

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

**L.P.A. No.1882 of 2017 (O&M)**

**Decided on : 7.10.2017**

Deputy Secretary (Exam), Council of Scientific

... Appellant

Versus

Nancy and others

... Respondents

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER  
HON'BLE MR.JUSTICE RAJ SHEKHAR ATTRI**

Present : Ms. Nimrata Shergill, Advocate,  
for the appellant.

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**MAHESH GROVER, J. (Oral)**

**CM-4062-LPA-2017**

There is a delay of 21 days in filing the appeal. For the reasons mentioned in the application, we condone the delay of 21 days in filing the appeal.

Application stands allowed.

**CM-4063-LPA-2017**

There is a delay of 24 days in re-filing the appeal. For the reasons mentioned in the application, we condone the delay of 24 days in re-filing the appeal.

Application stands allowed.

**Main case**

This appeal is directed against the judgment of the learned Single Judge dated 24.5.2017 permitting the grant of one mark against Question No.31 to the respondent-student (hereinafter referred to as,

“the examinee”) who had participated in UGC NET examination. The disputed question against which marks have been allocated is a part of the process of examination qua five subjects conducted by CISR (Centre of Scientific and Industrial Research).

While accepting the plea of the examinee, the learned Single Judge went through OMR sheet which was the reflection of the examinee's attempts.

Learned counsel for the appellant contends that against every question, four possible answers were indicated in bubbles which had to be smudged so as to enable the checking by a computer. It is contended that the examinee had smudged two bubbles one partially and the other in toto which led to the computer ignoring this answer to negate any mark to the examinee.

Apart from this, it is contended that if such an interpretation is permitted to students, it will grant undue leverage to other students who would claim parity and similar benefits. Lastly, it has been contended that the learned Single Judge has imposed costs of ₹ 10,000/- which are not justified in these circumstances.

We have heard the learned counsel for the appellant and have glanced through Annexure R-5, OMR sheet pertaining to the examinee and against question No.31 which is the disputed one, we notice that the partial smudging attributed to the examinee cannot be permitted to be an attempt, at all. It merely is a result of a debilitating mind as it shows that pencil merely stops at one of the bubbles and in the top margin, there is a very small indication of this whereas the next

bubble has been fully smudged as has been done against other answers as well. We are conscious of the fact that sanctity of the examination process ought not to have tinkered with lightly but at the same time on the facts of the present case and having seen the OMR sheet, we are of the opinion that the very slight marking on the margin for a bubble which is more than 99% free of any smudge should be construed a result of a debilitating mind only which is expected of a student confronted with the process of examination and desire to succeed. Therefore, in the facts of the present case, we do not deem it appropriate to interfere with the judgment of the learned Single Judge except to intervene to waive off the costs imposed vide order dated 17.4.2017 which according to us need not to be imposed as the stand of the appellant cannot be termed to be wholly unjustified.

**(MAHESH GROVER)**  
**JUDGE**

**(RAJ SHEKHAR ATTRI)**  
**JUDGE**

**October 7, 2017**

Paritosh Kumar

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|----------------------------|--------|
| Whether speaking/reasoned: | Yes/No |
| Whether Reportable:        | Yes/No |