

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE N. NAGARESH

TUESDAY, THE 30TH DAY OF NOVEMBER 2021/9TH AGRAHAYANA, 1943

WP(C) NO. 22513 OF 2021

PETITIONER:

RITHU SIBI
AGED 19 YEARS
D/O SIBI PAUL A, ATTUPURAM HOUSE, PALLIKUNNU,
VARANDARAPILLY, CHELAKUDY TALUK,
THRISSUR DISTRICT-680303.
BY ADV RAJIT

RESPONDENTS:

- 1 UNION OF INDIA
REPRESENTED BY THE SECRETARY,
MINISTRY OF EDUCATION, 122-C,
SHASTRI BHAVAN, NEW DELHI-110001.
- 2 NATIONAL TESTING AGENCY
REPRESENTED BY ITS DIRECTOR, C-20 IA/8,
SECTOR 62, IITK OUTREACH CENTRE,
DISTRICT NOIDA, UTTAR PRADESH-201309.
- 3 CENTRAL BUREAU OF INVESTIGATION,
REPRESENTED BY ITS DIRECTOR,
PLOT NO.5-B, CGO COMPLEX,
LODHI ROAD, NEW DELHI-110003.
- 4 STATION HOUSE OFFICER
VARANDARAPILLY POLICE STATION,
THRISSUR DISTRICT-680303.

BY ADVS.

SHRI. NIRMAL S, SC, NATIONAL TESTING AGENCY
SHRI. MANU S., ASG OF INDIA
SHRI. T. A. SHAJI, DGP
SHRI. P. NARAYANAN, ADDL. PUBLIC PROSECUTOR
SMT. PRINCY XAVIER, SR. GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 30.11.2021, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:



J U D G M E N T

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Dated this the 30th day of November, 2021

This writ petition is filed by a student, who appeared in the National Eligibility cum Entrance Test conducted by the National Testing Agency, seeking to produce OMR sheet of the petitioner and to conduct a comprehensive investigation in respect of manipulation's made in petitioner's OMR sheet.

2. The petitioner states that she appeared in the NEET Examination for MBBS held on 12.09.2021. OMR sheets of the candidates were published on the website on 15.10.2021. The petitioner found that the signature, name of petitioner, mother's name and father's name seen in the OMR, were not put/written by her. The handwriting in the OMR sheet was not of the petitioner. Mother's name was misspelt in the OMR. The roll number of the petitioner in numericals did not

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match with the bubbled portion. Going by the published Answer Key, the petitioner should get 672 marks. But, the manipulations in petitioner's OMR would adversely affect her chances. Hence, a comprehensive enquiry is extremely necessary in the matter.

3. When this writ petition came up for admission, this Court passed an interim order on 25.10.2021, as follows:

"The petitioner states that she has made the allegations in this writ petition with absolute conviction and honesty and after being aware of the consequences arising from making such statements. According to the petitioner, on perusing the OMR sheet attached to the petitioner's application number, the signature of the petitioner is seen manipulated. The name of the petitioner's mother and father as seen in Ext.P5 is not written by the petitioner.

2. The petitioner also has serious doubt about the left hand thumb impression seen in the OMR sheet. The name of the petitioner's mother is Mini John C., however in the OMR sheet, it is shown as Mini Johna C. The writings in the OMR sheet is not that of the petitioner, reiterates the petitioner. The Roll number of the petitioner in the numerical does not tally with the bubbled portion. Taking into consideration all these aspects, this Court is of the view that an enquiry in the matter is required.

Accordingly, there shall be a direction to the 2nd respondent to consider the entire materials that have been placed by the petitioner and conduct an investigation and submit a report before this Court on or before 08.11.2021."

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The petitioner was permitted to personally verify the original OMR sheet kept with the National Testing Agency, by an interim order dated 22.11.2021. After perusing the OMR, the petitioner reiterated her allegations.

4. In compliance of the interim direction of this Court given on 25.10.2021, the respondents formed a Committee comprising of Senior Professors and former Professors of the IIT, Delhi to conduct the investigation. The Committee submitted its report on 15.11.2021. The Committee's conclusions are as follows:

(i) Only ONE OMR Answer Sheet was provided against the Roll Number:2812007345, as per the Record of NTA. There is nothing on record at NTA to show that there were two OMR Sheets being allotted against the actual Roll No. of the Petitioner, i.e. 2812007345 or against the bubbled Roll No. i.e. 2811007345.

(ii) The Roll No. 2811007345, bubbled on the said OMR Sheet, has been allotted to another candidate who has appeared in NEET (UG) 2021 from another exam centre in Thiruvananthapuram. There is nothing on record (except the purported bubbling) that this Roll No. was allotted to the petitioner.

