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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 09.02.2023

Pronounced on : 03.03.2023

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.15959 of 2020  
and  
W.M.P.No.356 of 2023  
and  
W.M.P.No.19859 of 2020

K.S.Manoj

.. Petitioner

Vs.

1.Union of India

Represented by the Secretary to Government,  
Ministry of Human Resource Development,  
New Delhi.

2.National Testing Agency,

(National Eligibility -cum- Entrance Test (UG) – 2020),  
Department of Higher Education, MHRD,  
C-20, 1A/8, IITK Outreach Centre,  
Sector – 62, Noida,  
Uttar Pradesh – 201 309.

3.The Medical Counselling Committee,

Represented by Secretary,  
All India Quota for Medical UG 2020,  
Directorate General of Health Service,  
Government of India,  
Room No.348, A Wing,



Nirman Bhavan,  
New Delhi.

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4. The Directorate of Medical Education,  
#162, Periyar E.V.R. High Road,  
Kilpauk, Chennai – 600 010.

5. The National Medical Council,  
Represented by its Secretary,  
Pocket 14, Sector 8,  
Dwarka, New Delhi – 110 077.

6. The DIG, CB-CID,  
No.24, Pantheon Road,  
Komaleewaranpet, Egmore,  
Chennai,  
Tamil Nadu – 600 008.

... Respondents

(R6 Suo Motu implead vide order dated  
01.03.2021 made in W.P.No.15959 of 2020  
by BPJ)

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the 2<sup>nd</sup> respondent pertaining to (i) National Eligibility cum Entrance Test (UG) – 2020 Score Card issued in the name of the petitioner dated 16.10.2020, (ii) Second OMR answer sheet issued in the name of the petitioner downloaded on 17.10.2020 and (iii) 2<sup>nd</sup> respondent's e-mail response dated 26.10.2020, quash the same and to issue directions to the 2<sup>nd</sup> respondent to declare the results and rank of the petitioner in NEET (UG) – 2020 as 594 to 720 marks commensurate with his performance as reflected in first OMR answer sheet uploaded on 16.10.2020 FN and issue



consequential directions to the 3<sup>rd</sup> and 4<sup>th</sup> respondents to allow the participation of the petitioner in the counselling for admission to Medical Courses (UG) 2020 with reference to 594 out of 720 marks in NEET (UG) 2020 and accordingly, provide him admission to Medical Course (UG).

For Petitioner .. Mr.M.Ravi

For R1 .. Ms.Anuradha,  
Central Government Standing Counsel

For R2 .. Mr.G.Rajagopalan,  
Senior Advocate  
For Ms.Sunitha Kumari,  
Standing Counsel

For R3 & R5 .. Ms.Subharanjani Ananth,  
Standing Counsel

For R4 & R6 .. Mr.U.M.Ravichandran,  
Special Government Pleader

### **ORDER**

This writ petition has been filed in the nature of a Certiorarified Mandamus seeking records on the file of the 2<sup>nd</sup> respondent / National Testing Agency, (National Eligibility -cum- Entrance Test (UG) – 2020), Department of Higher Education, Uttar Pradesh, relating to (i) the National Eligibility Cum Entrance Test (UG) – 2020 Score Card issued in the name



of the petitioner dated 16.10.2020, (ii) Second OMR Answer Sheet issued in the name of the petitioner downloaded on 17.10.2020, (iii) the e-mail response of the 2<sup>nd</sup> respondent dated 26.10.2020, and to quash the same and to issue direction to the 2<sup>nd</sup> respondent to declare the rank of the petitioner in NEET (UG) – 2020 as 594 out of 720 marks as reflected in the 1<sup>st</sup> OMR sheet uploaded on 16.10.2020 forenoon and issue directions to the 3<sup>rd</sup> to 4<sup>th</sup> respondents, the Medical Counselling Committee, All India Quota for Medical UG 2020, New Delhi and the Directorate of Medical Education, Chennai to allow the participation of the petitioner in the counselling for admission to medical course, UG 2020 and providing him a medical course (UG).

2. The petitioner K.S.Manoj, who was represented in the proceedings by his father, K.Sundararajan, stated that he had applied for NEET (UG) 2020 examination. The application number assigned was 200410282612. An admit card was issued to him by the Ministry of Education, Government of India. The roll number was 4102202104. The date of examination was fixed as 30.09.2020 from 2.00 pm to 5.00 pm at Karpagam Academy of Higher Education, Coimbatore. He appeared for examination.



**WEB COPY** 3. It was further stated that his OMR answer sheet was uploaded in the official website of the 2<sup>nd</sup> respondent, Uttar Pradesh with his Roll No.4102202104 with Test Booklet No.2137204 and Test Booklet Code No.H3. The name of his parents and his signature and that of the invigilators were available. It was claimed that owing to Covid – 19 Pandemic the invigilators had instructed the candidates to put their signature in the column otherwise meant for left-hand thumb impression. He had downloaded the answer sheet at 10.44 am on 16.10.2020. He further stated that at 5.30 pm, the key answers were also published. He claimed that on careful comparison between the OMR answer sheet downloaded at 10.44 am and the key answer downloaded from the official website of the 2<sup>nd</sup> respondent, the NEET score arrived was 594 out of 720. He further claimed that he belonged to BC category (OBC in All India quota) and was assured of securing admission in Medical UG Course (MBBS). Thereafter the NEET results were declared by the 2<sup>nd</sup> respondent within a short time and the NEET score of the petitioner was declared as 248, and the All India Quota Rank was declared as 418900.



4. Thereafter, on 17.10.2020, at 14.30 hours, the OMR answer sheet was downloaded and the answers matched the score of 248 out of 720. It was claimed that the questions which were never attempted were shown as attempted and the questions which were attempted were shown as not attempted. It was therefore asserted that the OMR sheet projected by the 2<sup>nd</sup> respondent was not the answer sheet filled by the petitioner. On 17.10.2020 at 09.45 am the petitioner had expressed his grievance by an e-mail to the official website of the 2<sup>nd</sup> respondent and enquired about the procedure to change his NEET marks in accordance with his original OMR answer sheet by enclosing his hall ticket, two OMR answer sheets and key answer as attachments.

5. The 2<sup>nd</sup> respondent responded on 23.10.2020 requesting the petitioner to send his application number. He again mailed his application number on 24.10.2020. There was no response till the filing of the writ petition. He claimed that the counselling for NEET all India quota was scheduled to be held from 27.10.2020 till 03.11.2020. The writ petition was filed seeking the aforementioned reliefs on 28.10.2020. The writ petition had been taken into consideration by the learned Single Judge of this Court



and on 09.12.2020, the learned Single Judge (*N.Anand Venkatesh,J.*) had observed as follows:

*“The petitioner in this case right from the beginning was complaining that the OMR / Answer Sheet that was uploaded on 05.10.2020 in the website of the 2<sup>nd</sup> respondent showed that the petitioner had taken 594 marks in the NEET – 2020 Exams and that this position continued in the website upto 16.10.2020. However, this position changed all of a sudden on 17.10.2020 and the petitioner noticed that there was a complete change in the OMR Sheet in the same website, wherein the marks came down to 248. This Court directed the original OMR Sheet to be furnished to the learned Standing Counsel appearing on behalf of the 2<sup>nd</sup> respondent and it was also verified by the petitioner as well as the learned counsel appearing on behalf of the petitioner. On verification they found that the OMR Sheet that has been furnished was the one which was uploaded in the website on 17.10.2020.”*

