IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-8015-2017
Date of Decision : 28.09.2017

Ramandeep Kaur

..... Petitioner

Versus

Council of Scientific And Industrial Research (CSIR)

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

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Present : Mr. Som Nath Saini, Advocate
for the petitioner.

Ms. Nimrata Shergil, Advocate
for the respondent.

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AJAY TEWARI, J. (Oral)

By this petition the petitioner is seeking direction to the respondent to issue result of the petitioner by treating the answer of question Nos.44 & 71 as correct and not to take into consideration the subsequent change in the Answer Key in the Joint CSIR-Net December, 2016 official answer key booklet-B.

The admitted facts are that the petitioner (who is M.Sc. in the discipline of Applied Physics) applied for the Junior Research Fellowship (JRF) and Eligibility for Lectureship (NET Exam) conducted by the respondent-CSIR in December, 2016 in the subject of Physical Sciences.

She obtained 67 marks (33.50%) which was below 75.76 marks (37.88%), the cut off fixed for the unreserved category of JRF and 68.18 marks (34.09%), the cut off fixed for the unreserved category of Lecturer. The dispute has arisen with regard to the answers for two questions i.e. question No.44 and question No.71 of booklet B.

After the conduct of the examination the respondent uploaded the answer key (as prescribed by the original experts who had set the paper) on its website and as per that answer key the options which had been marked by the petitioner were correct. Further, as per the practice, the respondent invited objections in respect of the answer key and apparently objections with regard to these two questions (alongwith others) were received. These objections were referred to a different set of experts who recommended that the options originally prescribed as correct were in fact wrong. These recommendations were accepted and the revised result issued. With this change in the result the total of the petitioner was reduced by 10.825 marks. This was because had her options been accepted as correct she would have been entitled for 8.5 marks and, because they were held to be wrong; she lost a further 2.325 marks on account of negative marking. If she had not suffered this loss she would have qualified the test both for the category of JRF and Lecturer. By way of present petition she has challenged this change in the answer key which has worked to her prejudice as mentioned above.

The stand of the respondent is that it is a Premier National R&D Organization of the country and has formulated this method of evaluation 'with a view to promote transparency in its mechanism of

conduct of examination to ensure justice to candidates'. It has adopted the system of displaying/uploading answer keys on its website and inviting representations/objections from the candidates pertaining to discrepancy either relating to the Questions or Answer Keys. Further that the representations received are duly considered before finalization of results. The petitioner has also filed a replication. Alongwith the replication the petitioner has annexed the opinions statedly received from Professor W.A. Zajc, who is the I.I. Rabi Professor of Physics, Columbia University, New York and Professor Subir Sarkar from the Oxford University, Department of Physics, according to whose opinions, the answers given by the petitioner were in fact correct. By way of illustration the answer provided by Professor W.A. Zajc is reproduced herein below:-

> *"Email dated 22.06.2017 at 4.24 AM:*
> *This is best solved using four-vectors to simultaneously conserve momemtum and energy. Let k be the photon four-vector = (k,0,0,k), so k is also its energy. The minimum photon energy leaves m_3 and m_1 at rest in their center-of-mass system. So in units where c=1, the four-vector equation is.....*
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> *Email dated 26.06.2017 at 3.32 AM:*
> *Congratulations on working through this to the right answer. I too calculated 19.5(6) MeV. Since this is derived in a straightforward way given the input data, it is correct, and all of the options are technically wrong. I would guess that the authors calculated their answer by separately conserving energy and momentum, and made some numerical round-off errors, leading them to 19.3 MeV, which after all is within a percent or so of the correct answer."*

The situation which has thus emerged is that the first set of experts who set the paper and the last two mentioned experts on the one hand, and the experts to whom the representations were referred by the respondent on the other hand have different opinions on the two questions in dispute. The claim of the petitioner is that in view of the divergent opinions it is at least clear that the questions themselves had some defect, in so much as there was no clear unequivocal single answer. Consequently, it is prayed that these two questions be cancelled and thereafter the whole result be reworked.

The essential relevant features of this exam are as follows:-

"Human Resource Development Group
Council of Scientific & Industrial Research

CSIR-Research Grants
Research Fellowships & Associateships

GENERAL

1. The EMR Division under HRD Group of Council of Scientific & Industrial Research (CSIR) provide CSIR Research Fellowships and Associateships to bright young men and women for training in methods of research under the expert guidance of faculty members/scientists working in University Departments/Institutes of National Importance/National Laboratories and Institutes of CSIR in various fields of Science & Technology and Medical Sciences. List of CSIR Laboratories is at Annexure-I.
2. The CSIR Fellowships/Associateships are tenable in Universities/IITs/Post-Graduate Colleges/Government Research Establishments including those of CSIR, R&D establishments of recognized public or private sector, industrial firms and other recognized institutions. However,

CSIR reserves the right to determine the place best suited to provide necessary facilities in the area of science and technology in which the awardee is to specialize.

3. The CSIR Fellowships / Associatships are tenable in India. Only bonafide Indian citizens, residing in India are eligible for the award of research Fellowship/Associateships. The programme is aimed at National Human Resource Development for S&T.
4. The award of CSIR Fellowship / Associateships is for fixed tenure and does not imply any assurance or guarantee for subsequent employment by CSIR to the beneficiary. The authority to award / terminate vests with CSIR. The awardee shall not lay claim to permanent absorption in CSIR, after the expiry of Fellowship / Associateship.

5. SUBJECT OF RESEARCH

Preference is given to a subject / topic of research relevant to the research programmes of CSIR laboratories and nationally important S&T areas.

6. CSIR JUNIOR RESEARCH FELLOWSHIP (JRF)

A large number of JRFs are awarded each year by CSIR to candidates holding BS-4 years program/BE/B. Tech/B. Pharma/MBBS/ Integrated BS-MS/M.Sc. or Equivalent degree/BSc (Hons) or equivalent degree holders or students enrolled in integrated MS-Ph.D program with at least 55% marks for General & OBC (50% for SC/ST candidates, Physically and Visually handicapped candidates) after qualifying the National Eligibility Test (NET) conducted by CSIR twice a year June and December.

Candidates with bachelor's degree, whether Science, engineering or any other discipline, will be eligible for fellowship only after getting registered/enrolled for Ph.D/integrated Ph.D. programme within the validity period of two years.

Candidate enrolled for M.Sc. or having completed 10+2+3

years of the above qualifying examination are also eligible to apply in the above subject under the Result Awaited (RA) category.

7. APPLICATION PROCEDURE

On-line applications for JRF-NET are invited twice a year on all India basis through press advertisement. The information with respect to inviting applications is also made available on HRDG website (www.csirhrdg.res.in).

8. AGE LIMIT

The upper age limit for applying for the award of JRF shall be 28 years, which is relaxed upto 5 years in the case of candidates belonging to Schedule Castes/Schedule Tribes/OBC, Physically Handicapped/Visually Handicapped and female applicants.

9. SELECTION PROCEDURE

The Selection for award of JRF shall be made on the basis of a competitive written test called the National Eligibility Test (NET), conducted by CSIR at national level twice a year in the following areas (1) Chemical Sciences (2) Earth, Atmosphere, Ocean and Planetary Sciences (3) Life Sciences, (4) Mathematical Sciences, (5) Physical Sciences, and (6) Engineering Sciences. From June 2011, CSIR has introduced a Single MCQ (Multiple Choice Question) Paper based test comprising of three parts. Part-A shall be common to all subjects comprising question on General Science and Research Aptitude. Part-B shall contain subject-related conventional MCQ and Part-C shall contain higher value questions that may test the candidate's knowledge of scientific concepts and/or application of the scientific concepts. Negative marking for wrong answers shall be done.

The candidates who qualify the test are informed individually. The Fellowship is awarded on receipt of necessary details of the qualifying degree examination,

proposed place of research work, research topic, the name of supervisor and the concurrence of the Institution to provide all the necessary facilities. The validity of the offer of the JRF award is two years and will not be extendable.

18. **AWARD OF FELLOWSHIP AND RELEASE OF GRANTS**

The Fellowship will be awarded to the selected applicants by a formal letter giving details of the grant and the conditions governing it, under intimation to the University/Institution, which forwarded their applications. The offer should be availed within two years in case of JRFs and six (6) months for SRF/RA from the date mentioned in the award letter. The grant money is payable in four installment (quarterly basis) during the financial year on presentation of claim bill, in triplicate, in prescribed proforma (Annexure-VI) duly signed by the Finance Officer/Head of the Institution. The first payment (installment) will be made after the receipt of the joining report of the fellow along with other necessary documents as mentioned in the award letter, through the Guide duly forwarded by the Executive Authority of the institute in whose favour the grant is to be released. Subsequent annual payments (on quarterly basis) will be made only after receipt of (a) the progress report of the Research Fellow in the prescribed proforma (Annexure-IV) for the period ending 31 March and previous one year report, (b) utilization certificate (Annexure-IX), and statement of receipt and payment (statement of accounts) (Annexure-X) incurred during the financial year ending 31 March, along with the claim bill for the next financial year from the concerned institution. The sponsor Institution/University may advance money for payment of stipend to the fellow and to meet the contingent expenditure on his/her joining the fellowship for subsequent years, which may be adjusted subsequently on receipt of the grants from the CSIR for the

> Fellowship. The unspent amount of earlier payments and Interest Earned by Institutions/Universities on Grants released by CSIR for fellowships/associateships has to be refunded to CSIR at the end of a financial year or has to be adjusted while submitting/making the fresh claims for payment. The accounts should be maintained on ledger type system by the grantee Institution for the Research Fellow (Annexure-VII). The university/Institution shall be responsible for proper utilization of grant and for rendering the account to the CSIR-HRD Group."

The genre of 'Examination Jurisprudence' is a recent phenomenon and what we are primarily concerned with in the present case relates to competitive exams as opposed to academic exams. Even upto 40 years ago nobody would challenge the marks awarded or questions/answers which may have been prescribed for such examinations. Interestingly, even till today the most prestigious examinations of our country viz. those conducted by the UPSC, by the Indian Institute of Management or by various Medical Colleges and host of others have not been subjected to challenge and this is a tribute to their professionalism and expertise as much as it is a reflection on the lack of these attributes in the other examining bodies which face an increasing barrage of challenges on this score. At this stage, it would not be inappropriate to embark on a review of all the judicial decisions rendered on these issues to try and determine if this jurisprudence is topical i.e. to say whether the decisions have been on a case to case basis or whether the Courts have been able to construct any mutually reinforcing structures which may lead to some over-arching legal principles. In a different context, this Court in the case of ***Tejinder Singh @ Teja vs. State of Punjab and others, passed in CRM-M-21934-2015, decided on***

17.03.2016 has observed as follows:-

> *"One line of argument is that the matter of bail being discretionary, in non-bailable offences the Court would strike an equitable balance in every case between the competing rights of society and of the accused. This line of argument does not commend itself to me. It is the duty of every lawyer to try and recognize the principle which would apply in all cases rather than leave matters to the 'Chancellor's foot'."*

The first and leading case on this new branch of the Supreme Court was the case of ***Kanpur University through Vice Chancellor and others vs. Samir Gupta and others, (1983) 4 Supreme Court Cases 309,*** which was decided on 27.09.1983**.** That related to the entrance test for Medical Colleges in the State of Uttar Pradesh for the Academic Session 1983-84. A three Judge Bench posed the question in para No.1: *"If a paper-setter commits an error while indicating the correct answer to a question set by him, can the students who answer that question correctly be failed for the reason that though their answer is correct, it does not accord with the answer supplied by the paper-setter to the University as the correct answer? The answer which the paper-setter supplies to the University as the correct answer is called the 'key answer'. No one can accuse the teacher of not knowing the correct answer to the question set by him. But it seems that, occasionally, not enough care is taken by the teachers to set questions which are free from ambiguity and to supply key answers which are correct beyond reasonable controversy. The keys supplied by the paper-setters in these cases raised more questions than they solved."* And went on to hold in para Nos.3 & 4 as follows:-

> *"3. So far so good. The snag lies in determining which out of*

the four suggested answers is the correct answer. That duty is naturally assigned to the paper-setter, who is required to supply to the University the correct answer to each question, called the 'key answer'. The difficulty involved in evaluating a very large number of answer-books is solved by the State Government, quite successfully, by computerising the result. The key answers are fed into a computer and the marking computerised.

