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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 19th AUGUST, 2025

IN THE MATTER OF:

+ **LPA 710/2023 & CM APPL. 54470/2023, CM APPL. 54471/2023**

PREETI BHARDWAJ & ORSAppellants

Through: Mr. Anurag Andley, Mr. Kshitij Arora, Mr. Aditya Andley, Mr. Tanmay Gupta & Mr. Sahil Nagar, Advocates
Mr. Sachin Chauhan, Advocate for P-7 & P-9

versus

DELHI SKILL AND ENTREPRENEURSHIP UNIVERSITY & ORS

.....Respondents

Through: Mr. Shivendra Singh, Ms. Prakriti Rastogi, Advocates for R-1
Mr Varun Chugh, SPC, Ms. Nandita Mishra, Advocate
Mr. B.S.Rawat, CI DTTE for R-3

+ **LPA 745/2023 & CM APPL. 59045/2023**

KAVI VAIDWAN & ORSAppellants

Through: Mr. Anurag Andley, Mr. Kshitij Arora, Mr. Aditya Andley, Mr. Tanmay Gupta & Mr. Sahil Nagar, Advocates

versus

DELHI SKILL AND ENTREPRENEURSHIP UNIVERSITY & ORS

.....Respondents

Through: Mr. Shivendra Singh, Ms. Prakriti Rastogi, Advocates for R-1



Mrs Avnish Ahlawat, SC for GNCTD
(Services)

Mr. Naushad Ahmed Khan, Ms.
Archana Chaudhary, Advocates for
R-3 & R-4

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

JUDGMENT (ORAL)

SUBRAMONIUM PRASAD, J.

1. The challenge in these Appeals is to the Orders dated 14.09.2023 and 12.10.2023 passed by the learned Single Judge in W.P. (C) No. 15270/20222 and W.P. (C) No. 13486/2023 respectively, dismissing the Writ Petitions filed by the Appellants herein and upholding the Notice bearing No. F.12(91)/DSEU/H.R./2022/1006-1015 dated 26.10.2022 issued by the Respondent No.1/University, by way of which the Computer Based Recruitment Test [“CBRT”] as conducted on 14.07.2022-15.07.2022 for the appointment of 48 vacancies of Junior Assistant/Office Assistant was cancelled.

2. Since there is a commonality of the subject-matter involved in the present appeals, that is, the Notice bearing No. F.12(91)/DSEU/H.R./2022/1006-1015 dated 26.10.2022 issued by the Respondent No.1/University, the present Appeals are being disposed of by way of a common judgment.

3. To the extent necessary and relevant, the facts leading to the filing of the present Appeals are as follows:-

a. The Respondent No. 1/University issued an Advertisement



dated 01.11.2021, inviting applications for the post of Junior Assistant/Office Assistant. A total of 42 vacancies were advertised and the closing date for submitting the online application form was fixed for 20.12.2021.

b. The scheme of the examination was that the examination had to be conducted in two tiers that is, a written examination, followed by a CBRT. After clearing the same, the candidates would be short listed for the Skill/Typing test.

c. Initially, the examination was to be conducted on 21.03.2022, however, *vide* Notice dated 26.04.2022, the Respondent No.1/University cancelled the CBRT and subsequently *vide* Notice dated 17.06.2022, declared that the CRBT would be conducted on 14.07.2022 and 15.07.2022, following which fresh admit cards were issued and the roll numbers of the candidates remained the same as before.

d. After the CBRT was conducted on 14.07.2022 and 15.07.2022, the Respondent No.1/University declared a list of candidates who were shortlisted for the Skill/Typing Test which was to be conducted on 07.08.2022, and the Appellants herein had participated in the same

e. A list of selected as well as waitlisted candidates was declared on 23.08.2022 by the Respondent No.1/University, and a total of 48 candidates were selected, while 156 candidates were kept in the waiting list. The Appellants were selected for the appointment to the post of Junior Assistant/Office Assistant.

f. Before the appointment letter could be issued to the Appellants,



a Notice dated 26.10.2022 was issued whereby the Respondent No.1/University had cancelled the CBRT which was conducted on 14.07.2022 and 15.07.2022.

g. Two FIRs bearing No. 0090 dated 14.07.2022 at P.S. Cyber Police Station, Rohini and 0044 dated 27.07.2022 at P.S. Cyber Police Station, South-West, were lodged by the Respondent No.1/University, wherein the allegation was of suspected use of malpractice and unfair means at two examination centres where the CBRT was conducted.

