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

+ **W.P.(C) 802/2018 & C.M. No.3454/2018.**

SURYA PRAKASH SINGH

..... Petitioner

Through Mr.Vaibhav Kalra, Advocate.

versus

CENTRAL BOARD OF SECONDARY EDUCATION & ORS

..... Respondent

Through Mr.Amit Bansal with Ms.Seema
Dolo, Advocate for R-1.

Mr.Apoorv Kurup with Ms.Isha Mital, Advocates
for UGC.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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29.01.2018

C.M. No.3454/2018

Allowed subject to all just exceptions.

The application stands disposed of.

W.P.(C) 802/2018

Issue notice. Mr. Amit Bansal and Mr. Apoorv Kurup
Advocates accept notice on behalf of respondent no.1 and respondent
no.2 respectively.

Vide the present petition, the petitioner has prayed for setting
aside the answer key issued by respondent no.1/CBSE on 29.12.2017
and 05.01.2018 in respect of question no. 44 and 54 of the UGC-NET

Examination 2017 in Paper III in subject of 'Law' having code 58. The contention of the learned counsel for the petitioner is that the said key is, on the face of it, erroneous. He submits that petitioner had submitted his objections to the key in respect of the aforesaid two queries alongwith a detailed explanation but the respondents had rejected the same without assigning any reason.

The learned counsel for the petitioner relies on the judgment passed by the Hon'ble Supreme Court in ***Kanpur University, through Vice-Chancellor and Ors. v. Samir Gupta and Ors.*** and ***State of Uttar Pradesh & Ors. v. Samir Gupta & Ors.*** reported as (1983) 4 SCC 309 wherein the Supreme Court observed as under:-

"Shri Kacker, who appears on behalf of the University, contended that no challenge should be allowed to be made to the correctness of a key answer unless, on the face of it, it is wrong.

We agree that the key-answer should be assumed to be correct unless it is proved to be wrong and that it should not be held to be wrong by an inferential process of reasoning or by a process of rationalisation. It must be clearly demonstrated to be wrong, that is to say, it must be such as no reasonable body of men well-versed in the particular subject would regard as correct. The contention of the University is falsified in this case by a large number of acknowledged text-books, which are commonly read by students in U.P. Those text-books leave no room for doubt that the answer given by the students is correct and the key answer is incorrect.

Students who have passed their Intermediate Board Examination are eligible to appear for the entrance Test for admission to the Medical Colleges in U.P. Certain books are prescribed for the Intermediate Board Examination and such knowledge of the subjects as the students have is derived from what is contained in those text-books. Those text-books support the case of the students fully. If this were a case of doubt, we would have unquestionably preferred the key answer. But if the matter is beyond the realm of doubt, it would be unfair to penalise the students for not giving an answer which accords with the key answer, that is to say, with an answer which is

demonstrated to be wrong.”

However, keeping in view the fact that the impugned order passed by respondent no.1 does not deal with the contentions raised by the petitioner in support of his plea that the answer key to question no.44 and 54 are erroneous, the learned counsel for the petitioner seeks liberty to submit a detailed representation to the respondents within one week, setting out all the grounds alongwith supporting material to made good his submission that the answer key which has been approved by the respondents is erroneous.

The learned counsel for the respondents who appears on advance notice does not have any objection to the said course of action. The writ petition is accordingly disposed of with liberty to the petitioner to submit a representation to the respondent no.1 within one week, who will then pass a reasoned and speaking order within two weeks from the date of receipt of representation. The petitioner is also granted liberty to submit the representation through his counsel.

Needless to state that if the petitioner is still aggrieved by the decision taken by the respondent, he will be at liberty to take legal recourse as permissible under law.

REKHA PALLI, J

JANUARY 29, 2018

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