



2025:UHC:11325-DB

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

WRIT PETITION (S/B) NO.499 OF 2025

Shashank Pant.

..... Petitioner

Vs.

Uttarakhand Public Service Commission & another.Respondents

Presence:

Mr. Vinay Kumar, learned counsel for the petitioner.

Mr. B.D. Kandpal and Mr. Pankaj Miglani, learned counsel for the respondent.

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 calling for the record and quashing the impugned Final Answer Key (Annexure No10 to the writ petition) of Examination-2023, so far as the Selection Commission has deleted Question No. 55 of Question Booklet Series-C inasmuch as the answer given by the Petitioner for the said question is correct and accordingly revise the marks allotted to the Petitioner.

(ii) Issue a writ, order or direction in the nature of Certiorari calling for the record and quashing the impugned Final Answer Key (Annexure No.10 to the writ petition) of Examination-2023 so far as it pertains to Question No. 60, 71 and 76 of Booklet Series-C inasmuch as the options given by the Selection Commission for the said questions are wrong and against the statutory provisions and authentic Books.

(iii) Issue a writ, order or direction in the nature of Mandamus directing the respondent Selecting Body to



revise the Final Result dated 31.10.2025 (Annexure No. 8 to the writ petition) of the Preliminary Examination-2023 by including the Roll Numbers of the Petitioner and to declare the Petitioner qualified for appearing in the Mains Examination of Uttarakhand Judicial Services Civil Judge (Junior Division) Examination-2023.

(iv) Issue a writ, order or direction in the nature of Mandamus constituting an independent Expert Committee of Subject Experts to look into the Question Nos. 55, 60, 71 & 76 of Question Booklet Series-C of Preliminary Examination-2023 and examine the correct answers to these questions.”

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 ‘C’. He attempted all questions in the said examination, including Questions No. 55, 60, 71, and 76. The petitioner selected Option ‘b’ as the correct answer for Question No. 55, Option ‘d’ for Question No. 60, Option ‘c’ for Question No. 71, and Option ‘d’ for Question No. 76. 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. 55, Option ‘d’ for Question No. 60, Option ‘c’ for Question No. 71, and Option ‘b’ for Question No. 76. Objections were invited from candidates with respect to the provisional answer key. Since the petitioner’s responses for Questions No. 55, 60, and 71 were consistent with the corresponding options provided in the provisional answer key, he did not raise any objection regarding those questions. However, the petitioner



submitted an objection online pertaining to Question No. 76 alone. 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. In the said amended answer key, Question No. 55 was deleted; the correct option for Question No. 60 was modified from Option 'd' to Option 'b'; and for Question No. 71, the correct option was changed from Option 'c' to Option 'd'. In respect of Question No. 76, the Commission retained its earlier position, maintaining Option 'b' as the correct answer. By the same notice dated 30.09.2025, the Commission once again invited objections from candidates in relation to the amended answer key. Aggrieved by the changes made, the petitioner submitted objections afresh in respect of Questions No. 60 and 71. With respect to Question No. 60, the petitioner pointed out that although the provisional answer key earlier reflected Option 'd' as the correct answer, the revision changing it to Option 'b' was erroneous, as Option 'd'—"All the above"—was in fact the correct answer. Similarly, regarding Question No. 71, the petitioner submitted that the alteration from Option 'c' ("House-breaking") to Option 'd' was incorrect, and that Option 'c' represented the accurate and precise answer. On 31.10.2025, the Commission declared the result of the Preliminary Examination and published the list of candidates qualified for the Main 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 159.59 marks and was thereby rendered ineligible for the Mains Examination.



3. Question no. 55 of Question Booklet Series-C 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, the said question has been erroneously expunged, inasmuch as, under the principles of Muslim Law, a marriage contracted in the absence of witnesses is treated as an irregular marriage and not void, and such irregularity is capable of being cured or regularized subsequently in accordance with law.

4. Question No.60 of Question Booklet Series-C reads as under:-

“Under Sunni Law, which of the following is an essential for a valid Nikah?

- “(a) The presence of two male witnesses.
- (b) Absence of absolute prohibition.
- (c) The payment of Dower (Mehr)
- (d) All of the above.”

According to the petitioner, he had selected Option ‘d’ as the correct answer to the said question. It is submitted that in the Provisional Answer Key, the Selection Commission had also indicated Option ‘d’ as the correct answer; however, in the Final Answer Key, the Commission has substituted the correct answer as Option ‘b’. It is submitted that petitioner had duly filed objections to Question No. 60, substantiated by authentic documentary material in support thereof.



