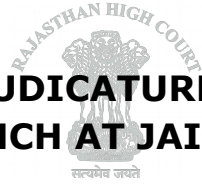




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 13479/2024

Neha Kumari Jogi Daughter Of Prayag Chand Jogi, Aged About 19 Years, Resident Of Ward No. 6, Odach, Masawata, Tehsil Sapotra, District Karauli (Rajasthan)

-----Petitioner

Versus

1. The Union Of India, Through Secretary, Ministry Of Education, Department Of Higher Education, J688-57, Rajpath Area Central Secretariat, New Delhi.
2. The National Testing Agency, Through Its Senior Director (Exams), 1St Floor, Nsic-Mdvb Building Okhla Industrial Estate, New Delhi

-----Respondents

For Petitioner(s) : Mr. Dinesh Garg
For Respondent(s) : Mr. Devesh Yadav (IGPC) with
Mr. Rajat Sharma through VC
Mr. M. S. Raghav with
Mr. Viswas Saini

HON'BLE MR. JUSTICE SAMEER JAIN

Order

21/08/2024

1. The instant petition is filed with the following prayers:
"(i) Direct the respondents to award 650 marks to the petitioner as per answer key issued by the respondents and answer sheet of the petitioner (booklet Code r-6) by treating the answer of question No. 125 as correct and revise score card to the petitioner and also revise the rank of the petitioner accordingly;
(ii) Any other order which this Hon'ble Court deems fit in the facts and circumstances of the case may also be passed in favour of the petitioner.



(iii) Cost of the writ petition may also be awarded in favour of the petitioner;"

2. Learned counsel for the petitioner has submitted that respondent No. 2-NTA issued a public notice dated 09.02.2024 inviting online applications for National Eligibility cum Entrance Test (hereinafter referred as NEET-UG Examination), 2024. It is further submitted that the petitioner filed an online application under the OBC (NCL) category, for the said examination. Thereafter the NEET-UG Examination, 2024 was conducted on 05.05.2024, and the final answer key qua the said examination was released on 26.07.2024 (Annexure-4).

3. Further, it is submitted that the petitioner upon tallying her answer sheet with the final answer key issued by the respondent No. 2, presumed that she shall be scoring 650 marks, however, as per the calculation sheet released by the respondent No. 2 the petitioner scored 645 marks out of the total 720 marks.

4. At this juncture, learned counsel for the petitioner has drawn the attention of this Court towards Annexure-3 i.e. the OMR answer sheet of the petitioner, and has submitted that in the question No. 125 the petitioner attempted the choice No. 3 which is also the correct answer as per the final answer key released by the respondent No. 2. In support of the contentions made insofar learned counsel has further submitted that the respondents have deducted 05 marks in the matter in hand, despite the fact that the answer to question number 125 is marked correctly. Hence, grave injustice, and arbitrariness is conducted qua the petitioner.



5. *Per contra*, learned counsel appearing on behalf of the respondents has submitted the reply during the course of arguments, the same is taken on record.

Learned counsel appearing for the respondents has raised a preliminary objection, and has submitted that as per the rules and regulations governing the instant examination, more specifically Clause 14.2 and 14.3 of the Information Bulletin, NTA has adopted a scheme of displaying the question paper and recorded responses of the examinees for verification. Further, an opportunity was already provided to the candidates to raise any query/challenge qua the answer key/score card or any other dispute. It is further submitted that the cut-off date for filing of the objection(s) was 29.05.2024. Henceforth, it is evident that the petitioner has failed to raise the query/objection within the prescribed time and therefore, the grievance raised is not tenable at this juncture.

6. The next contention of learned counsel for the respondent No. 2 is that as per Clause 14.4 of the said Information Bulletin, rechecking/re-evaluation of answer sheet is not permissible as answer-sheets are evaluated by machine gradable evaluation system, with utmost care and caution. It is further submitted that National Testing Agency (NTA) is a creation of Ministry of Human Resources Development, and is an independent autonomous body. Moreover, NTA has sustained as a premier organization for conducting efficient, transparent and international standard test evaluation for admissions in higher education institutes.

