THE HIGH COURT OF UTTARAKHAND AT NAINITAL

WRIT PETITION (S/B) NO.498 OF 2025

Suryansh Tiwari. …… Petitioner

Vs.

State of Uttarakhand and another. ……Respondents

Presence:

Mr. Abhijay Negi, learned counsel for the petitioner.
Mr. K. N. Joshi, learned Deputy Advocate General for the State of Uttarakhand.
Mr. B. D. Kandpal and Mr. Pankaj Miglani, learned counsel for respondent no.2.

Judgment reserved on: 09.12.2025
Judgment delivered on: 18.12.2025

Coram: Hon'ble Ravindra Maithani, J.
Hon'ble Alok Mahra, J.

Hon'ble Alok Mahra, J. (Per)

Petitioner has approached this Court, seeking the following reliefs:

> "i). Issue a writ, order or direction, in the nature of certiorari, quashing the final result dated 31st October 2025 (Annexure-4) issued by the Respondent Commission, to the extent it denies the Petitioner marks for Questions No. 120, 132, 145, and 158, and wrongly drops Question No. 129 of Answer Booklet-A.
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> ii. Issue a writ, order or direction, in the nature of mandamus, commanding the Respondent Commission to award the Petitioner one mark each for the correct answers to Questions No. 120, 132, 145, 158 and 129, totaling 5 (Five) additional marks and 1 additional marks for the wrong deduction of 0.25 marks for Questions No. 120, 132, 145, and 158; consequently, to re-calculate the Petitioner's score and include the Petitioner in the list of candidates eligible to appear for the Mains Examination."

2. Briefly put, the case of the petitioner is as follows:

On 16.05.2025, the Uttarakhand Public Service Commission issued an advertisement inviting applications for the Uttarakhand Judicial Services Civil Judge (Junior Division) Examination, 2023. Pursuant to the said advertisement, the petitioner duly submitted his application and participated in the Preliminary Examination. The petitioner was allotted Question Booklet Series 'A'. He attempted all questions in the said examination, including Questions No. 120, 132, 145, 158 and 129. The petitioner selected Option 'd' as the correct answer for Question No. 120, Option 'c' for Question No. 132, Option 'c' for Question No. 145, Option 'a' for Question No. 158 and Option 'b' for Question No. 129. Subsequently, on 04.09.2025, the respondent–Commission uploaded the provisional answer key on its official website. As per the provisional answer key, Option 'b' was shown as correct for Question No. 120, Option 'a' for Question No. 132, Option 'd' for Question No. 145, Option 'd' for Question No. 158 and Commission dropped the Question No. 129. Objections were invited from candidates with respect to the provisional answer key. Petitioner submitted objections to several answers, including the ones under challenge in the present writ petition. After obtaining the opinion of subject experts on the objections submitted by various candidates, the Commission issued a revised (amended) answer key on 30.09.2025. On 31.10.2025, the Commission declared the result of the Preliminary Examination and published the list of candidates qualified for the Mains Examination along with the cut-off marks. The last candidate qualifying in the Open Category had secured 162.1218 marks. The Commission also published the individual marks of each candidate. The

petitioner, as per the published result, secured 161.1117 marks and was thereby rendered ineligible for the Mains Examination.

3. Question no. 120 of Set 'A' of General Knowledge and Acts & Laws paper, which reads as under:-

"Which of the following is an essential condition for a valid Waqf under Muslim Law?

(a) The waqf must be created by a Muslim.
(b) The property must be dedicated in perpetuity.
(c) The waqf must be for charitable purposes.
(d) All of the above"