4. The difficulty which arose in these cases is not due to the failure of the computer, which is quite encouraging. The habit of man is to blame the machine. The difficulty arose because the key answers furnished by the paper-setters turned out to be wrong. The students got to know the key answers out of the generosity of the University. If wanted, rightly, to be frank and fair. Therefore, it published the key answers along with the result of the test. Respondents, whose names did not figure in the list of successful candidates, filed writ petitions in the High Court of Allahabad, contending that the answers ticked by them were correct and the key answers wrong. The High Court has accepted their contention and that is how the Kanpur University has come to file these appeals. There cannot be a more telling instance of 'Shishyat Ichhet Parajam' (Wish for defeat from your pupil). But the Gurus contend that the Shishyas are wrong and do not deserve to win."

Their Lordships then noticed that the Allahabad High Court had gone into the questions and had given its view thereon & ultimately held as follows:-

"15. The findings of the High Court raise a question of great importance to the student community. Normally, one would be inclined to the view, especially if one has been a paper setter and an examiner, that the key answer furnished by the paper-

setter and accepted by the University as correct, should not be allowed to be challenged. One way of achieving it is not to publish the key answer at all. If the University had not published the key answer along with the result of the test, no controversy would have arisen in this case. But that is not a correct way of looking at these matters which involve the future of hundreds of students who are aspirants for admission to professional courses. If the key answer were kept secret in this case, the remedy would have been worse than the disease because, so many students would have had to suffer the injustice in silence. The publication of the key answer has unravelled an unhappy state of affairs to which the University and the State Government must find a solution. Their sense of fairness in publishing the key answer has given them an opportunity to have a closer look at the system of examinations which they conduct. What has failed is not the computer but the human system.

16. Shri Kacker, who appears on behalf of the University, contended that no challenge should be allowed to be made to the correctness of a key answer unless, on the face of it, it is wrong. We agree that the key-answer should be assumed to be correct unless it is proved to be wrong and that it should not be held to be wrong by an inferential process of reasoning or by a process of rationalisation. It must be clearly demonstrated to be wrong, that is to say, it must be such as no reasonable body of men well-versed in the particular subject would regard as correct. The contention of the University is falsified in this case by a large number of acknowledged text-books, which are commonly read by students in U.P. Those text-books leave no room for doubt that the answer given by the students is correct and the key answer is incorrect.

17. Students who have passed their Intermediate Board Examination are eligible to appear for the entrance Test for

admission to the Medical Colleges in U.P. Certain books are prescribed for the Intermediate Board Examination and such knowledge of the subjects as the students have is derived from what is contained in those text-books. Those text-books support the case of the students fully. If this were a case of doubt, we would have unquestionably preferred the key answer. But if the matter is beyond the realm of doubt, it would be unfair to penalise the students for not giving an answer which accords with the key answer, that is to say, with an answer which is demonstrated to be wrong."

While upholding the directions given by the Allahabad High Court in regard to the reassessment of the particular questions and the admission of the respondents in that case to the M.B.B.S. Course, the Court held as follows:-

"19. There was some argument before us as to the nature of the relief which can be granted to the respondents. It was contended by Smt. Dixit, who appears on behalf of the State of U.P., that six of the respondents have been already admitted to the B.D.S. Course and, therefore, they should not now be admitted to the M.B.B.S. course. We cannot accept this submission since, those students sought admission to the Dental course only because they were not admitted to the M.B.B.S. course. And they were denied admission to the M.B.B.S. course wrongly.

20. Twenty-seven students in all were concerned with these proceedings, out of whom 8 were admitted to the B.D.S. course, 3 were admitted to the M.B.B.S. course last year itself in place of the students who dropped out and 5 have succeeded in getting admission this year. Omitting 8 of the respondents who have been already admitted to the M.B.B.S. course, the remaining 19 shall have to be given admission as directed by

the High Court. If the key answer was not wrong as it has turned out to be, they would have succeeded in getting admission. In view of the findings of the High Court, the question naturally arose as to how the marks were to be allotted to the respondents for the three questions answered by them and which were wrongly assessed by the University. The High Court has held that the respondents would be entitled to be given 3 marks for each of the questions correctly ticked by them, and in addition they would be entitled to 1 mark for those very questions, since 1 mark was deducted from their total for each of the questions wrongly answered by them. Putting it briefly, such of the respondents as are found to have attempted the three questions or any of them would be entitled to an addition of 4 marks per question. If the answer-books are reassessed in accordance with this formula, the respondents would be entitled to be admitted to the M.B.B.S. course, about which there is no dispute. Accordingly, we confirm the directions given by the High Court in regard to the reassessment of the particular questions and the admission of the respondents to the M.B.B.S. course."

The next judgment in chronological order is ***Abhijit Sen and others vs. State of U.P. And others, (1984) 2 Supreme Court Cases 319, decided on 06.12.1983*** relating to the same admission**,** in which referring to the Kanpur University case (supra) the Court observed as follows:-

".....Suffice it to say that this Court has expressed therein a clear and categorical view that if the 'key-answer' (i.e. the answer which the paper-setter has supplied to the University as the correct answer and which has been fed into the Computer) is shown to be demonstrably wrong. that is to say, such as no reasonable body of men well versed in the particular subject would regard it as correct and if the answer given by a student is correct if regard be had to acknowledged

> *text-books or books which the student was expected to read and consult before appearing for the test it would be unfair to penalise the student for not giving an answer which accords with the `key-answer' that is to say with an answer which is demonstrated to be wrong.....”*

Their Lordships then went on to hold as under:-

> *“3. In view of what is stated above only one appeal namely, Civil Appeal No.4119/83 of Km. Sunita Khare deserves to be allowed. We allow it accordingly with costs and direct the respondents to give her admission to the MBBS course in the 1983 session. The other three appeals are dismissed but there will be no orders as to costs.”*

After these two judgments there was a hiatus of more than one decade before this issue came up before the Supreme Court in the case of ***Subash Chandra Verma and others vs. State of Bihar and others, 1995 Supp (1) Supreme Court Cases 325,*** but there the issue of the correctness of key answers was just one of the many issues and their Lordships decided the same without laying down any principle. Another nine years passed before the matter came up before the Supreme Court in the case of ***Pramod Kumar Srivastava vs. Chairman, Bihar Public Service Commission, Patna and others, (2004) 6 Supreme Court Cases 714***, but there the issue was whether a candidate could seek re-evaluation of his answer books. Therefore, that judgment may not be use to us. The next year saw the case of ***Manish Ujwal and others vs. Maharishi Dayanand Saraswati University and others, (2005) 13 Supreme Court Cases 744***, ***decided on 16.08.2005,*** wherein the Supreme Court came to the conclusion that the answer to at least six questions were palpably wrong and held as follows:-

> *“8. It seems that nearly thirty thousand students appeared in*

the examination held between 9th and 11th May, 2005. It was an entrance examination for admissions in the Government medical and dental colleges as also for fifty per cent State quota in the said disciplines in private colleges and not for the remaining management quota. On the basis of the results declared and ranking given, the first counselling for admission to the aforesaid courses in Government colleges and fifty per cent State quota in private colleges has already taken place. It is possible that the fresh evaluation by feeding correct key answers to the six questions may have adverse impact also on those who may have already secured admission on the basis of the results declared and ranking given by feeding incorrect keys in relation to these questions. Though we are of the view that the appellants in particular and student community in general, whether one has approached the court or not, should not suffer on account of demonstrably incorrect key answers but, at the same time, if the admissions already granted as a result of first counselling are disturbed, it is possible that the very commencement of the course may be delayed and the admission process for the courses may go beyond 30th September, 2005, which as the cut-off date, according to the time schedule in the Regulations and as per the Law laid down by this Court in Mridul Dhar (Minor) and Anr. v. Union of India and Ors. In this view, we make it clear that fresh evaluation of the papers by feeding correct key answers would not affect the students who have secured admissions as a result of the first counselling on the basis of ranking given with reference to the results already declared.

10. The High Court has committed a serious illegality in coming to the conclusion that "it cannot be said with certainty that answers to six questions given in the key answers were erroneous and incorrect". As already noticed, the key answers are palpably and demonstrably erroneous. In that view of the

matter, the student community, whether the appellants or intervenors or even those who did not approach the High Court or this Court, cannot be made to suffer on account of errors committed by the University. For the present, we say no more because there is nothing on record as to how this error crept up in giving the erroneous key answers and who was negligent. At the same time, however, it is necessary to note that the University and those who prepare the key answers have to be very careful and abundant caution is necessary in these matters for more than one reasons. We mention few of those; first and paramount reason being the welfare of the student and a wrong key answer can result in the merit being made a casualty. One can well understand the predicament of a young student at the threshold of his or her career if despite giving correct answer, the student suffers as a result of wrong and demonstrably erroneous key answer; the second reason is that the courts are slow in interfering in education matters which, in turn, casts a higher responsibility on the University while preparing the key answers; and thirdly, in cases of doubt, benefit goes in favour of the University and not in favour of the students. If this attitude of casual approach in providing key answer is adopted by concerned persons, directions may have to be issued for taking appropriate action, including the disciplinary action, against those responsible for wrong and demonstrably erroneous key answers but we refrain from issuing such directions in the present case.

11. The second counselling for the admission abovementioned, we are informed, is fixed from 25th August, 2005, onwards. We direct re-evaluation of all the questions by feeding correct answers, as above noticed, and on that basis correct number of marks obtained by all the students should be assigned and their ranking prepared. This exercise shall be completed within a period of three says from today. List so prepared shall be put

on internet soon thereafter as also be published in the newspapers wherein it was earlier published. The second counselling and admissions hereinafter in the medical and central courses in the State of Rajasthan in Government colleges as also in the private colleges insofar as the State quota is concerned would be made on the basis of ranking as per the list which will now be prepared by the University pursuant to the directions of this Court. The merit list shall be prepared for the same number of students as it was prepared earlier while declaring the results on 22.05.2005 and 23.05.2005."

Another matter which came up before the Supreme Court at that time was ***Guru Nanak Dev University vs. Saumil Garg and others, 2005(13) SCC 749, decided on 24.08.2005***, wherein the Supreme Court accepted the report of the CBSE that 10 key answers out of 21 referred were incorrect and held as under:-

"6. 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 finalize 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 finalize 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.

10. 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 the key answers.

11. 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 revaluate 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.

12. 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.

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

After half a decade the case of the ***Himachal Pradesh Public Service Commission vs. Mukesh Thakur and another, (2010) 6 Supreme Court Cases 759, decided on 25.05.2010***, came up before the Supreme Court. In that case the Court posed the following questions:-

"14. In the facts and circumstances of the aforesaid case, three

basic questions arise for consideration of this Court:-

(i) As to whether it is permissible for the court to take the task of Examiner/Selection Board upon itself and examine discrepancies and inconsistencies in the questions paper and valuation thereof.

(ii) Whether Court has the power to pass a general order restraining the persons aggrieved to approach the court by filing a writ petition on any ground and depriving them from their constitutional rights to approach the court, particularly, when some other candidates had secured the same marks, i.e., 89 and stood disqualified for being called for interview but could not approach the court.

