

# **SUPREME COURT OF INDIA**

Guru Nanak Dev University

Vs.

Saumil Garg & Ors.

C.A.No.5276 of 2005

(Y.K. Sabharwal, CJ. B.N. Srikrishna and P.P. Naolekar, JJ.)

24.08.2005

## **ORDER**

**Y.K. Sabharwal, CJ.**

1.It is a very unfortunate litigation where students competing to get admission in medical and other professional courses have to litigate amongst themselves. None of the students can, however, be blamed for the litigation commenced in the High Court and which has come up to this Court by way of the present petitions as also the earlier petitions filed by Guru Nanak Dev University (for short “the appellant University”) challenging the interim orders that had been passed by the High Court. If anyone is responsible for the present state of affairs, it is the appellant University alone.

2. The Punjab Medical Entrance Test was conducted by the appellant University on 30-6-2005. About 10,000 students appeared in the said test. The results were declared on 2-7-2005. There were 200 questions in the objective form — 50 each for Physics, Chemistry, Botany and Zoology. There were multi-choice answers; four options were available to the students. They had to opt for one correct answer from A to D.

3. After declaration of the results, writ petition was filed by some of the students, inter alia, alleging that the key answers to 21 questions were incorrect. The High Court appointed the Central Board of Secondary Education (for short “CBSE”) to examine the correctness of key answers of the said 21 questions. Against the orders passed by the High Court' so directing in terms of its orders dated 18-7-2005 and 22-7-2005, the appellant University filed special leave petitions but, for the present purpose, it is not necessary to go into those aspects since the High Court has finally decided the matter and these appeals are against the final judgment of the High Court.

4. CBSE gave a report to the High Court opining that ten key answers out of the 21 referred were incorrect. The High Court, on consideration of the entire matter, by the impugned

(2005) 13 SCC 749

judgment, came to the conclusion that key answers in respect of all the 200 questions deserve to be re-examined. The High Court was, however, of the opinion that it is not necessary to cancel the entire entrance test. None has seriously contended before us that the answer to the problem lies in cancellation of the entire entrance test for obvious reasons that cancellation at this stage would affect all the students who had appeared in the said test. The High Court has directed by the impugned judgment that all key answers shall be examined by any independent agency and the answers given by the students revaluated on the basis of a report as to correct key answers provided by the said agency. Accordingly, the Chairman, CBSE was requested to, on appointment of experts, examine the key answers. The further direction issued by the High Court is that the appellant University may also nominate one expert for each of the aforesaid four subjects to assist the experts nominated by the Chairman, CBSE. Likewise, the petitioners before the High Court have also been given liberty to nominate one expert in each subject to assist the experts nominated by the Chairman, CBSE. Further direction of the High Court is that in case of difference of opinion i.e. when at least three experts had not expressed the same opinion, the question itself shall be cancelled. The High Court has also directed that the revised/corrected answer key would be based on the majority view expressed in respect of each question.

5. The University is in appeal on grant of leave. We have also before us both sets of students — one, students who support the University in their challenge to the directions contained in the impugned judgment, and two, the students who support the impugned directions for re-examination of the key answers in respect of all 200 questions. The High Court has also issued directions for appropriate action to be taken against those who are responsible for the entire confusion and the mess. The High Court has also issued directions for fixing responsibility on the paper-setters and those who have been vested with the responsibility to finalise the key answers and consequential steps to be taken. The said direction of the High Court does not call for any interference. Those who set the papers and those who finalise the key answers have to bear in mind that what is at stake is the career of the young students at the very threshold of their attempt to get entry into professional courses where there is cut-throat competition. The questions posed must have only one correct answer out of the four options given. Likewise, there is responsibility on those who finalise the key answers. If none of the answers is correct, it becomes their duty to say that none of the answers is correct, so that if any remedial action is to be taken, it should be taken before the answers are valuated. It is evident that on both these aspects, there was serious lapse which resulted in litigation which is otherwise avoidable.