5. Question No.71 of Question Booklet Series-C reads as under:-

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

- | | |
|-----------------------|----------------------|
| (a) Criminal trespass | (b) House trespass |
| (c) House breaking | (d) All of the above |

According to the petitioner, Option ‘c’ exercised by him as the correct answer to Question No. 71 is duly supported by the fact that the illustration provided in Question No. 71 is identical to the illustration contained in the Bare Act under Section 445 of the Indian Penal Code, relating to “House-Breaking.” A perusal of the illustration in Question No. 71 of Booklet Series-C clearly demonstrates that it is verbatim the same as that appearing in the Bare Act; hence, Option ‘c’ marked by the petitioner represents the correct answer. It is further submitted that Section 71 of the Indian Penal Code stipulates the limitation of punishment in cases where a single act constitutes multiple offences. The said provision mandates that when an act constitutes an offence made up of parts, each of which is itself an offence, the offender shall not be subjected to punishment for more than one of such offences, unless expressly provided otherwise. Option ‘c’—“House-Breaking”—thus represents the correct and legally accurate answer to Question No. 71 of Booklet Series-C. The petitioner submits that conceptually, “House-Breaking” as defined under Section 445 of the I.P.C. is not a distinct or parallel offence but an aggravated form of “House-Trespass,” which, in turn, is an aggravated form of “Criminal Trespass” within the meaning of Sections 441 and 442 of the I.P.C. Accordingly, when the factual illustration satisfies the essential ingredients of “House-



Breaking,” such as entry by making a hole through a wall, it necessarily encompasses the elements of both “Criminal Trespass” and “House-Trespass.” The correct legal nomenclature for the offence is thus “House-Breaking,” being the most specific and aggravated form of the act in question.

6. Question No.76 of Question Booklet Series-C reads as under:-

“76. For Presumption as to abatement of suicide by a married woman to arise, it must be shown that-

- (a) She committed suicide after 7 years of marriage.
- (b) Her husband and his relatives subjected her to cruelty.
- (c) Both (a) and (b)
- (d) Neither (a) nor (b)

According to the petitioner, Option ‘b’ indicated by the Selection Commission as the correct answer to Question No. 76 is legally unsustainable. It is submitted that Section 113-A of the Indian Evidence Act, 1872, pertains to the presumption as to abetment of suicide by a married woman. The said provision stipulates that when the question arises whether the commission of suicide by a woman has been abetted by her husband or any relative of her husband, and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative had subjected her to cruelty, the Court may presume that such suicide had been abetted by her husband or such relative. A plain and conjoint reading of Section 113-A of the Indian Evidence Act makes it evident that the legislature has employed



the word “or” and not “and” while creating the statutory presumption against the husband or any relative of the husband. The offence of abetment to suicide may independently be attributable to either the husband of the deceased married woman or to any of her husband’s relatives. However, as per Option ‘b’ in Question No. 76, the husband and the relative of the husband must both have subjected the married woman to cruelty in order to attract the presumption under Section 113-A. Such a construction is contrary to the express language and legislative intent of the provision, as the statutory presumption can arise even where cruelty is committed by the husband or any relative of the husband independently. Hence, the declaration of Option ‘b’ as the correct answer by the Selection Commission is contrary to the statutory scheme and cannot be sustained in law.

7. Learned counsel for the petitioner submits that due to erroneous options provided by the Selection Commission in respect of Questions No. 60, 71, and 76, the petitioner has been deprived of the requisite marks necessary for qualifying in the Mains Examination. The answers tendered by the petitioner in respect of Questions No. 55, 60, and 71 were in conformity with the provisional answer key; however, the Selection Commission, without any rational basis, altered the correct options in the final answer key. With regard to Question No. 76, the Selection Commission has designated Option ‘b’—“Her husband and his relatives subjected her to cruelty”—as the correct answer, which is legally unsustainable. The petitioner had specifically raised objections to this option, but the Selection Commission failed to rectify the error. The authoritative text Family Law-I authored by Poonam Pradhan Saxena and published by Lexis Nexis,



