

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9263 of 2024

Ashutosh Kumar Mishra, S/o Jawahar Lal Mishra Resident of House No.- 251
U.G.F. Kailash Hills, East of Kailash South Delhi, Delhi. Permanent Address-
S/o Jawahar Lal Mishra near Kustha Sewa Kendra Jankainagar Gonda (U.P.
271003)

... .. Petitioner/s

Versus

1. The High Court of Judicature at Patna through its Registrar General.
2. The Registrar General, High Court of Judicature at Patna.
3. The Registrar Appointment, High Court of Judicature at Patna.
4. The Selection Committee District Judge (Entry Level), Direct from Bar
Exam, 2023, High Court of Judicature at Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Alok Kumar Jha, Advocate
For the Respondent/s : Mr.Piyush Lall, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 27-06-2024

The petitioner is aggrieved with his disqualification in the preliminary test of the ‘District Judge (Entry Level) Direct from the Bar Examination, 2023’. In the writ petition, the contention raised is against Questions No. 48 and 94, when the model answer key as per Annexure-P/2 was published. The petitioner has filed objections regarding eight questions, some of which were considered and one such



question was cancelled and Annexure-P/3 revised answer key was published.

2. Before us, the learned Counsel for the petitioner only argued on Question No. 94, which is extracted hereinbelow:-

“94. Select the word that is opposite in meaning to the word Judicious-

- | | |
|--------------------|----------------|
| (a) Discreet | (b) Prudent |
| (c) Discriminating | (d) Irrational |

The petitioner answered ‘Irrational’, option (d). But however, the answer key indicated that the correct answer as accepted by the respondent is ‘Discriminating’, option (c).

3. The petitioner’s contention is that the very same question was asked in the 2019 Examination, therein the answer accepted by the High Court was ‘Irrational’.

4. The learned Counsel for the respondent, however, relied on a decision in ***Ravindra Kumar Singh vs. High Court of Judicature at Patna, 2016 (1) PLJR 865***, to contend that the scope of judicial review should not be extended to interfere with examinations on the self-declared mistake in an answer in the multiple choice examination.

5. We have to specifically notice that in the cited decision, the learned Judges had asserted that there was



absence of pleading that the petitioners raised any objection or grievance with respect to wrong framing of questions at any stage prior to publication of the revised result. It was in such circumstance, that the petitioners were found to be not entitled to invoke the remedy under Article 226 of the Constitution. The petitioners were held to be dis-entitled to do hairsplitting of questions and model answers in order to take a plea that the questions or model answers were wrongly framed. There was also no contention raised of any prejudice having been caused to the petitioners because of the answers accepted by the respondents.

6. In the present case, the petitioner specifically argues that the petitioner had fallen one mark short of the qualifying marks to appear for the main examination. The averments in the writ petition also indicate that objections were invited after the model key answers were published and the petitioner had made an objection. The revised answer key did not make any modification. There is also no hairsplitting to be done in the present case, insofar as accepting 'Irrational' as opposite to 'Judicious'.

7. We cannot but notice that the word 'Discriminating' has both negative and positive connotations.



To discriminate is to note the difference between two or more things, which can result in a judicious approach or have a negative connotation of someone being discriminated against. Definition of 'Discriminating' as is seen from *Merriam Webster Dictionary* produced by the petitioner as Annexure-12, indicates it to be favouring, applying, or being unequal treatment of different classes of people. The *Collins Cobuild Advanced Learner's English Dictionary* defines 'Discriminating'- as having the ability to recognize things that are of good quality. Hence, 'Irrational', according to us, would be the more appropriate answer. However, we have to notice that the word 'Discriminating' given at option (c) can also not be completely ignored and it may not be proper for us to deny marks to those who chose option (c). It would be arbitrary if the candidates who chose 'Irrational', option (d), are denied the marks for that answer and injudicious if those who chose option (c) are denied.

8. In the above circumstance, we are of the opinion that the writ petition has to be allowed and there shall be a direction issued to the respondents to re-tabulate the marks with the candidates who opted the options of (c) and (d) to Question No. 94, being granted marks.



9. The writ petition stands allowed. Parties are left
to suffer their costs.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	28.06.2024
Transmission Date	