(iii) Whether in absence of any statutory provision for re-evaluation, the court could direct for re-evaluation."

and went on to hold as follows:-

"15. In the instant case, the High Court has dealt with Question Nos.5(a) & (b) and 8(a) & (b) and made the following observations:-

> *"We perused answer to Question No.5(a) and 5(b) and found that the petitioner has attempted both these answers correctly and the answer to Question No.5(b) was as complete as it could be. Despite the petitioner having attempted a better answer to Question No.5(b) than the answer to Question No.5(a), the petitioner has been awarded 6 marks out of 10 in answer to Question No.5(b) whereas he has been awarded 8 marks in answer to Question No.5(a). Similarly in answer to Question No.8(a) and 8(b) the petitioner has fared better in attempting an answer to Question No.8(b) rather marks out of 10 marks in answer to Question No.8(b) whereas he got 5 marks out of 10 marks in answer to Question No.8(a)."*

16. It is settled legal proposition that the court cannot take upon itself the task of the Statutory Authorities.

17. In Hindustan Shipyard Ltd. & Ors. Vs. Dr P. Sambasiva Rao & Ors., (1996) 7 SCC 499, this Court held that in a case where the relief of regularisation is sought by employees working for a long time on ad hoc basis, it is not desirable for the Court to issue direction for regularisation straightaway. The proper relief in such cases is the issuance of direction to the authority concerned to constitute a Selection Committee to consider the matter of regularisation of the ad hoc employees as per the Rules for regular appointment for the reason that the regularisation is not automatic, it depends on availability of number of vacancies, suitability and eligibility of the ad hoc appointee and particularly as to whether the ad hoc appointee had an eligibility for appointment on the date of initial as ad hoc and while considering the case of regularisation, the Rules have to be strictly adhered to as dispensing with the Rules is totally impermissible in law. In certain cases, even the consultation with the Public Service Commission may be required, therefore, such a direction cannot be issued.

18. In Government of Orissa & Anr. Vs. Hanichal Roy & Anr., (1998) 6 SCC 626, this Court considered the case wherein the High Court had granted relaxation of service conditions. This Court held that the High Court could not take upon itself the task of the Statutory Authority. The only order which High Court could have passed, was to direct the Government to consider his case for relaxation forming an opinion in view of the statutory provisions as to whether the relaxation was required in the facts and circumstances of the case. Issuing such a direction by the Court was illegal and impermissible. Similar view has been reiterated by this Court in Life Insurance Corporation of India Vs. Asha Ramchandra Ambekar (Mrs.) & Anr., AIR 1994 SC 2148; and A. Umarani Vs. Registrar, Cooperative Societies & Ors., (2004) 7 SCC

112.

19. In G. Veerappa Pillai Vs. Raman and Raman Ltd., AIR 1952 SC 192, the Constitution Bench of this Court while considering the case for grant of permits under the provisions of Motor Vehicles Act, 1939, held that High Court ought to have quashed the proceedings of the Transport Authority, but issuing the direction for grant of permits was clearly in excess of its powers and jurisdiction.

20. In view of the above, it was not permissible for the High Court to examine the question paper and answer sheets itself, particularly, when the Commission had assessed the inter-se merit of the candidates. If there was a discrepancy in framing the question or evaluation of the answer, it could be for all the candidates appearing for the examination and not for respondent no.1 only. It is a matter of chance that the High Court was examining the answer sheets relating to law. Had it been other subjects like physics, chemistry and mathematics, we are unable to understand as to whether such a course could have been adopted by the High Court. Therefore, we are of the considered opinion that such a course was not permissible to the High Court."

Two years later i.e. the year 2012 saw some important developments having been made to this law. In the case of ***Manoj Kumar and others vs. State of Bihar***, ***passed in Civil Writ Jurisdiction Case No.13022 of 2011, decided on 04.01.2012***, the Patna High Court held as follows:-

"19. Similar is the situation in the present case as well. The advantage or disadvantage from a wrong question or a wrong answer would be there against one and all because it cannot be said that successful candidates managed to hit the bull's eye

with a correct answer even though the question was wrong or vice versa.

20. The Court therefore comes to a considered opinion that a fairer approach to the whole problem would be by permitting BPSC to carry out a fresh evaluation of all the answer sheets on the basis of their stand emerging from the opinion of the second expert group. If such an exercise is permitted then it will amount to a fair evaluation of all the candidates without giving any unfair advantage to either successful candidates or the unsuccessful ones because they will all be tested on a common platform. In fact this is one of the reasons why this Court is not willing to accept the submission of some of the counsels that as many marks should be added to all the candidates treating them as correct answers to the incorrect questions. Such an approach will make no difference to the final standing of the successful candidates whose results have been declared.

21. In the totality therefore, the Court comes to a considered conclusion that the BPSC should now re-declare the result of the preliminary examination after a fresh evaluation on the basis of the recommendations of the second expert committee and that should form the basis for conduct of the mains examination which is yet to follow.

22. It is made clear that none of the successful candidates earlier declared successful on the basis of declaration of the result would be ousted from the list of such candidates who will be entitled to sit for the mains examination. If the exercise brings in more candidates within the zone of successful candidates by being permitted to sit for the mains examination, so be it, but the exercise shall not be done to the detriment of any of the successful candidates whose results have already

been declared earlier.

23. These writ applications are allowed in terms of the direction issued above.

24. Some concerted effort was made on behalf of some of the counsels representing the petitioners to persist with their submission that there are still some mistakes with the answers or the questions despite the scrutiny by the second expert committee. With due respect to such counsels, those arguments are for the sake of arguments because the answers which they try to demonstrate before the Court are based on some publication made by the NCERT which by itself cannot be treated to be the final referral material for all the questions on the subject, which became the basis for testing the awareness of the students participating in the preliminary examination.

25. Let it be clarified that the order passed in these bunch of writ applications shall apply to all the candidates who have participated in the preliminary examination irrespective of the fact whether they have approached the Court or filed interlocutory applications to be impleaded as petitioners and have not been allowed, looking at the nature of the relief so granted."

In the same year in the case of ***Jitender Kumar and another vs. Haryana Public Service Commission, 2012 SCC Online P&H 15657, decided on 30.08.2012***, this Court considered the law discussed by the Patna High Court in Manoj Kumar case (supra) and held as under:-

"That apart Commission being a Constitutional Authority, which has been given the duty to conduct examination for appointment to the services of the State under Article 320 of the Constitution, has an onerous responsibility to conduct the

same fairly and successfully. It is by now settled proposition of law that where an Act or the Rules confer a jurisdiction, it impliedly also grants the power of doing all such acts and/or employing such means as are essentially necessary to its execution. Thus, to discharge the duties effectively which have been conferred on a Constitutional/Statutory Authority/Body, the power to take such steps, decisions or actions are inherent in the statute if they are to essentially carry out the effect of the objects of the statute/rules. The responsibility to conduct the preliminary examination and that too successfully and subsequently the main examination and personality test is upon the Commission. In doing so even if there is no specific power conferred upon the Commission to take a decision or to act in a particular manner, would not leave the Commission powerless to take appropriate steps/actions as and when any such situation arises.

In the light of the above, it cannot be said that the Commission did not have power to take such a decision which would be essentially necessary for the execution of the purpose for which the Commission has been constituted and has been assigned the duty to conduct the examination under the Constitution as also under the statutory rules. For exercising such authority no specific power is required to be conferred on the Commission as the said power/authority is inherent in the Commission. Therefore, the contention of the petitioners that the Commission did not have any jurisdiction or authority to take any action in the absence of the specific powers conferred on it cannot be accepted. However, the decision which has been taken by the Commission, the consequences and effect thereof and the process of such decision making is always open to judicial review.

After having held that the Commission has the jurisdiction to take a decision which is essential for fulfilling the duty and responsibility conferred on the Commission, the

decision so taken when it is not alleged to be with a malafide intention may not be open to question, but the decision making process, the effect and consequences thereof obviously is amenable to judicial review and it is in this context that the action taken by the Commission and the prejudice caused because of the same has to be tested. The facts as has been narrated above lead us to a conclusion that the questions which were set for the papers were open to objections. This is apparent from Clause 9 of the booklets of question papers which were given to the candidates when the HCS (Executive Branch) and other Allied Services Preliminary Examination, 2011 was held on 25.3.2012, according to which, any representation regarding questions and answers could be given by a candidate in writing to the centre supervisor just after the examination was over. In pursuance thereto, 151 representations were received which included representations not only received from the centre supervisors, but in the office of the Commission as well. These were referred to the paper-setters of the respective papers. The stand of the Commission is that this was done as it would amount to review as the discrepancies which were pointed out were apparent on the record. This action of the Commission although bonafide, but is not acceptable for the reason that the paper-setters are interested parties. They have their own self-interest involved, if they accept their mistake that they had set the questions wrong, they were likely to face the consequences which would be even debarring them from future responsibility of paper setting…..

This action of the Commission is violative of the well settled principle of natural justice, according to which, a person cannot be a judge in his own cause. Here is a situation where the questions set by a question-setter was being challenged to be incorrect or discrepant which generally by instinct leads a person to defend himself and his acts. Instead of proceeding with an open mind, the paper-setter would have

taken it negatively and defended his questions. In the above situation, it would have been just and reasonable that the said representations should have been referred to a Committee of Experts, who could have gone into the questions and thereafter would have submitted its repot to the Commission for its consideration……

There is yet another aspect which needs to be dealt with by this Court keeping in view the discrepancies which have been pointed out by the representationists apart from the petitioners, which has been duly accepted by the respondents. When it has been accepted that there are discrepancies in the question papers, the possibility of there being wrong answers in the answer key also cannot be ruled out. Although, a presumption is attached to the correctness of the said answer key as has been held by the Hon'ble Supreme Court in Kanpur University v. Sameer Gupta's case (supra), but in the present facts and circumstances of the case, it becomes all the more necessary that the answer key be made public so that the candidates are aware of their respective positions. This action of the Commission would be just, fair and equitable. After publishing the said answer key, the Commission should in all fairness call for representations from the candidates within some specified time which representations received, if any, be also referred to the Committee of Experts, who may also go into this aspect and submit its report to the Commission. For guiding the Committee and the Commission with regard to the questions and the action to be taken therein, reference can be made to the judgment of Delhi High Court in the case of Gunjan Sinha Jain(supra)…….

After taking a decision thereon in this regard, the Commission should proceed to take action in accordance with law. This would not only restore the faith of the candidates in the Commission, but would increase credibility of this constitutional authority which has an obligation to ensure

holding of free and fair examination by maintaining highest standards, leaving no manner of doubt in the minds of the aspiring candidates and would bring in transparency in the working of the Commission and its actions. Much of the confusion has been created on the part of the Commission by not making public the answer key. Had the Commission done so, the things would have been much more clearer, removing doubts in the minds of the candidates. The purpose and intent of the Commission is not to stand on hollow esteems or to make a prestige issue in such matters. With the increase in education, awareness of the rights and expectancy of the youth of this country, the Commission should stand apart and take the challenges by accepting responsibility and bringing in transparency in its functioning, instead of seeking protection and cover under the cloak of secrecy of the examination process. Most of the State Public Service Commissions and even the Union Public Service Commission make the answer key public, but still the Haryana Public Service Commission is averse to the same, especially when it has been asserted in the Court that it has nothing to hide. The Commission should therefore, proceed to make the answer key public, call for the representations, if any, against them and thereafter refer them to the Committee of Experts for their opinion and on receipt of the same, take appropriate steps in accordance with law.

.....This Court, after referring to judgments passed by the Hon'ble Supreme Court in the cases of Himachal Pradesh Public Service Commission v. Mukesh Thakur, (2010) 6 SCC 759, Hindustan Shipyard Ltd. v. Dr. P. Sambasiva Rao, (1996) 7 SCC 499, Govt. of Orissa v. Hanichal Roy, (1998) 6 SCC 626, LIC v. Asha Ramchhandra Ambekar, (1994) 2 SCC 718 and A. Umarani v. Coop. Societies, (2004) 7 SCC 112, proceeded to sum up the law on the subject as follows:-

"The law, thus, can be summed up to say that the Courts can not take on the role of examiner or the evaluator or

that of the Selection Board to examine discrepancies either in the question papers or the answer sheets. Courts can not also examine the question paper or the answer sheet itself. Obviously, if the Courts would start doing so, they would assume the role of examiner, paper setter and evaluator, which is to be left to the expert body. It is with reason and purpose that the courts are to assume the answer given in the 'key answer' to be correct. Any interference in this regard would tend to make them to take on the role of paper setter, which would be beyond the purview of judicial review. As is well understood, the judicial review generally speaking is not directed against a decision but is directed against the 'decision making process'. Any exercise to observe that a particular question is discrepant or the answer in the key answer is not correct, would tend to be going beyond the permissible grounds of judicial review. As observed in the case, of Public Utilities Commission of the District of Columbia v. Pollak, (1951) 343 US 451, the judicial process demands that a Judge moves within the frame work of relevant legal rules and the covenanted modes of thought for ascertaining them. The fact is that on the whole Judges do lay aside private views in discharging their judicial functions."