6. Thereafter expressing concern and apprehension whether the OMR answer sheet could be manipulated and since, *“anything in an electroic mode is susceptible to manipulation”*, the learned Single Judge held as follows:



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*“9.The next round of counselling is commencing from tomorrow. The petitioner cannot be made to wait till the Report is received from the 2<sup>nd</sup> respondent, since all the seats by then will get filled up. Therefore, there shall be an interim direction to the 3<sup>rd</sup> and 4<sup>th</sup> respondents to permit the petitioner to participate in the counselling for admission to the Medical UG Course by taking the marks of the petitioner in NEET Exam as 594 marks. Ultimately, if the petitioner secures a seat, the same shall not be finalized and the results shall be kept in a sealed cover, awaiting the final orders in this Writ Petition.*

*10.The Report of the 2<sup>nd</sup> respondent shall be sent in a sealed cover to this Court. Post this case on 23.12.2020 and the Report shall be reach this Court, by then.”*

7.The petitioner attended the counselling and had been allotted a seat and he is now studying in his 3<sup>rd</sup> year MBBS at Thoothukudi Government Medical College, Thoothukudi.

8.The matter then came up for consideration before another learned Single Judge of this Court (*B.Pugalendhi,J.*). By an order dated 01.03.2021, the learned Judge had examined the report of the 2<sup>nd</sup> respondent, which was





submitted by a Joint Director, National Testing Agency and the findings were extracted as follows:

*“4.In compliance of the directions issued by this Court on 09.12.2020, the Director General of the National Testing Agency (NTA) entrusted the task to the Joint Director, National Testing Agency to conduct an investigation and submit a report in the matter after considering the entire materials produced by the petitioner. The Joint Director has also submitted his findings as follows:-*

*"The findings from the above are as follows:-*

*a.Only one OMR answer sheet (bearing the Bar Code No.2137204) of the petitioner/Candidate: K.S.Manoj (having Roll No.4102202104) was uploaded only once i.e., on 05.10.2020 on the official website of NTA (www.ntaneet.nic.in) hosted on NIC Server.*

*b.The existence of 2(two) different OMR Answer Sheets containing the name of the petitioner/candidate having been uploaded in the website of NTA, could not be established from the records of the 2<sup>nd</sup> respondent as well as from the emails/documents received from NIC.*

*c.As per the process of NTA, all the OMR Sheets of the candidates, after scanning are placed on the NIC server. There is no record in either NTA or at NIC Server*



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*to confirm that the OMR sheet attached by the petitioner at Page 1 of the Typeset of documents dated 27.10.2020 filed by the petitioner, was uploaded on its official website (www.ntaneet.nic.in) hosted on NIC Server. There is no change in these records in both places. Hence, there is no record to substantiate that such an OMR Answer Sheet, as claimed by the petitioner/candidate on his own, was uploaded by NTA.*

*d.The OMR Sheet at Page 4 of the Typed Set of Documents dated 27.10.2020 of the petitioner, which the petitioner/candidate has claimed to have downloaded from the official website of the 2<sup>nd</sup> respondent on 17.10.2020 tallies with the only OMR Answer Sheets bearing Bar Code No.2137204 that exists on the record of the 2<sup>nd</sup> respondent.*

*e.Since, only one OMR Answer Sheet has been uploaded on the official website of NTA, the question of existence of 2(Two) OMR Answer Sheets and variance between the two does not arise.*

*f.As per the calculation sheet derived from the OMR Answer Sheet of the petitioner as well as the score card, the candidate has scored 248 marks out of 720."*

9.The learned Single Judge, further observed as follows:

*"13.Had there been any oral pleading alone in this regard, this Court would not have dug deep in the issue and*



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would have dismissed the case by recording the submission made by the respondents and the fact that the OMR uploaded in the website of the second respondent was also physically shown. But then, the case took a turn, when the petitioner produced the data retrieved from his Google Account. The one, which was uploaded on 05.10.2020 and which remained in the website till 16.10.2020 and which showed that the petitioner had secured 594 marks in the NEET Exam has been filed by way of Additional Typed set of papers, which contains various screen shots taken by the petitioner on 11.10.2020 and 12.10.2020. This retrieved Google Account has to be taken on the fact of it, since it is not possible for the petitioner to manipulate the Google Account, which is not within his control.

14.A candidate has to login to the website only through their IP Address and the second respondent found that this petitioner had logged in several times as stated under;

<b>Sl.N o.</b>	<b>Date</b>	<b>Time</b>	<b>IP Address</b>
1.	06.10.2020	16:24:38.343	103.99.188.158
2.	11.10.2020	00:22:54.727	103.99.188.158
3.	12.10.2020	14:36:02.573	103.99.188.158
4.	15.10.2020	22:56:34.300	103.99.188.129
5.	16.10.2020	15:47:59.530	103.99.188.129
6.	17.10.2020	14:05:15.523	171.49.219.149



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*The petitioner is not denying the same and it is also the case of the petitioner that when he visited the website on 16.10.2020 at 10.44 AM and has taken screenshot on 11.10.2020 and another screenshot on 12.10.2020 at 02.36 AM and those screen shots were also taken into consideration by the National Testing Agency while conducting their investigation. However, there is no convincing reply from them.*

*15.It is not known as to how the OMR sheet can be completely changed from 17.10.2020, if the case of the petitioner is accepted. The respondents took a stand that the screenshots are taken from Google and not from NIC website. This submission does not have any legs. Google is a search engine. If a person knew the correct URL (website address), by entering the URL in any X or Y browser, they could access the particular webpage. In the event of not typing the URL address properly, the search engine, viz., Google, would show the search results, enabling the user to choose the webpage that he wants to access. It is a mere search engine, which enables the person to access a webpage.*



10. Finally, it was directed as follows:

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*“27. Therefore, this Court is inclined to order for an investigation by the CB-CID and the DIG, CB-CID is suo motu impleaded as a respondent. Mr.M.Elumalai, learned Additional Government Pleader is directed to take notice for the newly impleaded respondent.*

*28. The DGP, CB-CID shall constitute a special team of experts from the Cyber Investigation Wing attached to the CB-CID to conduct a preliminary enquiry on this issue without registering a criminal case and to report. The CB-CID may avail the services of the experts, from the Cyber Crime Investigation Wing, of the higher ranks also and shall monitor the investigation to ensure the investigation is proceeding in a fair and transparent manner. The Investigation Team shall file their report within a period of three months from the date of receipt of copy of this order. The respondents and the Central Government shall extend all necessary cooperation to the Special Team constituted for the investigation in this case. The Registry is directed to furnish a set of papers to the newly impleaded respondent through the Additional Government Pleader.”*



11.The writ petition was actually disposed of. It was directed to be posted for reporting compliance on 02.06.2021.

