



2024:DHC:6143-DB



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

+ **LPA 782/2024 & C.M.No.46211/2024**

NANDITA

.....Appellant

Through: Petitioner in person.

versus

NATIONAL TESTING AGENCY AND ORS

.....Respondents

Through: Mr.Rupesh Kumar, Sr.Advocate with
Ms.Pankhuri Shrivastava, Advocates
for R-1/NTA
Ms.Radhika Bishwajit Dubey, CGSC
with Ms.Ananya Sikri, Advocate for
UOI.

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Date of Decision: 13th August, 2024

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

MANMOHAN, ACJ : (ORAL)

1. Present appeal has been filed challenging the order dated 01st August, 2024 passed by the learned Single Judge in W.P. (C) 8637/2024 whereby the learned Single Judge dismissed the petition filed by the Appellant.

2. The Appellant who appears in person states that she appeared for National Eligibility cum Entrance Test – Under Graduate Examination (“NEET-UG”), 2024 on 05th May, 2024. She states that Respondent no.1/National Testing Agency (“NTA”) issued provisional answer key for

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NEET-UG 2024 and vide public notice dated 29th May, 2024 invited candidates to challenge provisional answer key by paying non-refundable fees.

3. She states that the Appellant challenged the provisional answer key with respect to five questions, but the Appellant has issues only with question no.104 and 149 of 'R4' Test Booklet of NEET (UG)-2024. She states that the results for NEET-UG 2024 were declared on 4th June, 2024 wherein the Appellant secured 650 marks and an All India Rank of 30136. She states that on 04th June, 2024, the Appellant registered her grievance on Centralised Public Grievance Redress and Monitoring System. She states that revised score card was issued by NTA on 26th July, 2024 wherein Appellant scored 645 marks and an All India Rank of 31559. She further states that on 14th August, 2024, All India medical counseling for MBBS government medical seats will be started by Respondent no.3 on the basis of NEET score.

4. She states that both questions bearing Q.No. 104 and Q.No. 149 are wrong and the learned Single Judge has erroneously relied on NTA subject experts' opinion even though NTA itself is a party. She states that if there is a difference in the candidate's version and the subject expert's version, a third party's opinion should be taken which is not a party to the petition.

5. She relies upon the order of the Supreme Court passed in ***Vanshika Yadav v. Union of India, W.P. (C) 335/2024*** whereby an expert opinion was sought from IIT Delhi.

6. This Court finds that the question which was referred to an Expert Committee for an opinion by the Apex Court in case of ***Vanshika Yadav (supra)*** was on account of NTA treating two options as correct answers to



one question, and moreover, the same had been disputed by more than 13000 students, which is not the case herein.

7. A Division Bench of this Court (of which Acting Chief Justice Manmohan was a Member) in the case of ***Shivnath Tripathi v. Registrar General Delhi High Court & Anr., W.P. (C) 7346/2020*** has held that there is always a presumption of correctness regarding the answer key and it may be subject to judicial review only when it is “demonstrably wrong” i.e. it must be such as no reasonable body of men well versed in the particular subject would regard it as correct.

8. While examining such matters, the jurisdiction of this Court is circumscribed by the law which is well-settled in this regard, in a catena of pronouncements by the Supreme Court. 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 the case of ***Kanpur University v. Samir Gupta (1983) 4 SCC 309*** has held 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..”

9. In the present case, NTA had both the issues examined by subject experts consequent to the receipt of objections. This Court cannot sit as an appellate authority over the decision of the experts regarding the correct answers to the questions. Further, just because NTA has consulted experts does not mean that the said experts cease to be neutral or independent persons.



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10. Consequently, the present appeal being bereft of merit is dismissed along with the pending application.

ACTING CHIEF JUSTICE

TUSHAR RAO GEDELA, J

AUGUST 13, 2024
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