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

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Reserved on: 07.08.2024

Pronounced on: 08.08.2024

+ **W.P.(C) 10650/2024**

PARTH GUPTA

.....Petitioner

Through: Ms. Chetna Jain, Advocate

versus

NATIONAL TESTING AGENCY & ANR.Respondents

Through: Mr. Sanjay Khanna, Ms. Pragya Bhushan, Mr. Tarandeep Singh, Mr. Karandeep Singh and Ms. Tavleen Kaur, Advocates for NTA
Mr. Mohinder J.S. Rupal, Advocate for University of Delhi

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. By way of present writ petition filed under Article 226 and 227 of the Constitution of India, the petitioner seeks to challenge the Final Answer Key issued by respondent no. 1 i.e. National Testing Agency [hereinafter 'NTA'] for the Economics paper of Common University Entrance Test (Undergraduate) 2024 [hereinafter 'CUET (UG) 2024'] insofar as final declared answer of Question no. 16 of



Test Booklet Code 'A' is concerned, and further prays that the result/marks of the petitioner be corrected and declared afresh by the NTA.

2. **Brief facts of the case** are that the petitioner herein had appeared in CUET (UG) conducted by NTA as a general category candidate, for admissions in respondent no. 2 i.e. University of Delhi. It is stated that the admit card of the petitioner was released by NTA on 15.05.2024, and he had appeared for his Economics exam on 16.05.2024. On 07.07.2024, the NTA had released the Model Answer Key and the OMR Answer Sheets of the candidates, including the petitioner herein. It is stated that upon reviewing the Model Answer Key, the petitioner discovered that answer to Question no. 16 of his Test Booklet was incorrectly released. Therefore, the petitioner had raised an objection in respect of the same after paying the requisite fee. However, on 25.07.2024, the NTA had released the Final Answer Key without paying any heed to the objection raised by the petitioner, and declared the correct answer of Question no. 16 as option no. 4, which is wrong and incorrect. It is stated that the incorrect declaration of answer to Question no. 16 has made the petitioner suffer a loss of 06 marks in Economics exam, which affects his total aggregate marks of CUET (UG)-2024. It is the grievance of the petitioner that the NTA failed to duly consider the materials and objections submitted by him, resulting in issuance of an arbitrary and incorrect Final Answer Key, due to which the petitioner, despite being highly meritorious, has been denied the rightful benefit, while candidates who have received marks based on an incorrect answer



will be given preference over him.

3. **Arguments on behalf of the petitioner** have been addressed by his father Sh. Bhagwan Gupta, who is being assisted by his counsel. The attention of this Court has been firstly drawn towards Question no. 16, of Test Booklet Code 'A', of Economics paper of CUET (UG)-2024, which is extracted hereunder for reference:

"Following are the sources of electricity generation in India. Arrange them in correct sequence on the basis of total power generation capacity (higher to lower):-

(A) Nuclear

(B) Thermal

(C) New and renewable energy

(D) Hydro

Choose the correct answer from the options given below:

(1) (A), (B), (C), (D)

(2) (A), (C), (B), (D)

(3) (B), (C), (D), (A)

(4) (B), (D), (C), (A)"

4. It has been argued on behalf of the petitioner that the NTA has declared option no. 4 as the correct answer, whereas option no. 3 should have been declared as the correct answer. It is argued that the sequence mentioned in option no. 3 i.e. Thermal, New and renewable energy, Hydro and Nuclear is the correct sequence. In support of the same, reliance has been placed on Page No. 146 of December 2019 edition of the Textbook for Class XI namely, Indian Economic Development issued by National Council of Educational Research and Training [hereinafter 'NCERT'], as well as on the data uploaded on India Climate and Energy Dashboard of NITI Aayog website. On the basis of information available on these sources, the petitioner has submitted the following table, highlight the percentage of capacity of



power generation of various sources:

Sources of electricity generation in India	Capacity of power generation of various sources as per the pie-chart given at page No. 146 of NCERT Book, 2019 edition in percentage(%)	Capacity of power generation of various sources as per recent data published on 21-07-2024 on NITI Aayog Website in BU
Nuclear	2.10	13.07
Thermal	67.00	358.68
New and renewable energy comprising of solar and wind energy	17.30	58.48
Hydro	13.60	36.00

5. It is thus argued that a bare perusal of the above table reveals that the highest source of power generation in India, as per 2019 data published in NCERT Book, and as per the 2024 data published on NITI Aayog Website, is Thermal followed by New and Renewable Energy, followed by Hydro and the lowest or last being Nuclear, meaning thereby that the correct sequence in respect of Question no. 16 would be (B), (C), (D), (A) which is option no. 3. Therefore, it is prayed that the present petition be allowed.