h. Representations against the Notice dated 26.10.2022 were made by the Appellants by way of legal notices. When no reply was received from the Respondent No.1/University, the Appellants approached this Court by way of separate writ petitions, praying for the setting aside of the Notice dated 26.10.2022 and appropriate directions to the Respondent No.1/University for continuing the recruitment process for the post of Junior Assistant/Office Assistant.

i. The learned Single Judge, while relying on the principles laid down by the Apex Court in Sachin Kumar & Ors. v. Delhi Subordinate Service Selection Board (DSSSB) and Ors., (2021) 4 SCC 631 and High Court of Bombay in Sonali Shivram Dupare v. Thane District Central Coop. Bank, 2023 SCC OnLine Bom 58, dismissed the writ petitions filed by the Appellants by way of the Impugned Judgments, while observing that the integrity of the CBRT was tampered with, compromising the entire process of the examination, as a result of which, the Respondent No.1/University was constrained to cancel the entire examination process to protect



the sanctity of the recruitment process.

4. The Appellants have now approached this Court, challenging the dismissal of the writ petitions by the learned Single Judge.
5. Learned Counsel for the Appellants has submitted the magnitude of the cheating or malpractice in the present is not such which necessitates vitiating the entire examination process by the Respondent No.1/University, and as such, reliance by the learned Single Judge on the Sachin Kumar (supra) judgment of the Apex Court was misplaced.
6. Reliance by the learned Counsel for the Appellants has been placed on the judgment of the Apex Court in Vanshika Yadav v. Union of India, 2024 9 SCC 743, wherein the Apex Court had set aside the decision of cancelling the examination taken by the National Testing Agency, observing that there was an absence of sufficient material on record to indicate systemic leak of papers or systemic malpractice of other forms.
7. *Per contra*, learned Counsel for the Respondents has submitted that there was a mass malpractice that taken place during the conduct of CBRT. The Respondents had engaged an agency and observer namely M/s MeritTrac, and the said agency observed use of unfair means and irregularities adopted by certain candidates at two test centres.
8. It is submitted by the learned Counsel for the Respondents that the FIRs were lodged by M/s MeritTrac upon the information by one of the observers appointed by the Respondent No. 1/University at the test centre, stating the movement of the cursor on one of the computers of a candidate was not aligned with the speed at which the candidate was moving the computer mouse.
9. Learned Counsel for the Respondents has further stated that a High



Level Committee was appointed. The High Level Committee observed *inter alia* that M/s MeritTrac, as the vendor/agency appointed to conduct the CBRT, did not take necessary steps to ensure that no unfair means are adopted at the examination centres. On the basis of its observations, the High Level Committee recommended that the recruitment process to the post of Junior Assistant/Office Assistant be cancelled and the services of M/s MeritTrac be discontinued.

10. Learned Counsel for the Respondents has submitted that the judgments relied upon by the Appellants are distinguishable to the facts of the present case, which involves CBRT wherein it is extremely difficult to trace the extent to which a test have been compromised, and therefore, a decision was taken to scrap the entire examination which cannot be said to be arbitrary or perverse.

11. Reliance by the learned Counsel for the Respondents has been placed on the judgments of the Apex Court in Inderjeet Singh Kahlon v. State of Punjab, (2006) 11 SCC 356 Gohil Vishvaraj Hanubhai v. State of Gujarat, (2017) 13 SCC 62, adverted to in Sachin Kumar (supra).

12. Heard learned counsels for the parties and perused the material on record.

13. The scope of the judicial review of administrative action has been extensively been dealt with by the Apex Court in Tata Cellular v. Union of India, (1994) 6 SCC 651, wherein the following was observed:-

“94. The principles deducible from the above are:

(1) The modern trend points to judicial restraint in administrative action.

(2) The court does not sit as a court of appeal but



merely reviews the manner in which the decision was made.

(3) The court does not have the expertise to correct the administrative decision. If a review of the administrative decision is permitted it will be substituting its own decision, without the necessary expertise which itself may be fallible.

(4) The terms of the invitation to tender cannot be open to judicial scrutiny because the invitation to tender is in the realm of contract. Normally speaking, the decision to accept the tender or award the contract is reached by process of negotiations through several tiers. More often than not, such decisions are made qualitatively by experts.

