



2024 : DHC : 445



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

+ W.P.(C) 13617/2022 and CM APP No. 41496/2022 and 52798/2022

AASHISH GUPTA Petitioner

Through: Ms. Nidhi Gupta, Advocate

versus

UNION OF INDIA & ANR. Respondents

Through: Mr. Chetan Sharma, learned
ASG with Mr. Sanjay Khanna, Standing
Counsel, NTA, Mr. Apoorv Kurup, Standing
Counsel, CGSC, Ms. Pragya Bhushan, Mr.
Karandeep Singh, Mr. Tarandeep Singh, Mr.
Amit Singh, Mr. Vikramaditya Singh, Mr.
Saurabh Tripathi, Ms. Navya Goel and Ms.
Muskaan Gupta, Advocates

+ W.P.(C) 14724/2022 and CM APP No. 45189/2022

AASHISH GUPTA Petitioner

Through: Ms. Nidhi Gupta, Advocate

versus

NATIONAL TESTING AGENCY & ANR. Respondents

Through: Mr. Chetan Sharma, learned
ASG with Mr. Sanjay Khanna, Standing
Counsel, NTA, Mr. Apoorv Kurup, Standing
Counsel, CGSC, Ms. Pragya Bhushan, Mr.
Karandeep Singh, Mr. Tarandeep Singh, Mr.
Amit Singh, Ms. Navya Goel and Ms.
Muskaan Gupta, Advocates

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

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JUDGMENT (ORAL)

19.01.2024

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1. The Petitioner, Aashish Gupta appeared for his Class XII examination under the Central Board of Secondary Education (CBSE) in 2021-2022.

2. In 2022, the Department of Higher Education (DOHE), Ministry of Education, Union of India, as part of the New Education Policy (NEP), decided to centralize undergraduate admissions to all Central Universities after class XII through a Central University Entrance Test/CUET (UG). The first such test was the CUET (UG)-2022, for which applications were invited *vide* Public Notice dated 26 March 2022, issued by the National Testing Agency (NTA) which was to conduct the CUET.

3. The petitioner applied for and appeared in the CUET (UG) 2022 examination (“the 2022 CUET” hereinafter) on 18 August 2022 and 30 August 2022. The provisional answer keys for the 2022 CUET were released by the NTA on 8 September 2022.

4. On the same day, i.e. 8 September 2022, the NTA issued a Public Notice, allowing candidates who had appeared in the CUET to challenge the provisional answer key by paying a nominal fee therefor. It was stated, in the Public Notice, that, if the challenge raised by any candidate was found to be correct, the provisional answer key would be corrected and final answer key would be issued accordingly. The final result of the CUET would be based on the final

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answer key. The Public Notice also clarified that no individual candidate would be informed about the outcome of her/his challenge and that the final answer key would not be open to question.

5. The petitioner submitted objections against the answer proposed in the provisional answer key in respect of 11 questions on 10 September 2022, within the time stipulated in that regard.

6. On 15 September 2022, a second Public Notice was issued by the NTA, stating that the challenges to the provisional answer key had been placed before the concerned subject experts and that the answer keys had been finalized. 2219 questions in three mediums, it was noted, had, in the process, to be re-examined. The Public Notice also stated that the final answer key would be available by 10 pm on that date i.e. 15 September 2022.

7. On 16 September 2022, the final result of the 2022 CUET, along with the final scores of the individual candidates was released by the NTA.

8. Aggrieved by the fact that the NTA had proceeded to release the final results without making the final answer key known to the candidates, the petitioner moved this Court by means of WP (C) 13617/2022, which is one of the two writ petitions which this judgment disposes of.

9. The petitioner prayed, in the said writ petition, that the NTA be directed to publish the final answer keys of the 2022 CUET.



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10. On 6 October 2022, this Court was apprised that the subject-wise/slot-wise official answer key was available for viewing on the website <https://cuetsamarth.ac.in/index.php/site/login> and that the challenge by the petitioner in respect of two of the questions had been accepted, resulting in updating of the petitioner's score.

11. As it transpires, a perusal of the final answer key, as uploaded on the respondent's website, disclosed that, prior to publication of the final result on 16 September 2022, the challenge by the petitioner to two other answers in the proposed answer key had been accepted. As such, the position that emerged was that, of the 11 answers in the provisional answer key, which were challenged by the petitioner, the challenge was accepted in respect of four answers, of which two were accepted prior to the release of the final result and two were accepted after the petitioner had filed WP (C) 13617/2022.

