

Rahul Singh vs State Of U.P. And 2 Ors. on 30 March, 2018

Bench: Pankaj Mithal, Saral Srivastava

HIGH COURT OF JUDICATURE AT ALLAHABAD

(A.F.R.)

Reserved on: 06.03.2018

Delivered on: 30.03.2018

(1) Case :- WRIT - A No. - 4734 of 2018

Petitioner :- Rahul Singh

Respondent :- State Of U.P. And 2 Ors.

Counsel for Petitioner :- Manu Khare, Shishir Kumar Dwivedi

Counsel for Respondent :- C.S.C., M.N. Singh

With

(2) Case :- WRIT - A No. - 4737 of 2018

Petitioner :- Brijanand Kumar And Anr.

Respondent :- State Of U.P. And 2 Ors.

Counsel for Petitioner :- Ravinath Tiwari, Moti Lal With

With

(3) Case :- WRIT - A No. - 5830 of 2018

Petitioner :- Aparna Teotia(Bajaj)

Respondent :- State Of U.P. Thru. Prin.Secy.(Appointment And Karmik) And 2 Ors.

Counsel for Petitioner :- Alok Mishra,Harsh Dwivedi

Counsel for Respondent :- C.S.C.,M.N. SinghWith

With

(4) Case :- WRIT - A No. - 5937 of 2018

Petitioner :- Dhananjay Singh And 119 Others

Respondent :- State Of U.P.Through Principal Secretary (Appointment And Karmik) Govt Of

Counsel for Petitioner :- Alok Mishra,Abhishek Mishra

Counsel for Respondent :- C.S.C.,M.N. Singh

With

(5) Case :- WRIT - A No. - 7646 of 2018

Petitioner :- Arvind Kumar Verma And 4 Others

Respondent :- Uppsc And Another

Counsel for Petitioner :- Satendra Bahadur Yati,Anurag Tripathi,Satyendra Mishra

Counsel for Respondent :- C.S.C.,M.N. Singh

With

(6) Case :- WRIT - A No. - 6526 of 2018

Petitioner :- Devesh Yadav

Respondent :- State Of U.P. Through Principal Secretary (Appointment And Karmik) And 2 O

Counsel for Petitioner :- Yogesh Chandra Yadav,Vijendra Singh

Counsel for Respondent :- C.S.C.,M.N. Singh

With

(7) Case :- WRIT - A No. - 6606 of 2018

Petitioner :- Nadeem Akhtar

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Fakhruzzaman

Counsel for Respondent :- C.S.C.,M.N. Singh

With

(8) Case :- WRIT - A No. - 6766 of 2018

Petitioner :- Hemant Kumar Chand

Respondent :- The State Of U.P. Through Secretary (Apointment And Karmik) Govt. Of U.P.

Counsel for Petitioner :- Shashi Bhushan Singh

Counsel for Respondent :- C.S.C.,M.N. Singh

With

(9) Case :- WRIT - A No. - 7063 of 2018

Petitioner :- Umesh Kumar Rathaur And 19 Others

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Harsh Dwivedi

Counsel for Respondent :- C.S.C.,M.N. Singh

With

(10) Case :- WRIT - A No. - 7177 of 2018

Petitioner :- Priyanka Mishra

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Swati Agrawal,Dhananjay Singh Yadav

Counsel for Respondent :- C.S.C.,M.N. Singh

With

(11) Case :- WRIT - A No. - 8559 of 2018

Petitioner :- Manish Mishra And 3 Others

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Shad Khan,Mumtaz Ali

Counsel for Respondent :- C.S.C.,M.N. Singh

Hon'ble Pankaj Mithal, J.

Hon'ble Saral Srivastava, J.

(Delivered by Hon'ble Saral Srivastava, J.)

1. In all the above nine writ petitions and the 10th & 11th filed later, the controversy is in regard to the U.P. Civil Services Examination-2017 conducted by the U.P. Public Service Commission (hereinafter referred to as 'the Commission') pursuant to the advertisement No. A-2/E-1/2017 dated 22.02.2017 for filling up 251 vacancies subsequently increased to 677 of the Upper Subordinate Services of the State.
2. The aforesaid selection is conducted as per the procedure laid down under the Uttar Pradesh Public Service Commission (Procedure and conduct of business) Rules, 2011 framed under Section 11(1) of the U.P. State Public Service Commission (Regulation of Procedure) Act, 1985.
3. The selection for the above post is conducted in three stages. The first is that of preliminary written examination for the purposes of screening so as to find out suitable candidates. The second stage comprises of the main examination in which only the candidates successful in the preliminary examination are permitted to appear. The third stage is of personality test i.e. interview. The aggregate of the marks obtained in the main examination and the interview forms the basis for determining the final order of merit.
4. The preliminary written examination consist of two papers; General Studies-1 and General Studies-2. The paper of General Studies-2 is of the qualifying nature and the marks obtained therein are not counted for the purposes of determining the merit for qualifying the preliminary examination. The paper of General Studies-1 comprises of 150 questions of 200 marks in aggregate each carrying equal marks. The said paper is objective in nature with multiple choices wherein the candidate has to select one of the four alternatives as the correct answer and has to tick it.
5. The question paper of General Studies-1 that consist of 150 objective questions with multiple choice answers is printed in four sets in series A, B, C and D. All the four sets of series of question papers contain the same questions but at different serial numbers to avoid coping during the examination.
6. In the paper of General Studies-1 which consist of 150 objective questions with multiple choice answers, five of the questions were subsequently deleted by the Commission thus leaving 145 questions for the purposes of awarding marks to the candidates.
7. After the preliminary examinations were held, the key answers were published by the Commission. It is on the basis of the key answers of so published of General Studies-1 that the

petitioners contend that either some of the questions are incorrect, vague or confusing or that some key answers are incorrect or that some of the questions had two correct answers.

8. The petitioners allege that the answers to several of the questions given by them are correct and more appropriate than the key answers furnished by the paper setters. Thus, if they are awarded marks in those questions they would qualify the preliminary examination.

9. Thus, the controversy which has been raised herein these petitions is as to who between the paper setters/ the teachers or the students/candidates expressing different opinion in respect of some of the questions of General Studies-1 is correct.

10. In each of the writ petitions few questions and answers are disputed and some of them are common. In all about 14 questions and answers are in dispute which have been tabulated as under:-

Sl No	A	B	C	D	Key Answer	B	B	C	B	A	C	D	C	B	A	D	D	B	C
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11. The above disputed questions shall be dealt with at the appropriate place in the judgment.

12. The stand of the Commission in the counter affidavit is that as per the procedure of the Commission, the Commission has constituted two separate expert committees comprising of fifteen and eighteen members respectively for reviewing/examining the key answer of the General Studies Ist Paper before displaying the key answers on the official website of the Commission. Upon the recommendation of the aforesaid expert committee, the key answers were uploaded on the official website of the Commission from 18.11.2017 to 23.11.2017. The objections to the key answers were to be submitted by 24.11.2017.