Ultimately the learned Judge held as follows:-

"In view of the above, these writ petitions are allowed with following directions:-

(i) The Haryana Public Service Commission shall constitute a Committee of Experts to consider the 151 representations received by the Commission in pursuance to Clause 9 of the booklet of question papers and submit its report to the Commission. Commission shall consider the same and take steps in accordance with the law;

(ii) The Haryana Public Service Commission shall publish the

answer key of the preliminary examination within a period of three days from today, call for the representations from the candidates within a reasonable time, on receipt thereof, if any, the same be referred to a Committee of Experts, which shall consider these representations and submit its opinion to the Commission which shall thereafter take a decision thereon and take appropriate steps in accordance with law.

In case, discrepancies are found in the question papers/answer keys as per the report of the Committee of Experts, corrective measures be taken by the Commission and the following be also taken into consideration, i.e. wherever the question(s) in respect of which the option shown to be correct in the answer key is incorrect and instead another option as determined by the Committee of Experts is found to be correct, answer key be corrected. Question(s) in respect of which the answer in the answer key is debatable or question(s) in respect of which there is/are more than one correct option or questions in respect of which none of the options is correct or question(s) which is/are confusing or do not supply complete information for a clear answer, would have to be removed from the purview of examination. In the case of paper of General Studies, answers be evaluated accordingly of all the candidates.

However, in the case of optional subjects, the Commission shall have no option but to order re-examination in the said optional paper(s) if discrepancies in question paper (s)/answer key(s) is/are of such a nature where the question(s) is/are to be deleted.

The result be thereafter compiled and declared only after the above process is given effect to.

The main written examination, which is fixed for 2.9.2012 shall stand postponed till the above exercise is completed by the Commission."

The decision in Jitender Kumar case (supra) was challenged in LPA in the case of ***Haryana Public Service Commission vs. Jitender Kumar and another, 2012 SCC OnLine P&H 22926,*** whereby a Division Bench of this Court rejected the appeal of the HPSC holding as under:-

> *"It is, thus, stated that the Expert Committee(s), which is to be constituted as per the directions of the learned Single Judge, would go into all these questions and take the decision in the manner indicated above.*
>
> *Counsel for the respondents have also prepared list of questions which, according to them, are wrong or where the answer key is incorrect. Same is handed over to Mr. Bali. Mr. Bali makes a statement at the bar, on the instructions given by Mr. I.C. Sangwan, Secretary of the Commission who is present in the Court, that the Expert Committee(s) shall look into these questions/answer keys as well.*
>
> *Since the aforesaid proposal/procedure/mode suggested by the Commission essentially takes care of the directions of the learned Single Judge, nothing survives in these appeals which are disposed of with the directions that the Commission shall take the steps in accordance with the lines stated in the affidavit and now as indicated in this order.*
>
> *We would also like to point out that this course of action is acceptable to all the counsel for the respondents except the counsel for the respondents appearing in LPA Nos. 1552 and 1567 of 2012. Mr. Sanjiv Peter, learned counsel appearing on behalf of the respondents in these two appeals, submits that this Bench should not accept the aforesaid proposal and the only proper course is to scrap the entire selection process and conduct fresh examination in 4 optional subjects.*
>
> *We have heard him on this aspect but are not inclined to accept this submission particularly when we find that the solution suggested above is going to take care of all the*

grievances of the respondents and this solution is even accepted by all other candidates/respondents.

The Commission shall constitute the Expert Committee (s) within 4 weeks. Names of members of the Committee(s) shall be placed on the record of LPA No. 1338 of 2012 in a sealed cover. The said Committee(s) shall endeavour to complete the entire exercise within 4 weeks thereafter to enable the Commission to proceed further in view of the recommendations made by this Court. We accordingly dispose of all the appeals in the aforesaid manner."

In the year 2013 two cases came up before the Supreme Court in the matters of ***Rajesh Kumar and others, (2013) 4 Supreme Court Cases 690, decided on 13.03.2013*** and ***Vikas Pratap Singh and others vs. State of Chhattisgarh and others, (2013) 14 Supreme Court Cases 494, decided on 09.07.2013***. In Rajesh Kumar case (supra) the Court discussed the issue as under:-

"2. Application of an erroneous "model answer key" for evaluation of answer scripts of candidates appearing in a competitive examination is bound to lead to erroneous results and an equally erroneous inter se merit list of such candidates. That is precisely what appears to have happened in the present appeals which arise out of a common judgment delivered by the High Court of Judicature of Patna whereby the High Court has directed the Bihar Staff Selection Commission to conduct a fresh examination and re-draw the merit list on that basis. For those who have already been appointed on the basis of the earlier examination, a fresh examination has been directed by the High Court before they are finally ousted from the posts held by them. The appellants who happen to be the beneficiaries of the erroneous evaluation of the answer scripts have assailed the order passed by the High Court in these

appeals which arise in the following backdrop.

5. In the writ petition filed by the aggrieved candidates, a Single Judge of the High Court referred the "model answer key" to experts. The model answers were examined by two experts, Dr (Prof.) C.N. Sinha, and Prof. K.S.P. Singh, associated with NIT, Patna, who found several such answers to be wrong. In addition, two questions were also found to be wrong while two others were found to have been repeated. Question 100 was also found to be defective as the choices in the answer key were printed but only partially.

6. Based on the report of the said two experts, a Single Judge of the High Court held that 41 model answers out of 100 were wrong. It was also held that two questions were wrong while two others were repeated. The Single Judge on that basis held that the entire examination was liable to be cancelled and so also the appointments made on the basis thereof. Certain further and consequential directions were also issued by the Single Judge asking the Commission to identify and proceed against persons responsible for the errors in the question paper and the "model answer key".

7. Aggrieved by the order of the Single Judge, the appellants filed LPA No. 70 of 2008 before the Division Bench of that High Court. By the order impugned in these appeals, the High Court has partly allowed the appeal holding that model answers in respect of 45 questions out of 100 were wrong. The Division Bench modified the order passed by the learned Single Judge and declared that the entire examination need not be cancelled as there was no allegation of any corrupt motive or malpractice in regard to the other question papers. A fresh examination in Civil Engineering Paper only was, according to the Division Bench, sufficient to rectify the defect and

prevent injustice to any candidate. The Division Bench further held that while those appointed on the basis of the impugned selection shall be allowed to continue until publication of the fresh result, anyone of them who failed to make the grade on the basis of the fresh examination shall be given a chance to appear in another examination to be conducted by the Staff Selection Commission. The present appeals assail the correctness of the said judgment and order of the High Court as already noticed earlier.

15. There is, in our view, no merit in that contention of Mr Rao. The reasons are not far to seek. It is true that the writ petitioners had not impleaded the selected candidates as party-respondents to the case. But it is wholly incorrect to say that the relief prayed for by the petitioners could not be granted to them simply because there was no prayer for the same. The writ petitioners, it is evident, on a plain reading of the writ petition questioned not only the process of evaluation of the answer scripts by the Commission but specifically averred that the "model answer key" which formed the basis for such evaluation was erroneous. One of the questions that, therefore, fell for consideration by the High Court directly was whether the "model answer key" was correct. The High Court had aptly referred that question to experts in the field who, as already noticed above, found the "model answer key" to be erroneous in regard to as many as 45 questions out of a total of 100 questions contained in 'A' series question paper. Other errors were also found to which we have referred earlier. If the key which was used for evaluating the answer sheets was itself defective the result prepared on the basis of the same could be no different. The Division Bench of the High Court was, therefore, perfectly justified in holding that the result of the examination insofar as the same pertained to 'A' series question paper was vitiated. This was bound to affect the result

of the entire examination qua every candidate whether or not he was a party to the proceedings. It also goes without saying that if the result was vitiated by the application of a wrong key, any appointment made on the basis thereof would also be rendered unsustainable. The High Court was, in that view, entitled to mould the relief prayed for in the writ petition and issue directions considered necessary not only to maintain the purity of the selection process but also to ensure that no candidate earned an undeserved advantage over others by application of an erroneous key.

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."

Ultimately, their Lordships held as follows:-

"21. There is considerable merit in the submission of Mr. Rao. It goes without saying that the appellants were innocent parties who have not, in any manner, contributed to the

preparation of the erroneous key or the distorted result. There is no mention of any fraud or malpractice against the appellants who have served the State for nearly seven years now. In the circumstances, while inter-se merit position may be relevant for the appellants, the ouster of the latter need not be an inevitable and inexorable consequence of such a re-evaluation. The re-evaluation process may additionally benefit those who have lost the hope of an appointment on the basis of a wrong key applied for evaluating the answer scripts. Such of those candidates as may be ultimately found to be entitled to issue of appointment letters on the basis of their merit shall benefit by such re- evaluation and shall pick up their appointments on that basis according to their inter se position on the merit list.

22. In the result, we allow these appeals, set aside the order passed by the High Court and direct that -

22.1. Answer scripts of candidates appearing in 'A' series of competition examination held pursuant to advertisement No. 1406 of 2006 shall be got re-evaluated on the basis of a correct key prepared on the basis of the report of Dr. (Prof.) CN Sinha and Prof. KSP Singh and the observations made in the body of this order and a fresh merit list drawn up on that basis.

22.2. Candidates who figure in the merit list but have not been appointed shall be offered appointments in their favour. Such candidates would earn their seniority from the date the appellants were first appointed in accordance with their merit position but without any back wages or other benefit whatsoever.

22.3. In case writ petitioners-respondent nos. 6 to 18 also figure in the merit list after re-evaluation of the answer scripts, their appointments shall relate back to the date when the

appellants were first appointed with continuity of service to them for purpose of seniority but without any back wages or other incidental benefits.

22.4. Such of the appellants as do not make the grade after re-evaluation shall not be ousted from service, but shall figure at the bottom of the list of selected candidates based on the first selection in terms of advertisement No.1406 of 2006 and the second selection held pursuant to advertisement No.1906 of 2006.

22.5. Needful shall be done by the respondents – State and the Staff Selection Commission expeditiously but not later than three months from the date a copy of this order is made available to them."

In Vikas Pratap Singh case (supra) the Supreme Court held as under:-

"1. Leave granted in all the special leave petitions. These batch of appeals are directed against the common judgment and order passed by the High Court of Chhattisgarh in Rajendra Singh Kanwar v. State of Chhattisgarh dated 6-9-2011, whereby and whereunder the High Court has dismissed the writ petitions filed by the appellants herein and confirmed the revised merit list drawn after the selective re-evaluation of the answer scripts of all the candidates who had appeared in the main examination for the posts of Subedars, Platoon Commanders and Sub-Inspectors in the respondent State of Chhattisgarh.

6. The learned Single Judge while entertaining the writ petitions had issued an interim order directing the respondent State not to take any coercive steps against the appellants and further to allow them to continue their training programme. The learned Single Judge has observed that a substantial question of public importance has arisen in the matter and

therefore, referred the matter to the Division Bench with a request to consider and decide the following question of law of public importance:

> *"Whether the VYAPAM (the respondent Board) after publication of the select list and passing of the appointment orders also on the basis of evaluation of questions, could have done the exercise of re-evaluating the answers after editing and reframing answers, and prepare the second select list for fresh recruitment of the candidates, cancelling the first select list?"*

8. The Division Bench has observed that since all the questions so re-evaluated were objective type carrying fixed marks for only one correct answer, the possibility of difference in marking scheme or prejudice during re-evaluation does not arise and therefore has concluded that no irregularity or illegality could be said to have crept in the manner and method of re-evaluation carried out by the respondent Board and that the said decision of re-evaluation was justified, balanced and harmonious and has not caused any injustice to the candidates and therefore cannot be interfered with unless found arbitrary, unreasonable or mala fide which is not the case at hand. In consequence of the aforesaid conclusion, the Division Bench has thought it fit to uphold the cancellation of appointments of the appellants qua the first list and accordingly dismissed the writ petitions.