12.The respondents then filed an intra Court appeal in W.A.No.1221 of 2021 as against the said order. This writ appeal came for consideration before a Division Bench of this Court (*Paresh Upadhyay and Sathi Kumar Sukumara Kurup,J.J.*). The Division Bench after extracting the orders of the learned Single Judges, granted stay of the investigation and finally stated as follows:

*“6.For the above reasons, the following order is passed.*

*6.1.The Registry is directed to place the writ petition before the learned Single Judge for adjudication of the main prayer, as noted above.*

*6.2.The interim protection granted by learned Single Judge in favour of the petitioner vide order dated 11.01.2021 which as operated all throughout, shall continue till the disposal of the petition.*

*6.3.The stay granted qua the investigation, at the request of the appellant Agency, on this appeal, shall continue till the writ petition is taken up for further consideration by learned Single Judge leaving it open to the Bench to consider continuing / vacating it, after hearing the parties.*



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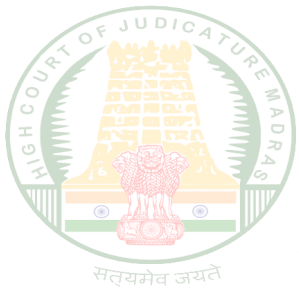


*6.4.This appeal is disposed of in above terms. No costs. Consequently, C.M.P would not survive and is disposed of accordingly.”*

13.Questioning this order, the respondents filed a petition for Special Leave to Appeal (C) No. 3253 of 2022. This came up for consideration before the Hon'ble Supreme Court on 29.08.2022. The Hon'ble Supreme Court observed and held as follows:

*“6.The petitioner has placed reliance on the email of the National Informatics Centre dated 8 January 2021 in support of the submission that NIC uploaded only one OMR sheet and answer key.*

*7.The matter is at large for being considered on remand before the Single Judge. In our view, the ends of justice would be met by keeping all questions of fact open to be agitated before the Single Judge, including the defense of the petitioner that there was only one OMR sheet which reflected that the first respondent had scored 248 out of 720 marks. We clarify that this Court has not expressed any opinion in that regard. The Single Judge would take a final view on the writ petition which has been restored for reconsideration after taking into account all the submissions of the contesting parties.*



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*8.The admission which has been granted to the first respondent shall abide by the final decision of the Single Judge.”*

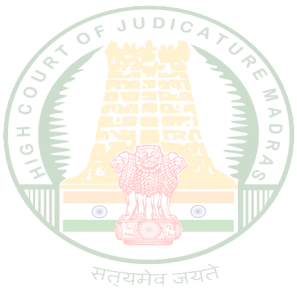
14.The matter then came back for consideration before a learned Single Judge of this Court (*R.Suresh Kumar,J.*). The matter was posted on 14.11.2022 and on that date, the following order was passed:

*“2. The second respondent NTA has produced the original OMR sheet as well as the attendance sheet. In both the documents, the petitioner has signed, according to the learned counsel appearing for second respondent NTA. Before delve into that aspect to take a decision to refer the original OMR sheet to the signature expert to get an opinion, this Court wants to confirm with the petitioner that whether the signature made in the attendance sheet is of him.*

*3. Hence, post the matter on 21.11.2022 immediately after admission.*

*On that day, the petitioner Mr.K.S.Manoj shall present before this Court to answer the query to be raised by this Court.”*





15. It is thus seen that the original OMR answer sheet as well as the attendance sheet had been produced and it was found as a fact by the learned Single Judge that the petitioner had signed in both the documents. Before coming to a conclusion whether the signature in the OMR was the actual signature of the petitioner, the learned Judge had called upon the petitioner to be physically present in Court to verify the signatures in the OMR answer sheet and in the attendance sheet.

16. On 22.11.2022, both the documents were put to the petitioner and it was observed as follows:

*“3. During the hearing, it is the stand of the petitioner, who appeared before this Court on summoning, that his signature found in the attendance sheet is of him, however the signature found in the original OMR sheet is not of him. Therefore, he disputes the signature in the original OMR sheet produced by the NTA.*

*4. In view of the aforesaid, this Court, in order to ascertain whether the OMR Sheet belongs to the petitioner and the signature of the petitioner found in the OMR sheet is of him or not, feels that, it has to be compared with the admitted signature which is found in the attendance sheet.*



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5. *In order to compare both the signatures and to give a report to this Court, the Directorate of Forensic Science Services (DFSS), Ministry of Home Affairs, Government of India, Block-9, New Delhi is directed to utilize the services of any of the Laboratories functioning under the said Directorate to verify the two signatures found in the attendance sheet of the petitioner as well as the two signatures found in the original OMR sheet and to give a report as to whether the signatures found in the original OMR sheet is of the petitioner or not.*

6. *That apart, the two invigilators' signature found in both the attendance sheet as well as the original OMR sheet also shall be compared and to give a report as to whether the two invigilators' signatures found in the OMR sheet are of them or not.*

7. *In order to complete this process, the respondent NTA is hereby directed to forward the originals ie., the original attendance sheet as well as the original OMR sheet to the aforesaid laboratory immediately and on receipt of the same, after verifying the signatures appearing in both the originals ie., the attendance sheet as well as the OMR sheet, a report as indicated above shall be prepared and*



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*sent to this Court in a sealed cover through NTA within a period of two weeks from the date of receiving the originals from the NTA.”*

17.The report of the Central Forensic Science Laboratory under the Directorate of Forensic Science Services, Ministry of Home Affairs, Government of India in File No.CFSL(C)/3429/2022/DOC/CX-306/2022/3150 was forwarded to this Court by covering letter dated 14.12.2022. The report was dated 13.12.2022.

18.It is to be noted that the petitioner had admitted the signatures found in the attendance sheet as his. These signatures were compared with the signatures as found in the OMR sheet. The signatures of the two invigilators were also compared. It is to be stated that the admitted signatures of the petitioner as found in the attendance sheet were marked as X1, X2, X3 and X4. The admitted signatures of the first invigilator were marked as X5, X6 and X7. The admitted signatures of the other invigilator were marked as X8, X9 and X10. These signatures were compared with the questioned signatures as found in the OMR sheet. The questioned signatures



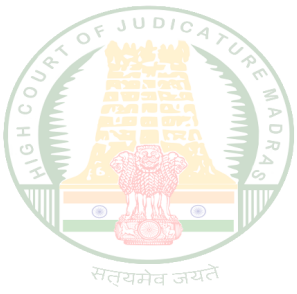
of the petitioner were marked as Y1 and Y2. The questioned signature of the first invigilator was marked as Y3. The questioned signature of the second invigilator was marked as Y4. On comparison, the Assistant Director and Scientist – 'C', Central Forensic Science Laboratory, Chandigarh, had given the result of the examination as follows:

*“1.The interse comparison of the signatures in the enclosed portions stamped and marked Y1, Y2 and X1 to X4 reveals characteristic similarities in the writing habits indicating their common authorship.*

*2.The interse comparison of the signatures in the enclosed portions stamped and marked Y3 and X5 to X7 reveals characteristic similarities in the writing habits indicating their common authorship.*

*3.The interse comparison of the signatures in the enclosed portions stamped and marked Y4 and X8 to X10 reveals characteristic similarities in the writing habits indicating their common authorship.”*

19.He had also enclosed the reasons for his opinion with respect to each one of the conclusions referred above. Finally it had been stated as follows:



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*“There is no divergence between questioned and the standard signatures. There is no sign of imitation in the production of questioned signatures. The aforesaid similarities in the writing habits between questioned and standard signatures are significant and sufficient and will not accidentally coincide in the signatures of two different persons and when considered collectively lead me to the aforesaid opinion of common authorship.”*

20. This opinion was forwarded to the Court in a sealed cover and this Court had permitted all the parties to peruse the same and then forward arguments on the issues raised by them.

