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

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Date of Decision: 09.12.2019

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W.P.(C) 8664/2019 & CM No.35753 /2019

SANJEEV KUMAR

..... Petitioner

Through : Ms.Mercy Hussain, Adv.

versus

NATIONAL TESTING AGENCY AND ANR. Respondents

Through : Ms. Seema Dolo and Ms. Vipasha
Mishra, Advs. for R-1/N.T.A.

Mr. Apoorv Kurup and Ms. Nidhi
Mittal, Advs. for R-2/UGC.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

JUSTICE RAJIV SHAKDHER (ORAL):

1. The substantive prayers made in the writ petition are as follows :

“(a) declare all the options of question no. 80 in the examination UGC-NET, 2019 as wrong and direct Respondent no. 2 to setting aside the alleged correct answer key with ID No. 646350107270, by cancelling the question and awarding equal number to all the examinees accordingly;

(b) direct Respondent no. 2 to consider the objections dated 03.07.2019 lodged by the Petitioner and redraw the result accordingly.”

2. Upon notice being issued, counter-affidavits have been filed by the respondents. Concededly, the contesting respondent is respondent no.1 i.e. the National Testing Agency (N.T.A.).

3. The controversy in the present case falls in a narrow compass. The petitioner is aggrieved by the fact that although in terms of the leeway given by the N.T.A., he raised objections to the answers uploaded on N.T.A.'s website with regard to Question Nos.19 and 80, he obtained only partial relief.

3.1 Notably, the N.T.A., while conceding that the petitioner was right in pointing out the error in the answer-key uploaded *qua* Question no.19, has declined to accept the petitioner's objection vis-à-vis the answer to Question No.80.

4. It is, therefore, relevant to extract the Questions and the options available by way of answers vis-à-vis Question Nos.19 and 80 :

“Q.19. *Identify the stage that falls between the imaginary and symbolic stage Jacques Lacan:*

1. *Middle stage*
2. *Minor stage*
3. *Medieval stage*
4. *Intermediate stage*

xxx xxx xxx

Q.80. *Who among the following analysed the naturalisation of connotative myths?*

1. *Michel Foucault*
2. *Roman Ingarden*
3. *J. Hillis Miller*
4. *Ronald Barthes*”

5. It is not in dispute, as indicated above, that insofar as Question No.19 is concerned, N.T.A. accepted that the answer given in its key, that is, “minor stage” was not correct and that the correct answer was “mirror stage”.

5.1 Accordingly, N.T.A. deleted the said Question from consideration and

also gave two marks to the petitioner for that Question.

6. However, insofar as the other question was concerned, which is Question No.80, N.T.A. refused to accord the same consideration and award two marks to the petitioner for the reason that there was only a typographical error.

7. Although, N.T.A. accepted that the correct answer was not “Ronald Barthes” and that the correct answer was “Roland Barthes”, it defended its position on the ground that only a spelling mistake had occurred insofar as the first name of Mr. Barthes was concerned.

8. It is not in dispute that insofar as the petitioner is concerned, he gave the answer as “J.Hillis Miller” to Question No.80.

9. Ms. Seema Dolo, who appears on behalf of the N.T.A., says that the format of the examination is such that the examinee has to look for the closest answer. Ms. Dolo goes on to submit that the closest answer in this case would have only been “Ronald Barthes” and not “J.Hillis Miller”.

9.1 Ms. Dolo says that the experts who looked at the objection raised by the petitioner were of the view that the critic involved is known by his surname “Barthes” and not by his first name. In other words, the argument advanced was that the error in the first name of Mr. Barthes would have made no difference as he is known by his surname.

10. In my view, both submissions made by Ms. Dolo are untenable. It is not a case of mis-spelling as Ms. Dolo has sought to argue. “Ronald” and “Roland” are not alike. They are different names. The fact that Ronald was mentioned alongside the surname Barthes could have only confused the examinees which included the petitioner.

11. The second submission made by Ms. Dolo is also misconceived. The

argument of Ms. Dolo that the examinees are required to look for the closest option or the most appropriate answer cannot apply to those Questions which relate to an author, an analyst or even an inventor.

12. The manner in which the answer was written impregnated the Question with a possibility of causing a confusion in the minds of the examinees which included the petitioner. This is not a case where court, as has been portrayed in the counter-affidavit, is seeking to impose its view in an area in which it does not have domain expertise.

13. This is a clear case of grave negligence on the part of the paper setters *qua* which the fault cannot be laid at the door step of the petitioner.

14. Accordingly, the N.T.A. is directed to remove Question No.80 from consideration *qua* the petitioner and allocate the requisite two marks to him along with consequential relief.

15. The captioned writ petition is disposed of in the aforesaid terms.

16. *Dasti.*

RAJIV SHAKDHER, J

DECEMBER 09, 2019

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