According to the petitioners, the Commission's answer is premised upon an obsolete legal position. The petitioner submit that his answer is in consonance with the Waqf (Amendment) Act, 2025, which received the assent of the Hon'ble President and came into force on 8th April 2025, i.e., prior to the issuance of the advertisement for the present examination. The said Amendment introduced a substantive modification in Section 3(r) of the Waqf Act, 1995, by incorporating a new stipulation that the person dedicating the property to Waqf must be a Muslim who has been practicing Islam for a continuous period of not less than five years. Consequently, it has become an essential precondition that the creator of the Waqf must be a Muslim. Furthermore, the Amendment reinforces that the dedication must be perpetual in nature and the object thereof must be religious, pious, or charitable. Hence, all three conditions enumerated in options (a), (b), and (c) are now mandatory and integral to the valid creation of a Waqf. It is submitted that certain provisions of the said Amendment have subsequently been stayed by the Hon'ble Supreme Court vide order dated 15.09.2025, the said stay came into effect subsequent to the date of the examination, which was

conducted on 31.08.2025. Therefore, as on the date of the examination, the Amendment was very much in force and operative. The Commission, by failing to take cognizance of this statutory development, has rendered its answer key patently erroneous and unsustainable in law.

4. Question no. 132 of Set 'A' of General Studies paper reads as under:-

"On which of the following grounds a woman married under Muslim Law shall be entitled to obtain a decree for the dissolution of her marriage?

(a) Whereabouts of the husband have not been known for a period of four years.

(b) The husband has failed to provide for her maintenance for a period of four years,

(c) Both (a) and (b)

(d) None of the above"

According to the petitioner, the impugned question encapsulates two distinct factual scenarios and seeks to determine whether a Muslim woman "shall be entitled" to a decree for dissolution of marriage. Under Section 2 of the Dissolution of Muslim Marriages Act, 1939, a Muslim woman is entitled to a decree of dissolution if her husband's whereabouts have remained unknown for a period of four years, or if he has failed to maintain her for a period of two years. The statutory period prescribed for failure to maintain constitutes only the minimum threshold required to invoke the remedy. A failure to maintain for a period of four years, as specified in the question, clearly satisfies and exceeds this statutory ground. Accordingly, in both factual situations contemplated in options (a) and (b),

the woman would be entitled to a decree for dissolution of marriage. The interpretation adopted by the Commission is manifestly erroneous, as the question neither required disclosure of the precise statutory period prescribed under the Act nor assessed knowledge thereof; rather, it merely sought identification of the circumstances under which a woman would be entitled to a decree of dissolution in law.

5. Question no. 145 of Set 'A' of General Studies paper is extracted below:-

"Rahul entered the house of Rajesh, putting his head through the aperture. Rahul by making hole through the wall of Rajesh and has committed an offence of

(a) Criminal trespass

(b) House trespass

(c) Housebreaking

(d) All of the above"

According to the petitioner, the factual matrix as stated in the impugned question constitutes a clear and categorical illustration of the offence of "house-breaking" as defined under Section 445 of the Indian Penal Code, 1860, and correspondingly under Section 330 of the Bharatiya Nyaya Sanhita, 2023. It is submitted that while the commission of house-breaking inherently presupposes the commission of house-trespass, which in turn presupposes criminal trespass, the question in issue specifically requires identification of the precise offence constituted by the described act. The act of making an aperture or hole through a wall for the purpose of entry squarely satisfies the specific ingredients of "house-breaking" as statutorily defined under the Indian Penal Code. Therefore, to hold that the offender has committed "all of the

above" offences is legally untenable and leads to absurdity in interpretation. By way of analogy, if a person commits the offence of dacoity, he may incidentally satisfy the ingredients of robbery or theft, but the specific offence remains "dacoity". Similarly, in the present factual scenario, the specific offence constituted is "house-breaking". It is further submitted that even the Commission, in its initially released answer key, had correctly marked option (c) as the appropriate answer, but the same was subsequently altered without assigning any reason or justification, rendering the revision arbitrary and unsustainable. The petitioner further relies upon the authoritative pronouncement of the Hon'ble Supreme Court in United India Insurance Co. Ltd. Vs. Harchand Rai Chandan Lal, (2004) 8 SCC 644, wherein it was held that when a statute—or contract—explicitly defines the ingredients of a particular expression or offence, its interpretation must be confined strictly within the parameters of that definition and cannot be expanded to include ancillary, general, or implied classifications. Although the said ratio arose in the context of an insurance contract, the underlying principle is of general and universal application. Accordingly, where the legislature has specifically defined an offence and its ingredients, reliance must necessarily be placed upon the specific statutory definition rather than upon broader or derivative categories subsumed therein. In view of the foregoing, it is submitted that the petitioner's answer is in strict conformity with the statutory provisions and the settled position of law as enunciated by the Hon'ble Apex Court.