(iii) The candidate herself has filled in the details in the OMR Sheet and the Attendance Sheet during the examination (on 12.09.2021) and in presence of the Invigilators, as confirmed by the candidate as well as the Invigilators concerned in their Written Statements.

(iv) It is also seen that the petitioner have signed her Declaration on the OMR Sheet in question as follows:

"I declare that particulars and signature on this OMR Answer Sheet are mine and are same as in Attendance Sheet I further declare that particulars filled-in and signature as well as the circles darkened on this ORIGINAL Copy is same as in OFFICE Copy."

(v) The signatures of the Invigilators on the attendance sheet match with their signatures on the OMR Sheet and the same have not been objected to by the candidate, nor denied by the Invigilators in their Written Statement.

(vi) There is no claim by the petitioner either in her petition or in her Written Statement that a history of animosity exists between her and the Invigilators/Centre Superintendent/NTA. When the petitioner was asked during the Video Conferencing as to whether she has any suspect in mind who could do the manipulation as alleged by her, she has denied any possibility of suspect as per her knowledge, which is also recorded in her Written Statement.

(vii) As per the record in NTA, there is no such complaint received from any other candidate from the same room or same centre where the petitioner appeared in NEET (UG) 2021.

(viii) Further, the Committee is of the opinion that manipulating the OMR to lower a candidate's marks is extremely unlikely, as normally the OMR Sheet of a candidate may be fabricated/manipulated with a view to secure higher marks for her.

(ix) The Original OMR Answer Sheet allotted to Roll Number: 2812007345 has been attempted by the Candidate herself during the course of the examination on 12.09.2021 (as confirmed by the Invigilators concerned in their Written Statements)

and the same has no signs of manipulation/tampering.

m) As checked from the original OMR Sheet having Bar Code No. 3054105 and Roll No. 2812007345, the Candidate/Petitioner has attempted only 138 Questions and not 168 as claimed by her. Out of 138 questions attempted, she has answered 47 questions correctly and 91 questions incorrectly. She has left 62 Questions unanswered. As per the scheme of the examination, 04 marks are awarded for each correct answer and 01 mark per incorrect answer is deducted from the total marks (as there is negative marking). That is how, the petitioner has obtained 97 marks (47 x 04 -91). The details may be seen in the certified copy of the Calculation Sheet of the Marks of the petitioner as attached as Annexure-C to the Written Statement of the CSO."

5. I have considered the report of the Committee made available as Annexure-R2(a). The Committee has exhaustively considered the allegations made by the petitioner. There is no material to conclude that any manipulations were made in the OMR sheet of the petitioner. The OMR sheet contains a declaration made by the petitioner that the entries therein are made by the petitioner. No other complaints were received from other students who appeared for the examination from the same room. Committee found that manipulations in the OMR sheet is extremely unlikely.

Signatures of the invigilators in the OMR sheet match with the signatures in the Attendance Sheet.

In view of the comprehensive report submitted by the Committee, this Court find no reason to disbelieve the conclusions of the Committee made in Annexure-R2(a) Report. The writ petition therefore fails and it is consequently dismissed.

Sd/-
N. NAGARESH, JUDGE

aks/06.12.2021

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APPENDIX OF WP(C) 22513/2021

PETITIONER'S EXHIBITS

- Exhibit P1 A TRUE COPY OF THE INFORMATION BULLETIN BROUGHT OUT BY THE 2ND RESPONDENT FOR ADMISSION TO UNDERGRADUATE MEDICAL COURSES.
- Exhibit P2 A TRUE COPY OF THE JUDGMENT OF THE HON'BLE SUPREME COURT IN MUSKAN SABHARWAL VS NATIONAL TESTING AGENCY DELIVERED ON 3RD DECEMBER, 2020.
- Exhibit P3 A TRUE COPY OF THE ADMIT CARD ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER.
- Exhibit P4 THE TRUE COPY OF THE BOOKLET ISSUED TO THE PETITIONER AT THE TIME OF EXAMINATION.
- Exhibit P5 A TRUE COPY OF THE OMR SHEET, WHICH IS ALLEGED TO BE THAT OF THE PETITIONER.
- Exhibit P6 A TRUE COPY OF THE COMPLAINT FILED BY THE PETITIONER TO THE 2ND RESPONDENT DATED 15.10.2021.
- Exhibit P7 A TRUE COPY OF THE COMPLAINT AND RECEIPT ISSUED BY THE 4TH RESPONDENT.

RESPONDENT'S EXTS:

ANNEXURE-R2 (a) COPY OF THE REPORT DATED 15.11.2021.

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Examiner
TRUE COPY

TRUE COPY
[Signature]
Examiner