21. This Court had observed as follows on 21.12.2022

*“The matter had been swinging like a pendulum in this Court and had also reached the portals of the Hon'ble Supreme Court. It all relates to a dispute whether the OMR sheet as presented by the respondent is that of the petitioner K.S. Manoj. A dispute was raised that the OMR sheet contains the signature of a third person and not that of the petitioner herein.*



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2. *Earlier orders had been passed directing the signatures in the attendance sheet which the petitioner had admittedly signed and in the OMR sheet which also contains the signature of the person called K.S. Manoj to be compared and a report furnished by the Central Forensic Science Laboratory at Chandigarh.*
3. *A report had been received in a sealed cover. The sealed cover had been opened in the court. When the sealed cover was opened, learned counsel for the petitioner, Mr. M. Ravi, is present and learned Senior Counsel Mr. G. Rajagopalan, for the second respondent is also present.*
4. *Before any order is passed pursuant to the findings given by the Central Forensic Science Laboratory, it is only appropriate that the learned counsels also have an occasion to examine the said report.*
5. *I would direct the enclosures in the sealed cover be retained by the Deputy Registrar, Writs and in the presence of the Deputy Registrar, Writs, learned counsel for the petitioner and the learned counsels who are on record for the respondents and also the learned Senior Counsel on behalf of the second respondent may examine the said report and revert back to this Court.*
6. *List the matter once again on 03.01.2023.”*

22. Thereafter, the petitioner herein filed W.M.P.No.356 of 2023



seeking a direction to examine the Google account of the petitioner to verify the OMR sheet uploaded in the website of the 2<sup>nd</sup> respondent and which according to him was available till 16.10.2020 and the OMR sheet with 248 marks uploaded in the website by the 2<sup>nd</sup> respondent by a cyber expert in open Court and to direct the 2<sup>nd</sup> respondent to prove the OMR produced by them or to issue appropriate directions to the DGP, CBCID, Tamil Nadu to constitute a special team from Cyber Investigation Wings and conduct Cyber Investigation with respect to the OMR sheet as produced by the 2<sup>nd</sup> respondent and the screen shots as produced by the petitioner.

23. Heard extensive arguments advanced by Mr.M.Ravi, learned counsel for the petitioner and by Mr.G.Rajagopalan, Senior Counsel for Ms.Sunitha Kumari, learned Standing Counsel for the 2<sup>nd</sup> respondent.

24. Mr.M.Ravi, learned counsel for the petitioner, took the Court through the earlier orders passed by learned Single Judges of this Court, the Division Bench and by the Hon'ble Supreme Court. The relevant portions have been extracted earlier in this order. It is his contention that when the writ petition was filed, instructions had been given about the OMR sheet



which was downloaded on 16.10.2020 and not on any other visitations to the site wherein the mark sheet had been uploaded by the 2<sup>nd</sup> respondent.

The learned counsel stated that having found that another OMR sheet had been uploaded which indicated that the petitioner had got only 248 marks when in the first OMR sheet his marks were 594, apprehending that the petitioner would be left out from even being called for counselling, the writ petition had been immediately filed.

25. Thereafter, the 2<sup>nd</sup> respondent had filed their counter affidavit, wherein they had stated that the audit trail of the petitioner maintained at National Informatics Centre, revealed that the petitioner had logged in not only on 16.10.2020 and 17.10.2020 but even much earlier on 06.10.2020, 11.10.2020, 12.10.2020 and again on 15.10.2020. It had been contended that the statement of the petitioner that he had logged in on 16.10.2020 was not a correct statement.

26. To counter that contention, Mr.M.Ravi, learned counsel for the petitioner pointed out the urgency in filing the writ petition. He stated that the petitioner had logged on the earlier dates and on each one of the dates





had taken screen shots of the mark sheets which were available and therefore stated that the marks which the petitioner had obtained till 16.10.2020 was 594 out of 720. The learned counsel asserted that the said marks was the correct score. The learned counsel stated that it was only owing to a prima facie conclusion being arrived on that aspect, a learned Single Judge had directed the petitioner to participate in the counselling.

27. The learned counsel further stated that the petitioner is doing extremely well in his medical course and stated that this fact itself proves that the petitioner had actually obtained extremely good marks in the entrance examination and not 248 marks as awarded by the 2<sup>nd</sup> respondent. The learned counsel further stated that yet another learned Single Judge of this Court had directed investigation by the cyber wing and in this connection stated that the said investigation was ordered only after the learned Single Judge was provided with the logger ID and the password of the petitioner herein and the screen shot of the mark sheet was viewed by the learned Single Judge and only after being convinced was such enquiry directed.



28. The learned counsel further pointed out that before the Hon'ble Supreme Court there were a batch of matters raising various issues for consideration and all of them were dismissed, but the petitioner's case was singled out and remitted back for further hearing by this Court. It was therefore pointed out that the Hon'ble Supreme Court was of the opinion that further enquiry should be done.

29. The learned counsel stated that the Google website would contain the mark sheet as uploaded by the 2<sup>nd</sup> respondent and therefore urged that this Court should probe further into the matter. It was for that reason that W.M.P.No.356 of 2023 had been filed. The learned counsel pointed out the direction to conduct investigation by the cyber wing passed by the learned Single Judge had been only stayed by the Division Bench of this Court and had not been set aside.

30. In W.M.P.No.356 of 2023, the petitioner, after pointing out that he had visited the website on several earlier dates, further pointed out that the screen shots taken on 16.10.2020 at 10.44 am, on 11.10.2020 and again on 12.10.2020 at 2.36 am, would clearly show the actual mark sheet uploaded



by the 2<sup>nd</sup> respondent herein. The learned counsel denied and disputed the statement of the respondents that only one OMR sheet had been uploaded on 16.10.2020 showing that the petitioner had got 248 marks out of 720 marks.

31. The learned counsel therefore stated that the Google account of the petitioner should be examined to verify the screen shots of the OMR sheet uploaded in the website of the 2<sup>nd</sup> respondent and which was available till 16.10.2020 and to further establish that the OMR sheet with 248 marks was the second sheet uploaded in the website. It was urged that such examination should be done in the presence of a cyber expert in the open Court and to further direct the 2<sup>nd</sup> respondent to prove otherwise. An alternate was also sought, to issue appropriate orders to the Director General of Police, CBCID, Tamil Nadu to constitute a special investigation team to examine these issues.

32. With respect to the original answer sheet produced, the learned counsel stated that the report of the handwriting expert had been forwarded in a sealed cover and though the learned counsel stated that he was able to



peruse the same, he lamented that he was not able to obtain a certified copy of the same. He further contended that it was possible to take xerox and re-xerox of the signature and append it on the OMR sheet and hinted that it was so done in the OMR sheet now produced by the 2<sup>nd</sup> respondent. The learned counsel therefore denied and disputed the genuinity of the OMR sheet produced by the 2<sup>nd</sup> respondent. The learned counsel stated that the writ petition should be allowed and the contentions of the 2<sup>nd</sup> respondent that only one OMR sheet was uploaded namely, with marks of 248 out of 720 should be rejected by this Court and the petitioner should be permitted to continue his education.

33. Mr. G. Rajagopalan, learned Senior Counsel appearing on behalf of the 2<sup>nd</sup> respondent vehemently denied and disputed and contested every statement made by the learned counsel for the petitioner. The learned Senior Counsel pointed out the counter affidavit filed in the first instance, wherein the dates on which the petitioner had visited the site had been given and it was therefore contended that the petitioner had suppressed that material fact in the affidavit first filed in support of the writ petition.