13. It is further averred in the counter affidavit that total 962 objections were received from the candidates which included the objections regarding the correctness of the answers in the present writ petitions. All the objections received with respect to different booklet series were converted into booklet series 'A'. The expert committee consisting of 26 members was constituted to consider the objections raised by the candidates. The 26 members expert committee conducted two days workshop and examined all the objections raised by the candidates regarding the questions/answers which included the objections raised by the petitioners in the present writ petitions.

14. The final revised key answers was prepared by the Commission upon the recommendation of 26 members expert committee; and on the basis of final revised answer key, the answer sheets of all the candidates were evaluated and the final result of the examination in question was declared on 19.01.2018. It is also stated in the counter affidavit that on the basis of the expert committees' opinion, the Commission deleted five questions (Question nos. 43, 88, 95, 104 and 145 of 'D' series). The Commission had changed the answers of two questions (Question nos. 77 and 134 of 'D' series) on the opinion of the expert committee.

15. In order to decide who is correct and who is wrong, we have to travel to the scope of judicial review available to us in such matters. The first ever decision in a similar type of matter is one

pertaining to the Combined Pre-Medical Test (C.P.M.T.) conducted by the Kanpur University for the admission to the seven Medical Colleges of the State of Uttar Pradesh reported in (1983) 4 SCC 309 Kanpur University through Vice Chancellor and others Vs. Samir Gupta and others.

16. In the aforesaid case also the pattern of the examination was based upon the multiple choice objective type test. The controversy was with regard to three questions, one each in the paper of Chemistry, Zoology and Botany.

17. On the basis of the authentic test books cited the court accepted that the key answers to the above three questions were incorrect and the answer given by the students were right. It was observed that if the correctness of the answers as alleged by the students is beyond the realm of doubt it would be unfair to penalize the students for not giving marks for an answer which does not accord with the key answer i.e. to say with an answer which has been demonstrated to be wrong.

18. In Rajesh Kumar and others Vs. State of Bihar and others (2013) 4 SCC 690 the controversy again was regarding the correctness of the key answers. The aforesaid case pertained to the examination conducted for recruitment in service by the Public Service Commission of Bihar.

19. The Division Bench of the High Court held that the result of the examination pertaining to A Series of question paper stood vitiated as the key answers used for evaluating the answer sheets were defective.

20. The aforesaid judgment and order of the High Court was upheld by the Supreme Court.

21. In Vikas Pratap Singh and others Vs. State of Chhattisgarh and others (2013) 14 SCC 494 the dispute again related to the recruitment examination conducted by the Chhattisgarh Professional Examination Board.

22. The Court held that the Board committed an error in the matter of evaluation of the answer scripts by using incorrect key answers and the said mistake cannot be attributed to the candidates so as to vitiate their selection.

23. The last decision in the above series is that of the Division Bench of the Supreme Court in the case of Ran Vijay Singh and others Vs. State of U.P. and others 2018 (1) ESC 7 (SC).

24. The controversy in the above case was regarding the examination conducted by the U.P. Secondary Education Services Selection Board. The Apex Court considering all earlier decisions on the subject and summarised the law on the subject as under:-

The law on the subject is therefore, quite clear and we only propose to highlight a few significant conclusions. They are:-

"(i) If a statute, Rule or Regulation governing an examination permits the re-evaluation of an answer sheet or scrutiny of an answer sheet as a matter of right,

then the authority conducting the examination may permit it;

(ii) If a statute, Rule or Regulation governing an examination does not permit re-evaluation or scrutiny of an answer sheet (as distinct from prohibiting it) then the Court may permit re-evaluation or scrutiny only if it is demonstrated very clearly, without any "inferential process of reasoning or by a process of rationalisation" and only in rare or exceptional cases that a material error has been committed;

(iii) The Court should not at all re-evaluate or scrutinize the answer sheets of a candidate-it has no expertise in the matter and academic matters are best left to academics;

(iv) The Court should presume the correctness of the key answers and proceed on that assumption; and

(iv) In the event of a doubt, the benefit should go to the examination authority rather than to the candidate."

25. From bare reading of the aforesaid judgment of the Apex Court, one thing can safely be culled out that the Apex Court has repeatedly held that the Court should be very slow, cautious and circumspect in interfering in the process of selection. The prime reason for recognizing the power of review is that purity or fairness of selection process should be maintained and further the student should not suffer for the fault of the Commission as the career of a student is at stake.

26. The powers to review the selection process have been recognized by the Courts but the scope of review is very limited and the Court can re-evaluate or scrutinise the selection process, if it could be demonstrated very clearly and without ambiguity that a material error has been committed in the framing of questions or answers notified in the Key Answer Sheet by the commission. The courts are restrained from adopting any inferential process of reasoning or a process of rationalisation to see as to whether any material error has been committed in framing the Questions or in the answers notified by the commission in the Key Answer Sheet.

27. Thus, the Court while re-evaluating/scrutinizing cannot adopt the inferential process of reasoning or a process of rationalisation to analyse the correctness of the answer of the Commission notified in the key answer sheet.

28. Keeping in view the limited scope of the judicial review to examine the correctness of the key answers, we would deal with each question tabulated in the chart given in the earlier part of the judgment on the basis of the material placed before us by the respective parties in support of their contentions.

29. 1-Question No.2/75/136/48 of series A, B, C & D respectively.

Amount of rain depends on:

(a) Air pressure

(b) Humidity in atmosphere

(c) Water cycle

(d) Temperature According to the Commission, the correct answer of the aforesaid question is option '(b)' i.e. Humidity in atmosphere, but as per the petitioners the correct answer is option '(d)'.

30. The petitioners have relied upon the topic 'Convectional Rain' defined as one of the three categories of Rain explained under the heading 'Types of Rainfall' in Chapter 11 of a textbook of Class XI titled as 'Water in the Atmosphere of Fundamentals of Physical Geography' published by the National Council of Educational Research and Training (hereinafter referred to as 'NCERT'), which is reproduced herein below:-

"The, air on being heated, becomes light and rises up in convection currents. As it rises, it expands and loses heat and consequently, condensation takes place and cumulous clouds are formed. With thunder and lightening, heavy rainfall takes place but this does not last long. Such rain is common in the summer or in the hotter part of the day. It is very common in the equatorial regions and interior parts of the continents, particularly in the northern hemisphere."