Chapter 8, Page 320, elucidates the essentials of a valid Nikah. Page 321 clarifies that Muslims do not insist on a religious ceremony per se. Under Sunni Law, the presence of two witnesses is required, who must be at least two male Muslims of sound mind and above the age of fifteen years. A marriage contracted in the absence of witnesses is deemed irregular but not void, and may be regularized. In contrast, Shia Law does not require witnesses. Under the heading 'Mahr', it is emphasized that Dower (Mahr) is an indispensable element of a Muslim marriage, and its specification at the time of marriage is mandatory; in the absence of specification, it may be presumed. Further, under the heading 'Role of Polygamy', Chapter 8, Section 8.9.2, it is specifically stated that, under Sunni Law, the essential conditions for the validity of a Nikah contract are offer and acceptance, agreement on the Mahr amount, all transacted in one meeting and in the presence of two competent witnesses. Thus, the Selection Commission's designation of Option 'b' as the correct answer for Question No. 60 is not tenable. The presence of two male witnesses, absence of absolute prohibition, and payment of Dower (Mehr) are all essential ingredients for a valid marriage under Sunni Law; hence, Option 'd' is the correct answer, and is supported by authoritative legal literature. Regarding Question No. 71, the petitioner's selection of Option 'c' is substantiated by the fact that the illustration provided in the question is identical to the illustration appended to Section 445 of the Indian Penal Code in the Bare Act. A perusal of the question in Booklet Series-C, Question No. 71, reveals that it mirrors the illustration provided in the Bare Act. Therefore, Option 'c'—'House Breaking'—is the correct answer. Section 71 of the Indian Penal Code provides that where an act constitutes multiple offences, the offender shall not be punished for more than one of such offences unless expressly provided.



Conceptually, 'House Breaking' under Section 445 I.P.C. is not a distinct or parallel offence, but an aggravated form of House Trespass, which itself is an aggravated form of Criminal Trespass under Sections 441 and 442 I.P.C. Thus, when an act fulfills the ingredients of House Breaking—such as Rahul entering by making a hole through the wall—it inherently includes the elements of Criminal Trespass and House Trespass. The correct legal nomenclature for the offence is House Breaking, being the most specific and aggravated form. Applying the maxim *generalia specialibus non derogant*, the specific provision prevails over the general. Once an act amounts to House Breaking, classification under lesser heads cannot coexist. Moreover, Section 71 I.P.C. prohibits the offender from being punished or held liable for more than the aggravated offence. To classify the act under Criminal Trespass and House Trespass in addition to House Breaking would result in duplication and repetitive classification, which is contrary to statutory interpretation and settled judicial precedent. 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.

8. Per contra, learned counsel for the respondent contends that the petitioner had earlier submitted objections before the Commission pertaining to Question No. 76 (Set-C) of the Provisional Answer Key and Questions No. 60 and 71 (Set-C) of the Amended Answer Key. Accordingly, no objection was preferred by the petitioner with regard to Question No. 55 of Set-C. It is submitted that, as per the considered opinion of the Subject Experts, the answer provided by the Commission in respect of Question No. 55 (Set-C) was erroneous and



incorrectly framed, since none of the four options were correct. Consequently, the objection raised by the candidates was found to be valid, and the said question was deleted. It is further submitted that, based on the expert opinion, the answer provided by the Commission in respect of Question No. 60 (Set-C) was also found to be incorrect, and the objection of the candidates was considered sustainable. The correct option, as determined, is Option (b). Reliance in this regard has been placed upon *Mulla's Principles of Mahomedan Law*, 21st Edition. With respect to Question No. 71 (Set-C), 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.

9. 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. 76 (Set-C) is correct, and hence, the objection raised by the candidate is devoid of merit and unsustainable. Reliance has been placed upon the provisions of Section 113-A of the Indian Evidence Act, 1872, which reads as under:

“113A.Presumption as to abetment of suicide by a married woman.-When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the Court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.”

10. 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.

11. Learned counsel for the respondent, with commendable fairness, concedes that Question No. 76 of Question Booklet Series–C was erroneously framed and suffers from inherent ambiguity and defect in formulation. It is submitted that, in view of the apparent error in the framing of the said question and the resultant lack of clarity in the options provided, the question could not have elicited a definite or legally sustainable answer. Therefore, 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.

12. 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.

13. 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.

14. 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.

15. Learned counsel for the Commission fairly conceded that the option provided by the Subject Experts with regard to Question No. 71 of Booklet Series 'C' is apparently incorrect. This Court is of the view that since question no.71 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.”

