

LPA No.159 of 2021 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No.159 of 2021 (O&M)
Date of decision: 10.02.2021

National Testing Agency

..... Appellant (s)

V/s.

Rita Kumari and others

..... Respondent (s)

CORAM: - HON'BLE MR. JUSTICE SANJAY KUMAR
HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr. Arun Gosain, Advocate, for the appellant.

Sanjay Kumar, J. (Oral)
CM-403-LPA-2021

Exemption is granted as prayed for.

Application is ordered accordingly.

CM-404-LPA2021 in/and
LPA-159-2021

The National Testing Agency, Noida, Uttar Pradesh, the third respondent in *CWP No. 11533 of 2020*, titled '*Rita Kumari V/s. Union of India and others*', filed this appeal aggrieved by the interim order dated 08.01.2021 passed therein by a learned Judge of this Court.

The first respondent-writ petitioner filed the aforestated case challenging the result dated 31.12.2019 to the extent that it declared her as

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not qualified for the post of Assistant Professor. In this context, she raised an issue that the key answers to Question Nos. 9 and 29 in the Hindi paper of the test held by the National Testing Agency were incorrect and that the answers given by her were the proper ones based on available literature. *Per contra*, the National Testing Agency contended that the answers furnished in the answer key as against these questions were certified to be the correct ones even after consideration of all objections.

In the light of this dispute, the learned Judge deemed it appropriate to call for an independent report from the Hindi Department of Panjab University as to what would constitute the correct answers to these two questions.

Be it noted that the learned Judge did not express any opinion on the merits of the matter and only solicited a third-party opinion from an academic body as to what would be the correct answers to the two questions in dispute. In our considered opinion, this would not cause any adversity to the National Testing Agency, warranting the filing of the present appeal. Having certified the answers furnished in the key to be the correct ones after considering all objections, the National Testing Agency should confidently welcome review of such answers by another academic body and cannot fight shy of the same claiming that the learned Judge should implicitly trust the answers certified by it to be the correct ones. Further, as already stated *supra*, the learned Judge did not even make any observations on the merits of the matter as yet, warranting invocation of an appellate remedy by the National Testing Agency.

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The appeal is therefore premature and is accordingly dismissed.

No order as to costs.

(SANJAY KUMAR)
JUDGE

(ARCHANA PURI)
JUDGE

10.02.2021

rakesh

whether speaking : *Yes/no*

whether reportable : *Yes/no*