

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.1899 of 2017 (O&M)

Date of Decision: 04.07.2018

Sahil Sehgal

. Petitioner

Vs.

Union of India and others

. Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Vikram Chaudhary, Sr. Advocate, with
Mr.Atul Goyal, Advocate,
for the petitioner.

Mr.Satish Singla, Advocate,
for respondent No.1-UI.

Mr.Salil Sablok, Advocate,
for respondent No.2.

Mr.Harsh Aggarwal, Advocate,
for respondent No.3.

RAKESH KUMAR JAIN, J.

The examination of UGC-NET June-2015 was conducted by the Central Board of Secondary Education [for short 'the CBSE']. The petitioner, who is a Postgraduate in Law, took the examination on 28.6.2015 under the Roll No.60010298. The examination was of three objective type papers having multiple choice questions. Paper-I and II was of 100 marks each whereas Paper-III was of 150 marks. The candidates belonging to the General Category were required to obtain 40% marks in Paper-I and II each and 50% marks in Paper-III. They were required to attempt 50 questions out of 60 questions in Paper-I whereas there was no such requirement of attempting minimum number of questions in the remaining two papers i.e. Paper-II & III. The candidates were also allowed to retain a carbon-copy of

the OMR answer-sheets. The result was declared by the CBSE on 5.9.2015 and in the General Category the cut off marks was fixed at 61.7% whereas the petitioner had secured 61.14% marks and as a result thereof he did not qualify. It is alleged that the answer key of all the three papers were published by the CBSE on 17.9.2015 and the CBSE issued a notification on 29.9.2015 for the purpose of inviting objections from the candidates to the answer key. The petitioner had allegedly filed his objections on 12.10.2015 challenging three questions (one from each paper). The list of the challenged questions is reproduced as under: -

<i>Sr. No.</i>	<i>Paper</i>	<i>Question No.</i>	<i>Answer as given in the answer key</i>	<i>Proposed answer</i>
<i>1.</i>	<i>Paper-I (Set-B)</i>	<i>34</i>	<i>Code-9</i>	<i>Marks be allotted to all</i>
<i>2.</i>	<i>Paper-II</i>	<i>29</i>	<i>Option-2</i>	<i>Option-3</i>
<i>3.</i>	<i>Paper-III</i>	<i>43</i>	<i>Option-1</i>	<i>Option-3</i>

The texts of all the three questions, mentioned in the writ petition, is reproduced as under: -

“Q.34 The total number of Central Universities in India in April 2015 was

(1) 14

(2) 27

(3) 43

(4) 8”

“Q.29 Match Items of Group A with those of Group B and choose the correct answer using codes:

Group A	Group B
(a) Food Corporation of India Vs. Ram Keshav Yadav	(i) Impossibility of performance
(b) Kedar Nath Bhattacharji Vs. Gori Mohammed	(ii) Capacity of minor to enter into contract
(c) K. Bala Krishnan Vs. K. Kamalam	(iii) Offer and acceptance
(d) Satyabrata Goshe Vs. Mugneeram Bangar and co.	(iv) Consideration

Codes

	(a)	(b)	(c)	(d)
1.	(iv)	(ii)	(iii)	(i)
2.	(iv)	(iii)	(ii)	(i)
3.	(iii)	(iv)	(ii)	(i)
4.	(i)	(ii)	(iii)	(iv)

“Q.43 Read both the statements (A) and (R) and give the correct answer by using the codes given below:

Assertion (A)- By the term 'Asylum' we general mean the shelter and active protection which is extended to a political refugee from another State, by a State which admits him on his request.

Reason (R) - Everyone has a right to seek and enjoy in other countries, an asylum from prosecution.

