

Court No. - 39

Case :- WRIT - C No. - 21098 of 2025

Petitioner :- Akshita Singh

Respondent :- Union Of India And 3 Others

Counsel for Petitioner :- Sudhanshu Pandey

Counsel for Respondent :- A.S.G.I., Anurag Sharma, C.S.C., Fuzail Ahmad Ansari, Sudhanshu Pandey, Vivek Kumar Singh

Hon'ble Arindam Sinha, J.

Hon'ble Dr. Yogendra Kumar Srivastava, J.

(Per: Arindam Sinha, J)

Mr. Sudhanshu Pandey, learned advocate appears on behalf of petitioner. He submits, his client took National Eligibility-cum-Entrance Test [NEET (UG)]-2025 for admission in the medical course. She made mistake of indicating booklet series number 46 in the Optical Marks Recognition (OMR) sheet, when she had attempted to answer in terms of booklet series number 47. On query, Mr. Pandey refers to paragraph 14 in the writ petition, which is reproduced below.

"14. That as per the best knowledge of petitioner, she attempted maximum questions to be answered and with the tally of final Answer Key issued by the NTA, she will secure approximately 589 marks out of total 720 marks. The cut off marks for OBC category is (530-540) i.e. 143-113 percentile."

He seeks interference on his client's prayer for direction of re-checking petitioner's OMR sheet. Her further prayer is to thereafter direct the authority to consider her candidature. On query, he submits, by reason of the mistake his client was awarded 41 marks, where she would have got 589 marks out of 720 marks as stated in paragraph 14 of the writ petition. He seeks interference.

Mr. Vivek Singh, learned advocate, Central Government Counsel appears on behalf of respondent no.1. Mr. Anurag Sharma, learned advocate submits, he is Standing Counsel for respondent no.2. Mr Fuzail Ahmad Ansari, learned advocate appears on behalf of respondent no.3 and Ms Akansha Sharma, learned advocate, on behalf of respondent no.4.

Respondent no.3 is National Testing Agency (NTA), who conducted the test. Mr.

Ansari submits, evaluation of OMR sheets have been completed and report on the examination duly submitted. There is at all no scope for interference.

Mr Ansari submits, the answer keys and OMR sheets were uploaded on 3rd June, 2025. On same day, there was public notice and soon thereafter individual electronic messages sent to the candidates. Window for raising objections was between 3rd and 5th June, 2025. On expiry of time to raise objections, results were evaluated and published on 14th June, 2025. Petitioner thereafter sought to complain of mistake on 14th June, 2025. Thus, she was on notice of the answer keys and OMR sheets on all test booklet codes as on 3rd June, 2025 and time for her to object expired on, he reiterates, 5th June, 2025. The Supreme Court has expressed anguish that in spite of several judgments of said Court disapproving of interference, there has been interference made.

He also points out from OMR sheet of petitioner, it carried notice that candidates should ensure roll number and test booklet number as well as test booklet code, as printed on the test booklet, to be correctly filled and marked on the answer sheet. He also hands up his instructions and submits, there is no provision for re-check. He seeks direction to enable his client to file counter affidavit.

Mr. Ansari relies on view taken by a Division Bench of the Telangana High Court in several cases, of which lead case is **W.A. no.1369 of 2018 (Telangana State Public Service Commission vs. Pothula Durga Bhavani)** on **judgment dated 19th July, 2021**. He relies on several paragraphs in the judgment.

(i) Paragraph 6 carrying reference to **judgment dated 28th August, 2019** of the Supreme Court in **Civil Appeal no.6669 of 2019 (State of Tamil Nadu vs. G. Hemalatha)**, to note that instructions given to appearing candidates had barred them from using pencil in any manner. The Supreme Court said that in spite thereof, the High Court in exercise of writ jurisdiction had directed the Commission to announce result of respondent/candidates, whose answer papers had been invalidated due to underlining by pencil.

(ii) Paragraph 8, where there is reference to view taken by a Division Bench of this Court on **judgment dated 25th April, 2018 in Special Appeal no.90 of 2018 (Jai Karan Singh vs. State of Uttar Pradesh)**, wherein the appellants had sought direction for evaluating their answer sheets on argument that mentioning of invalid registration number and/or roll number or invalid language could not be held against them. A paragraph from said view taken, as quoted in the relied on judgment, is reproduced below.

*"The error committed by the candidates cannot be said to be minor in nature. **It is the Registration Number, Roll Number that determines identity of the candidates. The candidates who appeared in the examination were mature students and were to be appointed as Assistant Teachers in institution. They should have read the instructions that was issued time and again and should have correctly filled the entries relating to Roll Number, Registration Number, Question Booklet Series and Language attempted. The entries were, however, inaccurately filled as a result of which the scanner has not been able to process the result.**"*

(emphasis added)

Mr. Ansari points out from paragraph 10 of relied on judgment that the Allahabad High Court view did not merit grant of special leave to appeal by the Supreme Court.

(iii) Paragraph 12. In this paragraph there was reliance on judgment of the Supreme Court in **Ran Vijay Singh vs. State of Uttar Pradesh** reported in **(2018) 2 SCC 357**. Mr. Ansari draws attention to paragraphs 31 and 32 of the Supreme Court judgment quoted in **Pothula Durga** (supra). Paragraphs 31 and 32 of the Supreme Court judgment, as extracted and quoted, are reproduced below.

