

ITEM NO.30

Court 4 (Video Conferencing)

SECTION X

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition (Civil) No.1286/2021

PRABHNOOR SINGH & ORS.

Petitioner(s)

VERSUS

NATIONAL TESTING AGENCY & ORS.

Respondent(s)

(With appln.(s) for IA No.152709/2021-EX-PARTE STAY)

Date : 10-01-2022 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD  
HON'BLE MR. JUSTICE A.S. BOPANNA

For Petitioner(s) Mr. Manoj Swarup, Sr. Adv.  
Mr. Rajan Kumar Singh, AOR  
Mr. Rakesh Kumar Singh, Adv.  
Mr. Waseem Akhtar Khan, Adv.  
Mr. Ashok Anand, Adv.  
Mr. Somanatha Padhan, Adv.  
Ms. Vidisha Swarup, Adv.  
Mr. Neelmani Pant, Adv.

For Respondent(s) Mr. Rupesh Kumar, AOR  
Ms. Neelam Sharma, Adv.  
Ms. Pankhuri Shrivastava, Adv.  
  
Mr. K.M. Nataraj, ASG  
Mr. Gurmeet Singh Makker, Adv.  
Mr. Shailesh Madiyal, Adv.

**Chinmayee Chandra, Adv.**  
**Ms. Rukhmini Bobde, Adv.**  
**Mr. Sughosh Subramanyam, Adv.**

**UPON hearing the counsel the Court made the following  
O R D E R**

- 1 We have heard Mr Manoj Swarup, learned senior counsel for the petitioners and Mr Rupesh Kumar, counsel for the National Testing Agency.
- 2 The petitioners are candidates who appeared for the NEET (UG) 2021. The relief which has been sought in these proceedings under Article 32 of the Constitution is that the results/score cards of the petitioners dated 1 November 2021 be declared null and void.
- 3 The basis of their claim is that on 15 October 2021, the first respondent released on its website the answer key to the respective sets of question booklets and displayed the scanned images of the OMR answer sheets, which were recorded by an automated process. On 1 November 2021, the results were declared on the official website of the first respondent. According to the petitioners, the marks which they calculated based on the answer key which was uploaded on 15 October 2021 and the result as declared vary by a considerable margin, leading to an allegation of tampering and manipulation of marks. On 9 November 2021, the first respondent released a public notice for downloading the scanned images of the OMR answer sheets on their official website. The petitioners claim that the OMR sheet was different from the OMR sheet uploaded on 15 October 2021. Hence, the jurisdiction under Article 32 of the Constitution has been invoked.
- 4 A counter affidavit has been filed in these proceedings by the Joint Director of the National Testing Agency. The affidavit indicates that 15,44,275 candidates appeared for the NEET - UG which was conducted on 12 September 2021. The results were declared on 1 November 2021 for the

admission tests conducted for MBBS/BDS courses for 2021-2022.

- 5 Clause 13.1 of the information bulletin contains provisions for the display of OMR sheets and responses on the website and for challenging the grading of questions. Clause 13.2 provides for the display of the answer key, which is open to challenge. Clause 13.1 is extracted below:

“13.1 Display of OMR Sheets and responses on the website and challenging the grading of questions on OMR.

13.1.1 After the conduct of the examination, NT A will display the scanned images of OMR Answer Sheets and recorded responses by the machine, of all candidates on the website (<https://neet.nta.nic.in/>). The exact date of display of scanned images of OMR Answer Sheets shall be communicated after the examination on the NTA website.

13.1.2 Applicants will be given an opportunity to submit representation against the OMR grading by paying a non-refundable processing fee of RS.200/- per question challenged.

13.1.3 Representations made by the candidates against the OMR grading will be verified by the NT A from the actual record and the same will be updated on the date if challenges are found to be correct.

13.1.4 However, no intimation in this regard will be sent to an individual candidate. Applicants are advised to visit the website <https://neet.nta.nic.in/> for viewing and downloading the image of the OMR Answer Sheet by the candidates.”

- 6 Similarly, clause 13.2 provides as follows:

“13.2 Display of Answer Key for the challenge

13.2.1 The NTA will display the Provisional Answer Key of the question, giving an opportunity to the candidate to challenge, in case of any doubt in the answer key published on the website <https://neet.nta.nic.in/>. For exact date of display of the Answer Key, candidates

may regularly check updates on the NTA website after the examination.

13.2.2 Candidates will be given an opportunity to make an online challenge against the provisional Answer Key by paying a processing fee of Rs.1 000/- per answer challenged, within a specified period as indicated in the Public Notice.

13.2.3 Challenges made by the candidates will be verified by the NTA with the help of a panel of subject experts. If found correct, the answer key will be revised accordingly. Based on the revised Final Answer Key, the result will be prepared and declared.

13.2.4 No individual candidate will be informed about the acceptance/non-acceptance of his/her challenge.

13.2.5 The key finalized after the challenges will be treated as final.”

7 On 15 October 2021, in terms of the above guidelines, all the candidates were informed of the display of their OMR answer sheets and their recorded responses together with the provisional answer key. On 13 October 2021, the first respondent forwarded a sealed hard disk of the OMR answer key, recorded responses along with provisional answer key to the National Informatics Centre (NIC) for uploading on the website of the first respondent. The website of the first respondent is hosted by NIC. Accordingly, the OMR answer key, recorded responses and provisional answer key were uploaded by NIC on the official website of the first respondent at 11.44 am on 15 October 2021. Besides this, NIC forwarded the images of the OMR sheets to the email IDs of candidates including the petitioners.

8 Hence, it has been stated that there is only one original OMR answer sheet per candidate on the record of the first respondent and there is no tampering in the scanned images which were displayed on the website from 15 to 17 October 2021. Moreover, it has also been stated that there was no difference in the scanned images which were once again displayed on the website of

the first respondent between 9 and 14 November 2021. No two test booklets and OMR sheets bear the same number. The OMR answer sheets of the petitioners are stated to have their original writing along with relevant details including signatures in two places as well as signatures of the Invigilators.

- 9 Five of the six petitioners along with their parents verified the original OMR sheets in the office of the first respondent on 8 November 2021. The respondents have submitted that the copy of the OMR sheet alleged to have been provided by the first respondent, which has been appended at Annexure P-4 to the petition, and the screen shot are fabricated.
- 10 For the present purpose, it is not necessary to enquire into the submission of the first respondent that the OMR sheet annexed by the petitioners is fabricated by the petitioners. It is not in dispute that the original OMR sheets of five of the six petitioners have been duly verified. They bear the signatures of the candidates. In this view of the matter and having due regard to the contents of the counter affidavit, it cannot *prima facie* be suggested that there was any act of tampering or manipulation in the back office of the National Testing Agency. The examination has been attempted by as many as 15.44 lakhs candidates, out of whom six have come to this Court. Of them, inspection of the originals was permitted to be taken by all of them and the originals were inspected by five of the candidates on 8 November to 2021.
- 11 In the above view of the matter, we decline to entertain the Petition under Article 32 of the Constitution. The Petition shall accordingly stand dismissed.
- 12 Pending applications, if any, stand disposed of.

**(CHETAN KUMAR)**  
**A.R. - cum - P.S.**

**(SAROJ KUMARI GAUR)**  
**COURT MASTER**