11. Shri Rao would submit that the decision of the respondent Board to re-evaluate the answer scripts in the absence of any statutory provisions for the same and subsequent publication of a revised merit list cancelling the appointment of the appellants is arbitrary and has caused prejudice to the appellants. He would further submit that Clause 14 of the Rules providing for procedure to be adopted in respect of erroneous objective questions is of a wider ambit and includes

exigencies such as model answers to examination questions being incorrect and therefore, the respondent Board instead of directing re-evaluation of answer scripts ought to have acted in compliance with the said statutory provision.

12. Per contra, Shri Rohatgi, learned Senior Counsel would submit that the re-evaluation of answer scripts affected three genre of objective questions: firstly, the eight questions in Paper II which were found incorrect; secondly, the eight questions in Paper II answers to which were found to be incorrect in the model answers key and thirdly, the questions in Paper I to which no model answers were provided for prior to the appointment of the Expert Committee. He would submit that the first set of eight questions was deleted and marks were awarded on a pro rata basis in accordance with Clause 14 of the Rules. The second set of eight questions were re-evaluated on the basis of corrected model answers key and the third set of questions in Paper I, all being objective type, were re-evaluated with the aid of model answers key prepared by the Expert Committee.

14. In these appeals what falls for our consideration is whether the decision of the respondent Board in directing re-evaluation of the answer scripts has caused any prejudice to the appellants appointed qua the first merit list, dated 8-4-2008?

18. In respect of the respondent Board's propriety in taking the decision of re-evaluation of answer scripts, we are of the considered view that the respondent Board is an independent body entrusted with the duty of proper conduct of competitive examinations to reach accurate results in fair and proper manner with the help of experts and is empowered to decide upon re-evaluation of answer sheets in the absence of any specific provision in that regard, if any irregularity at any

stage of evaluation process is found. It is settled law that if the irregularities in evaluation could be noticed and corrected specifically and undeserving select candidates be identified and in their place deserving candidates be included in select list, then no illegality would be said to have crept in the process of re-evaluation. The respondent Board thus identified the irregularities which had crept in the evaluation procedure and corrected the same by employing the method of re-evaluation in respect of the eight questions, answers to which were incorrect and by deletion of the eight incorrect questions and allotment of their marks on pro rata basis. The said decision cannot be characterised as arbitrary. Undue prejudice indeed would have been caused had there been re-evaluation of subjective answers, which is not the case herein.

19. In view of the aforesaid, we are of the considered opinion that in the facts and circumstances of the case the decision of re-evaluation by the respondent Board was a valid decision which could not be said to have caused any prejudice, whatsoever, either to the appellants or to the candidates selected in the revised merit list and therefore, we do not find any infirmity in the judgment and order passed by the High Court to the aforesaid extent.

22. The pristine maxim of fraus et jus nunquam cohabitant (fraud and justice never dwell together) has never lost its temper over the centuries and it continues to dwell in spirit and body of service law jurisprudence. It is settled law that no legal right in respect of appointment to a said post vests in a candidate who has obtained the employment by fraud, mischief, misrepresentation or mala fide. It is also settled law that a person appointed erroneously on a post must not reap the benefits of wrongful appointment jeopardising the interests of the meritorious and worthy candidates. However, in cases

where a wrongful or irregular appointment is made without any mistake on the part of the appointee and upon discovery of such error or irregularity the appointee is terminated, this Court has taken a sympathetic view in the light of various factors including bona fide of the candidate in such appointment and length of service of the candidate after such appointment."

Ultimately their Lordships held as under:-

"28. In our considered view, the appellants have successfully undergone training and are efficiently serving the respondent-State for more than three years and undoubtedly their termination would not only impinge upon the economic security of the appellants and their dependants but also adversely affect their careers. This would be highly unjust and grossly unfair to the appellants who are innocent appointees of an erroneous evaluation of the answer scripts. However, their continuation in service should neither give any unfair advantage to the appellants nor cause undue prejudice to the candidates selected qua the revised merit list.

29. Accordingly, we direct the respondent-State to appoint the appellants in the revised merit list placing them at the bottom of the said list. The candidates who have crossed the minimum statutory age for appointment shall be accommodated with suitable age relaxation.

30. We clarify that their appointment shall for all intents and purpose be fresh appointment which would not entitle the appellants to any back wages, seniority or any other benefit based on their earlier appointment."

Two years later a case came up before the Himachal Pradesh High Court in the matter of ***Smt. Latika Sharma vs. State of Himachal***

Pradesh and others, 2015 SCC Online HP 1357, decided on 19.03.2015, wherein the learned Single Judge discussed the Division Bench Judgment of the Himachal Pradesh High Court in the matter of *Vivek Kaushal vs. Himachal Pradesh Public Service Commission, CWP No.9169 of 2013, decided on 17.07.2014,* and reproduced their observations as under in para No.2:-

> *"17. In the instant case, the Rules do prescribe for inviting objections before the Examiner examines the papers and before declaring the result, if the candidates files objections within seven days from displaying the key on the website. It appears that the purpose is just to examine those objections before declaring the result.*
>
> *18. Applying the test to the instant case, it is specifically averred by the respondents, as discussed herein above, that they have invited the objections, asked the Experts to examine the objections, objections were examined, some mistakes were found, were rectified, the Examiners were asked to examine the papers in light of the Expert's opinion and thereafter, the result was declared. Thus, there is no case for interference. Had the Commission not invited the objections or had failed to take into account the said objections and the Expert's opinion, in that eventuality, the judicial review was permissible. Thus, on this count, these writ petitions are not maintainable.*
>
> *19. The respondents have specifically pleaded that some of the petitioners have filed objections, but some have not filed the same. The respondents have furnished CWP-wise list of the petitioners, who have not represented/filed objections before the Commission,*

> *made part of the file. The respondents have also furnished opinion of Experts of Key-Committee on objected questions/key answers of the General Studies & Aptitude Test.*
>
> *20. It is beaten law of land that the Courts are not Experts, have to honour the opinion of the Experts and cannot substitute the same. In the instant cases, the Experts have examined the questions and given their opinion.*

Ultimately the learned Judge held as under:-

> *"3. Since the Court is not an expert on the subject, it cannot be interfere and substitute its opinion for the one given in the key answers, as has been laid down by the learned Division Bench of this Court in Vivek Kaushal's case (supra), which judgment is otherwise binding on this Court.*
> *4. In view of the aforesaid discussion, particularly the judgment delivered by learned Division Bench of this Court in Vivek Kaushal's case (supra), the case calls for no interference and is accordingly dismissed along with pending application (s), if any, leaving the parties to bear their costs."*

In 2015 itself the written test of Common Law Admission Test, 2015 (CLAT-2015) was challenged before the Division Bench of Bombay High Court in the matter of ***Mr. Subham Dutt vs. The Convenor, CLAT 2015 (UG) Exam, Dr. Ram Manohar Lohiya National Law University and others, 2015 SCC Online Bom 3550, decided on 02.07.2015*** and after going through the entire facts, the Division Bench held as follows:

> *"ORDER*
> *a) Respondent No. 1-CLAT to appoint an Expert Panel/Committee, as early as possible, preferably within 5 days from today and refer 7 objections/questions or other*

connected issues, for clarification/explanation, for their consideration immediately.

b) The Expert Panel/Committee to clarify and/or take decision with reasons on all the objections/questions, as recorded within 3 days thereafter, by following the due process of law.

c) The Expert Panel/Committee to take effective decision and actions for re-preparing and/or revising the merit list of candidates, if necessary, (CLAT-15) after re-valuation and/or assessment, if required, or pass or declare such results/merit list immediately, within 4 days thereafter.

d) It is made clear that (CLAT-2015), the whole merit list and all subsequent process, will be subject to outcome of the Expert Panel/Committee's decision, so referred above, which will be taken as early as possible by all the concerned, to avoid further delay of any kind.

e) Writ Petition is accordingly disposed of, with liberty.

f) Rule disposed of accordingly.

g) There shall be no order as to costs.

The parties to act on the basis of an authenticated copy of this order."

Another matter came up before the Delhi High Court in the year 2015 itself in the matter of ***Atul Kumar Verma vs. Union of India, 2015 SCC Online Del 10316, decided on 13.07.2015***. In that case the issue was related to three questions in the Joint Entrance Examination (JEE) for the Indian Institutes of Technologies (IITs), wherein it was observed as under:-

"1. The petitioner, being the father of an aspirant for admission to the Indian Institutes of Technologies (IITs), for admission whereto Joint Entrance Examination (JEE) comprising of JEE (Main) and JEE (Advance) is held by the respondent no.2 Central Board of Secondary Education (CBSE) and the respondent no. 1 Union of India (UOI), Ministry of Human Resource and Development respectively

and whose ward/daughter had appeared in the JEE (Main) held on 4th April, 2015, has filed this petition seeking declaration that the questions no. 9, 22 & 57 in Set 'C' of the said examination are conceptually wrong and seeking a direction to the respondent no. 2 CBSE to award 14 additional marks to the daughter of the petitioner and to prepare the All India Rank of the said examination by making the said addition to the marks of his daughter.

2. The petition came up first before this Court on 29th May, 2015 when the following order was passed:-

> *"The petitioner had appeared for JEE (Mains) Examination held on 04.04.2015. It is stated that more than 12 lacs students appeared for the said examination. The respondent released the answer keys to different sets of question papers in the public domain and also invited objections to the answer keys. It is stated that the petitioner objected to the answers in respect of question no. 9, 20, 22, 57, 73 & 21 from the question papers (set C). The learned counsel for the respondent, who appears on advance notice, states that the objections received in response to the answer keys put in public domain were considered by the experts. And, in respect of certain questions the objections were accepted, while in respect of others the same were rejected. However, none of the objections furnished by the petitioner were found acceptable by the experts. Although, the leaned counsel for the petitioner contends that the answers as furnished by the petitioner are correct, it is not possible to conclude that her views should prevail over the views of other experts appointed by the respondent. However, since the petitioner insists that the answers with respect to the aforementioned questions are incorrect and this is confirmed by certain coaching centres as well, I consider it appropriate to call upon the respondent to*

furnish the views furnished by the experts appointed by the respondent, to consider the objections to the answer keys. Let the same be furnished on the next date of hearing.

List on 01.07.2015."

9. The senior counsel for the petitioner contended, (i) that a question relating to a Science subject could have only one correct answer; (ii) however the subject experts consulted by the petitioner, with respect to the questions to which objection has been taken by the petitioner opined that the same were not capable of one answer; (iii) that the factum of the answer key of the respondent no. 2 CBSE being erroneous is established from the respondent no. 2 CBSE having admitted the answer key qua some other questions being erroneous; (iv) some of the questions qua which objection has been taken did not have complete particulars and required the examinees to make assumption, making the question erroneous and incapable of a single answer; (v) that since there was a difference of opinion between the subject experts of the respondent no. 2 CBSE and the other subject experts equally competent and qualified, this Court in exercise of its writ jurisdiction should refer the disputed questions to an independent expert viz. IIT, Delhi or anyone else not connected with the respondent no. 2 CBSE; and, (vi) that the subject experts of the respondent no. 2 CBSE would naturally be inclined to, as far as possible, reiterate the answers in the answer key and would not be completely open to re-consider.

Attention of course was invited to the affidavits of the experts consulted by the petitioner and the reasons given by them in their affidavits/annexures thereto for the answer in the answer key being incorrect. The senior counsel for the petitioner during the hearing also handed over a chart to show, (a) that with respect to question no. 9, the answer as per the FIIT JEE and Time was same as in the answer key, as per

Resonance and Akash the question was theoretically wrong; (b) with respect to question no. 22 (which the petitioner did not answer), according to Time the answer was the same as in the answer key, according to FIIT JEE the correct option was not available and according to Resonance and Akash the question was theoretically wrong; and, (c) with respect to question no. 57, according to FIIT JEE, Resonance, Akash, Brilliant as well as Time the answer given by the daughter of the petitioner was correct and the answer in the answer key was wrong.

