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

% *Date of Decision: 20th December, 2024*

\+ W.P.(C) 17138/2024

ADITYA SINGH (MINOR) .....Petitioner

Through: Mr. Dhanesh Relan, Mr. Arjeet Gaur, Mr. Barinda Batra, Mr. Atul Kanti Tripathi, Mr. Suryansh Jamwal and Mr. Sachin Sharma, Advocates.

versus

CONSORTIUM OF NATIONAL LAW UNIVERSITIES .....Respondent

Through: Mr. Sandeep Sethi, Senior Advocate with Mr. Arun Srikumar, Mr. A. K. Trivedi, Mr. Ram Shankar, Mr. Yash Jagra, Mr. Shubhansh Thakur and Ms. Shreya Sethi, Advocates.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

JYOTI SINGH, J.

CM APPL. 72767/2024

1. Allowed, subject to all just exceptions.

2. Application stands disposed of.

W.P.(C) 17138/2024 and CM APPL. 72765-66/2024

3. This writ petition has been preferred on behalf of the Petitioner under Article 226 of the Constitution of India laying a challenge to the final

answer key dated 07.12.2024 declared by the Respondent for Common Law Admission Test-2025 ('CLAT-2025') for admission to five year LLB courses conducted by National Law Universities ('NLUs') in the 2025-26 session with a direction to the Respondent *inter alia* to constitute an expert committee for consideration and evaluation of the objections filed by the Petitioner on 03.12.2024 and 09.12.2024. Petitioner also seeks mandamus to the Respondent to declare the correct answers with respect to Question Nos.14, 37, 67, 68 and 100 of Question Paper Set-A.

4. Factual matrix to the extent necessary is that in response to admission notification for CLAT-2025 issued by the Respondent, Petitioner submitted online application seeking admission to five year Integrated Law Programmes conducted by NLUs. Admit card was issued to the Petitioner for appearing in the entrance examination scheduled on 01.12.2024. Petitioner appeared in the examination and was assigned Set 'A' out of the four sets of question papers i.e. Sets A, B, C and D.

5. On 02.12.2024, Respondent released the provisional answer key and invited objections from candidates on or before 03.12.2024. Petitioner avers that finding errors in the provisional answer key, he submitted detailed objections on 03.12.2024 via the online portal wherein he raised objections to Question Nos.14, 37, 67, 68, 89, 99, 100 and 102. Objections of the Petitioner with respect to Question Nos.89, 99 and 102 were sustained and accordingly either the question was deleted or the answer was modified by publishing the final answer key on 07.12.2024.

6. Petitioner states that simultaneous to the release of final answer key dated 07.12.2024, Respondent issued a notification on the same

day intimating constitution of a Grievance Redressal Committee for resolving any grievances that candidates may have with respect to CLAT-2025. Petitioner submitted a detailed representation on 09.12.2024 highlighting his grievances and pointing out discrepancies in the questions and the evaluation process as also errors in the final answer key. However, even before the grievances could be looked into, Respondent notified on 09.12.2024 that registration for counselling would take place between 09.12.2024 and 20.12.2024 and First round of counselling shall commence on 26.12.2024, on publication of the First Allotment list.

7. Petitioner has approached this Court aggrieved by rejection of his objections *qua* 5 questions. With a score of 87 marks, Petitioner's rank is 898 and pithily put, his case before the Court is that as per the scheme of examination, 0.25 marks were deducted for every wrong answer and 01 (one) mark was awarded for every correct answer and if the objections are accepted and errors corrected, Petitioner would get additional 5 marks and his ranking in the merit list will go up. It is conceded by the Petitioner that he will get admission in one of the NLUs with his present ranking, but he aspires to better his rank so as to get admission in the top 3 NLUs of the country and with this goal seeks rectification of the answer key to the extent of his objections.

8. Before moving forward, it would be useful to refer to the 05 questions against which objections have been preferred by the Petitioner along with the given options as well as the answer keys and the options exercised by the Petitioner. Relevant questions are as follows:

"**QUESTION NO. 14**

III. Punctually at midday, he opened his bag and spread out his professional equipment, which consisted of a dozen cowrie shells, a square piece of cloth with obscure mystic charts on it, a notebook, and a bundle of palmyra writing. His forehead was dazzling with sacred ash and vermilion, and his eyes sparkled with a sharp, abnormal gleam which was really an outcome of a continual searching look for customers, but which his simple clients took to be a prophetic light and felt comforted. The power of his eyes was considerably enhanced by their position—placed as they were between the painted forehead and the dark whiskers which streamed down his cheeks: even a half-wit's eyes would sparkle in such a setting. People were attracted to him as bees are attracted to cosmos or dahlia stalks. He sat under the boughs of a spreading tamarind tree which flanked a path running through the town hall park. It was a remarkable place in many ways: a surging crowd was always moving up and down this narrow road morning till night. A variety of trades and occupations was represented all along its way: medicine sellers, sellers of stolen hardware and junk, magicians, and, above all, an auctioneer of cheap cloth, who created enough din all day to attract the whole town. Next to him in vociferousness came a vendor of fried groundnut, who gave his ware a fancy name each day, calling it "Bombay Ice Cream" one day, and on the next "Delhi Almond," and on the third "Raja's Delicacy," and so on and so forth, and people flocked to him. A considerable portion of this crowd dallied before the astrologer too. The astrologer transacted his business by the light of a flare which crackled and smoked up above the groundnut heap nearby.

(Extracted with edits from "An Astrologer's Day" by R.K. Narayan)

14. Which among the following is not a trade or occupation represented in the pathway running through the town hall park?

