

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No. 4720 of 2012-B & connected matters.

Decided on: July 10, 2012.

1. **CWP No. 4720 of 2012-B.**

Diksha Thakur, daughter of Shri Yugal Kishore Verma, resident of ground Floor North Oak Building, Sanjauli, Shimla-171 006.

.....Petitioner.

Versus

1. State of Himachal Pradesh through its Principal Secretary (Health) to the Government of Himachal Pradesh, Shimla.
2. Director (Medical Education and Research) to the Government of Himachal Pradesh, Shimla.
3. Himachal Pradesh University through its Registrar, Summer Hill, Shimla.

.....Respondents.

2. **CWP No. 4735 of 2012-D.**

Tamana Sharma d/o Sh. H.R. Sharma, resident of Aditya Sadan, near Gopi Kunj, Sanjauli, Shimla-6.

.....Petitioner.

Versus

1. State of HP through Secretary (Health) to the Government of HP, Shimla.
2. The Director, Medical Education and Research, HP, Shimla.
3. H.P. University through its Registrar, Summerhill, Shimla-5.
4. Apurva Chauhan D/o Shri Jiwa Nand Chauhan R/o Village Sanyardhi, Post Office Talyahar, Tehsil Sadar, Distt. Mandi, H.P. at present student of BDS in Govt. Dental Colleges at Shimla.

.....Respondents.

3. **CWP No. 4736 of 2012-D.**

Shivam Vashisht S/o Sh. Dharamveer Vashisht R/o A.M.O. Govt. A.H.C. Daganya Narkanda, Tehsil KUmarsain, Distt. Shimla, H.P.

.....Petitioner.

Versus

1. State of Himachal Pradesh through Secretary (Health) to the Government of Himachal Pradesh, at Shimla.
2. Director (Medical Education and Research) to the Govt. of Himachal Pradesh at Shimla.
3. Himachal Pradesh University, through its Registrar, Summer Hill, Shimla, HP.

.....Respondents.

4. **CWP No. 4755 of 2012-F.**

Amrik Singh son of Shri Parpinder Singh, Resident of near Indira Gandhi Memorial Public Senior Secondary School, Dehra, P.O. & Tehsil Dehra, District Kangra (H.P.).

.....Petitioner.

Versus

1. Himachal Pradesh University, Shimla-171005 (H.P.) through its Registrar.
2. The Registrar, Himachal Pradesh University, Summer Hill, Shimla- 171005, (H.P.).

.....Respondents.

5. **CWP No. 4761 of 2012-G.**

Ms. Divya Rana, D/o Sh. Ranvir Singh Rana, R/o Vikas Bhawan, Vikas Nagar, Tehsil & District Shimla.

.....Petitioner.

Versus

1. Himachal Pradesh University Through its Registrar, Summer Hill Shimla-5, H.P.
2. Controller of Examination, Himachal Pradesh University, Summer Hill, Shimla-5. H.P.

.....Respondents.

6. **CWP No. 4795 of 2012-J.**

Miss Vartika Sharma, D/O Dr. Vinod Sharma, R/O Behind Old Income Tax Office, Ghuggarmatt, P.O. & Tehsil Palampur, Distt. Kangra, H.P.

.....Petitioner.

Versus

1. State of Himachal Pradesh through Secretary (Health) to the Government of Himachal Pradesh, Shimla-2.
2. The Director, Medical Education and Research, Government of Himachal Pradesh, Shimla.
3. Himachal Pradesh University through its Registrar, Summerhill, Shimla-5.

.....Respondents.

7. **CWP No. 4804 of 2012-A.**

Ravi Kumar, s/o Rai Singh Chauhan, R/O New Flowerdail Colony, Chhotta Shimla-2, H.P.

.....Petitioner.

Versus

1. State of Himachal Pradesh through Secretary (Health) to the Government of Himachal Pradesh, Shimla.
2. The Director, Medical Education and Research, HP, Shimla.
3. Himachal Pradesh University through its Registrar, Summerhill, Shimla-5.

.....Respondents.

8. **CWP No. 4856 of 2012-F.**

Miss Xitiza daughter of Dr. Ramesh Chand resident of Set No. 65, Type-IV, Kasumpti, Shimla-171009, H.P.

.....Petitioner.

Versus

1. State of H.P. through Secretary (Health) to the Govt. of H.P. Shimla-2.
2. The Director, Medical Education and Research, Shimla-9.
3. H.P. University through Vice Chancellor, Summerhill, Shimla, H.P.

4. Registrar, H.P. University, Summerhill, Shimla, H.P.
5. Controller, H.P. University, Summerhill, Shimla, H.P.
6. Principal, Indira Gandhi Medical College, Shimla-1.