6. On the other hand, **learned counsel appearing on behalf of the NTA**, argues that there is no merit in the present petition since the answer to Question no. 16 was declared by the NTA on the basis of opinion of subject experts and the information available in NCERT textbook. In this regard, learned counsel for the NTA has submitted excerpts from the 2020 Edition of Class XI Indian Economic Development Textbook issued by the NCERT, wherein the



table/chart drawn on page 150 of the textbook shows that the correct sequence of highest sources of power generation in India, would be Thermal, followed by Hydro, New and renewable energy and then Nuclear energy. Thus, it is submitted that option no. 4 of Question no. 16 shall be the correct answer, and not the option no. 3 as claimed by the petitioner. It is also stated that the petitioner has placed reliance on 2019 edition of the NCERT textbook whereas NTA is placing reliance on 2020 edition of the NCERT textbook. Reliance is also placed by learned counsel on the data of NITI Aayog, titled 'Source-wise Primary Energy Supply 2020', which also supports the case of NTA.

7. Learned counsel for the NTA has also submitted before this Court, the opinion of the subject expert of NTA, who has also opined that option no. 4 is the correct answer of Question no. 16 of Test Booklet Code 'A' of Economics Paper. Therefore, it is prayed that the present petition be dismissed.

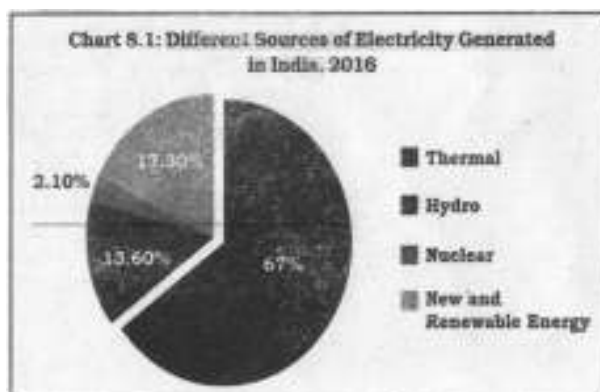
8. This Court has **heard** arguments addressed on behalf of both parties and has perused the material placed on record.

9. In a nutshell, the grievance of the petitioner is that the correct answer to Question no. 16 of Test Booklet Code 'A', Economics Paper of CUET (UG)-2024, is option no. 3, whereas the NTA has declared a wrong answer i.e. option no. 4 in the Final Answer Key, which has caused loss of marks to the petitioner.

10. This Court, having gone through the records of the case, notes that the petitioner has placed his reliance on 2019 edition of NCERT textbook titled 'Indian Economic Development' wherein a table/chart

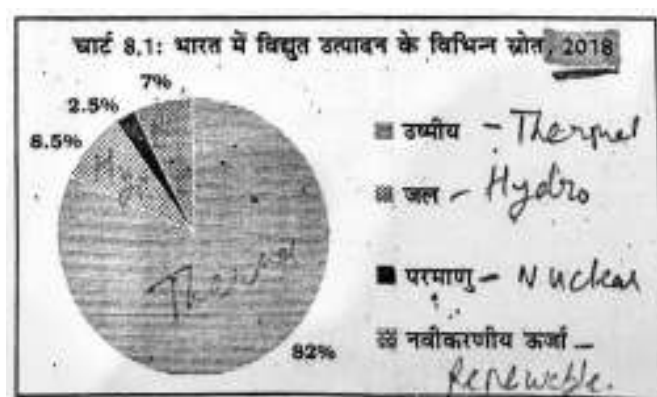


depicting different sources of Electricity generated in India, for the year 2016, has been provided. The same is extracted hereunder:



11. It is true that as per the aforesaid chart, Thermal energy accounts for 67%, New and Renewable Energy accounts for 17.30%, Hydro energy accounts for 13.60% and Nuclear Energy accounts for 2.10%, of the total Electricity generated in India.

12. However, the learned counsel for NTA has placed before this Court, a similar but an updated chart depicting different sources of Electricity generated in India, for the year 2018, which has been incorporated in the newer edition of NCERT textbook i.e. 2020 edition. A copy of the Hindi version of the said textbook, which has been placed before this Court, provides as under:





13. Thus, the above chart depicts that Thermal energy accounts for 82%, Hydro energy accounts for 8.50%, New and Renewable energy accounts for 7%, and Nuclear Energy accounts for 2.50%, of the total Electricity generated in India. As per this data contained in the newer version of NCERT textbook, the option no. 3 i.e. (B), (D), (C), (A) shall be the correct answer to Question no. 16, as has been declared by the NTA in the Final Answer Key.

