

## Krishna Nath Vs University Grants Commission And Others.

**Court:** Calcutta High Court (Appellate Side)

**Date of Decision:** May 13, 2022

**Hon'ble Judges:** Moushumi Bhattacharya, J

**Bench:** Single Bench

**Advocate:** Subir Sanyal, Ratul Biswas, Sumouli Sarkar, Sagnik Roy Chowdhury, Ishan Bhattacharya, Aranya Basu, Pulak Ranjan Mandal, Bandana Mandal, Anil Kumar Gupta

**Final Decision:** Disposed Of

### Judgement

Moushumi Bhattacharya, J

1. The petitioner appeared in the UGC National Eligibility Test for Junior Research Fellowship and Eligibility for Lectureship conducted by the

University Grants Commission on 24.06.2012. The petitioner belongs to the O.B.C. category and the petitioner's candidature was considered by

the UGC after which the petitioner was allotted a Roll No. The petitioner seeks a mandamus on the UGC, in particular the Deputy Secretary, UGC

(respondent no. 3) to withdraw a communication dated 05.12.2013 by which the petitioner was declared disqualified in the UGC-NET. The petitioner

also seeks a direction on the UGC for upholding the qualification of the petitioner in terms of a Notification dated 18.09.2012.

2. Learned counsel appearing for the petitioner places various documents to show that the UGC categorized the petitioner as a S.C. candidate which

would be evident from the impugned communication dated 05.12.2013. Counsel also points to the discrepancy in the marks awarded to the petitioner

as would be evident from the relevant annexure in the writ petition and the case made out by the UGC in the affidavit-in-opposition.

3. Learned counsel appearing for the UGC relies on UGC Notification under which a minimum percentage to be obtained by the candidates in the

O.B.C. and S.C/S.T as well as general categories have been specified. Counsel also relies on Clause 5 of the Notification dated 18.09.2012 which

provides that UGC will not entertain queries with regard to OMR answer-sheets after 30 days from the publication of results.

4. After hearing learned counsel appearing for the parties, admittedly there are certain patent discrepancies in the case made out by the UGC which

are evident from the records. First, the mark-sheet of NET June, 2012 of the UGC distributes the marks of the petitioner in Papers I, II, III as

52.00%, 52.00% and 62.67% respectively with the aggregate of 56.57%. On the other hand, in the affidavit in opposition, according to UGC, the

marks secured by the petitioner in Paper III is 64.00% and the aggregate is 57.14%. It is therefore clear that the UGC itself has relied on a

distribution which is different from its own mark-sheet of NET June, 2012. Second, in the impugned communication of 05.12.2013, UGC had stated

that the petitioner was provisionally qualified as a S.C. candidate which is factually incorrect since the petitioner was always an O.B.C candidate.

Third, the Notification of the UGC states that for O.B.C (non-creamy layer) candidates, the qualifying percentage in Paper I is 35%, in Paper II 35%

and in Paper III 67.5% rounded off to 68. The Notification further states that the candidates would have to obtain a minimum required marks in each

Paper separately. If the percentages awarded to the petitioner as reflected in the affidavit-in-opposition of UGC is taken into consideration, the

petitioner, as an O.B.C candidate, fulfilled the minimum marks percentage in both Paper I and Paper II by falling short of 3% marks in Paper III.

Next, the clause in the Notification giving power to UGC for deciding final qualifying criterion for Junior Research Fellowship and Eligibility for

Lectureship is unilateral and arbitrary. There is no intelligible criterion stated by UGC anywhere, including in the said Notification, as to the basis of

requiring 67.5% rounded off to 68 in Paper III. There is also a 45% given in brackets as a qualifying percentage in Paper III. This itself is unclear to

the Court and the required percentage in Paper III has not been explained on behalf of UGC. Moreover, the Notification dated 18.09.2012 of the

UGC for the result of the UGC-NET for Junior Research Fellowship and Eligibility for Lectureship held on 24.06.2012 includes the Roll No of the

petitioner as having provisionally qualified for award of Junior Research Fellowship. Hence, the impugned letter of 05.12.2013 declaring the petitioner

disqualified for the reasons stated in the said letter does not have any factual basis or any basis as would appear from the documents on record.

5. University Grants Commission vs Neha Anil Bobde; (2013) 10 SCC 519 has been cited for the proposition that the Court shall generally not sit in an

appeal over the opinion expressed by expert academic bodies. The Supreme Court stated that UGC has been entrusted with the duty of taking steps

for the determination and maintenance of standards of teaching, examination and research in the University as the UGC is an expert body for ensuring

such standards. There are no two views about the proposition that the UGC is an expert body. However, the facts in the present case show that the

UGC has itself presented two views and there is an expressed discrepancy in the marks awarded to the petitioner even by its own records. Clause 5

of the Notification dated 18.09.2012, relied upon by learned counsel appearing for the UGC of stipulated 30 days for entertaining queries is also not

relevant since the UGC itself has provided the marks awarded to the petitioner in its affidavit-in-opposition affirmed on 25.08.2014 which is more than

2 years after the date on which the examination was conducted.

6. In view of the above reasons, this Court is inclined to allow the writ petition in terms of prayer (a). The UGC is directed to withdraw the impugned

letter dated 05.12.2013 and uphold the result of the petitioner in the Notification dated 18.09.2012. WPA 15372 of 2014 is disposed of in terms of this

judgment.

Urgent Photostat certified copies of this judgment, if applied for, be given to the respective parties upon fulfilment of requisite formalities.