Also, besides the judgments referred to in the rejoinder, reliance was also placed on Guru Nanak Dev University v. Saumil Garg (2005) 13 SCC 749 with respect to the views of the subject experts of CBSE, which the CBSE had been directed to produce in Court, it was argued that the same did not give any reasons for the objections preferred by the daughter of petitioner being not sustainable and the answer key being correct.

10. The counsel for the respondent no. 2 CBSE argued that the daughter of the petitioner, while preferring the objections to the answer key did not give any explanation for the answer in the answer key being wrong as is now given in the affidavits filed by the experts and thus the subject experts of the respondent no. 2 CBSE while considering the said objections did not have the said opinion before them. It was further stated that the CBSE had been directed to produce the views of its subject experts as received then and had produced the views received of three subject experts consulted and of which one contained explanation. Reference, besides to the orders/judgments referred to in the counter affidavit was also made to the order dated 8th April, 2015 of the Division Bench of this Court of which the undersigned was a member in W.P. (C) No. 2275/2010 titled Dr. Rajeev Kumar v. Union of India concerning JEE and where it was inter alia observed/held as

under:-

> *"20. As far as the suggestion, for the objections to the answer key to be reviewed by an independent body of experts, we are of the view that in the light what we have been informed, of the answer key prepared by the question setter being examined by the experts from all the seven IITs and the final answer key being prepared only thereafter, there is no need for the objections to the answer key being considered/reviewed by an independent body of experts. We have rather enquired from the counsel for the petitioner as to where the said process is to end - in the event of the independent body of experts differing from the experts of the IIT, whether not the next step would be to seek judicial review thereof. In our view no judicial review of the answer key is ordinarily permissible. The said aspect has been dealt in detail in recent judgments of this Court in Salil Maheshwari v. The High Court of Delhi and in Manoviraj Singh v. University of Delhi (judgment dated 25th September, 2013 in WP(C) No. 5074/2013) and need is not felt to elaborate further. Suffice it is to say that the process of examination and selection of the candidates cannot be made an unending exercise which would result in the admissions and the academic session being delayed and which cannot be permitted."*

On the basis of the above it was argued that the matter is no longer res integra. It was further contended that in Kanpur University supra the experts of the examining body themselves had admitted to the wrong and the said judgment is thus not applicable.

11. The senior counsel for the petitioner in rejoinder contended that, (i) unlike as per the procedure in JEE (Advance) where objections to the answer key are referred to persons other than those who had framed the answer key, even

though of the IITs only, the consideration of the objections to the answer key of JEE (Main) conducted by respondent no. 2 CBSE is not by independent persons; (ii) that thus the observations aforesaid of the Division Bench in Dr. Rajiv Kumar pertaining to JEE (Advance) would not have application to JEE (Main); (iii) that once according to all the coaching institutes as well as the experts consulted by the petitioner including the expert whose affidavit is filed along with the rejoinder, the answer in the answer key to question no. 57 is wrong, the same ought to invite a reference by this Court of the dispute to an independent expert and the petitioner will be bound thereby.

12. During the course of hearing it was enquired whether any other objections besides from the petitioner were received to the aforesaid three questions. The counsel for the respondent no. 2 CBSE answered in the affirmative and informed that the objections of the others also to the said questions were negated. The senior counsel for the petitioner responded that it matters not whether the challenge is by one candidate or by several in as much as once there is a difference of opinion, an independent expert necessarily has to be consulted.

13. Before considering the rival contentions I may observe that this Court is inundated with writ petitions concerning academic matters, so much so that a separate Roster therefor has been created. Though the said matters in the past pertained to challenge to the administrative actions of the academic institutions/bodies viz. of cancelling an examination, rusticating a student, but off late the said challenge has expanded to all facets of education and the zenith thereof is evident from the challenge in this petition, seeking judicial review of the marking in an examination or of the decision of an examining body of what the correct answer to a question in

an examination should be. I have pondered, whether the power conferred by the Constitution of India on the High Courts under Article 226 to issue to any person or authority orders or writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari or any of them, for the enforcement of any of the rights conferred by Part-III and for any other purpose extends to the High Courts in exercise of said power reviewing the appropriate/correct answer to a question in an examination held whether to test comparative merit or for admission or for selection or posting.

14. The Supreme Court, in Tata Cellular v. Union of India (1994) 6 SCC 651 was concerned with the extent of judicial review of decisions bona fide arrived at in tender cases and on a review of case law it was inter alia held that:-

(i) there are inherent limitations in exercise of power of judicial review;

(ii) judicial review is a great weapon in the hands of the judges; but the judges must observe the constitutional limits set by our parliamentary system upon the exercise of this beneficent power;

(iii) the restraint has two contemporary manifestations - one is the ambit of judicial intervention; the other covers the scope of the court's ability to quash an administrative decision on its merits;

(iv) these restrains bear the hallmarks of judicial control over administrative action;

(v) judicial review is concerned with reviewing not the merits of the decision in support of which the application for judicial review is made, but the decision-making process itself;

(vi) unless that restriction on the power of the court is observed, the court will, under the guise of preventing the abuse of power, be itself guilty of usurping power;

(vii) that the concern of the Court while exercising the power

of judicial review should be confined to, (a) whether a decision-making authority exceeded its powers; (b) committed an error of law; (c) committed a breach of the rules of natural justice;(d) reached a decision which no reasonable tribunal would have reached or; (e) abused its powers;

(viii) therefore, it is not for the Court to determine whether a particular policy or a particular decision taken in the fulfilment of that policy is fair;

(ix) the Court is only concerned with the manner in which those decisions have been taken;

(x) if the decision-maker understood correctly the law that regulates his decision-making power and has given effect to it, his decision cannot be said to be illegal, inviting interference;

(xi) a decision would be regarded as unreasonable if it is impartial and unequal in its operation;

(xii) a decision taken after taking into account all the factors which ought to be taken into account is ordinarily not to be held as unreasonable;

(xiii) if the scope of judicial review is too broad it would turn the various authorities/agencies into little more than media for transmission of cases to the courts and that would destroy the value of the agencies created to secure the benefit of special knowledge acquired through continuous administration in complicated fields;

(xiv) it is not the function of a Judge to act as a super board or with the zeal of a pedantic schoolmaster substituting its judgment for that of the administrator;

(xv) no judicial review by the non-expert Judge is permitted of the discretion exercised by the expert; and,

(xvi) if a Court were to review fully the decision of a body such as a State Board of medical examiners, it would find itself wandering amid the mazes of therapeutics of boggling at the mysteries of the pharmacopoeia - such a situation is not a case of the blind leading the blind but of one who has always been

deaf and blind insisting that he can see and hear better than one who has always had his eyesight and hearing and has always used them to the utmost advantage in ascertaining the truth in regard to the matter in question.

15. When I apply the aforesaid principles to a plea, seeking judicial review of the answer key which the question setter/s with or without consultation with other subject experts has prepared and who, upon objection being raised thereto has reiterated the answer key, with or without the assistance of other experts, and which answer key has been uniformly applied to all the candidates taking the examination, in my view the answer is unequivocal that no judicial review lies.

19. A Division Bench of this Court also recently in Salil Maheshwari v. The High Court of Delhi held that, (i) a candidate in an examination who has not availed of the opportunity given for objecting to the answer key is estopped from raising a challenge at a belated stage; (ii) that the Supreme Court in Kanpur University has held that the answer key must be assumed to be correct unless it is proved to be wrong and that it should not be held to be wrong by an inferential process of reasoning or by a process of rationalisation; it must be clearly demonstrated to be wrong, that is to say, it must be such as no reasonable body of men well versed in the particular subject would regard as correct; and if the traditional parameters of judicial review - illegality, irregularity, non-consideration of material facts or consideration of extraneous considerations or lack of bona fides in decision making process as contrasted with the decision itself, are satisfied can the decision be corrected in judicial review; (iii) in matters of judicial review which involve examination of academic content and award of marks, a circumspect approach, leaving evaluation of merits to the

expertise of academics has to be effected; (iv) and, else judicial review is permitted only when decision is so manifestly and patently erroneous that no reasonable person could have taken it.

22. That brings me to the judgments relied upon by the senior counsel for the petitioner. The ratio of Kanpur University has already been culled out by the Division Bench in Salil Maheshwari supra. Moreover Kanpur University and Guru Nanak Dev University pertain to an era where no opportunity was given for objecting to the answer key, though the answer key was published along with the result of the examination and where after the result was challenged. Since then, most examining bodies themselves or under directions of the Courts have devised a procedure of inviting objections to the answer key and considering the said objections and if satisfied therewith, correcting the answer key and thereafter declaring the result. After the said procedure has been followed, in my view there is no scope for judicial review of the answer key unless allegations of bias, mala fide, non-consideration of relevant factors etc. which are traditionally the grounds for invoking the power of judicial review are made out. The Courts have directed the examining bodies which did not have the procedure of inviting objections to the answer key to follow the said procedure which the Courts felt was necessary to have a fair result of the examination and to eliminate the possibility of mistakes in the answer key. Once such a procedure has been followed, there can be no possible further challenges except on the traditional parameters of judicial review. If such challenges were to be allowed, the same would lead to disgruntled students filing one petition after other with opinions of the subject experts and which can vary and which will ultimately lead to delays in admissions and in commencement of academic session and all of which will be

contrary to public interest and cannot be permitted and if permitted would amount to a cure worse than the disease of a possibility of error remaining in the answer key inspite of the procedure of inviting objections and considering the same being followed.

24. I am conscious that in some other cases also the Courts, in their zeal to prevent injustice, without going into the question whether the power exercised by them is within the confines of Article 226, issued directions for obtaining an opinion of an independent expert to resolve the differing versions of the examining body and the students as to the correctness of the answer key. However, a judgment where the said aspect has not been raised or considered cannot be a precedent. Now a time has come for a definite opinion to be taken, so that the students, in future, owing to the uncertainty in law, are not attracted to take a chance."

In 2016 this issue had again arisen before the Delhi High Court in the matter of ***Sumit Kumar vs. High Court of Delhi and another, 2016 SCC Online Del 2818, decided on 09.05.2016***, wherein a Division Bench went into the questions and then held as follows:-

"43. The last issue and question relates to the final order or direction which should be passed. In Kanpur University (supra) in paragraph 18, the Supreme Court had directed that the suspected questions should be excluded from the paper and no marks should be assigned to them. In Gunjan Sinha Jain v. Registrar General, High Court of Delhi, 188 (2012) DLT 627 (DB), a Division Bench of this Court had directed that 12 questions should be removed/deleted from the purview of consideration for the purpose of "re-evaluation". In Gunjan Sinha (supra), it was directed that minimum qualifying marks would undergo a change as the general category candidates

were required to secure at least 60% marks and the reserved category at least 55% marks after excluding the invalid or deleted questions. Referring to the number of candidates who in terms of their ranking would qualify for the second stage mains examination, i.e. ten times the total number of vacancies in each category advertised, it was observed and held as under:-

> *"80. We now come to the second condition which stipulates that the number of candidates to be admitted to the main examination (written) should not be more than ten times the total number of vacancies of each category advertised. Let us take the case of general vacancies which were advertised as 23 in number. Ten times 23 would mean that up to 230 genera] candidates could qualify. But, as mentioned above, 235 general candidates have already been declared as qualified for taking the Main Examination (Written). We are, therefore, faced with a problem. If we strictly follow this condition then there is no scope for any other candidates (other than the 235 who have been declared qualified) to qualify. But, that would be unfair to them as the question paper itself, as we have seen above, was not free from faults. Hypothetically speaking, a candidate may have left the 12 questions, which are now to be removed, and, therefore, he would have scored a zero for those questions. What is worse, he may have answered all those 12 questions wrongly (in terms of the Answer Key) and, therefore, he would have received minus (-) 3 marks because of 25% negative marking. And, all this, for no fault on his part as the 12 questions ought not to have been there in the question paper. Therefore, it would be unfair to shut out such candidates on the basis of the second condition."*
>
> *81. We must harmonize the requirement of the second condition with the requirement of not disturbing the*

candidates who have been declared as qualified as also with the requirement of justice, fairness and equity insofar as the other candidates are concerned. We feel that this would be possible:

(1) by re-evaluating the OMR answer sheets of all the general category candidates on the lines summarized in the table set out above;

(2) by selecting the top 230 candidates in order of merit subject to the minimum qualifying marks of 112.8; and

(3) by adding the names of those candidates, if any, who were earlier declared as qualified but do not find a place in the top 230 candidates after re-evaluation.