Codes:-

- (1) Both (A) and (R) are correct and (R) is the correct explanation of (A).*
- (2) Both (A) and (R) are correct but (R) is not correct explanation of (A).*
- (3) (A) is correct but (R) wrong.*
- (4) (A) is wrong but (R) is the correct."*

It is pertinent to mention that the objections filed by the petitioner were taken into consideration and the revised result was declared on 06.04.2016 but according to the petitioner he had sent a reminder on 25.10.2015 alleging therein that he should at least be granted 2 marks in respect of Question No.34 of Paper-I (Set-B) as has been given to all other candidates across the board. Since the grievance of the petitioner was not redressed by the respondents, therefore, the present petition has been filed for seeking a writ in the nature of certiorari for quashing answer keys dated 17.9.2015, revised answer keys dated 28.6.2015 for Paper-I (set-B), dated 28.6.2015 & 8.8.2015 for Paper-II and dated 28.6.2015 for paper-III and the impugned result dated 05.09.2015 by which wrong answer keys have been

provided for certain questions on the basis of which the result of the petitioner has been wrongly declared.

In reply filed by respondent No.3/CBSE, it is averred that the examination was held on 28.6.2015. Objections were invited and after considering the same the revised result was declared on 06.04.2016 whereas the writ petition has been filed on 30.1.2017 after a delay of 7 months. It is also averred that the UGC examinations are held twice in a year and in between the declaration of the result and the filing of present writ petition, another UGC examination has already been held. It is further averred that after the objections were filed by the petitioner to the answer key, expert opinion was obtained by the CBSE and it was found that the answer key to all the three questions was correct and thus there was no change in the result. It is further averred that the petitioner is not entitled for the marks qua Question No.34 because in Paper-I because there were 60 questions out of which examinee was required to answer 50 questions and he was to be given marks qua first 50 questions attempted and no marks were to be given beyond attempted 50 questions. The petitioner has allegedly attempted 50 questions for which he has been given marks but if the marks of Question No.34 is credited to his account then it would mean to have given marks for 51st question which is totally impermissible. It is further averred that the petitioner has not produced any report of the expert in respect of Question No.43, which may be called the 3rd question. It is submitted that the petitioner has also relied upon a book titled as 'International Law and Human Rights' by Dr. H.O. Aggarwal, 16th Edition 2009, Central Law Publication, in which it is mentioned that Article 14 of the Human Rights lays down that "every person has a right to seek and enjoy in other countries

asylum from persecution'. It is further submitted that insofar as Question No.2 i.e. Question No.29 of Paper-II is concerned, the examiner has rightly relied upon the precedents in support of its decision at the time of deciding the objections filed by the petitioner in respect of the answer provided in the answer key.

Learned counsel for the petitioner, however, submits that there is a patent error on the part of the examiner in appreciating the ratio of the decisions on the basis of which the answer key has been prepared in respect of Question No.29 of Paper-II.

I have heard learned counsel for the parties and after perusal of the record, am of the considered opinion that there is hardly any merit in the present petition for the purpose of interference because not only that the petitioner had availed his remedy of filing objection to the answer key which has been maintained by the CBSE after seeking the guidance from the experts but also the writ petition has been filed after a long delay from the date of declaration of original and revised result and in between another UGC examination has been held. However, even if the delay and laches are ignored and merits of the petition are to be taken into consideration the petitioner, cannot be granted marks in respect of Question No.34 of Paper-I (Set-B) because it is categorically provided that not more than 50 questions would be examined out of 60 questions whereas the petitioner has already attempted 50 questions and in case marks are given to the petitioner in respect of Question No.34 of Paper-I (Set-B) then it would be the 51st question being considered for the purpose of granting marks which is not the spirit of the examination, therefore, the contention of the petitioner in respect of Question No.34 of Paper-I (Set-B) is rejected on this ground alone. In

respect of Question No.43 of Paper-III is concerned, I agree with the contention of the respondents that the right of Asylum is conferred in under Article 14 of the Universal Declaration of Human Rights and the last but not the least Question No.29 has been answered by the examiner on the basis of the appreciation of ratio of the decision which do not call for any interference by this Court. Moreover, the petitioner has not referred to any report of the experts for the purpose of change of result and in this regard the decision relied upon by the respondents rendered by this Court in *CWP No.2891 of 2016* titled as “*Priya Mann Vs. University Grants Commission and another*” decided on 18.4.2017 would support their case.

Thus looking from any angle, there is hardly any merit in this petition for the purpose of interference and hence, the same is hereby dismissed though without any order as to costs.

04.07.2018

Vivek(RAKESH KUMAR JAIN)
JUDGE*Whether speaking /reasoned* : *Yes/No**Whether Reportable* : *Yes/No*