12. The petitioner, thereafter, filed a second writ petition WP (C) 14724/2022, which is also disposed of by the present judgment. In that writ petition, the petitioner sought that the objections raised by the petitioner in respect of the remaining questions, and not accepted by the NTA, be also considered/re-considered and the corrected result/score card of the petitioner be published. The precise prayer of the petitioner in W.P.(C) 14724/2022, reads as under:

“It is therefore most respectfully prayed that this Hon'ble High Court be pleased to Issue a Writ of mandamus or any other appropriately order or directions to the Respondents

- i. to consider/reconsider the objections raised by petitioner to the provisional answer key and not accepted by the Respondent No.1.

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ii. Corrected Result/Score Card of the petitioner be published.

iii. Issue such other writ/order/direction/as the Hon'ble High Court may deem just and proper in the facts and circumstances of the case.”

13. Consequent on issuance of notice in WP (C) 14724/2022, the NTA filed a counter affidavit, para 2 of which reads thus:

“2. That the answering respondent is filing this affidavit in compliance with the order dated 31.10.2022 passed by this Hon'ble Court. The instant affidavit would show that all the 11 questions of the Provisional Answer Key of CUET (UG) 2022 that were challenged by the Petitioner have been duly considered by the respective subject-matter experts and, out of the 11 questions that were challenged, 9 challenges were rejected by the subject-matter experts while 2 challenges with respect to Q. ID 16532 -English and Q. ID 574957 - Economics/ Business Economics were accepted then and his result/ score were awarded accordingly at the time of declaration of result on 16.09.2022. Later upon receipt of various representations. The answer keys were re-examined by the concerned subject-experts. Based upon the subsequent opinion of the respective experts, the answers of two other questions i.e. (Q. ID 5039828 –Accountancy/ Book Keeping and Q. ID 5749538 – Economics/ Business Economics) were revised. The Q. ID no. Q. ID 5039828- Accountancy which was dropped and the answer key of Q. ID 5749538 -Economics/ Business Economics was revised from Option A to Options A & C. The petitioner had got marks for both these questions, which has already been recorded by this Hon'ble Court in order dated 06.10.2022 as accepted challenges.”

14. This Court, in its order dated 26 April 2023 in WP (C) 14724/2022, found it surprising that, after the final results of the CUET had been declared on 16 September 2022, there was a second exercise of examination of the objections to the proposed answer key. The NTA was therefore directed to file a specific affidavit explaining how, and why, this happened. This requirement was clarified in para 4 of the subsequent order dated 2 November 2023 passed in W.P.(C)

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“4. Paragraph no.2 of the counter-affidavit was noted in the order dated 26.04.2023. Since it was not discernible as to what transpired after the declaration of result on 16.09.2022, that prompted respondent no.1-NTA to get the representation re-examined, hence, the direction to clarify the aforesaid position was passed.”

15. NTA has, in compliance with the aforesaid direction, filed an additional affidavit dated 17 November 2023. It is stated, in paras 4 to 10 of the said affidavit thus:

“4. That, in this respect, the Answering Respondent humbly submits that NTA had conducted the Common University Entrance Test CUET-UG 2022 as a single entrance examination in which the registered candidates count for 61 subjects was approximately 47.12 lakh (unique candidates - approximately 14.9 lakh). To cater to such an enormous number of candidates, opting for different subjects up to 09 choices, NTA engaged about 1240 subject experts and 680 subject translators in the confidential process for preparing the question papers and answer keys. About 2219 question papers with 50,476 questions/items in 13 languages, were administered to the candidates of CUET-UG 2022, which was conducted in Computer Based Test (CBT) mode in major cities and remote areas across the country, and even in cities outside India.

5. That, as per the scheme of the examination, the provisional answer keys along with the recorded responses and question papers attempted by the candidates were displayed on the official website of NTA for CUET-UG 2022 (<https://cuetsamarth.ac.in/>) and the candidates were provided with the opportunity to challenge the Provisional Answer Keys, prior to the declaration of the results from 08 September 2022 to 10 September 2022 (up to 11:50 P.M.).

6. That a total of 25,521 challenges against the displayed Provisional Answer Keys were received from the candidates of CUET-UG 2022 during the aforesaid challenge period. These challenges to Provisional Answer Keys were placed before the respective 1240 subject experts for their scrutiny and verification. Wherever the subject experts found any merit in the objections raised by the candidates, NTA modified its Answer Key accordingly. However, wherever, the subject experts determined that the answer

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provided in the Answer Key was correct, no modifications were made to the Answer Key. NTA relied upon the opinion of its subject experts, who thoroughly considered and examined the same. Based upon the responses recorded by the candidate and the Answer Keys finalized by the subject experts, the results were prepared and declared on 16.09.2022.