31. The Commission has relied upon the topic 'Humidity' from the textbook namely 'Physical Geography' published by Vasundhara Publication, Gorakhpur. The relevant extract is reproduced herein below:-

vknzZrk ¼ Humidity) ok;q esa fLFkr ty dk xSlh; :i ¼ ok"i½ gh ok;qe.My dh vknzZrk ;k ueh gksrk gSA ;g vknzZrk i`Foh ls ok"ihdj.k ds fofHkUu :iksa ls ok;qe.My esa igqWprh gSA vknzZrk dk tyok;q foKku esa lokZf/kd egRo gksrk gS] D;ksafd blh ij tyo"kkZ rFkk o"kZ.k ¼ precipitation½ ds fofHkUu :i] ok;qe.My;h rwQku rFkk fo{kksHk ¼ pdzokr vkfn½ vkfn vk/kkfjr gksrs gSA ok;qe.My dh vknzZrk dh fof"k"V vknzZrk ¼ specific humidity½] fujis{k vknzZrk ¼ absolute humidity½ rFkk lkisf{kdk vknzZrk ¼ relative humidity½ ds :i esa izdV djrs gSaA

32. A glance upon the text relied upon by the petitioner extracted above does not convey that the amount of rain depends upon the temperature; on the other hand the text relied upon by the Commission clearly suggests that the amount of rain depends on humidity. The reasons are well explained in the text relied upon by the Commission. Thus, the answer of the Commission with regard to the aforesaid question is not incorrect.

33. 2-Question No.12/85/139/51 of series A, B, C & D respectively.

Which of the following are the primary causes of climate change?

1. Excessive burning of fossil fuels
 2. Exploding numbers of automobiles driven by oil
 3. Increasing solar flares
 4. Heavy deforestation
- Select the correct answer using the code given below:

Codes:

(a) 2 and 3 only (b) 1, 2 and 4 only

(c) 1, 2 3 and 4 (d) 1 and 4 only The correct answer of the aforesaid question, according to the Commission is option '(b)' of the codes, but according to the petitioner the correct answer is option '(c)'.

34. The petitioner has relied upon two books one titled as 'Jalwayu Vigyan' written by Savindra Singh and another book namely 'Bhugol' authored by D.R. Khullar. In support of his submission, the petitioner has heavily placed reliance upon a topic 'Jalwayu Parivartan ke Karan tatha Siddhant' from the book Jalwayu Vigyan, which is reproduced herein-below:-

**15-5 tyok;q ifjoZru ds dkj.k rFkk fl)kar

-----tyok;q ifjoZru ds egRoiw.kZ dkj.kksa ,oa fl)karksa dk fuEu :i esa lwphdj.k (listing) fd;k tk ldrk gS% $\frac{1}{4}1\frac{1}{2}$ lkSf;Zd fdjf.kr ÅtkZ (solar irradiance)] vFkkZr~ lkSj fofdj.k esa fofHkUurk] $\frac{1}{4}2\frac{1}{2}$ lkSj dyad pdz**

35. The Commission in respect of its answer has placed reliance upon the date of web publication dated March 20, 2003 by NASA Study which defines increasing solar trend that can change the climate. Relevant portion of the Web Publication is reproduced herein-below:-

"Although the inferred increase of solar irradiance in 24 years, about 0.1 percent is not enough to cause notable climate change, the trend would be important if maintained for a century or more. Satellite observations of total solar irradiance have obtained a long enough record (over 24 years) to begin looking for this effect."

36. The Commission from the above text has demonstrated that the inferred increase of solar irradiance in 24 years is about 0.1 percent which is not enough to cause notable climate change. The question is about the 'primary causes of climate change' and a reading of the text of the Commission in the light of the question asked leaves no room of doubt that the answer no. '(b)' notified by the Commission is the correct answer.

37. If we go through the text relied upon by the learned counsel for the petitioner, it nowhere suggests that increase towards solar flares is also one of the primary cause of climate change. Thus,

we find that the answer of the aforesaid question given by the Commission, i.e. Codes '(b)' is correct.

38. 3-Question No.24/97/1/69 of series A, B, C & D respectively What is meant by a Bullock--Capitalist?

(a) Farmers who are poor

(b) Farmers who are rich.

(c) Farmers who have some resources but are not rich.

(d) Farmers who are big Zamindars The aforesaid question has been disputed only by one petitioner in Writ Petition No.6606 of 2018. The correct answer as per the Commission is option '(c)', but according to the petitioner the correct answer is option '(d)'.

39. The said submission has been made by the petitioner on the basis of the averment made in the paragraph 18 of the said writ petition which states that as per Quora reacher paper, the correct answer of the aforesaid question is option '(d)'. The petitioner has not placed any material in support of his submission nor there is anything on record to indicate that the answer suggested by the petitioner is correct. Therefore, we hold that answer of the Commission with regard to the aforesaid question is correct.

40. 4-Question No.33/113/17/79 of series A, B, C & D respectively.

Which among the following systems of levying land revenue in Deccan was prevalent during the reign of Akbar?

(a) Kankut

(b) Number of ploughs

(c) Zabt

(d) Ghallabakshi According to the Commission, the correct answer of the aforesaid question is option '(b)' which according to the petitioner is an incorrect answer.

41. The petitioner in support of his submission has relied upon the books titled as "Bhartiya Itihas" authored by V.K. Agnihotri, another book titled as "Madyakalin Bharat Ka Itihas" authored by Dr. Vipin Bihari Sinha, Gyananda Publication, New Delhi and the last textbook titled as "Medieval India (A Textbook for Classes XI and XII)" authored by Satish Chandra published by NCERT.

42. Learned counsel for the petitioner on the basis of the aforesaid text book has submitted that it is manifest from the reading of the texts from the aforesaid books that Shahjahan was the first emperor who had introduced the land revenue system in the Deccan region and appointed one

Murshid Kuli Khan as Governor to realize the land revenue. Further submission of the learned counsel for the petitioner in this regard is that Murshid Kuli Khan had divided the land according to its fertility, and accordingly categorized the land for the purposes of levying revenue on the land.

43. It is further submitted that Shajahan introduced different systems of levying the revenue depending upon the fertility of the land. These systems were called Zabti system, Galla Bakshi system etc.; the Zabti system was for fertile area, and the Galla Bakshi system was for the less rain fall area which were not fertile. On the strength of the aforesaid submission, learned counsel for the petitioner has submitted that the answer '(b)' notified by the Commission in final key answer is not correct.

44. The Commission in support of the key answer has relied upon a book namely "The Agrarian System of Mughal India" authored by Irfan Habib. The relevant portion from chapter "Land Revenue" from the aforesaid book relied upon by the Commission is reproduced herein-below:-

"..... But in Berar, Bengal and Kashmir, nasaq must have existed in very different forms Berar, we are told, was "nasaqi" from ancient times, so that the term nasaq is here applied to a system untouched by Mughal innovations. It must then be identical with the time-honoured method of levying revenue in Mughal Dakhin, described by Sadiq Khan. This consisted of applying customary rates to the number of ploughs in a village, without reference to the land cultivated or the size of the actual harvest.

For Mughal Kakhin, the A in provides us with no relevant information beyond saying that Berar was under nasaq. Sadiq Khan, however, tells us that in the Dakhin provinces neither measurement nor crop-sharing had been followed "since ancient times". "On the contrary," he says, "the established practice was that each of the villagers and peasants tilled as much land as he could with a plough and pair of oxen, grew what crop he liked, whether foodgrains or pot-herbs, and paid to the authorities (sarkar) a little money on each plough varying with the territory and the parganas; and there was no (further) enquiry about, or regard paid to, the quantity of the crop."