34. The learned Senior Counsel stated that on directions of this Court,



a report was sought from the Directorate of National Testing Agency. The task to conduct an investigation was entrusted to the Joint Director, National Testing Agency. A report had been filed. The learned Senior Counsel pointed out the said report, wherein it was stated that only one OMR sheet bearing Bar Code No.2137204 of the petitioner with Roll No.4102202104 alone was uploaded only once on 05.10.2020 in the official website of the National Testing Agency. In the report, it was also stated that the allegation of two different OMR sheets containing the name of the petitioner having been uploaded in the website was not established. It was stated that there was no change in the records in both places namely, at the official website of the 2<sup>nd</sup> respondent and in the NIC server. It was asserted that there was only one OMR sheet, which was uploaded and therefore it was stated that the claim of existence of two OMR sheets is not correct and should be rejected.

35.The learned Senior Counsel also pointed out the said report and stated that the consistent stand of the 2<sup>nd</sup> respondent was that there was only one OMR sheet. He also pointed that the petitioner himself had admitted his signatures in the Admit Card and the handwriting expert had also given an



opinion that the same person had signed the Admit Card and the OMR sheet and it was therefore asserted that the 2<sup>nd</sup> respondent had produced all relevant records and had placed them before this Court and the Court should be satisfied with the original records having been produced.

36.The learned Senior Counsel stated that in view of that fact, there was no need to test the alleged screen shots produced by the petitioner herein.

37.The learned Senior Counsel also took the Court through the procedure of safe keeping, scanning and evaluation of the OMR sheets and stated that there was absolutely no possibility of two different OMR sheets being uploaded in the website of the 2<sup>nd</sup> respondent. The learned Senior Counsel further stated that the signatures having been proved to be that of the same person, there is nothing more to be decided by the Court but to affirm that the original OMR sheet produced by the 2<sup>nd</sup> respondent is actually the one and only OMR sheet answered by the petitioner and therefore contended that the contentions of the learned counsel for the petitioner should be rejected. The learned Senior Counsel also pointed out



the letter of the institution were the petitioner had written the NEET examination wherein it was also affirmed that the OMR sheet bearing No.2147204 of the candidate, K.S.Manoj containing the signatures of the Invigilators Ms.Banuroopa.K and Mr.Arun.M, Assistant Professors was the only OMR sheet received from the petitioner herein on completion of the examination and forwarded to the 2<sup>nd</sup> respondent on 13.09.2020. The learned Senior Counsel therefore stated that the petitioner had secured only 248 marks out of 720. The learned Senior Counsel also placed reliance on the report of the Joint Director of the 2<sup>nd</sup> respondent, wherein again it had been reiterated that only one OMR sheet had been uploaded insofar as the petitioner is concerned. The learned Senior Counsel therefore asserted that the writ petition should be dismissed.

38.I have carefully considered the argument advanced.

39.The petitioner had approached the Court with the claim that the marks which he had secured while writing NEET 2020 examination for UG Medical Course, had been manipulated by the respondents and therefore had sought the relief to recognize that his marks were 594 out of 720 and not



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40.The petitioner had appeared for NEET 2020 examination. The results were uploaded on 05.10.2020. It is the contention of the petitioner that the OMR sheet so uploaded contained the marks 594 out of 720. It is however, the contention of the respondents that the OMR sheet with respect to the petitioner herein which was uploaded on 05.10.2020 showed the marks obtained by the petitioner was 248 out of 720.

41.The petitioner at the initial stage claimed that after he found that the 2<sup>nd</sup> respondent had uploaded the key answers on 16.10.2020, he found another OMR sheet had been uploaded showing his marks as 248 out of 720. Alleging fraud and imputing malice, the writ petition has been filed.

42.A learned Single Judge of this Court (*N.Anand Venkatesh,J.*) had permitted the petitioner to participate in the counselling and the petitioner is now studying MBBS in Thoothukudi Government Medical College and Hospital. The learned Judge had also directed the Director, National Testing Agency, to conduct an enquiry and to submit a report. The report was filed





by the Joint Director of National Testing Agency. The report was filed after

examining the following documents:

**“2.Documents perused for Investigation:**

*Accordingly, the following documents were perused by the undersigned in the above regard:-*

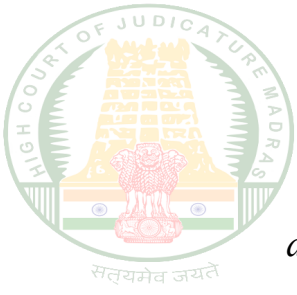
*a.A copy of the Petition dated October 2020 filed by the Petitioner in the matter.*

*b.A copy of Rejoinder Affidavit dated December 2020 of the Petition to the Additional Counter Affidavit of 2<sup>nd</sup> Respondent, the National Testing Agency (NTA).*

*c.The following documents attached to the copy of the Index to Typed Set of Documents dated 27.10.2020 filed by the Petitioner in relation to his Petition in the matter:-*

*i.At Page No.1, an OMR Sheet has been attached which the Petitioner has claimed as his OMR Answer Sheet and as per his claim the same was uploaded in the official website of the 2<sup>nd</sup> Respondent on 16.10.2020.*

*ii.At Page No.2, Final Answer Keys of the Booklet Code H3 as per which the result of NEET (UG) 2020 has been*



declared on 16.10.2020.

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iii. At Page No.3, the Score Card of the Petitioner (with Roll No.4102202104, Application No.200410282612) containing total marks of 248, NEET All India Rank of 418900, which the petitioner claims that he had downloaded from the official website of Respondent No.2 on 17.10.2020 has been enclosed.

iv. At Page No.4, another OMR Answer Sheet of the Petitioner, which is claimed by the Petitioner being uploaded on 17.10.2020 on the official website of 2<sup>nd</sup> Respondent.

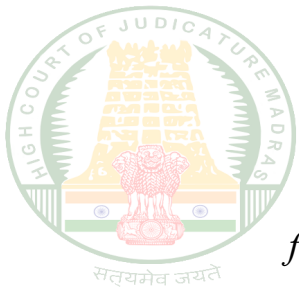
v. At Page No.4A, screen shot email of the petitioner's dated 17.10.2020 to the 2<sup>nd</sup> Respondent.

vi. At Page No.5, 2<sup>nd</sup> Respondent's mail dated 22.10.2020 requesting the Petitioner to send his Application No.

vii. At Page No.6, Petitioner's mail dated 22.10.2020 to the 2<sup>nd</sup> Respondent.

viii. At Page No.7, 2<sup>nd</sup> Respondent's response email dated 26.10.2020.

d. The following documents attached to the copy of the Index to Additional Typed Set of Documents dated 09.12.2020



*filed by the Petitioner as Exhibits to his rejoinder affidavit in the*

**WEB COPY** *matter:-*

*i. At Page 1, a screen shot took by the petitioner on 11.10.2020 at 07:12 AM (which was earlier deleted and now retrieved from his Google Account).*

*ii. At Page 2, various screen shots took by the Petitioner on 11.10.2020.*

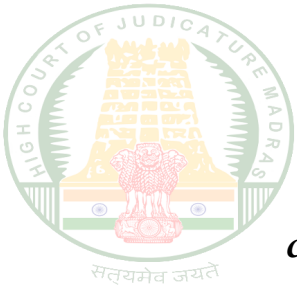
*iii. At Page 3, a screen shot took by the Petitioner on 12.10.2020 at 02.36 PM (which was earlier deleted and now retrieved from his Google Account).*