6. Question no. 158 of Set 'A' of General Studies paper is extracted below:-

"Which of the following case deals with the admissibility of electronic evidence in the Court of Law?

(a) A.P. Khotkar vs. K.K. Gorantayal
(b) Roop Kumari vs. Mohan Thedani
(c) Bodha vs. State of J & K
(d) Anvar P.V. vs. P.K. Basheer"

According to the petitioner, while the case of Anvar P.V. Vs. P.K. Basheer is indeed a seminal and authoritative pronouncement on the admissibility of electronic evidence, the subsequent and more recent judgment of the Hon'ble Supreme Court in A.P. Khotkar v. K.K. Gorantyal, (2022) 12 SCC 444, also comprehensively considers and elucidates the legal principles governing the admissibility of such evidence. The impugned question does not specifically require identification of the "leading case" or the "earliest case" on the subject; rather, it merely asks which decision "deals with" the admissibility of electronic evidence. In view thereof, both Anvar P.V. and A.P. Khotkar squarely address the said issue, and accordingly, both options (a) and (d) are legally correct. The question, therefore, suffers from inherent ambiguity. In such circumstances, the settled principle of law mandates that the benefit of ambiguity must enure in favour of the candidate. Consequently, the petitioner's answer cannot be treated as incorrect. In the alternative, it is submitted that the impugned question deserves to be deleted from evaluation, or, in the interests of justice and fairness, the petitioner ought to be awarded full marks for the same.

7. Question no. 129 of Set 'A' of General Studies paper reads as under:-

"The marriage under Muslim Law contracted without witness is:
(a) Void but not irregular
(b) Irregular, but not void
(c) Valid but not void
(d) Both (a) and (b)"

According to the petitioner, his chosen answer, i.e., Option (b), correctly reflects the settled and authoritative position of law as laid down in the leading treatises on Mohammedan Law, including Mulla's Principles of Mahomedan Law. Under the settled legal position, a marriage solemnized without the presence of witnesses is *fasid* (irregular) and not *batil* (void). The arbitrary decision of the respondent Commission in dropping Question No. 129, despite there being a single, unequivocal, and legally correct answer—namely Option (b), "Irregular, but not void"—is manifestly illegal, unjustified, and violative of the principles of natural justice, fairness, and legitimate expectation. It is submitted that the very same question, with identical options, has previously been included in examinations conducted by the respondent Commission as well as by other State Commissions, wherein Option (b) was consistently upheld as the correct answer. By virtue of the doctrine of promissory estoppel, as applicable to administrative bodies, a public authority such as the respondent Commission is estopped from acting inconsistently with its prior conduct or established practice when candidates have reasonably relied upon the same to their detriment. The Commission's own prior acceptance of Option (b) constitutes a clear representation that this is the correct position in law, thus

creating a legitimate expectation in favour of the petitioner. The Hon'ble Supreme Court has consistently held that administrative action must adhere to the principles of certainty, consistency, and non-arbitrariness. The respondent Commission, by reversing its earlier stand without assigning any cogent reason or justification, has acted in breach of the doctrine of legitimate expectation and caused manifest prejudice to the petitioner. The arbitrary deletion of this question, despite the existence of a single correct and authoritative answer, has resulted in the unfair loss of marks to the petitioner. It is further submitted that the respondent-Commission itself, in its initial answer key dated 04.09.2025, had marked Option (b) as the correct answer but subsequently proceeded to delete the question altogether without furnishing any explanation for such action.