On the basis of aforesaid text, learned counsel for the Commission has submitted that the system of levying land revenue was "number of ploughs" in a village without reference to the land cultivated or the size of the actual harvest.

45. The question asked is as to "what system was prevalent for levying land revenue in the Deccan during reign of Akbar". If we analyse the submission of the learned counsel for the petitioner in the light of the aforesaid question, we find that the learned counsel for the petitioner has tried to justify the answer upon a system developed during the reign of Shahjahan. For this reason, the answer suggested by the petitioner with regard to aforesaid question cannot be the correct answer. Consequently, we are of the opinion that the answer of the Commission is not incorrect with regard to the aforesaid question.

46. 5-Question No.35/108/12/81 of series A, B, C & D respectively.

Consider the following statements and select the correct answer from the codes given below the statements:

Assertion (A) : Generally India had a favourable balance of trade during the British rule.

Reason (R) : The drain of wealth took the form of unrequited

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Codes :

(a) Both (A) and (R) are true and (R) is the correct

(b) Both (A) and (R) are true but (R) is not the correct

explanat

(c) (A) is true but (R) is false.

(d) (A) is false but (R) is true.

With regard to the aforesaid question, the correct answer of the Commission as notified in the key answer is option '(a)', whereas as per the petitioner, the correct answer is option '(d)'.

47. The petitioner in support of his contention has relied upon the books titled as "Adhunik Bharat Ka Itihas" authored by B.L. Grover and "Bhartiya Arthvyawastha Ka Vikas (Text book for Class XI)' published by NCERT. The relevant extract from text book Adhunik Bharat Ka Itihas is reproduced herein-below:-

****vkSifuosf'kd 'kklu ds v/khu Hkkjrh; vFkZO;oLFkk**

-----1813 ds i'pkr bl vkfFkZd fudkl us *vizfrQy fu;kZr* dk :i /kkj.k dj fy;kA dqN viokn ds 'kq: ds o"kkZsa dks NksM+dj Hkkjr dk baxyS.M ds lkFk f}rh; fo'o ;q) rd izfrdwy O;kikj larqyu (unfavourable balance of trade) gh cuk jgkA bl fudkl fl)kar dk eq[; i{k ;g gS fd Hkkjr ds jk"Vªh; mRiknu dk dqN Hkh Hkkx Hkkjr dh turk ds mi;ksx vFkok iwath fuekZ.k ds fy, miyC/k ugha FkkA og dsoy jktfufrd dkj.kksa ds fy, baXyS.M esa Hkstk tk jgk Fkk vkSj Hkkjr dks mlds izfrdkj ds :i esa dqN Hkh ugha feykA**

48. The relevant extract from text book "Bhartiya Arthvyawastha Ka Vikas' is reproduced herein-below:-

****1-5 fons'kh O;kikj izkphu le; ls gh Hkkjr ,d egRoiw.kZ O;kikj ns'k jgk gS] fdarq vkSifuosf'kd ljdkj }kjk viukbZ xbZ oLrq mRiknu] O;kikj vkSj lhek 'kqYd dh izfrc/kdkjh uhfr;ksa dk Hkkjr ds fons'kh O;kikj dh lajpuk] Lo:i vkSj vdkdj ij egqr izfrdwy izHkko iM+kA ifj.kkeLo:i Hkkjr dPps mRikn tSl; js'ke] dkl] Åu] phuh] uhy vkSj iVlu vkfn dk fu;kZrd gksdj jg x;kA lkFk gh ;g lwrh] js'keh] Åuh oL=ksa tSlh vafre**

miHkksDrk oLrqvksa vkSj baxySaM ds dkj[kkuksa esa cuh gYdh e'khuksa vkfn dk vk;krd Hkh gks x;kA O;kogkfjd :i ls baXySaM us Hkkjr ds vk;kr&fu;kZr O;kikj ij viuk ,dkf/kdkj tek, j[kkA Hkkjr dk vk/ks ls vf/kd O;kikj rks dsoy baXySaM rd lhfer jgkA**

49. The relevant extract from the topic 'The Drain of Wealth' from a book titled as " History of Modern India' authored by Bipin Chandra relied upon by the petitioner is reproduced herein-below:-

"The Drain of Wealth.

The British exported to Britain part of India's wealth and resources for which India got no adequate economic or material return. This 'economic drain' was peculiar to British rule. Even the worst of previous Indian governments had spent the revenue they extracted from the people inside the country."

50. Learned counsel for the Commission has relied upon the English version of a text book "Modern Indian History (A New Look)' authored by B.L. Grover. The relevant portion from the aforesaid textbook relied upon by the Commission is reproduced herein-below:-

"From 1813 onwards economic drain took the form of 'unrequited' exports. Barring a few exceptional years, favourable balance of trade had been the normal feature of our foreign trade till the outbreak of World War II."

51. Learned counsel for the petitioners contended that if a reasonable analysis of the extracts of the book relied upon by them is done; it is clear that the favourable balance of trade was not possible during British Rule and therefore, the answer suggested by them i.e. codes '(d)' is the correct answer.

52. While dealing with the aforesaid submission, we must keep it mind that the scope of judicial review with regard to the correctness of the answer in the question paper is very limited. Unless and until, it is demonstrated without any ambiguity that the answer suggested by the Commission in key answer is patently wrong only then the court can interfere with the answer suggested by the Commission. In the instant case, we have gone through the material relied upon by the petitioner, and what we find is that we have to take recourse to the inferential process of reasoning in order to arrive at the conclusion that the answer suggested by the Commission is not correct, which we are afraid we cannot do. Accordingly we refrain from interfering with the answer suggested by the Commission on the aforesaid question.

53. 6-Question No.38/111/15/77 of series A, B, C & D respectively.

Consider the following statements:

1. The early chaityagrihas and viharas of Guntuphalli in West Godavari district are rock cut.

2. The chaityas and viharas of Eastern deccan are usually rock cut.

Of these statements:

(a) Only 1 is correct

(b) Only 2 is correct

(c) Both 1 and 2 are correct

(d) Neither 1 nor 2 is correct With regard to the aforesaid question, the correct answer as notified by the Commission in the key answer-sheet is option '(c)' whereas according to the petitioner, the correct answer is option '(a)' . 54. In support of his submission, the petitioner has relied upon the extract from the book titled as "Bhartiya Kala" written by Professor Jay Narayan Pandey.

55. The petitioner has also placed reliance upon Question no.18, Paper-III of Indian Culture, UGC-NET December 2013, which is identical to the aforesaid question and the same is reproduced herein-below:

"18. Consider the following statements:

Assertion (A) : The early Chaityagrihas and Viharas of Guntuphalli in West Godavari district are rock cut. Reason (R) : The Chaityas and Viharas of Eastern Deccan are usually rock-cut.

In the context of above statements, which one of the following is correct?

(A) Both (A) and (R) are true and (R) is the correct explanation of (A).

(B) Both (A) and (R) are true but (R) is not the correct explanation of (A).

(C) (A) is true, but (R) is false.