6. Considering the nature of the controversy, this Court, by order dated 17-8-2005, sought for a report from CBSE as also from Delhi University on the correctness of 10 key answers which were found to be incorrect by CBSE in its report that had been submitted to the High Court. For the remaining 11 questions out of the 21 abovereferred, the key answers provided by the appellant University were found to be correct.

7. Now we have received reports from CBSE and Delhi University. Copies of the reports were supplied to counsel for the parties. We have heard learned counsel for the students representing both the interests aboveresferred as also learned counsel for the appellant University. The reports now received show that there is unanimity between CBSE and University of Delhi in regard to the key answers of eight questions. They are as under:

Question No.	Key answer by CBSE	Key answer by University of Delhi
36	A	A
49	A	A
109	B	B
110	A	A
128	C	C
165	D	D
167	D	D
168	A	A

The key answers of the aforesaid eight questions provided by the appellant University are incorrect. In regard to two questions i.e. Questions 41 and 152, there is difference of opinion between CBSE and the University of Delhi as to the correct key answer. The question numbers as referred to CBSE and the University of Delhi and in this order are with reference to the Question Paper Code A.

8. Insofar as the aforesaid eight questions are concerned, namely, Questions 36, 49, 109, 110, 128, 165, 167 and 168, there can be no doubt that the key answers provided by the appellant University are demonstrably erroneous. Insofar as key answers to Questions 41 and 152 are concerned, benefit of doubt, as per law well settled by this Court, has to go in favour of the examining body.

9. Having regard to the facts and circumstances of the case, in particular, the stage of the admissions and the fact that the medical courses are supposed to commence on 1st August every year and the last date of admissions for stray seats under all circumstances is 30th September, we do not think appropriate that all the 200 questions deserve to be referred for determining as to what are the correct key answers. At this stage, it would also not be appropriate to refer to the opinions given by other professors in these matters as to correctness of key answers.

10. What is paramount is the interest of the student community. Merit should not be a casualty. We feel that the interests of the students would be, adequately safeguarded if we direct the appellant University to reevaluate the answers of the aforesaid eight questions with reference to the key answers provided by CBSE and the University of Delhi which are same and not with reference to the key answers provided by the appellant University.

11. There is yet another problem, namely, that of seven questions which are so vague that they are incapable of having a correct answer. The appellant University, in respect of those

seven questions, has given the credit to all the students who had participated in the entrance test irrespective of whether someone had answered the questions or not. We do not think that that is the proper course to follow. It is wholly unjust to give marks to a student who did not even attempt to answer those questions. This course would mean that a student who did not answer say all the seven questions would still get 28 marks, each correct answer having four marks. The reasonable procedure to be followed, in our opinion, would be to give credit only to those who attempted the said questions or some of them. Having regard to the circumstances of the case, we direct that for the students who attempted those questions or some of those questions, insofar as they are concerned, the said questions should not be treated to be part of the question paper. To illustrate, if a student answered all the said seven vague questions, insofar as that student is concerned, total marks would be counted out of 772 i.e. 800 less 28 and likewise depending upon number of such questions, if any, answered by the student. The seven vague questions are Question 4 in Physics, Questions 76 and 89 in Chemistry, Questions 147 and 148 in Botany and Questions 156 and 163 in Zoology of Question Paper Code A.

12. In view of the aforesaid, we modify the directions contained in the impugned judgment of the High Court and direct the appellant University to reevaluate the answer-books in terms of the aforesaid directions and, on that basis, prepare the ranking of the students, within two days.

13. Within 72 hours of declaration of results in terms of the directions of this Court, if an application is filed by any student for examination of OMR answer-sheets, the same shall be allowed by the appellant University in accordance with the advertisement. However, those students who have already paid the requisite fee would not be required to pay it again.

14. The appellant University is directed to pay a sum of rupees one lakh to the State Legal Services Authority, Punjab, by way of costs for this litigation which had to be resorted to by the students because of vague questions and demonstrably incorrect key answers. We hope that if possible, the said Legal Services Authority would utilise the amount for certain welfare scheme of students. The amount shall be deposited with the said Authority within a period of one week.

15. The appeals stand disposed of in the above terms.