7. Learned counsel for the respondent has further submitted that as per Clause 3.2 i.e. the pattern of examination (reproduced at page No. 41 of the reply), the necessary notices were duly





advertised and were therefore, in due knowledge of every candidate. Further learned counsel has placed reliance upon Annexure R-1 and has submitted that the said examination was to be attempted strictly in accordance with the instructions. For the sake of convenience the said instructions are reproduced herein below:

"1. इस उत्तर पत्र में दो प्रतियाँ हैं। मूल प्रति और इसके नीचे कार्यालय प्रति। सूचना/उत्तर भरते समय उन्हें अलग करने या हटाने की कोशिश न करें।

This answer sheet consists of two copies, the Original copy and the Office copy. Do not attempt to separate or displace them while recording information/answers.

2. केवल नीले/काले बाल पेन से सही गोले को गहरे निशान से भरिए।

Use Only Blue/Black Ball Point Pen to darken the appropriate circle.

3. कृपया पूरे गोले को गहरे निशान से भरिए।

Please Darken the complete Circle.

4. प्रत्येक प्रश्न का उत्तर केवल एक ही पूरे गोले में गहरा निशान लगाकर दीजिए जैसा नीचे दिखाया गया है।

Darken Only One Circle for each Question as shown below:

गलत Incorrect ■ 2 3 ■	गलत Incorrect 1 2 3 ■	गलत Incorrect ± 2 3 4	गलत Incorrect ± ■ 3 4	गलत Incorrect 1 2 3 4
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5. एक बार गोले में निशान लगाने के पश्चात कोई परिवर्तन अनुमन्य नहीं है।

Answer once marked cannot be changed.

6. उत्तर पत्रिका पर अन्य कहीं कोई निशान न लगाइए। गलत निशान/कोई निशान ओ.एम.आर. स्कैनर के द्वारा पढ़ा जा सकता है।

Please do not make any stray marks on the Answer Sheet. Incorrect Marks/Stray Marks may be read by the OMR scanner.

7. इस उत्तर पत्रिका पर कच्चा काम करना मना है।

Rough work must not be done on the Answer Sheet.

8. प्रत्येक प्रश्न का उत्तर, उत्तर-पत्रिका में दिए गए क्रमांक के सामने संगत गोले में निशान लगाकर दीजिए।



Mark your answer in the appropriate space in the Answer Sheet against the Number corresponding to the question.

9. अभ्यर्थी को परीक्षा समाप्ति पर ओ.एम.आर. प्रतिक्रिया पत्र की मूल या कार्यालय प्रति अपने साथ ले जाने की अनुमति नहीं है।

The Candidate is NOT allowed to carry the Original or Office copy of OMR response sheet with him/her on conclusion of the examination."

8. It is submitted that the aforementioned instructions categorically stated that the candidates have to darken the correct answer (circle), with the specified pen/pencil, and the answer marked/highlighted once, shall in no case be subject to any correction/change. Moreover, the answer-sheets were checked by the electronic means with no human intervention, and the codes qua the positive/negative marking were entered prior to the evaluation process.

9. Lastly, learned counsel for the respondents has submitted that a bare perusal of the answer sheet of the petitioner infers that the petitioner had highlighted/ darkened two circles/options as answer to question number 125. Hence, as per the instruction number 4 (Annexure R-1), the same ought not to be considered as a correct answer. It is only due to the aforementioned reason that 05 marks are deducted/ not awarded to the petitioner.