(D) (A) is false, but (R) is true."

As per the answer key of UGC-NET December 2013, the answer of the aforesaid question is option '(C)' i.e. (A) is true, but (R) is false. Relying upon the aforesaid material, learned counsel for the petitioner has contended that the answer to the aforesaid question is '(a)' and not '(d)'.

56. The Commission in support of its submission with regard to the aforesaid question has relied upon a textbook "Indian Architecture (Buddhist and Hindu Periods)" written by Percy Brown. The relevant portion of Chapter VIII titled as "Buddhist Architecture in Southern India" of the book is reproduced herein-below:-

"There are two sites where rock-cut architecture is in evidence, one at Guntupalle in the Kistna district, and the other on the Sankaran Hills in the Vizagapatam district. The former has been already referred to, because, it is here that the small circular chamber has been found which explains the kind of shelter that was first erected over the stupa- the beginning of the chaitya hall (Plate VIII, Fig.7). This chamber is 18 feet in diameter, and the domical roof with its circular ribbed framework is 14 feet 9 inches in height, the whole suggesting a primitive hut, its early origin being proved by the design of the doorway, which, on grounds of style, cannot be very much later than that of the Lomas Rishi in the Barabar Hills. It has been presumed therefore that this rock-cut retreat at Guntupalle may have been begun as early as 200 B.C. The remainder of this sangarama consists of two separate groups of chambers forming a large and a small monastery, the ruins of a brick-built chaitya hall, and many stupas of various sizes most of them rock-cut, although there are a few structural."

57. From the material relied upon by the petitioner, the answer to the aforesaid question is not clear. Further submission of the petitioner on the strength of the key answer of UGC-NET December, 2013 (Paper-III) cannot be made basis for discarding the answer notified by the Commission inasmuch as there is no material on the record to suggest that the Answer of the aforesaid question notified by the Examining Body of the UGC-NET December 2013 is correct, and further the key answer of the aforesaid question has been notified by the Commission on the recommendation of expert body constituted for the purpose. Thus, we do not find any error in notifying the correct answer as option '(c)' with regard to the aforesaid question by the commission.

58. 7- Question No.56/129/33/105 of series A, B, C & D respectively.

Which amongst the following is the largest glacier?

(a) Sasaini

(b) Gangotri

(c) Zemu

(d) Siachin

With regard to the aforesaid question, the Commission has notified option '(d)' i.e. Siachin is correct answer, but according to the petitioner the correct answer is option '(a)' i.e. Sasaini.

59. The petitioners in support of their submission have relied upon four text books titled as "Bhautik Bhugol Ka Swaroop" written by Savindra Singh, "Bharat Ka Bhugol (Geography of India)" written by Professor Ram Chandra Tiwari, "Geography of India" written by V.S. Chauhan and Alka Gautam and "Physical Geography (Introduction to Earth)" written by K. Bharatdwaj. According to the aforesaid fourth text books, the length of Siachin is 72 kilometers. Further, three books relied upon by the petitioners states that the length of Sasaini is 158 kilometers, and one book titled as "Geography of India" provides that length of Sasaini is 157 Kms. Thus, the learned counsel for the petitioner has contended that the book titled as "Bharat Ka Bhugol (Geography of India)" written by Professor Ram Chandra Tiwari relied upon by the commission giving the length of Siachin and Sasaini as 72

kilometers and 68 kilometers respectively is not correct, and thus, the option '(d)' notified as correct answer by the Commission is not correct answer.

60. It is manifest from the perusal of four text books relied upon by the petitioner that the length of Sasaini is 157/158 kilometers whereas Siachin is 72 kilometers. In this regard, one thing is to be noticed that the aforesaid question speaks about "largest glacier" and the Commission has notified option (d) as correct answer in the key answer book on the basis of the length of glacier inasmuch as according to the said book, the length of Siachin is 72 Kilometers whereas Sasaini is 68 Kilometers. Thus, from the answer and material relied upon by the commission, it is manifest that the criteria to determine the largest Glacier is the length of the Glacier.

61. Considering the fact that four text books relied upon by the petitioners have stated that the length of Sasaini is 157/158 Kilometers whereas the Commission has relied upon one text book, according to which the length of Sasaini is 68 Kilometers. Thus, it is apparent that the answer notified by the Commission with regard to the aforesaid question cannot be said to be a correct answer, particularly, in view of the fact that the Commission has relied upon only one text book whereas according to the four text books relied upon by the petitioners, the length of Sasaini is 157/158 Kilometers. Consequently, we find that the key answer with regard to the aforesaid question notified by the Commission is not correct answer. Thus, we hold that the correct answer of the aforesaid question is option '(a)', i.e. Sasaini.

62. 8- Question No.67/140/44/106 of series A, B, C & D respectively.

Which of the following Iron and Steel plants is not close to raw material area?

- | | |
|----------------|--------------|
| (a) Jamshedpur | (b) Rourkela |
| (c) Durgapur | (d) Salem |

According to the final answer key notified by the Commission, the correct answer of the aforesaid question is option '(c)' i.e. Durgapur whereas according to the petitioner, the correct answer of the aforesaid question is option '(d)' i.e. Salem.

63. The petitioner in support of his submission has relied upon the relevant extract from text book titled as "Bharat Log Aur Arthvyastha" published by NCERT, which is reproduced herein-below:-

**dPpk eky Hkkj&gzkl okys dPps eky dk mi;ksx djus okys m|ksx mu izns'kksa esa LFkkfir fd, tkrs gSa tgkW ;s miyC/k gksrs gSaA Hkkjr esa phuh feysa xUuk mRiknd {ks=ksa esa D;ksa LFkkfir gSa\ blh rjg} yqxnh m|ksx] rkWck izxyu vkSj fix vk;ju m|ksx vius dPps eky izkfIr ds LFkkuksa ds fudV gh LFkkfir fd, tkrs gSaA yksgk&bLikr m|ksx esa yksgk vkSj dks;yk nksuksa gh Hkkj g~kl okys dPps eky gSa blhfy, yksgk&bLikr m|ksx dh fLFkfr ds fy, vuqdwyre LFkku dPpk eky lzksrksa ds fudV gksuk pkfg,A ;gh dkj.k gS fd vf/kdka'k yksgk&bLikr m|ksx ;k rks dks;yk {ks=ksa

1/4cksdkjks] nqxxZiqj vkfn1/2 ds fudV fLFkr gSA vFkok ykSg v;Ld ds lzksrksa
1/4Hknzkorh] fHkykbZ vkSj jkmjdsyk1/2 ds fudV fLFkr gSA**

64. The Commission in support of the answer key has relied upon a book titled as "Bharat Ka Bhugol (Geography of India)' written by Professor Ram Chandra Tiwari. The said text took relied upon by the Commission details the establishment of Hindustan Steel Limited (HSL), Durgapur and also Salem Ispat Sanyantra. The extract with regard to the Hindustan Steel Limited (HSL), Durgapur and Salem Ispat Sanyantra are reproduced herein-below:-