16. In view of the above factual and legal position, this Court is constrained to hold that Question No. 76 of Question of Booklet Series-C of the Uttarakhand Judicial Services Civil Judge (Junior Division) Examination-2023, is wrongly framed. 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 Question No. 76 of Question of Booklet Series-C was wrongly formulated and it ought to have been deleted by the Commission.

17. 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.55 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. 60 of Question Booklet Series-C 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. 71 of Question Booklet Series-C 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 Question No. 76 of Question Booklet Series-C is defective in its formulation and inherently ambiguous, rendering it incapable of



a definite or legally sustainable answer. Consequently, the said question shall stand deleted from the process of evaluation.

18. The Uttarakhand Public Service Commission is, therefore, directed to re-compute the result of the aforesaid Preliminary Examination by deleting Question No. 76 of Question Booklet Series-C and also consider and treat Option (c) as the correct answer for Question No. 71 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.

19. It is pertinent to note here that this is not the first instance that the correctness of the questions is being put to challenge by the candidates in relation to the examinations conducted by the Uttarakhand Public Service Commission. In recent past, the exams conducted by the Commission, be it Uttarakhand Judicial Services Civil Judge (Junior Division) Examination, 2023, Uttarakhand Combined State Civil/Upper Subordinate Service Selection, 2025, Uttarakhand Combined State Lower Subordinate Service Examination, 2024, several writ petitions have been filed challenging the action of the Commission, in which either questions have been deleted as they were wrongly framed or were having multiple correct answers or the final answer key given by the Commission contain wrong answers. These errors in the question paper have crept in almost all the examination which are being conducted by the UKPSC, despite the fact that UKPSC is the apex examination conducting body of the State and the fact about framing of erroneous questions have been admitted by the Commission itself in these writ petitions. It is the candidate



who suffers, as a review of wrong answers or demonstrably erroneous key answers, or wrong and ambiguous questions, directly affects their merit. The students prepare for the examination by fixing a schedule, but due to ambiguous questions the students suffer. One can understand that confidence of the candidate is shaken when an erroneous or wrong answer is asked in a competitive exam, which is subsequently deleted, or when a wrong answer is given in the final answer key. In such circumstances, the legitimate expectations of the candidates get shattered. The sudden change in merit can cause prejudice, in which case Court interference becomes necessary. At the core of any competitive exam, lies the promise of fairness and equal opportunity, when ambiguous or incorrect questions appear on the question paper, that promise is compromised. Candidates who have dedicated months or years preparing for the exams feel frustrated and let down by a system that was meant to impartially assess their knowledge and efforts. Such errors can create a widespread sense of distrust and disappointment among students. The emotional and psychological impact of encountering faulty questions is significant. Candidates pour their emotional energy into preparation, and facing unfair or confusing questions during the exam can lead to feeling of anxiety, helplessness and anger. This stress can affect their mental well being, sometimes triggering symptoms of burnout or depression. Moreover, the presence of incorrect questions disrupts the examination experience, making it difficult for candidates to perform to their potentials. It can affect their confidence and distort rankings, which impact their chances in competitive exams. Candidates, who are at the threshold of their career, this uncertainty adds extra pressure and concern about their future prospects.



20. This Court is of the considered view that the Commission shall take urgent steps, so that errors in question paper are minimized in the forthcoming examinations and for that Commission may consider for:

(i) Constitute an Expert Committee, comprising of subject experts, who were not involved in the earlier framing, vetting, or evaluation of the question papers or answer keys, to re-examine all the disputed questions raised by the candidates, including the questions alleged to be ambiguous, containing multiple correct answers, or containing erroneous answers in the provisional or final answer key.

(ii) The Expert Committee shall, after undertaking a fresh scrutiny, prepare a reasoned report clearly indicating:

- (a) the questions that are to be retained;
- (b) the questions that are to be deleted;
- (c) the questions that contain more than one correct answer;
- (d) the corrections required in the final answer key; and
- (e) the basis and authoritative sources relied upon for arriving at such conclusions.

(iii) Consequent to the corrections, the Commission shall uniformly re-evaluate the OMR sheets of all the candidates, without any distinction, applying the corrected answer key and the directions of the Expert Committee.

(iv) If any question is deleted, the marks for the said question shall be awarded to all candidates equally, in accordance with the Rules of the Commission, so that no candidate suffers prejudice due to an error not attributable to them.



(v) After re-evaluation, the Commission shall prepare and publish a revised result and, if necessary, a fresh merit list be issued immediately, without any undue delay.

(Alok Mahra, J.)

Arpan

(Ravindra Maithani, J.)