.....Respondents.

9. **CWP No. 4862 of 2012-G.**

Miss Garima D/O Sh. Parkash Chand, R/O Village Anji, P.O. Barog Railway Station,
Distt. Solan, H.P.

.....Petitioner.

Versus

1. State of Himachal Pradesh through Secretary (Health) Government of
Himachal Pradesh, Shimla.
2. Director, Department of Medical Education and Research, Shimla.
3. Himachal Pradesh University through its Registrar, Summer Hill, Shimla.

.....Respondents.

10. **CWP No. 4871 of 2012-H.**

Shagun Guleria D/o Shri Udham Singh Guleria, aged 17 years, resident of Mehta Niwas,
Fingask Estate, Shimla through her father and natural guardian Shri Udham Singh son of
Shri Sankar Singh Guleria, resident of Mehta Niwas, Fingask Estate, Shimla.

.....Petitioner.

Versus

1. State of Himachal Pradesh through its Principal Secretary (Health) to the
Government of Himachal Pradesh, Shimla.
2. Director (Medical Education and Research) to the Government of
Himachal Pradesh, Shimla.
3. Himachal Pradesh University through its Registrar, Summer Hill, Shimla.

.....Respondents.

11. **CWP No. 4900 of 2012-J.**

Pooja Sharma D/o Sh. Sanam Sharma r/o Block No. 4, Set No. 50, U S Club, Shimla-1,
H.P.

.....Petitioner.

Versus

1. State of Himachal Pradesh through Secretary (Health) to the Govt. of
H.P., Shimla.
2. The Director, Medical Education and Research, H.P. Shimla.
3. Himachal Pradesh University through its Registrar, Summer Hill, Shimla.

.....Respondents.

12. **CWP No. 4909 of 2012-A.**

Mohit Thakur S/o Sh. Manoj Kumar Thakur R/o Set no. 4, Block no.-4, Doctors
Residence, Corestopphen Estate, Near IGMCI, Shimla (HP).

.....Petitioner.

Versus

1. State of Himachal Pradesh through Secretary (Health) to the Govt. of
Himachal Pradesh, Shimla.

2. Director (Medical Education and Research) to the Govt. of Himachal Pradesh, Shimla.
3. Himachal Pradesh University, Summer Hill Shimla through its Registrar.
.....Respondents.

13. CWP No. 4983 of 2012-I.

Ankita Sharma, D/o Sh. Suresh Kumar Gautam, R/o House No. 203/4, New Dedhayal, P.O. Bhojpur, Tehsil Sundernagar, District Mandi, H.P.

.....Petitioner.

Versus

1. State of Himachal Pradesh through its Principal Secretary (Health) to the Government of Himachal Pradesh, Shimla.
2. Director (Medical Education and Research) to the Government of Himachal Pradesh, Shimla.
3. Himachal Pradesh University, through its Registrar, Summer Hill Shimla.
.....Respondents.

14. CWP No. 5004 of 2012-A.

Manoj Kumar Verma Son of Shri Girdhari Lal Verma, Resident of Bhagwati Nagar, Lower Khalini, Shimla, 171002, Himachal Pradesh.

.....Petitioner.

Versus

1. State of Himachal Pradesh through its Principal Secretary (Health) to the Government of Himachal Pradesh, Shimla.
2. Director (Medical Education and Research) to the Government of Himachal Pradesh, Shimla.
3. Himachal Pradesh University, through its Registrar, Summer Hill Shimla-171 005, HP.
.....Respondents.

15. CWP No. 5019 of 2012-B.

Akshay Moudgil S/O Shri Narain Dass PRO Village & PO Barsar, Tehsil Barsar, Distt. Hamirpur, H.P.

.....Petitioner.

Versus

1. Registrar, Himachal Pradesh University, Summer Hill, Shimla-171005.
2. Assistant Registrar (Entrance Test) Administrative Block, Ground Floor, Room No. 10, H.P. University, Summer Hill, Shimla-171005.
.....Respondents.

16. CWP No. 5024 of 2012-C.

Aditi Minhas daughter of Dr. Varinder Singh Minhas resident of set No. 21, Block No. 3, U.S.Club Shimla, H.P.

.....Petitioner.

Versus

1. The State of Himachal Pradesh through its Principal Secretary (Health) to the Government of H.P. Shimla.
2. Director of (Medical Education and Research) to the Govt. of H.P. Shimla.
3. Himachal Pradesh University, through its Registrar, Summer Hill Shimla.

.....Respondents.