8. Learned counsel for the petitioner submits that the answer key released by the respondent-Commission suffers from manifest errors apparent on the face of record and is liable to be quashed. In Question No. 120 of Set 'A', the answer key fails to take cognizance of the Waqf (Amendment) Act, 2025, which had come into force prior to the examination and introduced a mandatory condition that the waqf must be created by a Muslim, in addition to the existing requirements of perpetual dedication for religious, pious, or charitable purposes. Consequently, all conditions enumerated in options (a), (b), and (c) have become essential, rendering option (d) the only correct answer. Similarly, Question No. 132 misinterprets Section 2 of the Dissolution of Muslim Marriages Act, 1939, wherein a woman is entitled to dissolution if her husband's whereabouts are unknown for four years or he has failed to maintain her for

the prescribed period; thus, option (c) is correct. In Questions No. 145, 158, and 129, the petitioner's answers strictly conform to the statutory provisions and settled legal principles. The subsequent alteration and arbitrary deletion of questions, despite unambiguous correct answers, are ex facie unreasonable and violative of the principles of fairness, legitimate expectation, and non-arbitrariness. The answer key, therefore, warrants judicial interference in the interest of justice. He submits that the result of the preliminary examination was declared on 31.10.2025 by the Commission and the Mains Examination is due from 19.01.2026 to 22.01.2026.

9. Per contra, learned counsel for the respondent contends that the petitioner had submitted objections before the Commission with respect to the answer options of Question Nos.116, 125, 132, 134 and 158 of Set-A of the Provisional Answer Key, however, no objections were submitted by the petitioner in respect of the Amended Answer Key. It is submitted that, as per the considered opinion of the Subject Experts, the answer provided by the Commission in respect of Question No. 120 of Set 'A' was incorrect, therefore, objection raised by the candidates was found to be sustainable and the correct answer should have been option (b). Reference has been made to Section 3(r) of the Waqf Act, 1995 (as amended by the Waqf (Amendment) Act, 2025, which reads as under:

"(r) "waqf" means the permanent dedication by any person, of any movable or immovable property for any purpose recognised by the Muslim law as pious, religious or charitable and includes—

(i) a waqf by user but such waqf shall not cease to be a waqf by reason only of the user having ceased irrespective of the period of such cesser;

(ii) a Shamlat Patti, Shamlat Deh, Jumla Malkkan or by any other name entered in a revenue record;

(iii) "grants", including mashrat-ul-khidmat for any purpose recognised by the Muslim law as pious, religious or charitable; and

(iv) a waqf-alal-aulad to the extent to which the property is dedicated for any purpose recognised by Muslim law as pious, religious or charitable, provided when the line of succession fails, the income of the waqf shall be spent for education, development, welfare and such other purposes as recognised by Muslim law, and "waqif" means any person making such dedication."

10. It is further submitted that, based on the expert opinion, the answer provided by the Commission in respect of Question No. 132 of Set 'A' was found to be correct and the objection of the candidates was found to be unsustainable. The correct option, as determined, is Option (a). Reliance in this regard has been placed upon *Mulla's Principles of Mahomedan Law*, 21st Edition and Section 2(i) of the Dissolution of Muslim Marriages Act, 1939. With respect to Question No. 145 of Set 'A' of Set 'A', learned counsel submits that, in view of the expert opinion, the answer furnished by the Commission was incorrect, as the correct answer is Option (d). Hence, the objection of the candidates was found to be valid and sustained.

11. Learned counsel for the respondent further submits that, in accordance with the opinion rendered by the Subject Experts, the answer provided by the Commission in respect of Question No. 158 of Set 'A' is correct, and hence, the objection raised by the candidate was found to be unsustainable. Reference has been made to judgment rendered in the case of

Anvar P.V. Vs. P.K. Basheer, reported in (2014) 10 SCC 473. Learned counsel for the respondent submits that, in accordance with the opinion rendered by the Subject Experts, the answer provided by the Commission in respect of Question No. 129 of Set 'A' is incorrect, inasmuch as, none of the four options are correct and hence, the objection raised by the candidate was found to be correct. Reliance in this regard has been placed upon Mulla's Principles of Mahomedan Law, 21st Edition.

12. This Court, in its discretion, deemed it appropriate to request the presence of the Secretary, Uttarakhand Public Service Commission, to assist the Court in the proper adjudication of the matter. In compliance with the said direction, Mr. Ashok Kumar Pandey, Secretary, Uttarakhand Public Service Commission, joined the proceedings through video conferencing and rendered his assistance to the Court on the issues under consideration.