"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 deserved 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."

(emphasis added)

Mr. Ansari then relies on another **judgment dated 27th January, 2022** of this Court in **Special Appeal no.33 of 2022 (Vinay Kumar vs. State of Uttar Pradesh)**. He draws attention to paragraphs 15 and 31. Paragraph 15 is reproduced below.

"15. In the present case, the appellant may be one candidate, however, in a given examination there may be several such candidates, who may claim to have committed some mistakes in indicating the particulars and if it is held as a matter of principle that such mistake in OMR sheets must be permitted to be corrected, the same would lead to chaos, inasmuch as, all such candidates then would be required to be permitted to make corrections, exposing the entire lot of OMR answer sheets, which consequence cannot be permitted."

He also hands up **order dated 4th July, 2025** of the Supreme Court in **Writ Petition (Civil) no.620 of 2025 [Shivam Gandhi Raina vs. National Testing Agency (NTA)]**. Text of the order is reproduced below.

"1. Having heard learned senior counsel for the petitioner and on carefully perusing the material placed on record, we are not inclined to entertain this petition under Article 32 of the Constitution.

2. The Writ Petition is, accordingly, dismissed.

3. Pending application(s), if any, shall stand disposed of."

We have perused the judgments relied on, including the referred therein judgments. What strikes us is petitioner's allegation that she was awarded 41 marks where she would have got approximately 589 marks out of 720 marks. We have ascertained that separate booklet numbers are used for purpose of changing order of the questions. We appreciate it is a step taken to prevent unfair means. As a result of petitioner's mistake in mentioning the booklet series code, her answer marks were recognized against a different series of the same questions. There is a wide gap between 41 and 589 marks.

Petitioner has not alleged that she made mistake in answering any or several questions. Her contention is mistaken mention of the booklet code series. Her mistake has caused omission to evaluate her merit. We see the mistake in that context. Furthermore, the candidate is all of 20 years old and had prepared herself, as other candidates did, to take the examination. To err is human and it happens, in spite of there being notices against commission of errors. The Civil Procedure Code, 1908 does provide for correction of, *inter alia*, clerical errors made by the Court. We enquired of Mr. Ansari and have been told by him and by the other learned advocates that counseling has not yet started. We appreciate that object of the examination is to select the most meritorious. In this case, there has not been assessment of petitioner's merit because of this error she committed. Hence, in event there is assessment of her merit and thereby she displaces somebody, who has less merit, that will require consideration.

In **Pothula Durga** (supra) the Division Bench relied on judgment pronounced by the Supreme Court in **G. Hemalatha** (supra), wherein the examination was for selection to post of Civil Judge in Tamilnadu State Judicial Service. There was clear instruction barring candidates from using pencil in any manner. Candidates, who had sought interference, had used pencil disregarding the instructions. The situation cannot be equated with instructions for candidates to ensure that *inter alia*, correct test booklet code is marked in the OMR sheet. We have not been shown anything to even indicate that petitioner's mistake was deliberate. Moving on to

relied upon paragraph 8 in said judgment, wherein there was reference to view taken by this Court, we see that the Court took the view saying, candidates who appeared in the examination were mature students and were to be appointed as Assistant Teachers in the institution. It is a distinguishing factor because petitioner is a student having taken an entrance test just after passing the +2 level, for further study to obtain graduation degree in the medical degree course. She was not a candidate for employment in taking the test.

Mr. Ansari also relied on paragraph 12 of **Pothula Durga** (supra), wherein there was reliance on paragraphs 31 and 32 in **Ran Vijay Singh** (supra). What the Supreme Court said in paragraphs 31 and 32 does not apply to this case because it is not a question of re-evaluation. Facts are, petitioner's answers were never evaluated because of mistake in mentioning of test booklet code. In other words, her OMR sheet resulted in recognition of marks made by her against a changed series of questions.

There was also reliance on paragraph 15 of judgment in **Vinay Kumar** (supra). The view is clearly distinguishable inasmuch as, alleged mistake committed by the candidate, who had petitioned this Court in that case was, he had attempted answers in the OMR sheet on three subjects, while the candidates were required to answer on only two. Hence, the marks in the OMR sheet of the candidate were not recognized. Observations made in paragraph 15 of the judgment were in context of the facts. Petitioner's mistake in indicating incorrect booklet code series cannot be said to be deliberate, at least at this stage.

We require respondent no.3 to assist us by examining petitioner's OMR sheet corresponding to test booklet number 47 and give us a result on adjourned date. We make this direction prior to consideration of said and other respondents' prayer for direction to file counter affidavit as well as petitioner's prayer for consideration of her candidature. In event we find petitioner's answers per test booklet code 47 are reported as would have resulted in her getting above cut off marks in respect of her category of candidates, we may proceed to consider the writ petition further.

Otherwise the writ petition is likely to be dismissed.

List on 15th July, 2025 as fresh marked at 2:00 pm.

Order Date :- 9.7.2025

RKK/-

(Arindam Sinha, J)

(Dr Y K Srivastava, J)