17. **CWP No. 5032 of 2012-D.**

Ms. Twinkle Sood D/O Sh Randeep Kumar, P.R.O. Village & P.O. Maranda Bhareri, Tehsil Palampur, Distt. Kangra, H.P.

.....Petitioner.

Versus

Himachal Pradesh University through its Registrar, Summer Hill, Shimla.

.....Respondent.

18. **CWP No. 5033 of 2012-D.**

1. Savvy Dhorta d/o Sh. Rahesh Dorta, resident of Richmount Cottage, Lower Khallini, Shimla.
2. Nidhi Uppadhyay d/o Sh. J.N. Uppadhyay, resident of Set No. 30, Type-III, New Brockhurst, Shimla-9.

.....Petitioners.

Versus

1. State of HP through Secretary (Health) , Government of HP, Shimla.
2. The Director, Medical Education and Research, HP, Shimla.
3. H.P. University, through its Registrar, Summerhill Shimla-5.

.....Respondents.

Coram

The Hon'ble Mr. Justice Kurian Joseph, Chief Justice.

The Hon'ble Mr. Justice Dharam Chand Chaudhary, Judge.

For the petitioners:

M/S Ajay Mohan Goel, Sanjeev Bhushan, Sumeet Raj Sharma, Ramakant Sharma, D.N. Ronta, K.S. Banyal, Sandeep Dutta, R.S. Gautam, Vineet Vashishta vice Mr. Bimal Gupta, Lalit K. Sharma, Amit Singh Chandel, Sumeet Kaur vice Mr. Balwant Kukreja, Ashwani Sharma, Lokender Paul Thakur, Dushyant Dadwal & Sanjeev Bhushan, Advocates.

For the respondents:

Mr. R.K. Bawa, AG with Mr. Ankush Dass Sood, Addl. AG for the respondent-State.
Mr. B.C.Negi, Advocate, for respondent-University.
Mr. Ajay Chandel, Advocate, for R-4 in CWP No. 4735 of 2012.

Justice Kurian Joseph, C.J. (Oral)

These writ petitions pertain to the grievances aired by some of the students who participated in the Pre-Medical Test, with regard to certain questions. Having heard the learned counsel for the petitioners, by order dated 2nd

July, 2012, we referred a few questions to the Moderation Committee, observing also that some of the questions, the way in which they have been framed, have to be approached not only scientifically but logically as well. The Moderation Committee has made available the detailed deliberations with regard to the work done by them. We have perused the report of the Moderation Committee and also gone through the materials made available by the Committee as well as the prescribed text-books.

2. Sh. B.C.Negi, learned counsel appearing for the University submits that when a most appropriate answer is available in the answer-sheet, the candidate has to go for the most appropriate answer. There is no quarrel with the above proposition. But that situation arises only when there is no correct answer. That does not apply to a situation where more than one correct answer is possible ex-facie. For example, Question No. 14. The question is: A staminode does not possess, four options are given: A) Filament, B) Anther, C) Male Gametes and D) Pollengrains. A staminode is an infertile stamen. Obviously it cannot contain male or female gametes and definitely it cannot contain pollengrains. The simple and straight question is what is that a staminode does not possess? Therefore, applying law, logic and common sense, one has to say that in case a student has first seen male gametes at option 'C' and if that answer is given, it cannot be held to be an incorrect answer since a staminode does not possess male gametes and a student who has given option 'D' that a staminode does not possess pollengrains should be given the marks as well, since a staminode does not possess pollengrains. Same appears the situation with regard to Question No. 52, which reads as follows:

52. In the nature, the biologically cohesive unit amongst the taxa is:
- A) Genus
 - B) Order
 - C) Phylum
 - D) Species.

3. Shri B.C. Negi, learned counsel appearing for the University referring to the materials made available has pointed out that biologically the most cohesive unit is 'Species'. It is also submitted that the first cohesive unit is also Species. There cannot be any doubt with regard to the submission made by the learned Counsel for the University. But again, the question is not what is the most cohesive biological unit or which is the first biologically cohesive unit. The question simply is, in the nature what is the cohesive biological unit among the taxa. Therefore, applying common sense with science and logic, all answers are possible.

4. Question No. 96, reads as follows:

96. The charge on the outer side of the neuron is:

- A) +Ve
- B) -Ve
- C) Zero
- D) Alternate -Ve and +Ve.

In the textbook, it is clearly stated as to what is the charge on the outer side of the neuron when it is resting and what will be the charge if a stimulus is applied. In the question, the charge after application of stimulus is absent. The simple and straight question is what is the charge on the outer side of the neuron. There is no dispute that when the neuron is resting stage the charge is only positive, but on stimulus it is negative. Though there is a contention that answer 'D' should also be given the credit, we are afraid, the same cannot be logically accepted since positive and negative alone can be alternate and not the negative and the positive, even if both positive and negative are taken for the stages of resting and on stimulus, respectively. Therefore, necessarily a student who has answered with 'A' and 'B' should be given the credit.

