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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 15932/2022 and CM APPL. 49605/2022**

AMIT MUDGIL & ORS.

.....Petitioners

Through: Mr.Ravi Kumar, Mr.Shailesh Kumar
Sinha, Mr.Ashish Kumar Pandey,
Ms.Nisha, Mr.Sumant and
Ms.Vandana, Advocates.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Ms. Monika Arora, Advocate with
Mr.Sahib Gurdeep Singh, GP, for R-
UoI.
Mr. Sanjay Khanna, Standing
Counsel with Ms. Pragya Bhushan,
Mr. Karandeep Singh and
Mr.Tarandeep Singh, Advocates for
R-NTA.

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+ **W.P.(C) 16302/2022 and CM APPL. 51013/2022**

RASHMI AND & ORS.

.....Petitioners

Through: Mr.Ravi Kumar, Mr.Shailesh Kumar
Sinha, Mr.Ashish Kumar Pandey,
Ms.Nisha, Mr.Sumant and
Ms.Vandana, Advocates.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Ms.Anushkaa Arora, SPC for R-UoI.
Ms. Pankhuri Shrivastava and



Mr.Alekshendra Sharma, Advocates
for R-NTA.

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER
14.11.2024

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1. This Court on 29.08.2023 has passed the following order:-

“1. Learned counsel appearing on behalf of respondent-National Testing Agency (hereinafter referred to as NTA) seeks some time to take instructions as to why once the final key was published and the result was declared, the respondent-NTA had revised the result.

2. Let proper instructions be sought for on behalf of the said respondent and counter affidavit in relation to the said aspect be filed, if any, before the next date of hearing.

3. List this matter on 30.10.2023.”

2. In compliance of the directions passed by this Court, the respondent-National Testing Agency [hereinafter referred as “NTA”] has placed on record its counter affidavit, wherein, *vide* paragraph no.4 following averments have been made:-

“4. In compliance of the above directions of this Hon'ble Court, the answering Respondent states and submits as under:

(i) The CSIR-UGC NET 2022 is an entrance examination, for determining the eligibility of Indian nationals for Junior Research Fellowship (JRF) and for Lectureship (LS)/ Assistant Professor in Indian Universities and colleges subject to fulfilling the eligibility criteria laid down by UGC.

(ii) NTA was entrusted by the CSIR, with the task of conducting the CSIR-UGC NET June 2022 examination. Accordingly, NTA conducted the Joint CSIR-UGC NET examination on behalf of CSIR in Computer Based Test (CBT) mode from 16.09.2022 to 18.09.2022, for 2,21,746 candidates in 306 centres located in 166 cities across the country.

(iii) However, it is relevant to mention here that as per the arrangements and understandings between CSIR & NTA, the Question Papers and



Answer Keys were settled and finalized by the subject experts of CSIR.

(iv) That the results of Joint CSIR UGC NET June 2022 Examinations was evaluated on the basis of the Final Answer Keys settled by the subject experts of CSIR and the results of all the candidates were declared on 28.10.2022.

(v) That upon receipt of writ petition no.15932/2022 & writ petition no.16302/2022, the same were referred to CSIR for their comments on the contentions of the petitioners regarding Final Answer Keys against which they have raised objections in these petitions.

(vi) That CSIR, vide its Letter No. DS(Exam)/Results/08-09 dated 13.12.2022, communicated to NTA that the above matters (especially the Answer Keys objected by the petitioners), were deliberated in association with their Conveners and Subject Experts. After deliberation, it was found by them that challenge/objections to five questions (Q. ID No. 371, 386, 396, 414 & 415) were not acceptable to them as these Answer Keys were found correct by the Subject Experts. The Answer Key in respect of 2 questions (Q ID No. 372 & 559) were found to be acceptable by the Conveners & Subject Experts of CSIR NET Exam. These 02 questions were again sent by CSIR to Independent Experts for review and the Independent Experts agreed to accept the challenges against these 02 questions (Q ID No. 372 & 559) and the Answer Key of these questions were revised by CSIR, as under:

<i>Q. ID</i>	<i>Answer Keys based on which results were process and declared</i>	<i>Answer Keys claimed by the Candidates and accepted by experts now, post writ petition</i>
<i>372</i>	<i>1486, 1487 & 1488</i>	<i>1485, 1487 & 1488</i>
<i>559</i>	<i>2234</i>	<i>2233</i>

True copy of the Letter F. No. DS(Exam)/Results/08-09 dated 13.12.2022 sent by CSIR to NTA is enclosed herewith as Annexure R-2/1.

(vii) Vide said Letter, CSIR further intimated that the benefit of the marks of the two questions (Q. ID 372 and Q. ID 559) will be accorded to candidates who had attempted the above two questions as per the guidelines in Chapter 8.3 of the published Information Bulletin.

(viii) Subsequently, the aforesaid decision of CSIR was reiterated in a meeting held between CSIR and NT A on 22.12.2022 regarding various issued pertaining to the CSIR-UGC NET examination, in order to finalise the further course of action in this regard and also to discuss the measures that may be taken to avoid recurrence of such occurrences.