5- fgUnqLrku LVhy fyfeVsM 1/4HSL1/2 nqxxZiqj& bl dkj[kkus dk fuekZ.k 1962 esa fczVsu ds lg;ksx ls io caxky ds o/kZeku ftys esa dksydkrk ls 160 fdeho mRrj&if'pe vklulksy ds ikl fd;k x;k gSA bls >fj;k dks;yk [knku] nkeksnj ?kkVh ifj;kstuk] dksydkrk uxj vkSj iRru dh lehir dk ykHk izkIr gSA bls ykSg v;Ld xqvk {ks= ds cksyuh [knku ls] dks;yk >fj;k vkSj cjkdk dh [kkuksa ls] pwuk iRFkj chjfe=iqj vkSj gkFkhckM+h {ks=ksa 1/4lqUnjx<+ ftyk1/2 ls eSaxuht tenk 1/4D;ksa>j ftyk1/2 ls] ty nkeksnj unh ls] vkSj fctyh DVC ls izkIr gksrh gSA ;gkW eq[;r% jsy dh ifg;k] /kqfj;kW] iVfj;kW] NM+sa] drjus vkfn cuk;h tkrh gSA bldh {kerk izfro"KZ 16 yk[k Vu buxkV LVhy] 3-6 yk[k Vu **8-lyse bLikr l;a=& bl dkj[kkuk dk fuekZ.k lyse ftyk 1/4rfeyukMq1/2 esa fd;k x;k gSA 1/4ekpZ 1982 esa mRiknu 'kq:1/2A bls ikl ds {ks= esa izpqj ykSg v;Ld] pwuk iRFkj] ykSg feJ /kkrq vkSj Å"e lg inkFkZ] fctyh vkSj usosyh ls fyXukbV miyC/k gSA blesa fo'ks"k fdLe dk bLikr cuk;k tkrh gSA bldh okf"kZd {kerk 2-2 yk[k Vu bLikr cukus dh gSA 1997&98 esa blus 1-77 yk[k Vu fedzh ;ksX; bLikr dk mRiknu fd;kA

65. The material relied upon by the Commission demonstrates that certain raw materials used for manufacturing of steel are found in near vicinity of the Durgapur plant. Similarly, if we look at the details of Salem Ispat Sanyantra given in the text book relied upon by the commission, we find that number of raw materials used for manufacturing the steel are found in near Salem Plant.

66. We further find from the material of the commission that some of the raw materials used for manufacturing or producing the steel and iron are found in the near each of the city named as option for answer to the aforesaid question. In this regard, one thing we should need to consider is that for manufacturing steel or iron, a number of raw materials are to be used. The question does not specify which raw material used in manufacturing the iron and steel are not found in the vicinity of the places given as option to the aforesaid question. In this way, it is manifest that the answer to the aforesaid question can also be option '(d)' besides option '(c)' on the basis of material places relied upon by the Commission.

67. Thus, if we look at the construction of the aforesaid question, all four options to answer of aforesaid question can be correct on the strength of material relied by the commission. Thus, in our view, the aforesaid question is not correctly framed and requires to be deleted.

68. 9- Question No.79/2/56/127 of series A, B, C & D respectively.

Which one of the following organs will not feel any pain on being pricked by a needle?

- | | |
|-----------|-----------|
| (a) Skin | (b) Brain |
| (c) Heart | (d) Eye |

According to the Commission, the correct answer of the aforesaid question is '(b)' whereas according to the petitioner the aforesaid answer is not correct.

69. The petitioners contends that the aforesaid question is not correct question. Learned counsel for the petitioners in this regard has submitted that even if a needle is pricked in any organ of the body part, the pain will be there. Learned counsel for the petitioner has not placed any material to buttress the aforesaid submission. In our opinion, the contention of the petitioners with regard to the aforesaid question is misconceived and has no substance. Accordingly, the same is rejected.

70. 10- Question No.95/18/72/134 of series A, B, C & D respectively.

If an unsaturated sugar solution is prepared by mixing 100 grams of sugar with half litre of water, which of the following physical quantities will not change?

(a) mass (b) density

(c) concentration (d) volume According to the Commission, the answer to the aforesaid question is option '(a)', according to some of the petitioners, the correct answer is option '(d)', but according to the petitioner in Writ Petition No. 7177 of 2018, both the options '(a)' and '(d)' of the aforesaid question are correct.

71. The petitioners in support of their submission have relied upon a book titled as "Prayogik Rasayan Evam Rasaynik Gannayan" written by Dr. Motilal Verma. Though, the petitioner has annexed the extract of the aforesaid book with Writ Petition No.7177 of 2018, but they could not demonstrate from the aforesaid extract as to how option '(d)' is also a correct answer.

72. The Commission has relied upon the relevant extract from "Teaching Science as Modeling Inquiry", the same is reproduced herein-below:-

"Richard Mayer, Jay K. Hackett, Susan A. Everett-2007 - Snippet view When substance are combined in solutions, their mass is conserved- that is, the sum of the masses of the solute and the solvent will equal the mass of the solution. Their volume, however, is not conserved- the volume of the solution is less than the sum of the volumes of the solvent and solute. This happens because space between the molecules of the solvent (in this case water) is filled with the sugar molecules. Volume is also not conserved in many mixtures that are impure..."

On the basis of the aforesaid extract, the Commission has submitted that option '(a)' is the correct answer.

73. While dealing with the aforesaid contention, we have to keep in mind the limited scope of judicial review with regard to the correctness of the answers in the selection. According to some of the petitioners, option (a) is also the correct answer. As regards the fact that whether option '(d)' is also the correct answer or not, we can reach about the correctness of the answer of option '(d)' only by applying the process of reasoning which we are afraid is not permissible and beyond the scope of judicial review.

74. Thus, in our considered opinion, the answer notified by the Commission with regard to the aforesaid question is correct; for two reasons, the first is that we cannot apply the process of reasoning to judge the correctness of answer of the aforesaid question; Secondly, the Apex Court in the case of Ran Vijay Singh (supra) has held that in the event of a doubt, the benefit should go to the examining authority rather than to a candidate. Thus, as indicated above, there is a doubt about the correctness of the answer suggested by the petitioners amongst themselves, therefore, we are of the view that the answer notified by the Commission is to be treated a correct answer.

75. 11-Question No.96/19/73/135 of series A, B, C & D respectively.

A mobile phone charger is

(a) An inverter

(b) A UPS

(c) A step up transformer

(d) A step down transformer As regards the aforesaid question, the correct answer notified by the Commission is option '(d)', but according to the petitioner the aforesaid question is not correct and therefore, it should be deleted.

76. In support of its submission, learned counsel for the petitioner has relied upon some material titled as "Study of Cellphone Chargers" authored by Suraj Hebbar. The relevant extract of the Study of Cellphone Chargers is reproduced herein-below:-

"2. Theory Phones have rechargeable batteries inside which need to be charged with a DC voltage (slightly higher than the battery voltage). Simple phone charges provide this DC voltage. Most of the charges work as follows. These accept AC power supply which gets down converted to smaller AC voltage through a transformer and is followed an AC-DC convertor (rectifier)."