5. Question No. 108 reads as follows:

108. The Lassaingne's test is used to detect:

- A) *C and O*
- B) *K*
- C) *C, N, S and Cl*

D) Only S.

According to the University, the credit must be given to all since there is a mistake even in the most appropriate answer i.e. 'C'. It is seen in the text-book that Lassaigne's test is used for detecting Phosphorous, Nitrogen, Sulphur and Chlorine. That answer is missing in the question paper. No doubt, carbon is available in all organic compounds but the test is used for detecting the Phosphorous, Nitrogen, Sulphur and Chlorine. Therefore, credit to all is to be given.

6. The next question is Q. No. 111, which reads as follows:

111. Dipole-Dipole interaction energy is proportional to:

- A) $1/r^3$
- B) $1/r^6$
- C) $1/r^{12}$
- D) $1/r^8$.

The straight answer is available in the book itself at page 176 of Class XI. Dipole-Dipole interaction energy between stationary polar molecules (as in solids) is proportional to $1/r^3$ and that between rotating polar molecules is proportional to $1/r^6$. In the question where it is stationary and rotating has been conspicuously left out and the interaction energy in both stages is also given in the same sentence. Therefore, necessarily a student who has answered with 'A' or 'B', should be given the credit.

7. Question 132, reads as follows:

132. In which reaction the rate constant is independent of initial concentration of reactants.

- A) First order
- B) Second order
- C) Third order
- D) None.

According to the University, the answer is 'A'. No doubt, the answer 'A' is correct. But, closely looking to the situation and the question, it can also be seen that 'None' is also possible since the question is to be tackled the

way it is posed. Therefore, both 'A' and 'D' for question No. 132 has to be given credit.

8. Question No. 161, reads as follows:

161. A monkey of mass 20 kg rides on a 40 kg trolley moving with a constant speed of 8 m/s along a horizontal track. If the monkey jumps vertically to grab the overhanging branch of a tree, the speed of the trolley after the monkey has jumped off is:

- A) 8 m/s
- B) 1 m/s
- C) 4 m/s
- D) 12 m/s.

According to the University, the answer is 'A'. But, even according to the Moderation Committee, we find that in case the monkey comes to rest 'D' is also possible. After jumping, whether the monkey comes to rest or not is irrelevant. The question is simple as to what will be the speed of the trolley once the monkey vacates the trolley, which had a constant speed and without apparently the only weight carried in the trolley. In common sense and logic, the speed has to increase and only answer with the increased speed is 'D'. Therefore, 'A' and 'D' are to be given credit.

9. Last question is 156. Though one of the students has made a persuasive attempt to convince us that the weight has to be less, we find that all members of the Committee are of uniform opinion that it has to be more since the situation where the parachutist has to come to rest is to be conceived. It is not a situation where the parachutist is coming to rest but the question is what is the force exerted when the parachutist comes to rest. Therefore, we are also of the view that 'D' alone is the correct answer.

10. As far as all other questions referred to the Moderation Committee are concerned, we have seen that the Moderation Committee has applied their mind both logically and scientifically and they do not call for any variation.

Therefore, there will be a direction to the University to re-draw the key answers with regard to the following questions:

- i) **Question No. 14.-** credit should be given to 'C' and 'D'.
- ii) **Question No. 52.-** credit should be 'A', 'B', 'C' and 'D'.
- iii) **Question No. 96.-** credit should be given to 'A' and 'B'.
- iv) **Question No. 108.-** credit should be given to all.
- v) **Question No. 111.-** credit should be given to 'A' and 'B'.
- vi) **Question No. 132.-** credit should be given to 'A' and 'D'.
- vii) **Question No. 161.-** credit should be given to 'A' and 'D'.

11. As this Court has always been cautioning the University that while setting the question papers, it should be made sure that there is no question which has a confusing answer and only those questions which will yield only one answer to be set. Despite the various directions, we find that certain mistakes are repeated. Human error one can understand. But, there cannot be any error on scientific standards. Utmost care should also be taken to avoid mistakes while printing the question papers.

We make it clear that after re-drawing the merit-list, the counselling shall be made as originally scheduled. With these observations, the writ petitions stand disposed of, so also the pending application(s), if any.

Authenticated copy.

(Justice Kurian Joseph),
Chief Justice.

July 10, 2012,
(karan/vs)

(Justice Dharam Chand Chaudhary),
Judge.