(A) Magicians (B) Medicine sellers

(C) Auctioneers of cheap Bags (D) Sellers of Stolen Hardware

I. Answer as per provisional key:- D
II. Answer as per Final Answer Key:-D (Sellers of Stolen Hardware)
III. Answer of the Petitioner-: C (Auctioneers of cheap Bags)

QUESTION NO. 37

VII. The "Nari Shakti Vandan Adhiniyam", 2023 Act received near-unanimous support in both the Lok Sabha and the Rajya Sabha. The legislation mandates the reservation of one-third of all seats in the Lok Sabha, state legislative assemblies, and Delhi (as a union territory with an elected assembly) for women. This linking of the implementation of the Act to the implementing of two long-term exercises of census and delimitation, makes little sense to many, and sounds quite like empowerment delayed for now.

In a 2012 article 'Holding Up Half the Sky: Reservations for Women in India', Rudolf C Heredia breaks down the common misconceptions that cloud our understanding of women's political participation- "When women do attain a national leadership role it is often because they have inherited the mantle from their fathers or husbands, rather than as persons in their own right and are then projected as matriarchs, part of the joint family, complementary to the patriarchy rather than a challenge to it."

In 'Equality versus Empowerment: Women in Indian Legislature', 2023, Soumya Bhowmick makes the case for going a step beyond quotas, and to turn our attention to the complexities that shape women's agency in the country. This, he argues, would require a bottoms-up approach, rather than merely handing out reservations in a top-down manner. "In a country like India with a considerably large heterogeneous population, the dissemination of legislative power would be insufficient to protect the interests of minority groups such as women, Scheduled Castes, and Scheduled Tribes." He concludes that "implementing the idea of reservation for women would bring about descriptive representation, but its transformation into substantive representation would depend on the change in the attitudes of the people."

While the reservation of one-third of seats for women belonging to the scheduled castes and tribes under the amendment to article 330a and 332 of the constitution is a welcome step, it remains to be seen whether it fully acknowledges the complex interplay of hierarchies, socio-political relationships which also affect the extent and nature of complications that surround effective realisation of women's politics for Indian politics to emerge as a truly emancipatory space.

37. The Nari Shakti Vandan Adhiniyam 2023:

(A) Will come to force from Jan 2025

(B) Will come to force after all the States and UTs approve it

(C) Will come to force after Census

(D) None of the above

I. *Answer as per provisional key -:* ***D***
II. *Answer as per Final Answer Key-:* ***D***
III. *Answer of the Petitioner-:* ***C***

QUESTION NO. 67

XII. The Contract Act 1872 deals with contract law in India, its rights, duties, and exceptions arising out of it. Section 2(h) of the Act gives us the definition of a contract, which is simply an agreement enforceable by law. To understand the difference between void agreements and voidable contracts it is important to talk about sections 2(h). 2(a). 2(i). 2(d), 14. 16 (3) and 15,24-28 of the Indian Contact Act. Void agreements. are fundamentally invalid making them unenforceable by default. These agreements cannot be fulfilled as they consist of illegal elements and they cannot be enforced even after subjecting it to both parties. However. in the case of voidable contract, the agreement is initially enforceable but it is later on denied at the option of either of the parties due to various reasons.

Unless rejected by a party, this contract will remain valid and enforceable. The party who is at the disadvantage due to any circumstance applicable to the contract has the ability to render the agreement void. A void agreement is void ab initio making it impossible to rectify any defects in it while voidable contracts can be rectified. In case of a void agreement, neither of the parties is subject to any compensation for any losses but voidable contracts have some remedies.

A valid agreement forms a contract that may again be either valid or voidable. The primary difference between a void agreement and voidable contract is that a void agreement cannot be converted into a contract.

(Extracted with edits from A Comparative Study of Voidable Contracts and Void Agreements)

67. An agreement made by an adult but involving a minor child where the signatory is a minor child himself, this agreement would be:

(A) A valid and enforceable agreement

(B) A voidable agreement

(C) A void agreement

(D) An agreement that cannot be enforced by the minor

I. *Answer as per provisional key -:* ***B***
II. *Answer as per Final Answer Key-:* ***B*** *(A voidable agreement)*
III. *Answer of the Petitioner-:* ***C*** *(A void agreement)*

QUESTION NO. 68

68. Which of the following scenarios would most likely result in a void agreement?
(A) An agreement signed by someone under duress
(B) A contract with mutually agreed terms to sell a house
(C) An agreement to pay 10 lakhs on getting a government job
(D) A contract with a minor who understands the terms

I. *Answer as per provisional key -:* ***C***
II. *Answer as per Final Answer Key-:* ***C*** *(An agreement to pay 10 lakhs on getting a government job)*
III. *Answer of the Petitioner-;* ***D*** *(A contract with a minor who understands the terms)*

QUESTION NO. 100

XVIII. Read the information carefully and answer the questions based on the seating arrangement:

"Ram, Shyam, Rohit, Mohit, Rohan, Sohan, Mohan, Rakesh and Suresh are sitting around a circle facing the centre. Rohit is third to the left of Ram. Rohan is fourth to the right of Ram. Mohit is fourth to the left of Suresh who is second to the right of Ram. Sohan is third to the right of Shyam. Mohan is not an immediate neighbour of Ram."

100. Who is second to the left of Rakesh?
(A) Ram
(B) Mohan
(C) Mohit
(D) Data inadequate

I. *Answer as per provisional key - B*
II. *Answer as per Final Key -: D (Data inadequate)*
III. *Answer of the Petitioner-: B."*

9. Learned counsel for the Petitioner submitted that Question No. 14 was based on a comprehension passage from a work of fiction of a renowned author and the candidate was required to choose which of the trade or occupation mentioned in the 4 given options was not represented in the pathway running through the town hall park and option 'C' being *'Auctioneers of cheap Bags'*, chosen by the Petitioner was the only trade which was not represented in the pathway, which is evident from a plain reading of the passage. Respondent argued that an unlawful or illegal activity can never be trade/occupation and thus option 'D' i.e. 'sellers of

stolen hardware' in the answer key was the right answer, but this argument is untenable and overlooks the fact that Question No. 14 was a part of Questions Nos. 1 to 24 under the English Language section, wherein only the language skill of the candidate was under test and candidate was not required to delve into whether the trades mentioned in the passage were lawful. No legal reasoning was required to attempt the comprehension under this section of the question paper.

