the aforesaid facts and circumstances, there is hardly any merit in the present petition for the purpose of interference by this Court and hence, the same is hereby dismissed.

April 18, 2017
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No