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

+ **W.P.(C) 9808/2024**

PRANJAL RAJ SAXENA

.....Petitioner

Through: **Mr.Ramvir Singh Kundu and
Mr.Adesh Kumar Gill, Advs.**

versus

UNION OF INDIA & ORS.

.....Respondents

Through: **Mr.Apoorv Kurup, CGSC with
Ms.Nidhi Mittal, Mr.Rudra Paliwal,
Advs and Mr.Arnav Mittal GP for
UOI.
Ms.Seema Dolo, Adv for R-2.**

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

18.11.2024

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1. This petition seeks for directions to increase the marks of the petitioner and to issue the fresh mark sheet after re-evaluation of the petitioner's score card.
2. Learned counsel appearing for the petitioner submits that the petitioner appeared in Biotechnology Eligibility Test (BET) 2024, conducted by the National Testing Agency (NTA) on 20.04.2024. According to him, the BET is a competitive test and the qualified candidates are selected in Category I as Junior Research Fellowship i.e. a scholarship to undertake a Ph.D. program to be paid for by the Department of Biotechnology. The candidates who are qualified in Category II are only eligible to be appointed in the projects undertaken by the Department of Biotechnology.



3. Learned counsel for the petitioner further submits that each correct answer awards three marks and the petitioner is short of three marks only. He, then, contends that though he has questioned two answers of the BET, however, even if one answer is accepted to be correct, the petitioner will be categorized in Category I and accordingly, he shall be entitled for necessary benefits.

4. He, then, asserts that if the wrong answers of Question ID No.12014 and Question ID No.12115 are examined in right perspective on the basis of the material placed on record, the same are palpably wrong. Learned counsel also relied upon the literature of the NCERT and submits that in preceding examination the answer to the same questions were similar to the answers suggested by the petitioner. He has also placed on record other significant material to justify his contentions.

5. On notice being issued, respondent-NTA, filed the counter-affidavit and it is contended that the final answers to the aforesaid two questions were strictly in accordance with the Experts Report. Learned counsel appearing for the respondent-NTA has also explained the procedure to be followed in finalizing the answer keys and submits that the respondent-NTA after following the due procedure and through review of experts ultimately finalized the answer keys.

6. I have considered the submissions made by learned counsel for the parties and perused the record.

7. The Courts have taken a consistent view that unless the answers are shown to be palpably wrong, interference under Article 226 of the Constitution of India may not be warranted. In the case of *Kanpur*



University v. Samir Gupta,¹ Supreme Court has held that '*the Courts have to assume the answer given in the key to be correct unless it is proved to be wrong and should not be held to be wrong by inferential process of reasoning or by a process of rationalization.*'

8. Reliance can also be placed upon the decision of Supreme Court in the case of *UPSC v. Rahul Singh*², wherein, too, the candidate was aggrieved with the answer key issued by the authority concerned. The Supreme Court while rejecting the prayer of the petitioner therein, held that onus is on the candidate to not only demonstrate that the key answer is incorrect but also that it is a glaring mistake which is totally apparent and no inferential process or reasoning is required to show that the key answer is wrong. Furthermore, the Supreme Court also cautioned the Constitutional Court to exercise restraint in such matters and when there are conflicting views, then the Court must bow down to the opinion of the experts. Judges are not and cannot be experts in all fields and, therefore, they must exercise great restraint and should not overstep their jurisdiction to upset the opinion of the experts. The relevant extracts of the said decision reads as under:-

*“12. The law is well settled **that the onus is on the candidate to not only demonstrate that the key answer is incorrect but also that it is a glaring mistake which is totally apparent and no inferential process or reasoning is required to show that the key answer is wrong. The Constitutional Courts must exercise great restraint in such matters and should be reluctant to entertain a plea challenging the correctness of the key answers.** In Kanpur University case (supra), the Court recommended a system of - (1) moderation; (2) avoiding ambiguity in the questions; (3) prompt decisions be taken to exclude suspected questions and no marks be assigned to such questions.*

¹ (1983) 4 SCC 309.

² (2018) 7 SCC 254.



13. As far as the present case is concerned even before publishing the first list of key answers the Commission had got the key answers moderated by two expert committees. Thereafter, objections were invited and a 26 member committee was constituted to verify the objections and after this exercise the 9 Committee recommended that 5 questions be deleted and in 2 questions, key answers be changed. It can be presumed that these committees consisted of experts in various subjects for which the examinees were tested. Judges cannot take on the role of experts in academic matters. Unless, the candidate demonstrates that the key answers are patently wrong on the face of it, the courts cannot enter into the academic field, weigh the pros and cons of the arguments given by both sides and then come to the conclusion as to which of the answer is better or more correct.

14. In the present case we find that all the 3 questions needed a long process of reasoning and the High Court itself has noticed that the stand of the Commission is also supported by certain text books. **When there are conflicting views, then the court must bow down to the opinion of the experts. Judges are not and cannot be experts in all fields and, therefore, they must exercise great restraint and should not overstep their jurisdiction to upset the opinion of the experts."**

9. Similar position was followed in the case of **Wajda Tabasuum v. NTA**, W.P.(C) 1260/2021, wherein, it was held by the Supreme Court that it would be beyond the remit of the Court to conduct an exercise of re-assessing the correctness of the solutions, when the same had already been examined by a Committee of subject experts.