10. It was further argued that under Question No. 37, Petitioner correctly chose option 'C' i.e. *'will come into force after census'* based on the given passage, wherein it was stated that the Nari Shakti Vandan Adhiniyam Act, 2023 would come into force after the implementation of two long-term exercises of census and delimitation. In light of Option 'C' referring to one of the pre-conditions of the Act coming into force, Option 'D' which was 'none of the above', could not be the correct answer and thus the final answer key was incorrect.

11. Learned counsel contended that Petitioner chose the correct option 'C' for Question No. 67 i.e. *'a void agreement'*, since the question referred to an agreement made by an adult involving a minor child, where the signatory is a minor child himself and an agreement executed and signed by a minor is a void agreement as per Sections 10 and 11 of the Indian Contract Act, 1872. In this context, reliance was placed on the judgment of the Privy Council in the leading case of ***Mohori Bibee and Another v. Dhurmodas Ghose, 1903 SCC OnLine PC 4,*** wherein it was held that an agreement with a minor is *void ab initio.* Reliance was also placed on a recent judgment of the Supreme Court in ***Krishnaveni v. M.A. Shagul Hameed and Another, 2024 SCC OnLine SC 1903,*** wherein the Supreme Court rejected the

contention of the appellant that a contract in favour of a minor is enforceable and is not void and held that in view of the decision in ***Mathai Mathai v. Joseph Mary Alias Marykkutty Joseph and Others, (2015) 5 SCC 622,*** judgments in ***A.T. Raghava Chariar v. O.M. Srinivasa Raghava Chariar, 1916 SCC OnLine Mad 83*** and ***Thakar Das etc. v. Mst. Putli, 1924 SCC OnLine Lah 117,*** are no longer good law and thus reliance on the aforesaid decisions in the impugned judgment by the learned Judge to hold that the contract in favour of the minor is enforceable, was misconceived. In this light, Option 'B' i.e. *'a voidable contract'* is the incorrect answer.

12. Question No. 68 is '*which of the scenarios given in the 04 options would most likely result in a void agreement'* and learned counsel for the Petitioner attempted to justify that option 'D' i.e. *'A contract with a minor who understands the terms',* is the correct answer. It was argued that a contract with a minor is always void even if the minor understands the terms, but an *'An agreement to pay Rs.10 lakhs on getting a government job',* is not void. The error in the answer key has occurred on an erroneous interpretation and understanding of option 'C' to mean an agreement to pay illegal gratification to procure a Government job, but simply read, reference is to an agreement to re-pay a loan after one secures a job and has the means to pay.

13. With respect to Question No.100, it was argued that the question was based on a seating arrangement of persons sitting in a circle and from the question itself, positions of both Ram and Rakesh were clear and applying the given data, the correct option was 'Sohan', which was not even the given option and thus the question ought to be excluded. Option 'D' i.e. *'Data inadequate'*, in the answer key is not the correct answer as the question had

complete data to ascertain the position of Rakesh. It was also pointed out that another Question No. 85 in the Master Booklet, which was Question No. 97 in Set 'A', was based on the same passage as Question No.100 in Set 'A' and was withdrawn on the recommendation of the Expert Committee.

14. Learned counsel strenuously argued that Petitioner has been gravely prejudiced by the errors in the final answer key, as he has lost 01 mark each for every correct answer and 0.25 marks have been deducted treating the correct answers as wrong and if the errors are rectified, Petitioner is likely to achieve a higher score of 93.25, which will improve his existing rank. It was brought forth that *albeit* the scope of interference in judicial review in matters of correctness of answer keys in an examination process is limited, but it is not wholly insulated. The Supreme Court and this Court have time and again held that ordinarily, the answer key should be assumed to be correct unless it is proved to be wrong, not by an inferential process or reasoning, but clearly demonstrated to be wrong such that no prudent person well-versed in the concerned subject would regard the answer as the correct option. Relying on the judgments of the Supreme Court in ***Kanpur University, Through Vice-Chancellor and Others v. Samir Gupta and Others, (1983) 4 SCC 309*** and ***Rishal and Others v. Rajasthan Public Service Commission and Others, (2018) 8 SCC 81,*** and emphasising that the answer key with respect to the questions against which objections have been filed by the Petitioner is palpably and demonstrably incorrect, Petitioner seeks intervention of this Court, exercising equity jurisdiction under Article 226 of the Constitution of India, to set right, the wrong.

15. Mr. Sandeep Sethi, learned Senior Counsel appearing on behalf of the Respondent, *per contra*, submitted that the writ petition deserves to be

dismissed for multi-fold reasons. Preliminary objection is raised to the territorial jurisdiction of this Court to entertain the writ petition on the ground that Respondent is a society registered under the Karnataka Societies Registration Act, 1960 with a permanent Secretariat in Bengaluru in Karnataka. Members of the society include various NLUs, however, no NLU located within the territorial jurisdiction of this Court is a member of the Respondent consortium. It was argued that the Respondent society is based outside Delhi and all its members are also beyond the territorial boundaries of this Court. Petitioner appeared in CLAT-2025 for the purpose of seeking admission to several Colleges/Universities that are located outside Delhi and seen from the point of *forum conveniens* also, this Court lacks the territorial jurisdiction to entertain a challenge to the examination result and the writ petition deserves to be dismissed on this ground alone.