*iv. At Page 4, a History of Petitioner's visit to the already logged in website.*

*e. A copy of the Counter Affidavit of Respondent No.2 to the Petition.*

*f. A copy of the Additional Counter Affidavit of Respondent No.2 in the matter.*

*g. A Statement of the Chief Secrecy Officer (CSO) of NTA (Annexure-1) along with a certified copy of the Original OMR Answer Sheet of the Petitioner (Annexure -1A) and a certified*

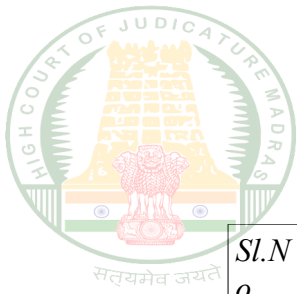


*copy of the Original Attendance Sheet of the Petitioner*  
**WEB COPY (Annexure-1B);**

*h.A Statement of the Consultant (Exams) of NTA (Annexure-2) along with a certified copy of the Score Card (Annexure-2A) and Calculation Sheet (Annexure-2B) and Procedure followed for Validation of OMR Answer Sheets (Annexure – 2C).*

*i).A copy of the Emails dated 08.01.2021 and 09.01.2021 of the National Informatics Centre (NIC) (Annexure-3) received along with a copy of the OMR Sheet (Annexure-3A) bearing Roll No.4102202104, Test Booklet No./ Answer Sheet No.2137204 and a copy of the Score Card (Annexure-3B) of the Petitioner/Candidate bearing Roll No.4102202104 that exist on NIC Server.*

43.The main contentions of the petitioner had also been addressed and answered in the report.



Sl.No.	Issue/Contention of the Petitioner	Reference	Comments
1.	<i>That the OMR Answer Sheet of the Petitioner / Candidate was uploaded in the official Website of NTA with the Roll No.410220214 with Test Booklet No.2137204 and Test Booklet Code No.H3. The same was downloaded by him on 16.10.2020 at 10:44 a.m.</i>	<i>(para 4 of the petition).</i>	<i>As per the Statements of the Chief Secrecy Officer of NTA (Annexure-1) and Consultant (Exams) of NTA (Annexure-2), the OMR Answer Sheet of the Petitioner / Candidate was uploaded in the official website of NEET (UG) (<a href="http://www.ntaneet.nic.in">www.ntaneet.nic.in</a>) only once, i.e. on 05.10.2020. This has been confirmed by the NIC vide their email dated 08.01.2021</i>
6.	<i>The omission on the part of the petitioner to narrate all the details of his visit and an innocuous submissions repeatedly made in the affidavit that on 16.10.2020, the OMR Answer Sheet of the Petitioner was uploaded in the official website and the same was downloaded on 16.10.2020 at 10:44 AM, was only to mean that a copy of the OMR Answer Sheet available in the website was downloaded as a screenshot by, the petitioner in his mobile and the focus was never on the date or timing of the uploading of the OMR Answer Sheet.</i>	<i>(para 6 of the Rejoinder Affidavit of the petitioner)</i>	<i>The Petitioner/Candidate had submitted in his petition that he downloaded his OMR Answer sheet on 16.10.2020 and 17.10.2020. Whereas, he has accessed his OMR Sheet from the NEET UG Portal before 16.10.2020 (i.e. on 06.10.2020, 11.10.2020, 12.10.2020 and 15.10.2020).</i>
8.	<i>That the aforesaid details are available in the google account of the petitioner and by using the petitioner's password his account can be visited, which still retain the original OMR Sheet attended by him and that he has visited the</i>	<i>(Para 8 of the Rejoinder Affidavit of the Petitioner)</i>	<i>As per the Scheme of the Exam, the OMR Answer Sheet of all the Candidates of NEET (UG) 2020, including the Petitioner / Candidate in question, are uploaded</i>



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Sl.N o.	Issue/Contention of the Petitioner	Reference	Comments
	<p>2<sup>nd</sup> Respondent website and the screenshots of the same taken on different dates and times.</p>		<p>only on the official website of NTA for this Exam, i.e. <a href="http://www.ntaneet.nic.in">www.ntaneet.nic.in</a>, which is hosted on the NIC Server. Hence, the OMR Sheet is verifiable only from the NIC NEET (UG) Database (and not from the Google account of the Petitioner / Candidate in question).</p>
<p>10.</p>	<p>The Respondent had maintained that OMR Sheet was uploaded only once. They have never established that the OMR Sheet of the Petitioner that was uploaded on 05.10.2020 is the same as available on date.</p>	<p>(para11 of the Rejoinder Affidavit of the Petitioner)</p>	<p>It is evident from the Statement of the Chief Secrecy Officer (CSO) of NTA and certified copy of the original OMR Sheet obtained from him (Annexure-1A) as well as from NIC (Annexures 3/3A), this is the only OMR Sheet which was uploaded only once i.e. on 05.10.2020 and the original of which has already been inspected by the petitioner / candidate through his Counsel on 20.10.2020 in the chamber of the counsel of 2<sup>nd</sup> Respondent at Chennai, as per the earlier direction of the Hon'ble Court.</p>



44.It is thus seen from the above that the 2<sup>nd</sup> respondent has asserted that there was only one OMR answer sheet uploaded on 05.10.2020 and the same remained in the website.

45.It is also seen that the 2<sup>nd</sup> respondent had also engaged in e-mail correspondence with Sachin Prabhakar of National Informatics Centre and on 11.01.2021, the following e-mail was forwarded to the 2<sup>nd</sup> respondent:

*“Dear Sir,*

*In connection of trailing email, please find the information/documents mentioned below:*

*The OMR Answer Sheet and Score Card of the Candidate with Roll No.4102202104, as exists in the NIC Database/Server since the date/time of uploading, are attached. There is no change in such documents from the date/time of uploading, as per the records in the concerned NIC database / server (s).*

*Thanks and Regards*

*Sachin Prabhakar,*

*Senior System Analyst, NIC”*



46. It is thus established that it had been confirmed that the server of NIC also contained only one OMR sheet. This is primary evidence. When the petitioner accesses this server through the Google search Engine, the result is not primary evidence but secondary evidence.

47. To further establish that there was only one mark sheet which was available in the name of the petitioner, the 2<sup>nd</sup> respondent had also produced the original mark sheet and attendance sheet.

48. A learned Single Judge of this Court had thought it would be prudent if the signatures found in the attendance sheet which had been admitted by the petitioner as his signatures to be compared by an expert with the signatures as found in the OMR sheet. Accordingly, both the documents were forwarded to the Central Forensic Laboratory, Chandigarh to carry out necessary investigation in that regard. This step was taken only after the petitioner was personally asked to identify whether his signatures in the admit card were true and correct. He admitted to them. Thereafter, keeping those signatures as a base, the disputed signatures in the OMR sheet were examined and compared. A report had been received by this Court and the same is extracted:





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*“1.The interse comparison of the signatures in the enclosed portions stamped and marked Y1, Y2 and X1 to X4 reveals characteristic similarities in the writing habits indicating their common authorship.*

*2.The interse comparison of the signatures in the enclosed portions stamped and marked Y3 and X5 to X7 reveals characteristic similarities in the writing habits indicating their common authorship.*

*3.The interse comparison of the signatures in the enclosed portions stamped and marked Y4 and X8 to X10 reveals characteristic similarities in the writing habits indicating their common authorship.”*

49.The 2<sup>nd</sup> respondent has also submitted the procedure for safekeeping, scanning and evaluation of OMR sheets as adhered to in NEET 2020 examination.