13. Learned counsel for the respondent, with commendable fairness, concedes that since there were two correct answers to Question No. 158 of Set 'A', the said question ought to have been deleted by the Commission during the process of evaluation, in conformity with established principles governing the conduct of competitive examinations and the settled position of law that no candidate should be prejudiced on account of an error or ambiguity attributable to the examining authority.

14. Hon'ble Supreme Court in Kanpur University, through Vice Chancellor & others Vs. Samir Gupta & others, reported in (1983) 4 SCC 309 and, in subsequent decisions, has

held that where the key answer is demonstrably wrong or a question admits of more than one correct answer, the Court may direct that such questions be excluded from evaluation and marks be awarded accordingly, rather than substituting its own key. The rationale is that evaluation must rest on clear and objectively verifiable questions; a faulty or confusing question undermines equal treatment of candidates and offends Article 14 of the Constitution. This principle has been consistently followed where examining bodies themselves, on receiving expert input, delete defective questions and award proportionate marks to all candidates.

15. Hon'ble Apex Court in the case of Uttar Pradesh Public Service Commission, through its Chairman and another Vs. Rahul Singh and another, reported in (2018) 7 SCC 254, has observed that the Constitution Courts must exercise great restraint in matters regarding public examination and should be reluctant to entertain the plea challenging the correctness of the key answers.

16. In the case in hand, the Regulations of 2022 clearly states that where the question is structurally defective, such a question shall be excluded from the question paper and the marks for remaining questions shall then be increased proportionately so that the total maximum marks remain unchanged.

17. Learned counsel for the Commission fairly conceded that the option provided by the Subject Experts with regard to Question No. 145 of Set 'A' is apparently incorrect. This Court is of the view that since question no.145 pertains to house

breaking and its definition is specifically explained in Illustration (a) appended to Section 445 of the Indian Penal Code, therefore, the correct answer would be Option 'c'. Illustration (a) appended to Section 445 of the Indian Penal Code is reproduced below:

"(a) A commits house-trespass by making a hole through the wall of Z's house, and putting his hand through the aperture. This is house-breaking."

18. In view of the above factual and legal position, this Court is constrained to hold that there were two correct answers to Question No. 158 of Set 'A' of the Uttarakhand Judicial Services Civil Judge (Junior Division) Examination-2023. The Commission ought to have deleted this question as provided under Regulation 9(iv) of the Regulations of 2022. Furthermore, the learned counsel for the Commission has himself admitted that there were two correct answers to Question No. 158 of Set 'A', therefore, the said question ought to have been deleted by the Commission.

19. Accordingly, the writ petition stands allowed. This Court, upon due consideration of the submissions advanced and the material placed on record, holds that Question No.129 does not specifically indicate as to whether it relates to Shia Law or Sunni Law, therefore, the Commission has rightly deleted this question. Further, the answer furnished by the Uttarakhand Public Service Commission in respect of Question No. 132 of Set 'A' of the aforesaid Preliminary Examination is correct in law and does not warrant any interference by this Court. However, it is further held that the answer provided by the Commission in relation to Question No. 145 of Set 'A' is erroneous, as the correct answer ought to have been Option (c),

in view of the statutory position and the illustration appended to Section 445 of the Indian Penal Code. This Court further declares that answer to Question No. 120 of Set 'A' to be option (d). This Court further declares that since there were two correct answers to Question No. 158 of Set 'A', rendering it incapable for the candidates to give a definite or legally sustainable answer, therefore, the said question shall stand deleted from the process of evaluation.

20. The Uttarakhand Public Service Commission is, therefore, directed to re–compute the result of the aforesaid Preliminary Examination by deleting Question No.158 of Set 'A' and also consider and treat Option (c) as the correct answer for Question No. 145 and also treat option (d) as the correct answer for Question No.120, while re-evaluating the responses of all candidates and publish the merit list as per the provisions contained in the Uttarakhand Public Service Commission Regulations, 2022.

(Alok Mahra, J.) (Ravindra Maithani, J.)

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