16. Without prejudice, it is submitted that Petitioner has no case on merits and the objections to the 05 questions preferred by him have no basis in law and merit rejection. Respondent follows a rigorous process of holding the examination as also for evaluating the answers. To ensure objectivity and transparency, after the examination is conducted, Respondent releases a provisional answer key as per its pre-notified schedule of events and invites objections from candidates for the answers given in the said key which in the present case was done vide Notification dated 02.12.2024. Candidates were permitted to file their objections until 04:00 PM on 03.12.2024. This is to rule out the possibility of errors before the merit list is prepared.

17. It was submitted that Petitioner availed the benefit of this Notification and filed his objections on Respondent's website to a total of 08 questions including the questions, which are the subject matter of this writ petition,

giving his own justifications for the answers, which he felt were more appropriate. Similarly, a total of 5250 objections in all were received from different candidates. To be fair to the candidates, Respondent constituted a multi-disciplinary Expert Committee comprising of distinguished professionals with expertise in different sections of the question paper i.e. 'Expert Committee' to review the provisional answer key and the objections of the candidates. The Expert Committee was chaired by a former Vice Chancellor of National University of Juridical Sciences, West Bengal and Karnataka State Law University and included 08 other experts from varied fields and was consciously not restricted to people with legal background.

18. Mr. Sethi explained that the Expert Committee analysed all objections received from the candidates threadbare. As a matter of statistics, objections were received for 93 questions out of 120 and in most cases, the number of objecting candidates was very minor, often just one. Nonetheless, each objection was given a careful and independent consideration by the experts and decision was taken after extensive deliberations. Different sections of paper and of the provisional answer key were referred to different sub-groups of the Expert Committee based on individual expertise. After reviewing the objections, the Expert Committee in its meeting dated 05.12.2024 recommended changes in two answers of the provisional answer key and withdrawal of 05 questions. The recommendation was placed before an Oversight Committee as a second tier check to ensure objectivity and robustness in the process and the Committee was chaired by a former Chief Justice of one of the High Courts and included Vice Chancellors of different prestigious Universities.

19. The Oversight Committee after its independent and separate deliberation suggested withdrawal of 04 questions in Set 'A' i.e. 89, 97, 99 and 102 and also recommended modification of provisional answers to 03 questions in Set 'A' viz. 85, 87 and 100. Withdrawal of questions was suggested where it was found that none of the suggested answer was appropriate. Final recommendation of the Oversight Committee was then referred to and approved unanimously by the Executive Committee and General Body comprising of all member Vice Chancellors of the consortium of the Respondent. It is thus evident that Respondent has adopted a rigorous internal process before finalising and publishing the final answer key on 07.12.2024 with ample opportunity to all candidates to raise their objections.

20. In light of this, Mr. Sethi urged this Court not to interfere in the examination process, as a robust internal check mechanism was in place and the final result has been published with all due care and deliberation and on the recommendation of 2 Expert Committees comprising of experts and luminaries in the field and this is amply demonstrated by the very fact that objections of the Petitioner with respect to Question Nos. 89, 99 and 102 were upheld and they were either deleted or answers were modified in the final answer key published on 07.12.2024. The Committees did not find any demonstrable error in Question Nos. 14, 37, 67, 68 and 100 and it is not for this Court to sit over the judgment of the Expert Committees and/or analyse the questions as an expert body. It is a settled law that there can be no judicial review of a decision *albeit* the decision making process is open to judicial review. In ***Ran Vijay Singh and Others v. State of Uttar Pradesh and Others, (2018) 2 SCC 357,*** the Supreme Court has held that

mathematical precision is not always possible in answers in competitive examinations and Court must consider the internal check and balances put in place by the examination authorities before interfering in the process.

21. Mr. Sethi submitted that a finality must be given to an examination process otherwise the process would be unending and this is not in public interest. The time schedule within which an examination process must be concluded is also of essence and moreover, revaluation of answer scripts is never a matter of right and in this context, relied on the judgment of this Court in ***Anushka Sharma (Minor) v. Central Board of Secondary Education (CBSE) and Another, 2023 SCC OnLine Del 2404.*** Petitioner has failed to demonstrate that the view of the Expert Committee/Oversight Committee is not even a possible or plausible view and the scope of judicial review cannot extend to substituting the views of the Court for that of an examiner and relied on the judgment of this Court in ***Freya Kothari v. Union of India & Ors, W.P. (C) 13668/2022,*** decided on 22.09.2022. For the proposition that the Courts must adopt a hands-off approach in examination and academic matter, Mr. Sethi relied on the judgments of this Court in ***Mahipal Singh v. Union of India and Others, 2024 SCC OnLine Del 4975;*** and ***Shivangi Lal through her Guardian/Father Mr. Apurb Lal v. Central Board of Secondary Education, 2019 SCC OnLine Del 9118.*** Mr. Sethi also placed heavy reliance on the decision of the Supreme Court in ***Ran Vijay Singh (supra),*** more particularly, on the observations that sympathy and compassion does not play any role in matter of directing or not directing revaluation of an answer sheet. If an error is committed by the examination authority, the complete body of candidates suffers. The entire examination process does not deserve to be derailed only because some

candidates are disappointed or dissatisfied or perceive some injustice having been caused to them by an erroneous answer or an erroneous question. The Supreme Court also observed that it was completely beyond the jurisdiction of the Court to take upon himself the exercise to actually ascertain the correctness of the key answers to the questions involved.

22. On merits, Mr. Sethi argued that option 'C' chosen by the Petitioner in response to Question No. 14 in Set 'A', is an incorrect option and option 'D' in the answer key is the correct answer. Candidates were required to answer which of the given options was not 'trade or occupation' represented in the pathway and the expression 'trade or occupation' cannot include seller of a stolen hardware, as trading in stolen goods is an unlawful activity. Anything that is illegal or unlawful cannot be termed as a trade as one cannot argue that gambling is a trade. Relying on the judgment of the Supreme Court in ***State of Bombay v. R.M.D. Chamarbaugwala and Another, 1957 SCR 874,*** it was argued that the terms 'trade' and 'occupation' cannot be read in their widest amplitude as meaning any activity which is undertaken or carried on with a view to earn profit or is commercial and must be lawful. Candidates were required to answer the questions by applying legal reasoning and not by following a method of elimination. Selling stolen goods is an unlawful activity and cannot be a trade/occupation and thus was the correct option.