7. That, however, post closure of the Answer Key Challenge window (10.09.2022) and declaration of Result (16.09.2022), several objections/representations were once again received from candidates. Keeping in view that CUET-UG 2022 was being conducted for the very first time by NTA at such magnitude, and was a mammoth exercise involving lakhs of candidates, NTA decided to place the representations before its subject experts for re-verification to check if there was any potential inaccuracies in the Answer Keys that may have occurred during the verification process (whereby 50,476 Answer Keys in 2219 Questions Papers were verified through a profusion of Subject Experts in a wide-ranging examination in a short span of 06 days). It is humbly submitted that this was one time bona fide exercise made solely in the interest of the Candidates.

8. That notably, as part of this process, the Answer Keys of three subjects (Accountancy/Book Keeping, Economics/Business Economics and General Test) out of 06 subjects opted by the Petitioner were also revised, which resulted in a revision of his marks for such subjects on 25.09.2022. The details of the revised Result of the petitioner are as follows:

Subject	Percentile Score (as declared on 16.09.2022)	Revised Percentile Score (as declared on 25.09.2022)
Accountancy/Book Keeping	88.4650948	90.8460472
Economics/Business Economics	96.7297084	97.9905437
General Test	97.0828144	98.0448319

9. That, in any event, the above exercise may be treated as an exception in the circumstances described earlier. It is relevant to mention that no Answer Key of CUET-UG 2023 was revised after the declaration of its result on 15.07.2023. However, necessary measures are being undertaken, so that no Answer Keys are revised after declaration of result in any examination to be conducted by NTA. Moreover, for the future, NTA has been undertaking the following:

- a. NTA has engaged a Delivery Agency/ Service Provider who has an enhanced outreach with an increased number of Computer Nodes and an advanced solution that



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reduces administrative efforts and costs by automating processes such as student registration, exam center allocation, hall ticket issuance, question paper logistics planning, exam-day management, and result management.

b. The preparedness for CUET-UG 2024 is being meticulously planned, to ensure a seamless process for the conduct of this examination. With a view to conduct the examination in a fair and smooth manner, advanced logistical arrangements and comprehensive workshops/training are being conducted for orienting/sensitizing the subject experts.

c. NTA has released the Examination Calendar for the academic year 2024-25 on 14th September 2023 for its major examinations, including CUET-UG 2024, which is scheduled between 15th May 2024 to 30th May 2024, thereby providing adequate time to the candidates and other stakeholders, particularly the exam delivery agency and ancillary service providers, for necessary preparations.

d. The examination schedule for CUET-UG 2024 is to be declared by the first week of January 2024 and the preparation for the development of Items/Question Paper has already commenced.

e. The number of subjects that can be chosen by candidates is also to be reduced in CUET-UG 2024 which may facilitate the smooth conduct of the examination, verification of Answer Keys, evaluation, etc.

10. Thus, NTA is committed to a transparent, robust, and smooth examination process, whilst ensuring the integrity of the assessment process for all participants by regulating the confidential, operational, and result- processing parts of the examination.”

16. Today, the NTA is represented by Mr. Chetan Sharma, learned Additional Solicitor General alongwith Mr. Apoorv Kurup and Mr. Sanjay Khanna. The learned ASG has pointed out that the exercise of re-examination of the answer keys after the final results were declared may have been avoidable but was undertaken *bonafide*, especially as a



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large number of objections were received even after the final result was declared. It is submitted that, in the interest of the students, a decision was taken to reconsider the objections. The fact that the CUET was being conducted for the first time, and the magnitude of the exercise, had persuaded the NTA to adopt this approach.

17. However, the Court has been assured that in future, this would not happen and that any exercise of consideration of objections to the provisional answer key would be undertaken only prior to the final result of the examination of the CUET. The Court has also been assured that the final answer key would be uploaded on the website of the NTA at least a day prior to the final declaration of result, though it would be accessible only through the individual login ID and password of the candidate concerned.

18. The Court is satisfied with the explanation. The NTA is directed to ensure that these assurances are scrupulously adhered to, in future.

19. In so far as the prayer in WP (C) 14724/2022 is concerned, Ms. Nidhi Gupta, learned counsel for the petitioner, very fairly does not press the prayer for a fresh consideration of the remaining objections raised by the petitioner to the provisional answer key released by the CUET.

20. WP (C) 14724/2022, therefore, does not survive for further consideration and is disposed of.

21. In WP (C) 13617/2022, the petitioner has filed CM 52798/2022,



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seeking to amend the writ petition for a thorough investigation into the manner in which there was a re-examination of the answer keys in the present case and for summoning the records pertaining to normalization of scores of the CUET, etc.

22. I am not inclined at this point of time to direct any such investigation as it would lead to needless controversy and it does not appear that the NTA has, in acting as it did, not been *bona fide*. The substantive prayer in WP (C) 13617/2022, which was for making known the final answer key, stands satisfied.

23. Accordingly, the said writ petition is also disposed of.

C.HARI SHANKAR, J

JANUARY 19, 2024

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Click here to check corrigendum, if any