10. In this regard, learned counsel has placed reliance upon the dictum passed by Hon'ble Apex Court in **State of Tamil Nadu & Ors. Vs. G. Hemlata & Anr.: (2020) 19 SCC 430**, judgment of Coordinate Bench of this Court in **DBCWP No. 12323/2020** titled as **Union of India Vs. Jagdish Chandra Jat** and the judgment of Delhi High Court in **W.P. (C) No. 9089/2024 and**



CM Appeal No. 37211/2024 titled as **Pransh Singh Vs. National Testing Agency & Ors.**

11. Upon an assiduous scanning of the record, considering the averments raised by the learned counsel for the parties and judgments cited at the Bar, this Court deems it apposite to dismiss the instant petition for the following reasons:

11.1 That respondent No.2-NTA has duly adopted a scheme by which transparency is maintained in the examination.

11.2 That the petitioner has failed to raise the objection(s) within the prescribed time i.e. before 29.05.2024.

11.3 That as per the relevant provisions as stated above, the re-evaluation of answer sheet is not permissible. Moreover, the same has been categorically mentioned in the instructions qua the said examination.

11.4 That the instant examination is conducted PAN India, and the rules and regulations/ instructions for filing of application form, mode of examination, instructions qua filling of correct answers, scheme of marks allocation etc. were spelled out prior to the examination. Therefore, the same cannot be changed/ modified at this juncture.

11.5 That the controversy qua the matter in hand specifically revolves around deduction of 05 marks. Nevertheless, this Court is convinced with the contentions made by the learned counsel for the respondent qua the fact that the petitioner has darkened/highlighted two options, qua the correctness of answer to question number 125, and the same is rendered as incorrect/disqualified as per instruction No. 4, 5, 6, 7. Consequentially 05 marks are deducted as per instruction.



Moreover, as per Clause No. 14.4 of information bulletin. For the sake of convenience the relevant portion is reproduced herein below:-

"14.4. Rechecking/Reevaluation of answer sheets

**The machine-gradable Answer Sheets are evaluated with extreme care and are repeatedly scrutinized."*

11.6 That from a perusal of the said instructions, it is clear that the candidates were repeatedly forewarned about taking care while filling/highlighting the OMR Sheet. The reasons are not far to understand inasmuch as the OMR answer sheets are electronically evaluated for the purpose of ensuring minimum human intervention, so as to ensure secrecy and credibility of the entire examination process. When the OMR Sheet is read electronically, any mistake committed by the candidate, would be detected and the same is thereafter not evaluated.

12. At this juncture, this Court deems it apposite to place reliance upon the dictum enunciated in **Jitendra Sharma & ors. Vs. State of Rajasthan and Ors.: DBCSAW No. 73/2021**, the relevant portion from the abovementioned case is reproduced herein below:

"3. Precisely, the case set out by the appellants before the learned Single Judge was that it was only a bonafide mistake on their part that the column meant for corresponding question booklet remained unfilled and therefore, on that account, the refusal of the respondents to evaluate the OMR answer sheets, is absolutely unjustified. It was contended that when the provision has been made for evaluating the answer sheets while deducting 5 marks in case of wrong mentioning of roll number, it was incumbent upon the respondents to evaluate the answer sheets while permitting the appellants to rectify the error crept in.





4. Learned counsel appearing for the appellants contended that the appellants were not aware about issuance of two sets of question booklet inasmuch as, they were issued set 'B' of question booklet. Reiterating the contention raised before the learned Single Judge, learned counsel submitted that in case of mentioning of wrong roll number, the mistake is permitted to be rectified by deducting 5marks, there was no reason not to permit the appellants to rectify the mistake of non indication of the set of question booklet opted.

5. **Indisputably, before attempting the question paper, the candidates were expected to read the instructions carefully. Unless question booklet 'A' or 'B' opted by the appellants is reflected in the OMR sheets, the answers given could not have been evaluated by OMR software application. The appellants, who were negligent in not treading the instructions properly and not filling the column meant for corresponding question booklet set, could not have been granted indulgence to fill up the column in the OMR sheets subsequently. If the OMR sheets are permitted to be opened and corrected in this manner, it may result in making fairness and transparency in the examination process questionable. For the parity of reasons, the OMR sheet cannot be permitted to be evaluated physically either.**

6. For the aforementioned reasons, we are in agreement with the view taken by the learned Single Judge."

13. Accordingly, the instant petition being devoid of merits stands dismissed. Pending applications, if any, also stand disposed of.

(SAMEER JAIN),J

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