23. In the context of Question No. 37, it was argued that the 2023 Act was linked to implementation of two long term exercises relating to census and delimitation and none of the options A, B and C mentioned both the pre-conditions i.e. census and delimitation and therefore the correct option was 'D' i.e. *none of the above*. Petitioner was not correct in choosing option 'C',

which provided only one condition i.e. census. Insofar as Question No. 67 is concerned, Mr. Sethi contended that an agreement by an adult involving a minor child where signatory is the minor child himself is not void *per se* but is voidable and therefore, option 'C' i.e. *a void agreement,* chosen by the Petitioner is not the correct answer. Relying on the judgment of the Privy Council in ***Sri Kakulam Subrahmanyam and Another v. Kurra Subba Rao, 1948 SCC OnLine PC 15***, it was urged that a contract with a minor is voidable and when entered into for necessity and/or benefit of the minor, can be enforced at his instance. Reference is made to Section 68 of the Indian Contract Act, 1872 to support this plea and illustratively, it is submitted that if a person A supplies to a minor B, certain necessities such as an accommodation to stay in a property, A is entitled to be reimbursed from B's property. It was also argued that once any question challenged before a Court in an examination process triggers a debate and falls in shades of grey instead of begging a black and white answer such as two plus two is four, requiring an exercise of inference or interpretation, Court must give way to the opinion of the Expert Committee and adopt a hands-off approach.

24. On Question No. 68, the argument of the Respondent was that the candidate was required to choose a most likely option of a demonstrably void agreement and since a contract with a minor is not a void contract *per se,* option 'D' exercised by the Petitioner was the incorrect answer and option 'C' as per the final answer key was the correct answer inasmuch as an agreement to pay Rs.10 lakhs on getting a government job is akin to offering illegal gratification to procure a job and being opposed to public policy, will always be a void agreement. On Question No. 100, Mr. Sethi argued that after the objection was received *albeit* Expert Committee had

suggested withdrawal of the question but the Oversight Committee after due deliberation disagreed, as the exact position of Rakesh was not known and therefore, the data was inadequate. In this light, option 'D', i.e., '*Data inadequate'* was the correct answer and the recommendation of the Oversight Committee ought to be substituted in judicial review.

25. Heard learned counsel for the Petitioner and learned Senior Counsel for the Respondent.

26. Insofar as objection of territorial jurisdiction is concerned, the same has no merit. Indisputably, Petitioner has attempted the online examination within the territorial boundaries of this Court and the issues agitated before this Court concern alleged errors in the answer key pertaining to the said examination. Therefore, part of cause of action, even though miniscule has arisen within the territorial jurisdiction of this Court and merely because the permanent secretariat of the Respondent is located at Bengaluru in Karnataka, it cannot be argued that this Court has no jurisdiction. Article 226(2) of the Constitution of India provides that power conferred on the High Court under Article 226(1) to issue writs to any authority or person may be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises, notwithstanding the seat of such authority not being within those territories.

27. Before embarking on the journey to examine the present case, it is imperative to delineate the ambit and scope of interference by this Court in matters relating to academics, particularly examinations, while exercising power of judicial review under Article 226 of the Constitution of India. It is beyond cavil that Courts do not have the expertise to evaluate or assess

answers to questions in the examinations and the scope of commenting on independent assessments, analysis and conclusions of experts, who have evaluated the answers to the questions, is even more limited and circumscribed. Supreme Court has time and again observed that Constitutional Courts must exercise great restraint in matters where challenges are laid to the correctness of the answer keys concerning competitive examinations and should be reluctant to interfere. In ***Ran Vijay Singh (supra),*** the Supreme Court, after referring to several judicial precedents, summarised the legal position as under:

> *"**30.** The law on the subject is therefore, quite clear and we only propose to highlight a few significant conclusions. They are:*
>
> ***30.1.** 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;*
>
> ***30.2.** 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;*
>
> ***30.3.** The court should not at all re-evaluate or scrutinise the answer sheets of a candidate—it has no expertise in the matter and academic matters are best left to academics;*
>
> ***30.4.** The court should presume the correctness of the key answers and proceed on that assumption; and*
>
> ***30.5.** In the event of a doubt, the benefit should go to the examination authority rather than to the candidate."*

28. In ***Uttar Pradesh Public Service Commission, through its Chairman and Another v. Rahul Singh and Another, (2018) 7 SCC 254,*** the Supreme Court was again examining the extent and power of the Court to interfere in academic matters. Reliance was placed on the earlier decisions of the

Supreme Court in ***Kanpur University (supra)*** and ***Ran Vijay Singh (supra).*** Reference was made to paragraphs 30 and 32 in the case of ***Ran Vijay Singh (supra)*** to demonstrate and highlight why Constitutional Courts must exercise judicial restraint. Relevant paragraphs from the judgment in ***Rahul Singh (supra)*** are as follows:

> *"**11.** We may also refer to the following observations in paras 31 and 32 which show why the constitutional courts must exercise restraint in such matters: (Ran Vijay Singh case [Ran Vijay Singh v. State of U.P., (2018) 2 SCC 357 : (2018) 1 SCC (L&S) 297] , SCC p. 369)*
>
> > *"31. On our part we may add that sympathy or compassion does not play any role in the matter of directing or not directing re-evaluation of an answer sheet. If an error is committed by the examination authority, the complete body of candidates suffers. The entire examination process does not deserve to be derailed only because some candidates are disappointed or dissatisfied or perceive some injustice having been caused to them by an erroneous question or an erroneous answer. All candidates suffer equally, though some might suffer more but that cannot be helped since mathematical precision is not always possible. This Court has shown one way out of an impasse — exclude the suspect or offending question.*
> >
> > *32. It is rather unfortunate that despite several decisions of this Court, some of which have been discussed above, there is interference by the courts in the result of examinations. This places the examination authorities in an unenviable position where they are under scrutiny and not the candidates. Additionally, a massive and sometimes prolonged examination exercise concludes with an air of uncertainty. While there is no doubt that candidates put in a tremendous effort in preparing for an examination, it must not be forgotten that even the examination authorities put in equally great efforts to successfully conduct an examination. The enormity of the task might reveal some lapse at a later stage, but the court must consider the internal checks and balances put in place by the examination authorities before interfering with the efforts put in by the candidates who have successfully participated in the examination and the examination authorities. The present appeals are a classic example of the consequence of such interference where there is no finality to the result of the examinations even after a lapse of eight years. Apart from the examination authorities even the candidates are left wondering about the certainty or otherwise of the result of the examination— whether they have passed or not; whether their result will be*

approved or disapproved by the court; whether they will get admission in a college or university or not; and whether they will get recruited or not. This unsatisfactory situation does not work to anybody's advantage and such a state of uncertainty results in confusion being worse confounded. The overall and larger impact of all this is that public interest suffers."

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 [Kanpur University v. Samir Gupta, (1983) 4 SCC 309], 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 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 answers is better or more correct."*

29. In the case of ***Vikesh Kumar Gupta and Another v. State of Rajasthan and Others, (2021) 2 SCC 309***, the Supreme Court restated as follows:

*"**16.** In view of the above law laid down by this Court, it was not open to the Division Bench to have examined the correctness of the questions and the answer key to come to a conclusion different from that of the expert committee in its judgment dated 12-3-2019 [Bhunda Ram v. State of Rajasthan, 2019 SCC OnLine Raj 7416]. Reliance was placed by the*

appellants on Richal v. Rajasthan Public Service Commission [Richal v. Rajasthan Public Service Commission, (2018) 8 SCC 81 : (2018) 2 SCC (L&S) 456] . In the said judgment, this Court interfered with the selection process only after obtaining the opinion of an expert committee but did not enter into the correctness of the questions and answers by itself. Therefore, the said judgment is not relevant for adjudication of the dispute in this case."

30. In ***State of Tamil Nadu and Others v. K. Shyam Sunder and Others, (2011) 8 SCC 737***, the Supreme Court observed as under:

"42. Undoubtedly, the court lacks expertise especially in disputes relating to policies of pure academic educational matters. Therefore, generally it should abide by the opinion of the expert body. The Constitution Bench of this Court in University of Mysore v. C.D. Govinda Rao [AIR 1965 SC 491] (AIR p. 496, para 13) held that "normally the courts should be slow to interfere with the opinions expressed by the experts". It would normally be wise and safe for the courts to leave such decisions to experts who are more familiar with the problems they face than the courts generally can be. This view has consistently been reiterated by this Court in Neelima Misra v. Harinder Kaur Paintal [(1990) 2 SCC 746 : 1990 SCC (L&S) 395 : (1990) 13 ATC 732 : AIR 1990 SC 1402] , Victoria Memorial Hall v. Howrah Ganatantrik Nagrik Samity [(2010) 3 SCC 732 : AIR 2010 SC 1285] , Basavaiah (Dr.) v. Dr. H.L. Ramesh [(2010) 8 SCC 372 : (2010) 2 SCC (L&S) 640] and State of H.P. v. H.P. Nizi Vyavsayik Prishikshan Kendra Sangh [(2011) 6 SCC 597] ."

31. In ***National Board of Examination v. Association of MD Physicians, LPA 225/2021,*** decided on 05.08.2022, Division Bench of this Court, after discussing the judgments in ***Ran Vijay Singh (supra)***, ***Kanpur University (supra)*** and ***Rahul Singh (supra)***, has in paragraphs 17 and 18 stated as under:

"17. The foregoing cases cement the finding that Judges are not and cannot be experts in all fields, and the opinion of experts cannot be supplanted by a Court overstepping its jurisdiction. It needs to be demonstrated by a candidate that the key answers are patently wrong on the face of it, and if there is any exercise conducted by the Court wherein the pros and cons of the arguments given by both sides need to be taken into consideration, that will inevitably amount to unwarranted interference

on the part of the Court. When there are conflicting views, it is incumbent upon the Court to bow down to the opinion of the experts which, in this case, was the Expert Committee constituted by the NBE.

18. The submissions made by the learned Senior Counsel hold weight inasmuch as the Court cannot step into the shoes of the examiner and render an opinion contrary to that of the Expert Committee. If the error in the question is manifest and palpable, and does not require any elaborate argument, then the Writ court may choose to intervene. However, where the errors do not show their heads without a detailed and elaborate probe into the opinions of experts, the Court must stay its hands. It would not be prudent for a Court to conduct itself like an expert in a subject alien to it when an entire body of experts has arrived at a contradictory stand. It is also not for the Courts to interfere in such matters, except in absolutely rare and exceptional cases, especially in view of the fact that the instant examination pertains to the practice of medicine - a field that requires the exercise of utmost care and caution.

(emphasis supplied by us)"

32. The moot question that arises for consideration is whether in exercise of power of judicial review, this Court can examine the correctness of the answer key under challenge with circumspection or there is an absolute proscription in entering in this domain. From the conspectus of the aforementioned judgments, the takeaway is that there is no absolute proscription against a Court examining a challenge to the answer key in an examination process, even if there is an expert opinion before the Court. Most certainly Courts must exercise restraint in interfering in academic matters, including those pertaining to examinations. The Supreme Court in ***Rahul Singh (supra)*** cautioned that 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 and only where there is a glaring mistake which is totally apparent and no inferential process or reasoning is required to show that the key answer is wrong and the candidate is able to discharge the onus that the answer key is demonstrably incorrect,

the Court should step in. Therefore, the law does not commend a total 'hands off' approach and in exceptional cases where questions are found to be demonstrably wrong, the resultant injustice to a candidate must be redressed and undone.

