VERDICTUM.IN

2026:AHC:235265-DB

A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD

SPECIAL APPEAL No. - 1310 of 2026

U.P. Education Service Selection Commissioner
Prayagraj And Another
.....Appellant(s)

Versus

Vijay Sonkar And 4 Others
.....Respondent(s)

Counsel for Appellant(s)	:	Udayan Nandan
Counsel for Respondent(s)	:	Ankita Singh, C.S.C.

Court No. - 39

HON'BLE SAUMITRA DAYAL SINGH, J.
HON'BLE SWARUPAMA CHATURVEDI, J.

1. Heard Sri Ashok Khare, learned Senior Counsel assisted by Sri Udayan Nandan, learned counsel for the appellants-respondents and Ms. Tanya Pandey, learned counsel for original petitioners.

2. Present intra Court appeal is directed against the order of learned single judge dated 28.10.2026 in **Vijay Sonkar and others vs. State of U.P. and others, 2026:AHC:225670**. By that order, the learned Single Judge has disposed of the writ petition with the following observations:

> *"50. Based upon foregoing paragraphs, this Court concludes that the principle laid down in Smt. Shimla Singh governs the present controversy, the appropriate relief be granted to the petitioners in terms of the following directions:*
>
> *(i) Question Nos. 36 and 37 of the Master Set shall be excluded from evaluation, or dealt with in such manner as is consistent with the binding judicial precedent discussed hereinabove.*
>
> *(ii) The consequential benefit in respect of the aforesaid questions shall be extended uniformly to all similarly situated candidates in accordance with Ashok Yadav, Ran Vijay Singh, and Smt. Shimla Singh cases (supra), without restricting such benefit solely to candidates who selected either of the options accepted as correct.*

VERDICTUM.IN

(iii) The respondents shall recompute the scores of the petitioners in accordance with the aforesaid directions and correct their respective results and scorecards, to the extent necessary."

3. Twin submissions have been advanced by learned Senior Counsel for the Commission. First, it has been submitted that petitioners-respondents had not filed any objections to the provisional answers published by the Commission. Therefore, the challenge first raised by means of filing the writ petition, after declaration of the final result in August, 2026 was not maintainable. For reason of objections not filed, to the model answer key, the petitioners had lost their chance to agitate the issue by filing writ petition to test the correctness or otherwise of the questions or answer thereto.

4. Reliance has been placed on a decision of a learned single judge in **Priti Singh vs. State of Uttar Pradesh and others, 2022:AHC:194389**, and a decision of the coordinate bench in **Uday Bhan Yadav vs State of Uttar Pradesh and others, Special Appeal No. 492 of 2020.**

5. Second, it has been submitted, both with respect to question no. 36 and 37 (at the UPTET Examination 2026)- on certain objections received by the Commission to the provisional answer key, on its own appraisal, the Commission itself found that more than one, i.e. two answer responses were correct. Therefore, by way of prudence, the Commission decided to award full marks to any candidate who had attempted either of the two correct answer responses to question nos. 36 and 37, as their correct answer. That was the only correction required to be made, in terms of law declared by the Supreme Court in **Guru Nanak Dev University vs. Saumil Garg and others; (2005) 13 SCC 749.**

6. To the extent the petitioners-respondents had not marked either of the two correct answer responses to question nos. 36 and 37, but had chosen to mark another option as the correct answer, they have no case to be awarded full marks for that incorrect answer response. Also, in that case, the petitioners-respondents cannot successfully contend that the two questions should be excluded from evaluation. Also, reliance has been placed on a coordinate bench decision of this Court in **Sunil Kumar Singh and others vs. State of U.P. and others, (2017) 2 UPLBEC 1048.**

VERDICTUM.IN

7. Thus, it has been submitted that the view taken by the learned single judge in **Smt. Shimla Singh vs. State of U.P. and another, 2019 (3) ADJ 777**, is described to be not consistent to the view taken by a coordinate bench in **Sunil Kumar Singh (supra)** and the view taken by the Supreme Court in **Guru Nanak Dev University (supra)**.

8. As to the decision in **UPSSSC vs. Ashok Yadav and others, SCC OnLine SC 1893**, it has been stressed, while certain observations may exist in paragraph 22 of the said decision - that may be read in favor of the petitioners-respondents, at the same time, they may not be beneficial to the present petitioners-respondents, inasmuch as they had not followed the procedure prescribed to raise objections to the provisional answer key. To the extent petitioners-respondents have not raised any objection to the questions nos. 36 and 37, they cannot be granted any benefit, at this stage.