77. As already stated that while judging the correctness of an answer notified in the key answer by the Commission, we cannot apply the process of reasoning. Accordingly, on the touchstone of the limited scope of power of judicial review to appraise the correctness of an answer notified by the commission, we hold that the answer given by the Commission with regard to the aforesaid question is the correct answer.

78. 12-Question No.98/21/80/142 of series A, B, C & D respectively.

Television viewers using dish antenna to receive satellite signals do not receive signals during rain because:

- (a) of small size of antenna.
- (b) rain droplets absorb the energy of radio waves.
- (c) rain droplets disperse the energy of radio waves from their original direction.

Which of the above statements are correct?

- | | |
|------------------|------------------|
| (a) only 1 | (b) only 1 and 2 |
| (c) only 2 and 3 | (d) 1, 2 and 3 |

According to the Commission, the correct answer of the aforesaid question is option '(d)', but according to the petitioner the correct answer of the aforesaid question is option '(c)'.

79. The petitioner in support of his submission has relied upon a book titled as "Digital Communications' authored by V.K. Khanna. The relevant extract of the aforesaid book is reproduced herein-below:

"7.8.7. Direct-To-Home (DTH) Receive System and Interactive Video-on-Demand (VoD) Service The DTH receive system is intended for straightforward reception of a large number of TV programme channels without any dependence on cable operators. These systems function in the Ku-band (-12GHz) using 30-45 cm diameter dish antennae. A small-size antenna suffices here because of the strong satellite signal in this frequency range. Usually, a bandwidth equal to 27 MHz is allocated to one transponder of the satellite. This bandwidth is adequate for transmission of one channel in the analog mode."

80. The Commission in support of its answer has relied upon "General Studies 2015 Paper-I for Civil Services Preliminary Examination'. The relevant portion of the same is reproduced herein-below:

"One drawback of the DTH system is that during rain the radio wave signals are weakened due to 'rain fade'. Two of the most common causes of rain fade are absorption and dispersion. When a radio wave strikes a 'rain droplet, its energy is partially or wholly converted to heat energy and is absorbed by the droplet. Also the rain droplets disperse radio waves thereby changing their initial direction. The small dish antennas do not receive the weakened signals thereby causing disruption.

Cable TV networks also work on the same principle except that they receive signals from the satellite on large community dish antennas and transmit to TV sets through fixed optical fibres or coaxial cables.

Rain fade does not affect cable TV network because of their large antenna."

81. It is relevant to point out that from a plain reading of the text relied upon by the petitioner; it is not manifest that option '(c)' is the correct answer. In order to appreciate the correctness of the submission of the learned counsel for the petitioner, we have to apply the process of reasoning, which we are afraid we cannot do in view of the repeated pronouncements of the Apex Court noticed in the earlier part of the judgment limiting the power of judicial review to test the correctness of an answer, and further the Apex Court has repeatedly held that in case of doubt the benefit should go to the examining body. Accordingly, we hold that the answer notified by the Commission with regard to the aforesaid question is correct and do not call for any interference by us.

82. 13-Question No.100/23/77/139 of series A, B, C & D respectively.

Given below are two statements :

Assertion (A) : According to the World Health Organization (WHO) in 1993, there were 16.5 million deaths due to infectious diseases world wide.

Reason (R) : Urbanisation without health planning leads to the spread of such diseases.

Choose the correct answer from the codes given below:

Codes:

- (a) Both (A) and (R) are true and (R) is the correct
- (b) Both (A) and (R) are true but (R) is not the correct explanat
- (c) (A) is true but (R) is false.
- (d) (A) is false but (R) is true.

According to the Commission, the correct answer is option '(b)', but according to the petitioner in Writ Petition No.7646 of 2018, no option is correct and, therefore, the question is liable to be deleted.

83. According to the petitioner in Writ Petition No.6606 of 2018, the correct answer of the aforesaid question is option '(a)'. The petitioner in Writ Petition No.6606 of 2018 has relied upon the "Annual Survey of Environment 1997" published in the Hindu Newspaper and "World Health Report Press Release in 1996". The petitioner in Writ Petition No.7646 of 2018 has relied upon a report published

in "World watch Institute'.

84. The Commission in support of key answer has relied upon a book titled as "Social and Economic Development Volume IV Encyclopedia of Life Support Systems'. The relevant extract relied upon by the Commission is reproduced herein-below:

"4.1. Increase of Infectious DiseasesThe World Health Organization estimates that they cause approximately 37% of all deaths worldwide. The Worldwatch Institute's inventory found that in 1993, 16.5 million people died from infectious diseases (such as respiratory infections, diarrhea, tuberculosis, malaria, measles and hepatitis B) compared to 6.1 measles, and hepatitis B) compared to 6.1 million from cancer and 5 million from heart disease."

85. The petitioners have not been able to demonstrate from the materials produced by them that the key answer notified by the Commission is incorrect. Further, it is noticed that as per the petitioner in Writ Petition No.7646 of 2018, none of the options in answer to the aforesaid question given by the Commission are correct. Thus, there is a doubt about the correctness of the answer with regard to the aforesaid question amongst the petitioners. The Commission has also relied upon a text which indicates that the correct answer of the aforesaid question is option '(b)'. Accordingly, we find that the Commission has not committed any error in notifying option '(b)' as the correct answer to the aforesaid question.

86. 14-Question No.121/44/98/10 of series A, B, C & D respectively.

Which among the following services is not provided under Integrated Child Development Services (ICDS) scheme?

- (a) Supplementary feeding
- (b) Immunisation
- (c) Distribution of freebooks and school dress to the children
- (d) Health and Nutrition Education to 3-6 year old children.

According to the Commission the correct answer of the aforesaid question is option '(c)', but according to the petitioner in Writ Petition No.4734 of 2018, the correct answer to the aforesaid question is option '(d)'.

87. The petitioner in support of his submission has relied upon a scheme of Ministry of Women & Child Development, Government of India, according to which ICDS Scheme offers following services to the beneficiaries:

Services Target Group Service provided by

(i) Supplementary Nutrition Children below 6 years Pregnant & Lactating Mothers (P&LM) Anganwadi Worker and Anganwadi Helper (MWCD)

(ii) Immunization Children below 6 years, Pregnant & Lactating Mothers (P & LM) ANM/MO [Health system, MHFW]

(iii) Health Check-up Children below 6 years Pregnant & Lactating Mothers (P & LM) ANM/MO/AWW [Health system, MHFW]

(iv) Referral Services Children below 6 years Pregnant & Lactating Mothers (P & LM) ANM/MO/AWW [Health system, MHFW]

(v) Pre-School Education Children 3-6 years AWW [MWCD]

(vi) Nutrition & Health Education Women (15-45 years) AWW/ANM/MO [Health system, MHFW & MWCD] Service at serial no. (iv) in the aforesaid index namely Nutrition & Health Education is provided to the women between the age group of 15 to 45 years. On the strength of the aforesaid material, the petitioner contends that the ICDS Scheme does not provide any service of nutrition and health education to the children between the age group of 3 to 6, therefore, option '(d)' is also correct answer to the aforesaid question.