33. I may also allude at this stage to an important observation of the Division Bench of this Court in ***Manoj Saklani v. Union of India and Others, 2023 SCC OnLine Del 7726,*** where the Court while dealing with questions pertaining to a limited departmental competitive examination, exercised the power of judicial review and held that one question was demonstrably wrong by the book and common knowledge of the Court by experience in the field. The Court made a very significant observation that where the answer key is demonstrably wrong such that no person well-versed in the subject would regard it as correct and there is no requirement to conduct an exercise to examine the same by referring to text books etc., the Court in its judicial conscious cannot turn a blind eye to the case of the Petitioner and affix a stamp of approval on something that is visibly and patently incorrect. Recently, another Division Bench of this Court in ***Staff Selection Commission and Another v. Shubham Pal and Others, 2024 SCC OnLine Del 7144,*** upheld the judgment of the learned Single Judge of this Court where the answer key of one question in the examination was held to be palpably wrong.

34. Contentions of the parties need to be examined in light of the above guiding principles, with a cautious caveat that the scope of intervention is limited. Be it first noted that the contents of the question paper were divided into five sections viz. English Language; Current Affairs including General Knowledge; Legal Reasoning; Logical Reasoning; and Quantitative

Techniques. Question No. 14 of Set 'A' (Question 5 of Master Booklet) was part of English Language test and the options were to be exercised based on a comprehension passage extracted from a fiction "An Astrologer's Day" by R.K. Narayan. This Section was to test the knowledge of the candidate in English language and not legal reasoning, which was a separate section. It needs no reiteration that while attempting a comprehension passage in a language test, a candidate is not required to examine the terms or expressions used in the sentences on the touchstone of a legal reasoning, applying statutory provisions or articles of Constitution of India and/or judicial precedents. Option 'D' which is *'sellers of stolen hardware',* is sought to be justified by Mr. Sethi on the ground that sale of stolen goods is an unlawful activity and cannot be termed as trade as understood in Article 19(1)(g) of the Constitution of India or interpreted in judicial precedents and therefore while choosing any option pertaining to trade and occupation, the candidate was first required to examine the legal nuance of the expression trade. I am afraid I cannot accept this argument in the context of attempting a comprehension passage based on a fictional work. The question as it reads has four options and, save and except, option 'C' which pertains to auction of cheap bags, all other trades/occupations mentioned in the 03 options i.e. magicians, medicine sellers and sellers of stolen hardware are represented in the pathway running through the townhall park and Petitioner correctly chose option 'C'. By any stretch of imagination, on a plain reading of relevant part of the passage i.e. *'A variety of trades and occupations was represented all along its way: medicine sellers, sellers of stolen hardware and junk, magicians, and, above all, an auctioneer of cheap cloth, who created enough din all day to attract the whole town',* the option exercised

by the Petitioner cannot be held to be incorrect. Examination of this question requires no inferential process or reasoning as the answer key is demonstrably and apparently wrong. I may also note that against this question, there were 891 objections and the Expert Committee had recommended updation of answer key for option 'C' but the Oversight Committee overruled the decision of the Expert Committee by simply stating that on analysis of the term 'not a trade or occupation', the Committee decides to retain the option given by the original author of the question. The large number of objections to the question and the view of the Expert Committee coupled with no justification by the Oversight Committee to disagree, only fortifies the stand of the Petitioner that option 'C' was the correct answer and no legal reasoning can be imported while attempting a comprehension passage.

35. Insofar as Question No. 37 is concerned, from the passage in question it is clear that implementation of Nari Shakti Vandan Adhiniyam Act, 2023 was linked to implementation of two long term exercises of census and delimitation and therefore, none of the options 'A', 'B' and 'C' were the correct options and the correct answer was option 'D' i.e. 'None of the Above', while Petitioner chose option 'C'. The Expert Committee concluded that both the conditions were required to be fulfilled for the Act to come into force and this plausible view which is palpably clear from a plain reading of the passage warrants no interference.

36. Question No. 67 reads as *'An agreement made by an adult but involving a minor child where the signatory is a minor child himself, this agreement would be'.* Petitioner has chosen option 'C' i.e. *'the agreement is void'* while as per the answer key, correct answer is option 'B' i.e. *'the*

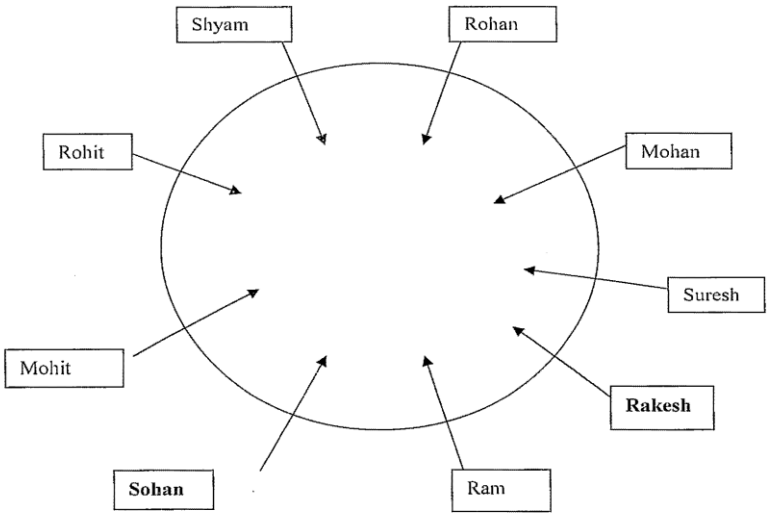
agreement is voidable'. Respective parties had made extensive arguments on the issue of void agreements and voidable/void contracts and relied on judgments to support their respective pleas. Clearly, examination of this question and the answer key requires an inferential process or reasoning as well as appreciation of various provisions of the Indian Contract Act, 1872 and the Indian Evidence Act, 1872, as also an academic discussion based on text books/literature etc. as to when the agreements are enforceable in law and/or can be termed as void, an area in which interference by the Court is proscribed and is best left to the Expert Committees. The Expert Committee has concluded that the answer key was correct and agreed with the justification of the paper setter. In view of the judgments of the Supreme Court in ***Ran Vijay Singh (supra)*** and ***Rahul Singh (supra),*** this Court finds no reason for judicial intervention in the answer key. The Court can step in only where the error in the question is manifest and palpable and does not require an elaborate argument, however, where the question requires a detailed probe into the opinion of the Experts, the Court must stay its hands. No infirmity is found with the answer key to Question No. 67.