14. This Court further notes that both the parties have placed their reliance on the data provided by NITI Aayog on its website. The NTA has relied upon a chart depicting 'Source-wise Primary Energy Supply 2020' as per which, Coal i.e. Thermal accounts for 57.07%, Hydro accounts for 1.73%, Renewables account for 1.6% and Nuclear accounts for 1.56%. This sequence supports the decision of NTA to declare option no. 4 as the correct answer to Question no. 16.

15. The petitioner, on the other hand, relies upon the latest data of NITI Aayog pertaining to India's Power Generation Capacity. As per the said data, Generation (in BU) for the source 'Coal' i.e. Thermal has been 358.68, 'Hydro' and 'Small Hydro' combined together has been 36.00, and 'Nuclear' has been 13.07. However, there is no specific column in the said data which uses the term 'Renewables' or 'New and Renewables Energy', but the petitioner, by combining the data of 'Solar' and 'Wind' energy submits that the generation (in BU) for New and Renewable energy would be 58.48. This would thus support the sequence of power generation capacity through different sources, as claimed by the petitioner i.e. option no. 3 of Question no.



16. However, considering the fact that this data provided by the petitioner does not contain any specific reference to ‘Renewables’ or ‘New and Renewables Energy’, this Court, not being an expert in the field of Economics, would deem it appropriate to confine itself to the data provided in the latest version of NCERT textbook.

16. Furthermore, this Court after perusing the expert opinion placed before this Court by NTA, is also of the opinion that the subject expert of NTA, after examining the objection raised by the petitioner herein, has opined that the sequence contained in option no. 4 of Question no. 16 is the correct sequence of power generation capacity through different sources in India, as per the information contained in the concerned NCERT Textbook, NITI Aayog website, etc.

17. Having observed so, this Court notes that while examining such matters, the jurisdiction of this Court is limited by the law which is well-settled by way of a catena of pronouncements by the Hon’ble Supreme Court. The scope of judicial adjudication and jurisdiction in such matters is limited. The Hon’ble Apex Court in case of *Kanpur University v. Samir Gupta (1983) 4 SCC 309*, 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...”

(Emphasis supplied)

18. One may also refer, with advantage, to a decision in case of *UPSC v. Rahul Singh* (2018) 7 SCC 254. In the said case, too, the candidate was aggrieved with the answer key issued by the authority concerned. In para 12 to 14 of the judgment, the Hon’ble Supreme Court cautioned all Courts, dealing with such matters, in the following words :

“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.”**

(Emphasis Supplied)

19. In case of *Wajda Tabasuum v. NTA, W.P.(C) 1260/2021*, the Hon’ble Apex Court *vide* order dated 30.11.2021 held 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 three subject experts. The relevant observations of the Hon’ble Apex Court read as under:

“It would be beyond the remit of this Court to conduct an exercise of re-assessing the correctness of the solutions. The first respondent, which is the agency entrusted with the duty of conducting the NEET (UG) 2021 examination, while responding to the apprehensions of the students, had the matter scrutinized again by three subject experts. Hence, it would not be open to this Court to substitute its own view. In the circumstances, having given our anxious consideration to the submission which has been urged on behalf of the petitioners, we are unable to interfere. The petition is accordingly dismissed.”

20. The Coordinate Bench of this Court in case of *Freya Kothari v. Union of India & Others W.P.(C) 13668/2022*, while hearing challenge to answer key of some questions of NEET (UG)-2022 Examination, held as under:

“27. The petitioner, in the present case, has challenged and is doubting the decision of the experts in the field of medical



science who are responsible for setting up the question papers and deciding the appropriate answers for such questions.

28. It is a matter of fact that various objections raised are duly considered by these experts and final answers are published and there is no material before this Court to doubt the decision taken by such experts.

29. Moreover, this Court is not an expert in the field of medical science to sit over the decision taken by the experts and substitute it with its own wisdom.

30. As noted above, the scope of judicial review in such cases is limited.

31. It can be seen that the questions asked from the candidates are tricky and their answers cannot be argued to be in a straitjacket formula, as sought to be done by the petitioner.”

21. Considering the aforementioned judicial precedents, this Court is of the opinion that it cannot disregard the opinion of the subject expert, placed before this Court by the exam conducting agency i.e. NTA. Further, the 2020 edition of NCERT Textbook Indian Economic Development, Class XI, supports the argument of learned counsel for the NTA as well as the Final answer key declared by NTA in relation to Question no. 16 of Test Booklet Code ‘A’ of Economics Paper of CUET (UG)-2024. At the cost of repetition, it is to be noted that the petitioner has placed reliance on 2019 edition of the said NCERT Textbook, whereas NTA has relied upon the 2020 edition of the same.

22. Therefore, in view of the above discussion, this Court is unable to allow the present writ petition and the same is, therefore, dismissed with no orders as to costs. Pending applications also stand dismissed



if any.

23. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

AUGUST 8, 2024/at