50.The following were the steps taken:

*“3.The specially designed machine gradable sheet, is called 'OMR Answer sheet', which is popularly known as the Optical Mark Recognition (OMR) Answer Sheet. The candidate is required to records his/her response in it by darkening ONLY ONE CIRCLE for each question/entry.*

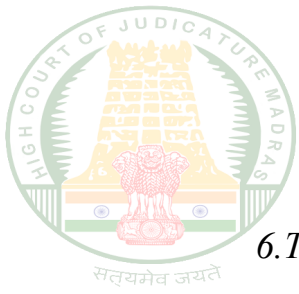


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4. That every candidate is assigned with just one Test Booklet and one OMR Sheet is placed inside the Test Booklet. It is submitted that both Test Booklet and the OMR Sheet would have a matching 'Test Booklet code' and a Unique 'Test Booklet number', already printed on them. No two Test Booklets and OMR Sheet bears the same, 'Test Booklet Number'.

5. That the NEET (UG) 2020 had OMR Sheet – original copy (Magenta/Pinkish Colour) and office Copy (Blue in Colour) and is carbon less. It is submitted that the backside of original Copy had chemical capsules which opens under pressure. With the issue involved in the said matter, the following two aspects with regard to OMR Sheet may be noted:-

<i>When marked with Ball point tip on Original Copy of OMR Sheet (front side)</i>	<i>(i) A clear visual pen mark is left on front side with indication on backside of the Original Copy due to chemical coating on back side;</i>  <i>(ii) Mark is left on the Office Copy also.</i>
<i>When marked with Ball point without tip on Original Copy (front side)</i>	<i>(i) No mark is left on front side. However, indication is left on the backside of Original copy due to chemical coating on backside.</i>  <i>(ii) Mark is left on Office Copy also.</i>



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6. That to avoid any sort of unscrupulous and unfair means activity, after distribution of the Test Booklet attached with OMR Sheet, the invigilators instruct all candidates to open the sealed cover containing Test Booklet along with OMR sheet and take out the OMR sheet first, verify and ensure the Test booklet code and the unique Test booklet number printed on the Question Test booklet and OMR Sheet are matching, and are, thereafter, asked to fill in their particulars in their own handwriting in the following documents:-

- a) Test Booklet – Name of the Candidate in Capitals, Roll Number in figures and words, Centre of Examination in Capitals with Candidate's signature;
- b) OMR Sheet – Roll Number and Test booklet number inside the box, Candidate's name in capitals, mother's name, father's name and signature;
- c) Attendance Sheet- Test Booklet Number, Test Booklet Code, OMR sheet number and code [which is same as the Test Booklet number and code] and Candidate's signature.

9. Thus, it is clear that the above-detailed procedure verifies that the OMR/Answer sheet handed over to the candidate is the one on which the candidate marks his/her responses and it is the only OMR/Answer Sheet, which is collected and then evaluated for the purpose of declaration of Result. The Attendance Sheet has been signed by both the Invigilator concerned. Therefore, the candidate mark their signatures twice as per the guidelines i.e. at the time of



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*receiving the Test Booklet along with OMR and second on handing over the OMR to the Invigilator, the same rules out the possibility of there being any other OMR/Answer Sheet.*

*14. On a schedule date, the OMR Sheets are collected from the Chief Secrecy Officer and got scanned for the purpose of evaluation/scanning of the OMR Sheets by the machine (at different intensity). In order to avoid any chance of manipulation, scanning of each and every OMR is done by two independent scanners under the supervision of two independent teams. It is pertinent to mention here that the room, where the OMR Answer Sheets are scanned, no one is allowed to carry pen, pencil or mobile in the said room/area/branch (where the OMR Sheets are being scanned) so as to maintain the sanctity of the evaluation process.”*

51. It was also stated as follows:

*“19. That it is submitted that the scanned copy of Original OMR Answer Sheet of all candidates were uploaded on the Official Website of NTA on 05.10.2020 at 17:17:55 PM. The scanned copy of the Original OMR Answer sheet (which were in Magenta/pinkish colour) of all candidates were uploaded on the Official website of NTA (<https://ntaneet.nic.in>) in grey colour, as it requires lesser space and time. The same were uploaded only*



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*once and no change/modification in such OMR Answer Sheets has been made thereafter. The National Informatics Centre (NIC), which hosts and maintains the NEET (UG) Portal (<https://ntaneet.nic.in>) and NEET (UG) Database, has confirmed that there is only one database of NTA NEET UG 2020 is maintained and the data available on NIC server and NTA Portal are same.”*

51.To further establish their assertion, the 2<sup>nd</sup> respondent had also obtained a letter from the institution where the petitioner had written the exam. It had been asserted by the institution that only one OMR sheet was received from the petitioner and that alone was forwarded to the National Testing Agency / 2<sup>nd</sup> respondent.

52.It must also be noted that the petitioner had forwarded an e-mail to the 2<sup>nd</sup> respondent. The 2<sup>nd</sup> respondent had replied to the said mail on 24.10.2020, wherein they had very specifically stated that there was no discrepancy found in the marks and there was only one OMR sheet which was uploaded on 05.04.2020 across the country to all the candidates.

53.The original mark sheet and the original attendance sheet are very

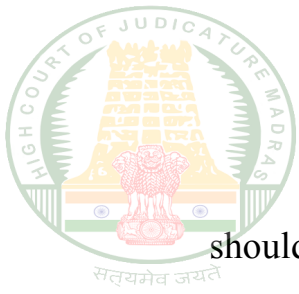


much available in the Court records. The documents are clear. They contain the signatures of the petitioner, and the invigilators also.

54. The Hon'ble Supreme Court while remitting the matter back to this Court had stated that all questions should be examined particularly the assertion that there was only one OMR sheet which reflected that the petitioner herein had scored 248 marks out of 720.

55. The report of the Joint Director of National Testing Agency, the steps taken for safekeeping, scanning and evaluation of the OMR answer sheets, the assertion from NIC that only one OMR answer sheet was uploaded, the safety measures taken to ensure that only one OMR was uploaded, the letter of the institution where the petitioner attended the exam and the report of the handwriting expert from Central Forensic Laboratory at Chandigarh, all conclusively prove that there was no discrepancy in the documents produced by the respondents. The original OMR sheet is available and that is the mark sheet of the petitioner herein.

56. The learned counsel for the petitioner has urged that this Court



should forward for comparison by a cyber expert the screen shot produced by the petitioner herein of OMR sheet which reflected that the petitioner had scored 594 marks out of 720. As stated, the primary document was the OMR sheet uploaded in NIC server. That document had been produced in Court. It stood conclusively proved. No further probe is therefore required.