88. The Commission in support of its contention has relied upon the paper uploaded by the Ministry of Women Child Development Government of India. The relevant extract of the same is reproduced herein-below:-

"Services under ICDS The ICDS Scheme offers a package of six services, viz.

- Supplementary Nutrition

- Pre-school non-formal educational

- Nutrition & health education

- Immunization

- Health check-up and

- Referral services The last three services are related to health and are provided by Ministry/Department of Health and Family Welfare through NRHM & Health system. The perception of providing a package of services is based primarily on the consideration that the overall impact will be much larger if the different services develop in an integrated manner as the efficacy of a particular service depends upon the support it receives from the related services."

89. The Commission in the counter affidavit has not denied the correctness or authenticity of the material relied upon by the petitioner in support of his submission. Thus, from the plain reading of the material relied upon by the petitioner which is an authentic material downloaded from the site of the Ministry of Women Child Development Government of India, it is crystal clear that ICDS Scheme is not providing nutrition and health education to the children between the age group of 3 to 6; it is further noticeable from the aforesaid material that ICDS Scheme is also not providing the service of distribution of books, school dress to the children. Thus, the answer of the petitioner and the answer notified by the Commission is correct, in other words, options '(c)' and '(d)', both are correct answers of the aforesaid question.

90. Once, it is held that both the options '(c)' and '(d)' are correct answers, therefore, those students who have picked the option '(d)' as a correct answer, they should not suffer for the fault of the Commission for providing two options to be the correct answer to the aforesaid question. Accordingly, in our opinion, those students who had marked Option "(d)" as correct answer to the aforesaid question should be awarded marks for the aforesaid question.

91. Thus, we hold in view of the findings recorded above that the question no. Question No.67/140/44/106 of series A, B, C & D respectively should be deleted; the correct answer of the Question No.56/129/33/105 of series A, B, C & D respectively is option "(a)", i.e. Sasaini; and, options '(c)' and '(d)', both are the correct answers of the Question No.121/44/98/10 of series A, B, C & D respectively.

92. Now coming to the last issue as to what relief the petitioners are entitled to; judgments of Apex Court and this Court need to be noticed in this regard.

93. The Apex Court in the case of Rajesh Kumar (supra) has set aside the judgment of the High Court to hold the fresh selection. The Apex Court held that holding fresh selection would not be proper rather examining body should be directed to re-evaluate the answer-sheet. The relevant paragraph 19 of the said judgment is extracted herein-below:-

"19. The submissions made by Mr. Rao are not without merit. Given the nature of the defect in the answer key the most natural and logical way of correcting the evaluation of the scripts was to correct the key and get the answer scripts re-evaluated on the basis thereof. There was, in the circumstances, no compelling reason for directing a fresh examination to be held by the Commission especially when there was no allegation about any malpractice, fraud or corrupt motives that could possibly vitiate the earlier examination to call for a fresh attempt by all concerned. The process of re-evaluation of the answer scripts with reference to the correct key will in addition be less expensive apart from being quicker. The process would also not give any unfair advantage to anyone of the candidates on account of the time lag between the examination earlier held and the one that may have been held pursuant to the direction of the High Court. Suffice it to say that the re-evaluation was and is a better option, in the facts and circumstances of the case."

94. This Court also in Writ Petition No.- 28971 of 2016 (Sunil Kumar Singh and 61 others Vs. State of U.P. and 2 others) following the judgment of the Apex Court in the case of Rajesh Kumar (supra) did not quash the selection and issued directions which were proper in the facts of that case.

95. Now the next issue before us is that as to whether relief in the present writ petitions should be confined only to the petitioners alone or to all the candidates who have appeared at the preliminary examination and could have qualified the main examination by securing sufficient marks if the Commission had determined the correct key answer to Questions nos.67/140/44/106 of series A,B,C&D, Question no.121/44/98/10 of series A,B,C&D and Question no.56/129/33/105 of series A,B,C&D respectively.

96. In the case of Anurag Tripathi Vs. U.P.S.C. and others [2016 (5) ADJ 396(DB)], this court has held that purity in the selection process has to be maintained. The candidate should not suffer for the fault of the Commission in not determining correctly the key answers or in framing the defective questions. The relevant paragraph 34 of the said judgment is extracted herein-below:

"34. In our considered opinion, it is the duty of the Commission to award marks on the basis of a correct key answer. When large number of candidates appear at an examination for seeking appointments and the selection is very competitive, even one wrong answer to a question can alter the fate of many candidates. The petitioner may be entitled to appear at the main examination if he gets 301 marks because the answer to one question is correct but the Commission has marked it wrong. There may be number of candidates who could have appeared in the main examination because of the correct answer given by them to Question No.45 but which has been found to be incorrect by the Commission. We are conscious that the main examination has already been held and interviews are going on but it is also a fact that the final result has not been prepared. It would be wholly unjust to deprive such candidates who could not appear at the main examination for this reason. The purity in the selection process has to be maintained. The mistake committed by the Commission has to be rectified and the candidates who appeared at the preliminary examination cannot be made to suffer because of the mistake of the Commission. Such a course is being adopted as at present appointment orders have not been issued and only interviews are being conducted on the basis of the marks of candidates who had appeared at the main examination and the criteria determined by the Commission. In such circumstances, it is considered appropriate to direct that relief should not be confined to the petitioner alone but to all the candidates who had appeared at the preliminary examination."

97. Thus, following the dictum of the Apex Court and this Court as noticed above, we deem it proper in the facts of the present case that the relief should not only be confined to the petitioners before us, but to all those candidates who have appeared at the preliminary examination and could have succeeded had there been no error by commission in notifying the correct answer key.

98. In the instant case, we do not find it proper to direct the Commission to hold fresh Preliminary Examination rather we deem it proper that for the ends of the justice that the writ petitions should be disposed of with the following directions:

(a) The Commission shall re-evaluate the answer scripts of the preliminary examination of all the candidates by (i) deleting Questions nos.67/140/44/106 of series A,B,C&D respectively; (ii) giving full marks for Question no.121/44/98/10 of series A,B,C&D respectively to those candidates who have exercised options '(c)' or '(d)'; and (iii) giving full marks for Question no.56/129/33/105 of series A,B,C&D respectively to those candidates who have exercised option '(d)' as correct answer.

(b) The candidates who are found to have qualified in the preliminary examination as a result of re-evaluation, shall become entitled to appear in the main written examination.

(c) Some of the candidates who have appeared & qualified earlier in the preliminary examination but have failed to qualify the preliminary examination after revaluation, their candidature shall be cancelled and they shall not be entitled to participate any further in the selection process.

99. All the writ petitions are disposed off accordingly. There shall be no order as to cost.

Order Date :-30.03.2018 S.Sharma