(5) The Government must have freedom of contract. In other words, a fair play in the joints is a necessary concomitant for an administrative body functioning in an administrative sphere or quasi-administrative sphere. However, the decision must not only be tested by the application of Wednesbury principle of reasonableness (including its other facts pointed out above) but must be free from arbitrariness not affected by bias or actuated by mala fides.

(6) Quashing decisions may impose heavy administrative burden on the administration and lead to increased and unbudgeted expenditure.”

14. Therefore, this Court is of the opinion that unless the Court is satisfied that the Respondents had acted with some *mala fide*, by which the Respondents wanted to exclude the candidates in order to favour some other candidates and to do the same, interference under Article 226 of the Constitution of India is not warranted. The administrative decision to go



ahead or not to go ahead with the appointment of the vacancies on the ground of that the recruitment process was tainted by the use of unfair means and malpractices are not interfered with by High Courts, unless the parameters laid down in Tata Cellular (supra) are satisfied.

15. It is also well-settled that the limited scope of interference in a LPA is warranted only if the order/judgment under appeal suffers from patent illegality and the same is not an opportunity for the aggrieved party to reappraise evidence or challenge factual determinations. In this regard, the Apex Court has held in Baddula Lakshmaiah v. Sri Anjaneya Swami Temple, (1996) 3 SCC 52, as follows:-

“2. ...A letters patent appeal, as permitted under the Letters Patent, is normally an intra-court appeal whereunder Letters Patent Bench, sitting as a Court of Correction, corrects its own orders in exercise of the same jurisdiction as was vested in the Single Bench. Such is not an appeal against an order of a subordinate court. In such appellate jurisdiction the High Court exercises the powers of a Court of Error. So understood, the appellate power under the Letters Patent is quite distinct, in contrast to what is ordinarily understood in procedural language...”

16. This Court finds merit in the contentions of the Respondents. Material on record indicates that the present case is one where only the conduct of CBRT had taken place, meaning that no final selection, creation of merit list, conduct of interviews, etc. had taken place. In this regard, this Court recalls the observations of the Apex Court in State of Haryana v. Subash Chander Marwaha, (1974) 3 SCC 220. This observation of the Apex Court was further expanded in the Shankarsan Dash v. Union of India, (1991) 3 SCC 47, while laying down that there is no legal obligation on the recruiting



authority to fill up all or any vacancies, however, the decision to not fill up the vacancies must be taken *bona fide* and for appropriate reasons.

17. There is nothing on record to show as to how many systems were hacked by any usage of applications by which computer systems can be controlled by other persons who would be far away from the centre and yet been able to access the system. As such, this Court is unable to agree with the submission of the learned Counsel for the Appellants that the malpractices and unfair means adopted were limited only to the few persons who were caught by the observers at the test centres.

18. The judgments relied on by the learned Counsel for the Appellants are distinguishable on facts keeping in mind the nature of exam, the number of candidates who appeared in the exam and the number of centres where the exam was held. The CBRT involved in the present case is a smaller examination with limited number of candidates, limited number of centres and therefore the Judgments relied on by the Petitioners are distinguishable on the facts which dealt with bigger examinations wherein the number of candidates were more. This Court is also of the opinion that the present case cannot be equated to the facts in Vanshika Yadav (supra), which dealt with the National Eligibility-cum-Entrance Test, wherein more than 6 lakhs candidates had participated for filling up around 1,80,000 seats and the test centres were located all over the country. On the other hand, in the present case, 42 seats as sought to be filled up and the test was conducted only in centres located in Delhi. Both the cases, therefore, deal with entirely different scenarios and the judgments of the Apex Court cited by the learned Counsel for the Appellants cannot be applied uniformly.

19. In light of the aforesaid background, the decision of the Respondent



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No.1/University not to accept the select list and go ahead with the recruitment process when the CBRT was tainted by the usage of unfair means and malpractices, cannot be said to be perverse.

20. Resultantly, this Court does not see any scope of interfering with the decision arrived at by the learned Single Judge, having been arrived at after due consideration of the material on record as well as the law laid down in the judgments of the Apex Court.

21. The Appeals are accordingly dismissed along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

VIMAL KUMAR YADAV, J

AUGUST 19, 2025

Prateek/AP