37. In Question No. 68, the candidate was required to choose an option amongst the given scenarios which would most likely result in a void agreement. While the Petitioner chose option 'D' i.e. *a contract with a minor who understands the term*, as per the answer key the correct option was 'C' i.e. *an agreement to pay Rs.10 lakhs on getting a government job.* Learned counsel for the Petitioner contended that a contract with a minor is a void contract and therefore, option 'D' was the closest option and correct answer to the question. Option 'C' in the answer key is an incorrect answer, as an agreement to pay Rs.10 lakhs on getting a government job is a fair deal

between a person who takes a loan and agrees to repay the same after he secures the job and has the means to repay and cannot be a void agreement. Respondent, *per contra*, contended that option 'C' envisages an agreement whereby a person offers bribe/illegal gratification to secure a government job and thus being oppose to public policy, the agreement is void while a contract with the minor is a voidable contract and option 'D' exercised by the Petitioner is an incorrect answer. The Expert Committee has opined that option 'C' is the correct answer. Petitioner calls upon this Court to first interpret the meaning and connotation of option 'C' and read the option as an agreement to repay a loan on securing a job and thereafter hold that option 'C' is the incorrect answer. As per the settled law, it is beyond the domain of this Court to interpret an option in a question paper and read it in a manner tailormade to a candidate's requirement. This is purely the domain and prerogative of the question paper setter, the body evaluating the answer sheets and finally, the Expert Committee, if any. The Expert Committee and the Oversight Committee have unanimously held the answer key to be correct. The very fact that an interpretation to an option is called for and the correctness of the answer requires extensive debate places this question into a category of cases where there is no room for interference by the Court. In ***Kanpur University (supra),*** the Supreme Court held that correctness of the answer key should be presumed unless it is proved to be demonstrably wrong and not by an inferential process of reasoning. No interference is warranted in Question No. 68.

38. Coming to Question No. 100, this Court finds merit in the contention of the Petitioner that the correct answer would be *Sohan* but this was not amongst the 04 options in the question paper. The question was required to

be answered basis a seating arrangement where "*Ram, Shyam, Rohit, Mohit, Rohan, Sohan, Mohan, Rakesh and Suresh are sitting around a circle facing the centre. Rohit is third to the left of Ram. Rohan is fourth to the right of Ram. Mohit is fourth to the left of Suresh who is second to the right of Ram. Sohan is third to the right of Shyam. Mohan is not an immediate neighbour of Ram."* The options were: (A)-Ram; (B)-Mohan; (C)-Mohit; and (D)-Data Inadequate. Petitioner opted for option 'A' while as per the answer key, option 'D' was the correct answer. Expert Committee advised *'withdrawal of the question'* and the advice was based on its finding that the correct answer was '*Sohan'*. During the course of hearing, learned counsel for the Petitioner submitted that since Sohan is the correct answer but was not an option in the question paper, the question should be excluded as advised by the Expert Committee and in order to justify his plea, learned counsel sought to explain the seating arrangement diagrammatically as follows:



39. Reading of the question itself indicates the position of Rakesh qua others and it is clear from the diagram that Sohan is the person who is

second to the left of Rakesh. Significantly and ironically, the Oversight Committee which has accepted 'D' as the option to be the correct option has while examining Question No. 85 in the Master Booklet itself arrived at a finding that when all the persons in the circle are arranged in clockwise direction, the order will be Ram, Sohan, Mohit, Rohit, Shyam, Rohan, Mohan, Suresh and Rakesh. Therefore, even by this arrangement, the person who is second to left of Rakesh is Sohan. Learned counsel for the Petitioner is thus right in his submission that the question deserves to be excluded in light of the fact that question setter has not even provided the correct answer as one of the options. Even the Expert Committee advised withdrawal of this question and be it noted that as many as 275 objections were received against this question. Oversight Committee has overruled the advice of the Expert Committee on the sole ground that data was inadequate to arrive at the actual position of Rakesh, which to my mind is in stark contradiction to the data provided in the question itself and basis which the Oversight Committee while examining another question has brought forth a seating order in clockwise direction.

40. Therefore, in my view, this is not a case where the Court should adopt a complete hands-off approach. The errors in Question Nos.14 and 100 are demonstrably clear and shutting a blind eye to the same would be injustice to the Petitioner *albeit* this Court is conscious of the fact that it may impact the result of other candidates. Accordingly, it is directed that the result of the Petitioner will be revised to award marks to him for Question No.14 in accordance with the scheme of marking. Since Court has upheld option 'C' as the correct answer, which was also the view of the Expert Committee, benefit cannot be restricted only to the Petitioner and will extend to all

candidates who have opted for option ‘C’. Question No.100 will be excluded as correctly advised by the Expert Committee and the result will be accordingly revised.

41. Writ petition is partially allowed to the aforesaid extent.

42. Writ petition stands disposed of along with pending applications.

JYOTI SINGH, J

DECEMBER 20, 2024/shivam