(ix) Accordingly, as submitted earlier through the Counter Affidavit (Para 11), the benefit of marks was given to all the candidates who had attempted these questions (Q. ID No. 372 & 559) as per the revised Answer Key (s) in Mathematical Sciences paper held on 16.09.2022.

(x) It is submitted that those candidates who have been declared qualified in Joint CSIR UGC NET June 2022 Exam on 16.11.2022, were not disqualified pursuant to revising result. Status quo was maintained as regards to those candidates who were already declared qualified.

(xi) It is further submitted that, as decided/communicated by CSIR, that rotation of experts would be adopted and the Subject Convenors/Co-Convenors will take utmost care in the item development work (framing of questions & answer keys), in order to avoid any similar occurrence in future.”

3. Learned counsel for the NTA further explains that the aforesaid discrepancy had occurred on account of certain bonafide communication gap between CSIR and NTA. He, however, submits that the NTA has been given to understand that CSIR will take utmost care in future in the matter of framing questions and answer key and would also take the services of experts on rotation basis.
4. Learned counsel appearing on behalf of the petitioners then contends that CSIR admittedly had not sent all the questions to Independent Experts for review. He also submits that answer key of only two questions sent to Independent Experts, whereas, it was incumbent upon the CSIR to have sent answer key of all 7 questions to Independent Experts.
5. I have heard the learned counsel appearing for parties and perused the record.
6. Before proceeding to the merits of the case, it is incumbent to have a brief voyage of the enunciation of law revolving around the challenge pertaining to answer key of any examination.
7. It is a well-settled position of law that the scope of judicial



adjudication and jurisdiction in such matters is limited. The Supreme Court in case of ***Kanpur University v. Samir Gupta***¹, while dealing with the issue of challenge to an answer key by the students, had observed as under:

*"16. Shri Kacker, who appears on behalf of the University, contended that no challenge should be allowed to be made to the correctness of a key answer unless, on the face of it, it is wrong. **We agree that the key answer should be assumed to be correct unless it is proved to be wrong and that it should not be held to be wrong by an inferential process of reasoning or by a process of rationalisation.** It must be clearly demonstrated to be wrong, that is to say, it must be such as no reasonable body of men well-versed in the particular subject would regard as correct..."*

8. The 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.

9. 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

¹ (1983) 4 SCC 309.



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.*

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.**”*

10. 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

² (2018) 7 SCC 254.



examined by a Committee of subject experts.

11. 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.”



12. 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].

13. 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 Pal*³, 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”.*

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.



(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 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.”

14. After perusing 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.

15. It is now pertinent to have a brief sojourn over the facts of the present case. On a bare perusal of the counter affidavit by the NTA as extracted above, the Court finds that CSIR *vide* its letter dated 13.12.2022 communicated to NTA that the matters with respect to answer key objected by the petitioners, were deliberated in association with their Conveners and Subject Experts of CSIR NET Exam. The averments further explain that after deliberation, it was found by the Conveners and Subject Experts that challenge/objections to five questions (Q. ID No. 371, 386, 396, 414 & 415) were not acceptable to them as these Answer Keys were found correct by the subject experts. However, the Answer Key with respect of 2 questions (Q ID No. 372 & 559) were found to be acceptable by the Conveners & Subject Experts of CSIR, NET Exam and those 02 questions were again sent by CSIR to Independent Experts for review. On receiving the input of the Independent Experts, it was found that two objections deserves to be accepted (Q. ID No.372 and 359).

16. Accordingly, NTA explains that the modified result was declared and necessary marks were awarded in accordance with the revised answer key



for the candidates, who had attempted those two questions.

17. Moreover, the contention of the petitioner that the CSIR had not sent all the questions to Independent Experts for review does not hold feet as the CSIR initially had sent all 7 answer key to the Conveners and Subject Experts of CSIR NET Exam. On findings being rendered by the Conveners and Subject Experts of CSIR NET Exam with respect to acceptability of two objections, the CSIR in order to have a second opinion sent those two answer key to Independent Experts. It is thus seen that at the first instance itself, all 7 questions were not required to have been sent to Independent Experts.

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 contrary to public interest and cannot be permitted and if permitted would

¹¹ 2015 SCC OnLine Del 10316.



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. It is to be seen that there are no allegations of *mala fide* or bias against any of the experts or against the examining body. Moreover, it is also not the case that expert opinion at all was not even asked by the respondent. Rather as the facts of the present case would indicate that first the opinion of Conveners and Subject Experts of CSIR NET Exam was considered and then for the second opinion, the opinion of the Independent Experts was perused. The procedure as detailed above in counter affidavit tendered by NTA does not, by any judicial standard, seem unreasonable.

21. In view of the aforesaid, the Court finds no reason to interfere into remaining five questions and accordingly, the instant petitions stand dismissed along with pending application(s).

PURUSHAINDR KUMAR KAURAV, J

NOVEMBER 14, 2024

Nc/am

¹² 2017 SCC OnLine Del 9379.