57. The original mark sheet itself is available. On the face of the definite assertion that only one OMR sheet was uploaded, I hold that examination of the screen shots produced by the petitioner can be resorted to only when the original mark sheet is suspected. This is not the case. The original mark sheet produced clearly establishes that it is the only one mark sheet of single page, containing the roll number, the questions attempted, the names of the parents of the petitioner, the signatures of the petitioner and the signatures of the invigilators. None of them could be duplicated. There can be no possibility of anybody knowing who the invigilators would be in a particular room, in a particular institution. There could be no possibility of anybody knowing how the candidate would sign. There could be no possibility of anybody knowing the names of the parents of the candidate. Even if there is an assertion that the OMR sheet now produced



had been prepared surreptitiously by the 2<sup>nd</sup> respondent these details, namely, the specific personal details of the candidate about the names of his parents and the further singular information about the signatures of the invigilators can never be duplicated. The petitioner has admitted that his signatures as found in the attendance sheet are true and genuine. He has to admit the same, since he had attended the examination. He was given only one OMR sheet bearing Bar Code No.2137204. The test booklet code was H3. That is the very answer sheet produced before this Court. The petitioner has not been able to advance any argument to discharge the strong conclusive proof of this answer sheet.

58.As a matter of fact, there was a similar writ petition filed in the High Court of Tripura at Agartala in *W.P.(C) No.720 of 2020* dated **08.01.2021, Sri Indranil Majumder Vs. Union of India and others**. In that case, the petitioner, had secured 380 marks out of 720. That was also with respect to the very same examination namely, NEET UG 2020. The respondents therein had asserted that out of 180 questions the petitioner therein had attempted 150 out of 106 were correct and 44 were incorrect.





WEB COPY 59. It had been stated by the respondents therein that 13,66,945 candidates across the country had appeared for NEET 2020. It had also been contended that the National Testing Agency had been established as an independent agency by the Ministry of Human Resource Development for the efficient conduct of such examinations. It had been held in that particular case as follows:

*“From the material on record, it can be seen that an independent agency specially constituted for the purpose of efficient conduct of open examinations had carried out the mammoth task of taking tests of more than 13 lakhs of students across the country. The entire process was computerized and the OMR sheets and the result were published in a transparent manner. The examination programme also permitted the student who was dissatisfied with any of the parameters of testing to apply to the authority for retesting by paying requisite fees. The petitioner had not taken this route. It is not possible for this Court to ignore or overrule the averments made by a responsible officer on oath pointing out that the petitioner had attempted only 150 questions of which 106 for correct and 44 were incorrect answers. This is backed by a*



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*copy of the OMR sheet of the petitioner which forms part of the record of the respondent – authorities. I am not inclined to accept rather strong averments of the respondents that what the petitioner has produced by way of a copy of his OMR sheet is a fraud. Nevertheless, since the petitioner is unable to dislodge the contents of affidavit filed by the Joint Director of NTA and along with which affidavit a copy of the petitioner's answer sheet and compilation of marks are also produced, petition will have to be dismissed.*

*Learned counsel for the petitioner drew my attention to an order passed by the Supreme Court in case of **Mukan Sabharwal & ors. Vs. National Testing Agency & anr. [Writ Petition(s) (Civil) No(s).1255/2020]**. However, in this case, the Supreme Court refused to entertain a petition filed under Article 32 of the Constitution but left it open for the student to approach NTA for accessing the original OMR sheets. When such a responsible body has carried out the task of conducting examination of such large number of students across the country, which entire process is computerized, I am not inclined to call for the OMR sheets without strong reasons being made out.*

*Petition is dismissed. Pending application(s), if any, also stands disposed of.”*



60. The writ petition had been dismissed even without calling for the original OMR sheet and based on a copy of the answer sheet and an affidavit and compilation of the marks.

61. In the instant case, the petitioner's original mark sheet is very much available. It had been produced by the 2<sup>nd</sup> respondent. Once this step had been taken no further examination of any other issue can be entered into by this Court. The attempts of the learned counsel for the petitioner seeking examination of the screen shots by a cyber expert or by the CB CID, would not be a prudent step to be taken in the absence of specific denial of the original OMR sheet produced before this Court.

62. Arguments were advanced before the original OMR sheet was produced that if the original OMR sheet is produced, the petitioner's contention would stand proved. After the original OMR sheet has been produced, the arguments further developed by stating that the signatures have to be verified. After the signatures had been verified, the arguments again developed by stating that there could be a xerox of xerox and even the original OMR sheet could be manipulated. I hold that these contentions



stretch the issues a little too far. I am not inclined to examine the screen shots as contended by the learned counsel for the petitioner.

63.The original OMR sheet has been produced. Necessary safeguards had been stated. The Joint Director of National Testing Agency had given a report. The Forensic Laboratory at Chandigarh had given their report. The principal of the educational institution where the petitioner had written the examination had given a report. The petitioner had admitted his signatures in the attendance sheet. Those signatures had been compared with the signature in the OMR sheet. An affirmative report had been forwarded.

64.These facts conclusively prove that there was only one OMR sheet. This had been produced before this Court. This shows that the petitioner had obtained 248 marks out of 720.

65.The Writ Petition therefore stands dismissed. W.M.P.No.356 of 2023 also stands dismissed.



66. In view of this decision taken, I am afraid that the permission granted by the learned Single Judge to permit the petitioner to attend the counselling and consequent to which the petitioner had been allotted a medical seat in Thoothukudi Government Medical College, will have to be interfered with and necessary orders will have to be passed terminating the continuance of study by the petitioner in the Thoothukudi Government Medical College.

67. The order of the learned Single Judge directing investigation by the Director General of Police, through the CBCID, Tamil Nadu had been stayed by the Division Bench and W.M.P.No.356 of 2023 filed in this regard is also dismissed and therefore, that order becomes nonest in the eyes of law.

68. In the result,

- i). The Writ Petition stands dismissed.
- ii). W.M.P.No.356 of 2023 stands dismissed.
- iii) No order as to costs.
- iv) Connected Writ Miscellaneous Petition is closed.



69.The Registry may retain the original report forwarded by the Central Forensic Laboratory in CFSL(C)/3429/2022/DOC/CX-306/2022 and covering letter dated 14.12.2022 in the Court records and if required certified copies of the same may be given to the petitioner / respondents, if they apply for the same.

70.The Registry may return the original Attendance Sheet of National Testing Agency / Page : 0035 of 0120 and the original OMR answer sheet of the petitioner bearing No.2137204 and Test Booklet Code H3 with Roll No.4102202104 to the learned counsel for the 2<sup>nd</sup> respondent on obtaining proper acknowledgement.

03.03.2023

Index: Yes/No  
Internet: Yes/No  
smv



To,

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1. The Secretary to Government,  
Union of India  
Ministry of Human Resource Development,  
New Delhi.
2. National Testing Agency,  
(National Eligibility -cum- Entrance Test (UG) – 2020),  
Department of Higher Education, MHRD,  
C-20, 1A/8, IITK Outreach Centre,  
Sector – 62, Noida,  
Uttar Pradesh – 201 309.
3. The Secretary,  
The Medical Counselling Committee,  
All India Quota for Medical UG 2020,  
Directorate General of Health Service,  
Government of India,  
Room No.348, A Wing,  
Nirman Bhavan,  
New Delhi.
4. The Directorate of Medical Education,  
#162, Periyar E.V.R. High Road,  
Kilpauk, Chennai – 600 010.
5. The National Medical Council,  
Represented by its Secretary,  
Pocket 14, Sector 8,  
Dwarka, New Delhi – 110 077.
6. The DIG, CB-CID,  
No.24, Pantheon Road,  
Komaleewaranpet, Egmore,  
Chennai,  
Tamil Nadu – 600 008.



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**C.V.KARTHIKEYAN,J.**

smv

Pre-Delivery order made in

W.P.No.15959 of 2020

and

W.M.P.No.356 of 2023

and

W.M.P.No.19859 of 2020

03.03.2023