10. This position of law was also considered by this Court in the case of **Rahul Ranjan & Anr. v. UGC & Anr.** [W.P.(C) 839/2020], wherein, the correction in answer key with respect to NET examination was sought to be contested. This Court after perusing the catena of judgments on this point held that writ courts under Article 226 of the Constitution of India are normally not expected to interfere in the modal answer key. The relevant extracts of the said decision reads as under:-



“25. Legally speaking, so far as the position with respect to answer keys and their validity is concerned, the same has been dealt with by the Hon’ble Supreme Court in the case of Kanpur University & Ors. (supra). In paragraph no.15, the Hon’ble Supreme Court has clearly held that the answer key should be assumed to be correct unless it is proved to be wrong and it should not be held to be wrong by an inferential process of reasoning or by a process of rationalisation.

26. If the enunciation of law, as has been propounded by the Hon’ble Supreme Court is considered and applied in the instant case, it would be seen that what the petitioners is arguing for, is to opt for a different answer on the basis of certain subject material, documents and books which according to him, is undisputed. It is to be seen that the material with respect to the concerned subject is to be first examined by the subject experts. The fact remains that all those students who appeared in the examination have been treated similarly. The objections were received from the candidates and after scrutinizing the objections by the subject experts, the provisional answer key was revised. Once the subject experts have formed any opinion then there is no reason to take a different view. The court would not substitute its own opinion over the opinion of the experts in the field.

27. Any error, though not discernable if any, in framing the question and the final answer key has been found, would be uniformly applied to all the candidates appearing for UGC-NET 2019 examination. Therefore, it is correct to state that no prejudice has been caused to the petitioners. 28. Any interference into the aforesaid aspects will have the effect of disturbing the decision taken by the experts. The writ courts under Article 226 of the Constitution of India are normally not expected to interfere in the modal answer key.”

11. Similar reasoning was also appended by this Court in the case of **Parag Baigsen & Anr. v. UGC & Anr.** [W.P.(C) 10581/2019], **Nandita v. National Testing Agency and Ors.** [W.P.(C) 8637/2024], **Mamta Kulkarni v. UGC & Ors.** [W.P.(C) 4878/2018].

12. At this juncture, it is apropos to lend credence from the observations of the Division Bench of this Court in the case of **Staff Selection**



Commission v. Shubham Pal³, wherein, after perusing the judgments of ***Om Prakash Verma v. National Testing Agency***⁴, ***Manish Ujwal v. Maharishi Dayanand Saraswati University***⁵, ***Guru Nanak Dev University v. Saumil Garg***⁶, ***H.P. Public Service Commission v. Mukesh Thakur***⁷, ***Rajesh Kumar v. State of Bihar***⁸, ***Ran Vijay Singh v. State of UP***⁹, ***Rishal v. Rajasthan Public Service Commission***¹⁰ held that only in rare and exceptional circumstances when the Court is satisfied that the answer provided in the impugned answer key is obviously incorrect, then only, the Court has to step in and set aright the situation. The Division Bench of this Court after perusing the catena of judgments on this point has succinctly captured the following takeaways:-

“(i) Circumspection is the general rule, especially where experts have considered the objections raised to the answer key.

(ii) It is, however, equally the rule that there is no absolute proscription against courts examining the challenge to the key answers, even where experts have opined. The law does not commend, or even recommend, a “hands-off approach”.

(iii) In an appropriate case, the court can even examine, for itself, the correctness of the key answers under challenge, in which process the court is also empowered to refer to authoritative textbooks on the subject, especially those which form part of the students’ curriculum.

(iv) Where the question is simple, and not admitting of any complexity, and can command only one answer, which is apparent to the court, the court is not proscribed from taking a view based on its own perception of the question to take an extreme example, the sum of two and two. That, however, would have to be in a rare case in which the answer is so

³ 2024 SCC OnLine Del 7144.

⁴ (2024) 1 HCC (Del) 115.

⁵ (2005) 13 SCC 744

⁶ (2005) 13 SCC 749.

⁷ (2010) 6 SCC 759.

⁸ (2013) 4 SCC 690.

⁹ (2010) 6 SCC 759

¹⁰ (2010) 6 SCC 759.



apparent that there can be no doubt about it, and not one where the opinion of someone with greater expertise would help, or where there is ambiguity.

(v) In any case, the guiding principle is that the general rule against accepting the suggested answer key stands relaxed only where the suggested answer is proved to be wrong, not by an inferential process of reasoning or rationalisation, but clearly and demonstrably wrong, in that no reasonable body of men well-versed in the subject would regard the key answer as correct.

(vi) Another guiding principle, which the court was required to bear in mind in such cases, is that, where it was beyond doubt that the key answer was wrong, it would be unfair to penalise students for not giving the suggested, demonstrably wrong answer. Any refusal on the part of the court to interfere, even in such a case, would amount to a serious illegality.