In this manner, all persons who could legitimately claim to be in the top 230 would be included and all those who were earlier declared as having qualified would also retain their declared status. Although, the final number of qualified candidates may exceed the figure of 230, this is the only way, according to us, to harmonize the rules with the competing claims of the candidates in a just and fair manner. A similar exercise would also have to be conducted in respect of each of the reserved categories. The entire exercise be completed by the respondents within a period of two weeks. Consequently, the Main Examination (Written) would also have to be re-scheduled and, to give enough time for preparation, we feel that it should not be earlier than the 26.05.2012."

44. The Supreme Court in Civil Appeal No. 4794/2012, Pallav Mongia v. Registrar General, Delhi High Court had examined the question of fresh short-listing consequent to deletion of some questions or correction of the model answer key. Noticing that the candidates in the first eligible list had not been excluded from the list of eligible candidates for appearing in the mains examination, even if the said candidate

had come down in rank in view of deletion of some questions or change in the model answer key; it was directed that the other candidates, who upon re-evaluation pursuant to deletion of questions and modification of the model answer key had secured more marks than the last candidate allowed to appear in the main examination vide revised list, would also qualify and will be included in the eligibility list.

45. We would not like to give any specific direction on the said aspects to the respondent for it would be more appropriate if we leave this issue and question to be decided by the High Court for any direction may cause confusion or could result in unequal treatment. Pertinently, the respondent must have followed a particular method when they had themselves deleted certain questions and issued a corrigendum. While fixing the method and publishing the list of eligible candidates, the respondent will keep in mind the decision of the Delhi High Court in Gunjan Sinha Jain (supra) and the order of the Supreme Court dated 28thMay, 2012 passed in Pallav Mongia (supra). The respondent will also have to re-fix a date for the main examination so as to ensure that the newly added eligible candidates are given sufficient time to prepare for the mains written examination.

46. In view of the aforesaid discussion, we partly allow the writ petitions with the direction that question Nos. 94, 97, 113 and 197 in the Multiple Choice Question Paper shall be deleted. Accordingly, the respondents would proceed to recompute the marks and the eligibility list in accordance with the ratio of the decision in Gunjan Sinha (Supra) and the order of the Supreme Court in Pallav Mongia (Supra). A suitable date for holding of the mains written examination will be fixed. In the facts of the case there will be no order as to costs."

In that year itself this issue also came up before the Allahabad High Court in the matter of ***Sunil Kumar Singh and others vs. State of U.P. and others and other connected cases, passed in Writ A No.28971 of 2016, decided on 09.12.2016***, wherein it was observed as under:-

> *"This batch of writ petitions has been filed questioning the result of the combined State/Upper Subordinate Services (General Recruitment) Examination 2016 and Combined State/Upper Subordinate Services (Special Recruitment) Examination 20161 conducted by the Uttar Pradesh Public Service Commission.*
>
> *The petitioners are aspirants for various posts of the Provincial Services in the State. The examination is conducted in two stages. It comprises of a preliminary written examination which is in the nature of a screening test to find out suitable candidates in required proportion in each category. The marks obtained in the preliminary examination are not counted for determining the final order of merit. The candidates, who succeed in the preliminary examination, enters the second stage of recruitment, which comprises of a main written examination followed by interview/personality test. The aggregate of the marks obtained in the main examination and interview form the basis for determining the final order of merit. The Commission follows the procedure laid down under the Uttar Pradesh Public Service Commission (Procedure and Conduct of Business) Rules, 2013 framed under sub-section (1) of Section 11 of the Uttar Pradesh State Public Service Commission (Regulation of Procedure) Act, 1985.*
>
> *The petitioners have appeared in the preliminary written examination but the marks awarded to them have fallen short of the prescribed cut off marks in their respective category. They have approached this Court alleging various*

discrepancies in the model answer keys and the method of evaluation.

The screening of the candidates was held on basis of two papers of General Studies; (i) General Studies I, which was of qualifying nature and the marks obtained therein were not counted for determining the merit; and (ii) General Studies II comprising of 150 questions bearing in aggregate 200 marks, all carrying equal marks. The questions were multiple choice objective type, each having four options. The candidate has to select one of the alternatives as the correct answer. If a candidate marks two answers as correct, it was treated as a wrong answer.

According to the stand taken in the counter affidavit, the Commission got prepared the key answers and notified the same on the official website of the Commission from 27 April 2016 to 1 May 2016 inviting objections against the same. In pursuance thereof, objections were received in respect of 82 questions. The objections received were placed before an Expert Panel and on the basis of their opinion, the Commission deleted five questions (question nos.22, 26, 30, 122 & 128) and the marks of these questions were distributed on pro-rata basis to all candidates; in respect of two questions (question nos.119 & 139), two options were accepted as correct answer and the Commission awarded full marks to candidates exercising any one of the choice. The Commission on the basis of the opinion of the Expert Panel, while accepting the objections in respect of certain questions, prepared a final answer key and based on the same, declared the result of the preliminary examination on 27 May 2016.

The answer books were in four series; A, B, C & D. All references in this judgment are in context of series B, which was referred to by learned counsel for the parties at the time of making oral submissions.

Learned counsel for the petitioners in various writ

petitions have made the following submissions:-

a. Several questions were wrong, compelling the Commission to delete question nos. 22, 26, 30, 122 and 128. This has resulted in valuable time of the petitioners being wasted in attempting to answer these questions.

b. Some of the questions had more than one correct answer, leading to confusion. This was contrary to the specific instructions to the candidates stating that a candidate exercising more than one choice will not get any mark.

c. Questions framed were faulty; incorrectly structured; and in various cases the key answers provided by the Expert Panel were wrong, thus materially affecting the result.

On the other hand, learned counsel for the State and the Commission submitted that the Commission conducted the examination by adopting a procedure, which is fair and transparent, based on advice of experts at various levels. The candidates were given opportunity to prefer objections against the answer keys, thus ruling out the possibility of mistakes, making the system interactive and responsive. The contention that the answer keys provided by the expert were incorrect, is based on self evaluation of the petitioners which is not legally tenable. The opinion of the expert is final and beyond judicial review. Reliance has been placed on the decisions of the Supreme Court in the case of Himachal Pradesh Public Service Commission Vs. Mukesh Thakur and another and Maharashtra State Board of Secondary and Higher Education Vs. Paritosh Bhupesh Kumar Sheth6 and of this Court in Sandeep Misra and other connected matters Vs. State of U.P. and others"

The Learned Judges discussed all the disputed questions and other facets of the case and ultimately held as follows:-

"A similar course adopted by the examining body in the case of Vikas Pratap Singh (supra) was approved but with the rider that those who had already been selected and have worked for number of years should not be ousted but shall be placed at the bottom of the seniority list.

It has been brought to our notice that though the main written examination has been held but its result has not been declared so far. In view of the above, following the course adopted by the Supreme Court in the case of Rakesh Kumar (supra), we dispose of the writ petitions 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 no.25, 66 and 92; and (ii) giving full marks for question no.44 to candidates who have exercised option (b) or (c).

(b) The candidates who are found to have qualified the preliminary examination as a result of re-evaluation, shall become entitled to appear in the main written examination. In respect of such candidates, the Commission will hold the main written examination at the earliest possible.

(c) The result of the main written examination already held, if not declared so far, shall not be declared till such time the main written examination of the candidates declared qualified as a result of direction issued by this Court is declared. In case the result of the main written examination already held is declared in the meantime, further exercise in regard to such candidates shall not be held until the holding of the examination of the remaining candidates as a result of directions being issued by this Court.

(d) The Commission shall thereafter hold interview from the merit list drawn on the basis of the result of both the main written examinations i.e. one held previously and the

other that would be held in pursuance of the directions given herein.

(e) Some of the candidates who have appeared in the main written examination may fail to qualify preliminary examination as a result of re-evaluation. The candidature of such candidates shall be cancelled and they shall not be entitled to participate any further in the selection process.

Before parting, we are constrained to make certain observations in relation to the functioning of the Commission. Concededly, the Commission is a creature of Constitution as envisaged by Article 315. It is an institution of utmost importance in a country like ours which has the highest population of young men and women in the world. These men and women must have burnt their midnight oil in an effort to get employment on coveted posts in the Provincial Services of the State. The competition is cut thrown with even a fraction of mark being decisive of the fate of the candidates.

A candidate roughly got 48 seconds on an average to answer each question. Thus, time management in such a competitive examination was of considerable importance. A candidate who succeeds in attempting all questions would be in an advantageous position. In such a scenario, it is of utmost importance that questions framed are clear and unambiguous and admit of no doubt or confusion. Ideally, there should be one and only one correct answer. If the question contains a clue, it should be exact and relevant and not misleading. However, as noticed in the judgment, several questions were wrongly structured and contained more than one correct answer or contained incorrect clues or the options given were not exact.

The procedure which the Commission follows in setting up the question papers is contained in the Act. Under Section 9, the Controller of Examination prepares a list of persons qualified for appointment as examiners in a particular subject.

Such a list is revised every three years. The Paper Setters, Moderators and Valuers are appointed from amongst the persons included in the said list. Section 10 envisages that there shall be three different Paper Setters who shall not belong to the same place. They shall prepare three different papers. The Moderators shall thereafter moderate all the three question papers, place them in separate covers under their seal and thereafter, the Controller of Examination shall choose any one of the moderated question papers of a subject without opening the sealed covers and send it to the Press for printing.

……..We find that a very elaborate and detailed procedure is prescribed involving experts at every stage of recruitment. Thus, there should be no reason why such large number of discrepancies have crept in. This leads us to ponder as to where the exercise has gone wrong. Was the Commission callous in performance of its duties in conducting the selection or was the choice of experts wrong? Section 9 (4) of the Act provides that in making appointment of Paper Setters, Moderators and Valuers, every care shall be taken to ensure that no person is so appointed who is found guilty by any University or Government body or against whom investigation may be pending on allegations of misconduct or whose integrity is in doubt. It further contemplates that any person whose work as Head Examiner, Paper Setter or Valuer is found to be unsatisfactory, he shall not be reappointed for that purpose. In Manish Ujwal and others (supra) the Supreme Court has deprecated the casual approach of Paper Setters in providing wrong key answers and has further observed that in such cases, appropriate action, including disciplinary action, should be taken against those responsible. Though, we abstain from issuing any direction in this regard in the absence of complete facts and figures being available but we part with an earnest hope that the Commission will come alive to the responsibilities conferred upon it by the Constitution. It will be

careful and vigilant while holding such selections as well as in its choice of experts. The material placed before us by the Commission reveals that the remuneration paid to the experts is a pittance considering the nature of responsibilities and thus, we suggest the Commission to consider enhancing their remuneration so that best talent is available and such mistakes are not repeated in future.

With the aforesaid observations and directions, the writ petitions stand disposed of."