9. On the other hand, learned counsel for the petitioners-respondents contends, there is no error in the order of the learned single judge. Though the petitioners-respondents may not have filed any objections to the provisional answer key, once on the own appraisal made by the Commission, it reached a firm conclusion that more than one answer response - to question nos. 36 and 37 were correct, the only prudent course open to the Commission may have been, to award full marks to all candidates or to exclude those questions for the purpose of award of marks, in that regard.

10. Further, the petitioners have not had an occasion or opportunity to object to the correctness of question nos. 36 and 37. Though mistakenly, they were under an impression (at the time of publication of provisional answer key), that the answer responses (as disclosed by the Commission), were the only correct answer response, to those questions. Even though the answer responses marked by them were shown to be incorrect (as per the provisional answer key), they did not doubt the correctness of the provisional answer key. They learnt that the two answer responses to both question nos. 36 and 37 are correct, only after declaration of the final result. At that stage, no opportunity survived to the petitioners-respondents to file any further objections. The only course open to them was to file the present writ. That they did, without laches.

VERDICTUM.IN

11. On the merit issue, relying heavily on the observations made by this Court in paragraph 22 of **Ashok Yadav (supra)**, it has been submitted - that being the latest pronouncement of the law by the Supreme Court, it leaves no doubt, that on due application of the law, in **Ran Vijay Singh and others vs. State of U.P. and others, (2018) 2 SCC 357**, where two correct answers exist to any question, against the requirement to mark only one correct answer, the Court may interfere and order exclusion of the suspect or offending question from evaluation.

12. Then relying on the decision of a coordinate bench to which one of us (Saumitra Dayal Singh,J.) was a member, in **State of U.P. and others vs. Akhilesh Kumar Yadav, 2025:AHC:227397-DB**, it has been submitted that in similar facts, where it was admitted that two answer responses were correct, (in place of only one correct answer response), applying equitable principle, the decision of the learned single judge granting benefit to all candidates, (as has been done in the present case), was affirmed.

13. In so far as the decision of the coordinate bench in **Sunil Kumar Singh (supra)** is concerned, that decision is described to have been set aside by the Supreme Court on a reasoning that the High Court had erred in exercising the judicial review. Thus, even though the correctness of the reasoning of the coordinate bench as to the principle to be applied for award of marks where more than one answer response may be correct, was not considered, once the decision has been set aside in entirety, it may not carry precedential value.

14. In so far as the decision of the Supreme Court in **Guru Nanak Dev University (supra)** is concerned, that was a case where marks had been awarded to such students who had not even attempted the disputed questions. Here, the petitioners had attempted the disputed questions.

15. Having heard the learned counsel for the parties and having perused the records, we are not in a position to accept the first objection as to laches. Petitioners-respondents, first gained knowledge of the material fact giving rise to the writ petition, only on the declaration of the final answer key, along with the result. At that stage, they had no opportunity to file any other or further objection. Till then, though mistakenly, they were laboring under the belief that question nos. 36 and 37 were wholly valid. Even though, they had marked either of the two correct answer responses, as correct, they had

VERDICTUM.IN

marked another answer response, as correct, against both questions.

16. They first gained knowledge that there were two correct answer responses at the stage of publication of the final result, and not earlier. The Commission had itself published only one answer response each (as correct), against both question nos. 36 and 37, at the stage of publication of the provisional answer key. Therefore, the petitioners-respondents had no occasion to suspect or know that there was any fundamental error in the framing of either question no. 36 or 37. That fact first became known to them on the declaration of the final answer key/master set. That happened along with the declaration of results on 26th August, 2026. Thus, the cause of action first arose to the petitioners on 26th August, 2026 and not earlier. On that day, clearly the petitioners had no right or opportunity to file any objections before the Commission. Having filed the writ petitions promptly, they cannot be non-suited for reason of objections not raised at an earlier point of time. Thus, we do not find it a fit case to apply the later part of the observations contained in the **Ashok Yadav (supra)**, wherein, it has been observed as below:

> "*22. The legal position that emerges from the aforesaid decision(s) is that a challenge to the correctness of answer key must be entertained only where the mistake is so glaring and apparent that no inferential process or reasoning is required to show that the mistake exists. Besides, while considering a challenge to the correctness of a question or an answer, the court must bear in mind that there is a presumption about the correctness of the question/answer, and the onus is on the candidate to demonstrate that it is incorrect. Further, in the event of a mere doubt about the correctness of the question or the answer, the benefit should go to the examining body and not to the candidate. <u>However, where it is demonstrated that the question itself is incorrect, or there could be two correct answers to the question when only one is to be chosen from the options provided, the Court may interfere and order exclusion of the suspect or offending question from evaluation</u>....."*
>
> *emphasis supplied*

17. Then, in **Ashok Yadav (supra)**, the Supreme Court had made the following observations.

VERDICTUM.IN

> *"..... In a situation where the question is correct and is admissible to only one answer and that answer is amongst the options provided but is not the one chosen by the examining body, the Court may direct the examining body to award marks only for the correct answer and revise the result accordingly. While entertaining a petition in such matters, courts must be strict in the condoning laches, if any, having regard to the ensuing consequences. Besides, the court may reject a challenge if the procedure prescribed to raise objection(s) to the question/ answer, within may a specified time frame, is not followed."*
>
> *emphasis supplied.*

18. As to the merit objections, the decision of the Supreme Court in **Guru Nanak Dev University (supra)** may not apply to the present fact. The present is not a case of selection but only of qualification at TET. No job opportunity is secured solely on the strength of marks obtained at the examination. In **Guru Nanak Dev University (supra)**, the selection was for the admission to medical course. More substantively, the rule applied by the Supreme Court in that case would apply to cases where a candidate may not have attempted a question at all. In para-12 of the report, it has been observed as below:-

> *"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 unfair 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*

VERDICTUM.IN

> *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."*
>
> *emphasis supplied*

19. Reading the two decisions of the Supreme Court together, we conclude - subject to delay and laches, wherever more than one answer response to a multiple choice question may be found correct, the Court may interfere in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India. While granting relief it may order exclusion of a suspect question or provide for award of equal marks to all candidates.

20. The decision in the case of **Priti Singh (supra)** and **Uday Bhan Yadav (supra)** do not apply to present facts, inasmuch as in those cases the issue was with respect to the correctness of the answer responses to which no objection had been raised at the appropriate time. Issue of two correct answer responses, was not involved in those cases. Therefore, they stand distinguished.

21. At the same time, where a candidate may not have attempted such question at all, he may be deprived of benefit of **Guru Nanak Dev University (supra)** and **Ashok Yadav (supra)**. To that extent, the observations of the coordinate bench, in **Akhilesh Kumar Yadav (supra)**, may not apply by way of an absolute principle in law, but the issue may remain to be tested in individual facts, in line with the above noted decisions of the Supreme Court in **Guru Nanak Dev University (supra); Ran Vijay Singh (supra)** and **Ashok Yadav (supra)**. Last, the decision of the coordinate bench in **Sunil Kumar Singh (supra)** may not carry any precedential value, as that decision has been set aside, even though on another point.

22. Consequently, we do not find any merit in the substantive challenge raised, at the same time, considering the fact that the final result has already

VERDICTUM.IN

been declared, and besides the four petitioners-respondents before us, no other candidate may have challenged the declaration of the result, we accordingly modify the relief granted by the writ Court, as below:

i) The results of all candidates who may have been declared passed on declaration of result, on 26th, August 26, shall remain unaffected by this order.

ii) With respect to remaining candidates - not declared successful, till now, the Commission may revise their results, as below. To the extent the Commission has already awarded one mark each to the candidates who have marked either of the two correct answer responses to question nos. 36 and 37, consistent thereto we provide that the Commission may award one mark each against any answer response given by such candidates, to question nos. 36 and 37, in line with the decision of the Supreme Court in **Guru Nanak Dev University (supra).**

iii) We clarify, wherever candidate may not have attempted either question nos. 36 or 37, that candidate may not be awarded any additional mark/s.

23. Such further/supplementary result may be prepared and declared preferably, within a period of one month from today with liberty to approach the Court, if any further time is required.

24. Accordingly, the Special Appeal is **partly allowed**.

(Swarupama Chaturvedi,J.) (Saumitra Dayal Singh,J.)

November 17, 2026

Sartaj