*(vii) Where questions were unacceptably vague, the principle advocated in **Saumil Garg** is required to be followed. Any student who attempted all or some of said vague questions would be entitled to be marked out of a total after deleting the marks assigned to the questions which she, or he, had attempted.*

*(viii) Even where a large number of key answers were found to be incorrect as in **Rajesh Kumar**, which involved 45 wrong key answers out of 100 it would not be justifiable to direct cancellation and re-holding of the examination. Revaluation of the papers on the basis of the corrected answer keys would still be the only correct approach.*

(ix) Interference has, therefore, to be only in “rare and exceptional cases”, and to a “very limited extent”.

(x) In the event of doubt, the benefit of doubt would go to the examining authority, not to the candidate.

(xi) The general principle is that relief cannot be restricted to the candidates who approached the court, but must be extended to all who are similarly situated. While so doing, the court can direct that the revaluation, would not result in any negative impact on candidates who had attempted the disputed questions and whose answers corresponded to the suggested answer key.”

13. Thus, it is the settled position of law that the interference of the



Constitutional Courts in cases of correction of answer key is permitted but in rare and exceptional circumstances and to a very limited extent.

14. At this juncture, it is pertinent to have a brief overlook of the question and answer key thereto, as objected by the petitioner. The same reads as under:-

"Question No.18/Question ID 12115

Given below are two statements : One is labelled as Assertion (A) and the other is labelled as Reason (R).

Assertion (A) : Mycoplasma stains negative in Gram staining.

Reason (R) : Mycoplasma's cell wall is devoid of teichoic acid.

In light of the above statements, choose the correct answer from the options given below:

- (1) Both (A) and (R) are correct and (R) is the correct explanation of (A)*
- (2) Both (A) and (R) are correct but (R) is NOT the correct explanation of (A)*
- (3) (A) is correct but (R) is not correct*
- (4) (A) is not correct but (R) is correct*

Question No.18/Question ID 12014

Arrange the following in the ascending order of their frequencies

(A) Ultraviolet Rays

(B) Microwaves

(C) X-rays

(D) Sound waves

(E) Infrared waves

Choose the correct answer from the options given below :

- (1) (D), (E), (B), (A), (C)*
- (2) (E), (B), (A), (D), (C)*
- (3) (C), (A), (B), (E), (D)*
- (4) (B), (E), (D), (A), (C)"*

15. A bare perusal of both the questions and the answers thereto clearly indicate that the same appears to be highly technical and requires domain specific knowledge of experts. The Constitutional Courts are not experts and cannot arrive at a conclusion as to whether, the answers assigned to the respective questions are palpably wrong. No inference can be drawn on the basis of the material relied upon by the petitioner.



16. Needless to state that the answers finalised by the respondent-NTA have been made applicable uniformly with respect to all students who appeared in the examination. Any inference at this stage, will cause disturbance in the entire result declared by the respondent-NTA way back in the month of May, 2024.

17. Moreover, the facts of the case would clearly indicate that the respondent-NTA followed the procedure and given the due opportunity to the candidates to raise objections to any answers. Those objections were perused by the Committee of Subject Experts. The objections/challenges so received are considered and examined exhaustively by the Committee of Subject Experts and then the final answer key was released.

18. At this juncture, reliance can be placed on the decision of **Atul Kumar Verma v. UOI & Ors**¹¹, wherein, this Court has held that once procedure of inviting objections to answer key has been followed, there cannot be any further challenge except on the traditional parameters of judicial review. It was further held that if such challenges are allowed, the same will lead to numerous unnecessary challenges by the students leading to delay in admissions and in commencement of academic session. The relevant paragraphs read as under: -

"22. The Courts have directed the examining bodies which did not have the procedure of inviting objections to the answer key to follow the said procedure which the Courts felt was necessary to have a fair result of the examination and to eliminate the possibility of mistakes in the answer key. Once such a procedure has been followed, there can be no possible further challenges except on the traditional parameters of judicial review. If such challenges were to be allowed, the same would lead to disgruntled students filing one petition after other with opinions of the subject experts and which can vary and which will ultimately lead to delays in admissions and in commencement of academic session and all of which will be

¹¹ 2015 SCC OnLine Del 10316.



contrary to public interest and cannot be permitted and if permitted would amount to a cure worse than the disease of a possibility of error remaining in the answer key inspite of the procedure of inviting objections and considering the same being followed.

23. No case for judicial review within the traditional parameters thereof has been made out."

19. A similar view has been taken by this Court in the case of ***Urvashi Khanna v. Union of India through Secretary, Ministry of Health and Family Welfare & Ors.***¹² ***Ashish Singh and Ors. v. Union of India and Ors.*** [W.P. (C) No. 17060/2022].

20. In view of the aforesaid, the Court is of the considered opinion that merely on the basis of the literature relied upon by the petitioner or on the basis of the fact that in earlier years some different answers were found to be assigned as correct, the Court is not inclined to accede to the prayer made in the instant writ petition and accordingly, the instant petition fails and is hereby dismissed.

PURUSHAINdra KUMAR KAURAV, J

NOVEMBER 18, 2024
MJ

¹² 2017 SCC OnLine Del 9379.