

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

Wednesday, the 31st day of May 2023 / 10th Jyaishta, 1945
WP(C) NO. 36173 OF 2022 (V)

PETITIONER:

SAMIKHAN S, S/O SALIM B, AGED 20 YEARS SAMIKHAN MANZIL, OZHUKUOPARA,
MADATHARA P.O., KOLLAM, PIN - 691541

RESPONDENTS:

1. UNION OF INDIA MINISTRY OF EDUCATION, SHASTRI BHAWAN, NEW DELHI PIN - 110001 REPRESENTED BY ITS SECRETARY,
2. NATIONAL TESTING AGENCY C-20 1A/8 ,SECTOR 62 IITK OUTREACH CENTRE, NOIDA PIN - 201309 REPRESENTED BY ITS CHAIRPERSON,
3. ADDL.R3 THE DISTRICT POLICE CHIEF, KOLLAM [ADDL.R3 IS SUO MOTU IMPEADED AS PER ORDER DATED 31.05.2023 IN WP(C) 36173/2022]

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to direct the respondents to permit the petitioner to participate in the next round of Ext.P4 counseling scheduled on 23.11.2022 to 28.11.2022 based on Ext.P3 scores provisionally pending disposal of the Writ Petition.

This petition again coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and this Court's order dated 29.11.2022 and upon hearing the arguments of M/S.N.ANAND, BIJITH S.KHAN, RAJESH O.N. & JIMNAD.B., Advocates for the petitioner, SRI.S.MANU, DEPUTY SOLICITOR GENERAL OF INDIA for R1, SRI.NIRMAL.S Advocate for R2 and of GOVERNMENT PLEADER for Addl.R3 (By Order), the Court passed the following:

P.V. KUNHIKRISHNAN,J

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Dated : 31st May, 2023

ORDER

The above writ petition is filed with the following prayers:

- “i. Issue a Writ of Certiorari or any other appropriate Writ, Order or direction quashing Ext.P5.
- ii. Issue a Writ of Mandamus or any other appropriate Writ, Order or directions directing the Respondents to treat the petitioner as having scored 468 marks in National Eligibility cum Entrance Test'2022 as Ext.P3 shows.
- iii. Issue a Writ of Mandamus or any other appropriate Writ, Order or directions directing the Respondents to admit petitioner in Ext.P4 counseling schedule based on Ext.P3 marks card.
- iv. Dispense with the English translation of documents in vernacular.
- v. Issue such other Writ, Order or direction as this Hon'ble Court deems fit in the facts and circumstances of the case.”

2. When this writ petition came up for consideration on 23.11.2022, this Court passed the following Order:

“Having heard the learned Counsel for the petitioner and the learned Standing Counsel for the National Testing Agency, I am of the prima facie opinion that, there is an attempt to defraud this Court by producing forged documents. Therefore, before proceeding to take further action, I deem it appropriate to provide an opportunity to

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the petitioner, to offer his explanation.

The petitioner shall appear before this Court in person, at 10.15 a.m on 29.11.2022.”

3. The above order was passed because in the statement filed by the 2nd respondent, it is stated that the petitioner obtained only 16 marks in the National Eligibility Cum Entrance Test 2022 out of 720. The 2nd respondent stated that Ext.P3 is not on the record of NTA and appears to be forged/manipulated. In Ext.P3, it is stated that the petitioner obtained 468 marks out of 720. Hence the order dated 23.11.2022 was passed by this Court. Thereafter the matter came up for consideration on 29.11.2022. On that day this Court passed the following order:

“The applicant is present in person. On being questioned, the applicant submits that he had obtained the document produced as Ext.P3 through the local Akshaya Centre. Subsequently, on being informed that another certificate reflecting only 16 marks was posted in the official website, he downloaded that document and produced it as Ext.P5. The petitioner asserts that he has not committed any play and the printouts of Exts.P3 and P5 were taken from the official website of the National Testing Agency.

2. Learned Standing Counsel submits that the petitioners' case is not the only instance where foul play has been detected and hence the matter should not be viewed lightly. I am also of the opinion that production of two certificates with different marks warrants an enquiry by an

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independent agency, which I propose to direct after considering the petitioner's reply affidavit.

4. Today, when the matter is taken up, the Counsel for the petitioner submits that a reply affidavit is filed by the petitioner. After hearing both sides, I am of the considered opinion that before deciding the writ petition finally, an enquiry by the Police Authority is necessary. "The District Police Chief, Kollam" is *suo motu* impleaded as the additional 3rd respondent in this writ petition. The learned Government Pleader takes notice for the additional 3rd respondent. The learned Counsel for the petitioner will give a copy of this writ petition to the learned Government Pleader. The District Police Chief or an Authorised Officer, deputed by the District Police Chief will conduct an enquiry about the allegation in this case and submit a report before this Court within four weeks. I make it clear that, if any criminal offence is made out, the Police authorities are free to register case and investigate the same in accordance to law, without waiting for any further order from this Court. The Registry will forward a copy of this order to the additional 3rd respondent forthwith.

Post on 30.06.2023.

Sd/-
P.V. KUNHIKRISHNAN,
Judge

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APPENDIX OF WP(C) 36173/2022

Exhibit-P3	TRUE COPY OF THE SCORE CARD OF NATIONAL ELIGIBILITY CUM ENTRANCE TEST (UG)' 2022
Exhibit-P4	TRUE COPY OF THE COUNSELING SCHEDULE FOR ADMISSION TO NATIONAL ELIGIBILITY CUM ENTRANCE TEST'2022
Exhibit-P5	TRUE COPY OF THE REVISED SCORE CARD OF NATIONAL ELIGIBILITY CUM ENTRANCE TEST (UG)' 2022 ISSUED TO THE PETITIONER