At this stage it would also be necessary to point out that apart from the cases discussed above the following cases have also been perused by me but the same are not being discussed since either they were decided only on the facts or they pertain to academic exams or because the issue did not involve wrong questions/answers:-

i) Maharashtra State Board of Education vs. Paritosh Bhupesh Kumar Seth, 1984 AIR 1543

ii) Dr. MuneeB-UL-Rehman Haroon & others vs. Govt. of J&K, (1984) 4 SCC 24

iii) University of Calcutta vs. Dr. Anindya Kumar Das and others, 1992 SCC Online Cal. 68

iv) Bismaya Mohanty & others vs. Board of Secondary Education, 1996 I OLR 134

v) Chairman J&K State Board vs. Feyaz Ahmed Malik, (2000) 3 Supreme Court Cases 59

vi) State of Kerala vs. Fathima Seethi, 2002 SCC Online Ker 580

vii) Board of Secondary Education vs. Pravas Ranjan Panda and another, (2004) 13 SCC 383

viii) Mridul Dhar (Minor) and another vs. UOI and others, (2005) 2 SCC 65

ix) President, Board of Secondary Education & Orissa and another vs. D. Suvankar and another, (2007) 1 SCC 603

x) Secretary, W.B. Council of Higher Secondary Education vs. Ayan Das and others, (2007) 8 SCC 242

xi)Pankaj Sharma vs. State of J&K and others, (2008) 4 SCC 273

xii)Sahiti and others vs. Chancellor, Dr. NTR Univ. of Health Sciences and others, (2009) 1 SCC 599

xiii)Virender Sharma and others vs. State of Haryana and others, 2010 SCC Online P&H 8403

xiv)Sanchit Bansal and another vs. Joint Admission Board and others, (2012) 1 Supreme Court Cases 157

xv)Gunjan Sinha Jain vs. Registrar General, High Court of Delhi, 188 (2012) DLT 627 (DB)

xvi)Monika Goyal and others vs. State of Punjab and others, 2017(3) SCT 283

In an ideal system there would be obviously no mistake in the questions/answers and no candidate would feel cheated or prejudiced on this score. The fact however is that these mistakes are not going away. Way back in Kanpur University case (supra) the Supreme Court noticed that normally the answer key furnished by the paper setter and accepted by the University as correct should not be allowed to be challenged and one way of achieving that would be to not publish the answer key at all but in that case the remedy would have been worse than the disease. That was the first trickle of transparency which has now turned into a flood and is bringing down the dam of opacity. Both Kanpur University case (supra) and Abhijit Sen case (supra) which were decided in 1983 related to the entrance test of Combined Pre-Medical Test for the year 1982. In Kanpur University case (supra) the Supreme Court appreciated the action of the University in publishing the key answers alongwith the result of the test and then held that the answer key should be assumed to be correct but if any answer was

clearly demonstrated to be wrong it would be unfair to penalize the students. The next case was of Abhijit Sen (supra) wherein also the Supreme Court held that when the answer given by a candidate is found to be correct and the key answer wrong, the candidate must get full marks assigned to that answer and must be admitted, if on the basis of that addition he qualifies for admission. Then 20 years later, in Manish Ujwal case (supra), which was related to the entrance test of medical and dental courses for the year 2005 and was decided in the same year, the Supreme Court underlined that the Examining Body has to be very careful in setting the questions and preparing the answer key and a casual approach may result in a situation where directions may have to be issued for taking appropriate action against those responsible for wrong and demonstrably erroneous key answers. In Guru Nanak Dev University case (supra), which was related to the Punjab Medical Entrance Test for the year 2005 and was decided in the same year, the Supreme Court approved the action of the High Court in issuing directions for fixing responsibility upon paper-setters. After a further five years, in 2010, in Himachal Pradesh Public Service Commission case (supra), which was related to the entrance test of the Civil Judge (Junior Division) for the year 2005 and was decided in the year 2010, the Supreme Court held that normally it is not permissible for the Court to take the task of examiner/Selection Board and examine discrepancies and inconsistencies in question papers and evaluation thereof. In Manoj Kumar case (supra) the entrance test related to the preliminary examination for the Primary Teacher selection for the year 2011, where certain number of candidates would participate in the main examination. The Patna High Court by decision

dated 04.01.2012 allowed the Bihar Public Service Commission to carry out fresh evaluation of the answer-sheets on the basis of the opinion of the second expert group. In Jitender Kumar case (supra) the entrance test related to the preliminary examination for the HCS (Executive Branch) for the year 2011 and this Court on 30.08.2012 held that it would be incumbent upon the Examining Body to publish the answer key and then to call for representation within some specified time. It was further held that the representations should not be referred to the paper-setters but to independent experts. Ultimately, this Court held that the main written examination, which was fixed for 2.9.2012, shall stand postponed so that the result of the preliminary examination would be re-worked. In Rajesh Kumar case (supra) the entrance test related to selection for 2268 posts of Junior Engineer (Civil) which was advertised as far back as on 14.08.2006. Learned Single Judge of the Patna High Court cancelled the examination. The Division Bench modified the order of the learned Single Judge and held that fresh examination only in one subject was required. The Division Bench further held that while those appointed on the basis of impugned selection shall be allowed to continue until publication of the fresh result, anyone of them who failed to make the grade on the basis of the fresh examination shall be given a chance to appear in another examination to be conducted by the Staff Selection Commission. The Supreme Court vide judgment dated 13.03.2013 observed that if the result was vitiated by the application of the wrong key, any appointment made on the basis thereof would also be rendered unsustainable. Further the Court held that the candidates who do not make the grade after re-evaluation shall not be

ousted from service, but shall figure at the bottom of the list of selected candidates based on the first selection and further held that it was not incumbent upon the petitioners to implead those candidates who had benefited from the wrong Answer Key. In Vikas Pratap Singh case (supra) which was decided in 2013, the entrance test related to the preliminary examination for selection to the post of Subedars, Platoon Commanders and Sub-Inspectors for the year 2006, and the Supreme Court held that the process of remarking/re-evaluation of objective type questions cannot be said to be faulted if the purpose is to include deserving candidates in the select list. Further the Court held that the candidates who had already been appointed shall not be ousted and be placed at the bottom of the list and the candidates who have crossed the minimum statutory age for appointment shall be accommodated with sustainable age relaxation. In Latika Sharma case (supra) the Himachal Pradesh High Court vide decision dated 19.03.2015 approved the action of the respondents in publishing the answer key, inviting objections, requiring the experts to examine the objections and thereafter the examiners were asked to examine the paper in the light of the experts' opinion. In Subham Dutt case (supra) decided on 02.07.2015 the entrance test related to the examination of CLAT-2015, wherein the Bombay High Court directed the Expert Panel/Committee to take effective decision and actions for re-preparing and/or revising the merit list of candidates, if necessary, after re-evaluation and/or assessment, if required, or pass or declare such results/merit list. In Atul Kumar Verma case (supra) the Joint Entrance Examination related to admission in the Indian Institutes of Technologies (IITs) for the year 2015, wherein the Delhi High Court

vide judgment dated 13.07.2015 quoted a Division Bench's decision, wherein it was stated that the process of selection of candidate cannot be made an unending exercise and ultimately held on the basis of the decision of ***Tata Cellular vs. Union of India, (1994) 6 SCC 651*** that once answer key is published and objections are invited and thereafter the answer key is corrected and the result is declared, there is no further scope of judicial review. In Sumit Kumar case (supra) the Delhi Judicial (Preliminary) Examination-2015 was under challenge. A Division Bench of the Delhi High Court vide judgment dated 09.05.2016 ultimately directed to delete four disputed questions and to re-compute the marks but directed that the High Court would consider the issue that the candidates who had been selected as per the original answer key be not displaced. In Sunil Kumar Singh case (supra) the preliminary written examination of the Combined State/Upper Subordinate Services (General/Special Recruitment)-2016 was under challenge, wherein the Allahabad High Court on 09.12.2016 held that those candidates who would end up having failed as a result of the re-evaluation would be ousted from the selection process.

The above discussion reveals that while there is no doubt that many cases were decided on their own facts yet over the last 35 years an organic jurisprudence has evolved to cater to different situations arising out of mistakes committed in the questions/answers set for competitive examinations. The objective of the Courts has been to evolve such a resolution mechanism which renders the system just and fair & to this end they have developed various tools viz. publication of answer key, invitation of objections within a limited time frame and consideration thereof by

independent subject experts. The process is however not yet complete and that is why litigation of this nature is still burdening the system.

One important aspect which has to be considered is the role of the original experts who set the paper. Even in Kanpur University case (supra) the Supreme Court held that normally the key answer furnished by the paper setter and accepted by the University as correct should be assumed to be so unless it is proved to be wrong. However, in Jitender Kumar case (supra) this Court held that the objections should not be referred to the original paper setter but to independent experts. In my opinion, the original paper setter cannot be completely dissociated from any process by which his questions/answers are being evaluated and has a duty as well as a right to respond to the objections and that response must also be forwarded to the independent experts. As a matter of fact in one such exam for the Judicial Services held by this Court, an objection regarding one particular question was filed and in support thereof reference was made to one decision of the Privy Council. That objection was accepted. However, it later transpired that there was a subsequent decision of the Supreme Court which held the field. After that episode this Court initiated a process whereby all the objections to the answer key were uploaded on the website and an opportunity was granted to all the candidates to file cross objections thereto. To my mind, these two new tools would go a long way in sanctifying the resolution mechanism. Another aspect which was highlighted by the Supreme Court in Guru Nanak Dev University case (supra) was the issue of action to be taken against those responsible for 'the entire confusion and the mess'. To this end it would be the duty of every examining body to ensure

that some kind of punitive action be taken against such persons.

To summarize:-

i) It must be mandatory that the objections which are received be also published on the website and cross objections be invited within a certain timeframe. This is necessary because just as the objectors have a right to show how and why the prescribed question or answer is wrong, those students who have answered it as per the answer key have a right to show that the prescribed question/answer is correct.

ii) It must be the duty of the original paper-setter/s to respond to the objections within the same time period and then the objections, cross-objections and the reply of the paper-setter/s should be referred to an independent subject experts who have to deal with the objections.

iii) The examining bodies must prescribe the permissible level of mistakes in question paper/s/answer keys and take appropriate punitive action against those examiners who flout the prescribed level of mistakes.

Once these further safeguards are engrafted to the system of competitive tests (especially those with objective type questions) it would go further in restoring the credibility of this dispute resolution system since the issue of correctness of questions/answers and any remedial measures to be taken would be decided after having the views of all concerned, thus obviating any allegation of arbitrariness or lack of hearing.

Coming to the present case:-

The respondent is directed to now send an e-mail to all the examinees informing them that the objections which have been accepted by the experts would be put up on the website and further inviting cross-objections thereto. The original paper-setters would also have to respond to the objections. The entire material will then be referred to a different set of independent experts who would then give their opinion on the correctness of the questions/answers and the remedial measures to be taken and thereafter the revised result would be published. I have noticed that in this case the result was declared in three months. However, the present exercise would have to be completed within one month from the date of receipt of a certified copy of this order. I have been informed that a similar exam was conducted in June, 2017 and the result thereof is awaited. This exercise as detailed in items numbered as (i) & (ii) on the previous page of this order will have to be conducted for that exam also. The direction regarding prescription of permissible level of mistakes and the nature of punitive action which may be taken against those examiners who flout the prescribed level of mistakes would be applicable for future examinations.

There may be examinees who would have obtained Fellowship/Lectureship on the basis of the original result and who would now not be making the cut as per the revised result. Counsel for the respondent has argued out that such examinees should be protected and whatever benefit they have obtained should not be taken away because of the mistake of the respondent. On the other hand it cannot be lost sight of that there are limited number of Fellowships and the selection for

Fellowship is based only on the marks obtained in this exam. Thus once the result is revised and the petitioner or any other examinee/s are found to have become entitled for consideration for Fellowship there may be no vacancy for them since some person/s who had lower marks or would not make the cut now may have occupied the positions. In various judgments Courts have considered this aspect and have held that those students who would have upgraded as a result of such re-evaluations cannot be denied the benefit of their upgradation and have also protected all those candidates who may have obtained the benefit as a result of what has later turned out to be an erroneous evaluation on the ground that they cannot be made to suffer for the mistake of the examination body. Reference may be made to the judgments of Manoj Kumar case (supra), Rajesh Kumar case (supra) and Vikas Pratap Singh case (supra). It must also be remembered that this exam is designed to benefit, first; certain number of candidates who become eligible for fellowships and, second; they and some others are also rendered eligible to be considered for Lectureship/jobs in various Colleges/Universities etc. As regards the post for Lectureship etc. the clearing of this exam renders them eligible for consideration and there is no time frame for the same but the same cannot be said for Fellowships. It is not a case where the number of Fellowships are fixed by some statutory mechanism like seats in medical colleges and other technical institutions. In the circumstances, the only equitable relief which can be granted is that the respondent will have to create such number of extra fellowships for this year as would accommodate those persons who may now become entitled for the same even while protecting those who may otherwise have had to make way

for them.

The petition is disposed of in the above terms.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

September 28, 2017
ashish

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No