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

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Judgment delivered on: 16.01.2017

+ **W.P.(C) 4381/2016**

AMIT VERMA

..... Petitioner

versus

UNION OF INDIA AND ANR.

..... Respondents

Advocates who appeared in this case:

For the Petitioner :

Mr Ravi Ranjan and Mr Mithilesh Kumar Mishra

For the Respondents:

Ms Anubha Bhardwaj and Mr Dev P.Bhardwaj,
Advocates for R-1/Union of India.
Mr Vaibhav Kalra, Advocate for R-2.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

16.01.2017

SANJEEV SACHDEVA, J. (ORAL)

1. The petitioner, by the present petition, seeks a mandamus to the respondents to declare as factually and conceptually incorrect, the answer keys for question Nos.57, 100 and 107 of the Answer Key Booklet "A" published by respondent No.2, on 15.03.2016 for National Eligibility Test (NET) for Lectureship held on 20.12.2015

and a further direction to respondent No.2 to declare the petitioner as qualified for the said examination.

2. During the submissions, learned counsel for the petitioner has restricted his challenge only with regard to question No.57. It is contended that the question No.57 had a typographical error and the answer given by the petitioner was correct. Even the respondents initially declared the option given by the petitioner as correct in the first Answer Key published after the examination was held. However, subsequently, the answer key was modified and the answer to the said question No.57 was changed because of which the result of the petitioner was affected.

3. It is contended that even in the expert report of the respondents, there is an admission that there was a typographical error in the question. It is submitted that if the typographical error was considered, then the answer given by the petitioner was correct and the petitioner is entitled to the benefit of the said answer.

4. Learned counsel for the petitioner submits that in cases where there was a typographical errors in the questions, the respondents have give benefit of marks to all students who have attempted the said questions irrespective of whether the answer is correct or incorrect.

5. Per contra, learned counsel for the respondent submits that in question No.57, there were four options given. If the question was read as it was printed then one of the options was correct and if the

question was read by taking into account the typographical error then another option was correct.

6. It is contended that it was not a case where none of the options given were correct but in either of the two situations one or the other option was correct. The students had to choose the option which was correct as per the question as printed and not as the question should or could have read.

7. It is contended that only in a situation, where all four equations did not satisfy the problem given, the respondent would have treated the same as a typographical error and given benefit to all students who attempted the question irrespective of the answer.

8. Reliance is further placed on the judgment of this Court dated 13.07.2015 in W.P.(C) No.5719/2015 titled **Atul Kumar Verma vs. Union of India & Another**, and judgment dated 23.09.2016 in W.P.(C) No.7750/2016 titled **Sagar Sanjeev Dua vs. Central Board of Secondary Education & Ors.** to contend that this Court would not go into the exercise of examining the correctness of the answer keys, more so, in view of the fact that an expert body has already examined the same.

9. To resolve the controversy, we will first examine the question No. 57 in issue. Question No.57 reads as follows:-

“ 57. In the following equations

(a) $dN/dt = rN$

(b) $Nt = N_0e^{rt}$

(c) $dN/dt = rN \left[\frac{K-N}{K} \right]$

(d) $dN/dt = rN \times N/K$

exponential population growth is described by

1. a and b. 2. a only.
3. c only 4. b and d.”

10. It is an admitted position that equation (a) describes exponential population growth whereas equation (c) and (d) do not. The dispute is whether equation (b) also describes exponential population growth or not.

11. The contention of the petitioner, is that in equation (b) above, there is a typographical error inasmuch as the equation has been printed as “ $Nt = N_0e^{rt}$ ” (i.e. N multiplied by t = N_0e^{rt}) whereas the equation given in various text books, as describing the exponential population growth is “ $N_t = N_0e^{rt}$ ” (i.e. N at times t = N_0e^{rt}).

12. If the equation as given in various text books is considered, i.e. “ $N_t = N_0e^{rt}$ ” (i.e. N at times t = N_0e^{rt}) then the equation describes exponential population growth. However, if the equation is considered as printed in the question paper i.e. “ $Nt = N_0e^{rt}$ ” (i.e. N multiplied by t

$= N_0 e^{rt}$), then the equation does not describe exponential growth because N multiplied by t is not the same as N at times t .

13. Two of the options answers given are “1. a and b” and “2. a only”. If the equation is read as contended by the petitioner then answer 1 would be correct (i.e. a and b) but if the equation is read as printed then equation b would not describe exponential growth of population and as such answer 2 would be correct (i.e. a only).

14. The contention of learned counsel for the petitioner that the petitioner attempted the said question in view of the fact that in various text books as well as in the NCERT books, the equation has been given as “ N_t ”, does not have any merit as the candidates had to attempt the question as it was printed and not as it should or could have been printed. If none of the options given were correct, then the contention of the petitioner would have had merit, but in this case option no. 2 is the correct option.

15. It may also be noted that the respondents had called for objections after publishing the first answer key. Several objections were received. The answer key was examined in light of the various objections raised by the experts.

16. The report of the experts *inter alia* records as under:

“But due to typo error the N_t was printed as Nt (t not subscripted). N_t means the number at time t (the correct meaning) whereas Nt means the product of N and t ($Nt = N \times t$) which is wrong for

the growth equation. When the first representations pointed out this error, it appears that CSIR changed the correct key to Choice 2 (a only), CSIR's action is thus perfectly justified.

The present representation arising out of the changed result, feel that the correct key should be as before; i.e., Choice 1 (a and b), because they failed to notice that in the question paper the t in the Nt is not subscripted, that it doesn't mean the same as N_t , and therefore the second equation, as given, is not correct.

*Candidates making these representations can be clarified that the equation $Nt = N_0 e^{rt}$ (with t not subscripted) is **not** the same as the correct one $N_t = N_0 e^{rt}$, and therefore Choice 2 (a only) is the Correct answer,"*

17. Though the expert report states that there is a typographical error in equation No. 2, however, it also records that if equation No.2 is read as printed, then Nt (i.e. N multiplied by t) does not satisfy the problem given, i.e., it does not describe the exponential population growth and thus becomes false. Accordingly, the correct answer in that situation would be answer No. 2, i.e. (a) only.

18. In my view, if none of the given options had satisfied the given problem, then the contention of the petitioner could have merited consideration. Even if assuming that there is a typographical error in equation (b), the benefit cannot be granted to the petitioner because option No.2, i.e.(a) only is the correct answer, as has been opined by

the experts.

19. This Court in judgment dated 23.09.2016 in Sagar Sanjeev Dua (Supra), relying upon the decision in Atul Kumar Verma (supra) and also the decision of the Supreme Court in Himachal Pradesh Public Service Commission versus Mukesh Thakur And Another (2010) 6 SCC 759 held that it is not permissible for the Court to take up the task of examiner/Selection Board upon itself and to examine the discrepancies and inconsistencies in the question paper and the evaluation thereof. There can be no judicial review of answer key, which the question setter/s has prepared and who, upon objection being raised thereto, has reiterated the same.

20. In the instant case, the experts have examined the answer keys and opined that one of the options, i.e. option No.2 is the correct answer. This Court, in exercise of powers under Article 226 of the Constitution cannot take over the task of correcting the answers set in the answer key. Even as per the experts opinion, no benefit can be granted to the petitioner.

21. In view of the above, I find no merit in the petition. The same is accordingly dismissed. No costs.

SANJEEV SACHDEVA, J

JANUARY 16, 2017/“§n’