

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2021

CORAM

THE HONOURABLE THIRU JUSTICE **B.PUGALENDHI**

W.P.No.15959 of 2020

&

W.M.P.Nos.19856 & 19859 of 2020

K.S.Manoj

... Petitioner

Vs.

- 1.Union of India represented by
Secretary to Government,
Ministry of Human Resource Development,
New Delhi.
- 2.National Testing Agency,
(National eligibility - cum - Entrance Test (UG) - 2020)
rep by Secretary,
Department of Higher Education, MHRD,
NSIC - MDPP Building
Okla Industrial Estate Phase III,
New Delhi - 110 020.
- 3.The Medical Counselling Committee,
Rep by Secretary,
All India Quota for Medical UG 2020,
Directorate General of Health Services,
Government of India,
Room No.348, A Wing,
Nirman Bhavan, New Delhi.
- 4.The Directorate of Medical Education,
#162, Periyar EVR High Road,
Kilpauk, Chennai - 600 010.

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

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records on the file of the second 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 Sheet issued in the name of the petitioner downloaded on 17.10.2020 and (iii) 2nd respondent's email response dated 26.10.2020, quash the same and to issue directions to the 2nd respondent in first OMR Answer Sheet uploaded on 16.10.2020 FN and issue consequential directions to the 3rd and 4th respondents to allow the participation of the petitioner in counseling 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 Respondents : Mrs.A.A.Anuradha (for R.1)
G.Masilamani, Sr.Counsel
Asst.by G.Natarajan (for R.2)
Mr.Abdul Saleem (for R.3)
Mr.Manoharan, SC (for R.4)
Mr.V.P.Ramanan (for R.5)

ORDER

The petitioner, a candidate, who appeared in NEET (UG-2020) filed this writ petition to call for the records relating to the score card

issued by the 2nd respondent in the name of the petitioner uploaded on 17.10.2020 and the e-mail response of the respondent dated 26.10.2020, to quash the same and for a consequential direction to the 2nd respondent to declare the results of the petitioner in NEET (UG – 2020) as 594 out of 720 marks as reflected in the first OMR answer sheet uploaded on 16.10.2020.

2. According to the petitioner, he appeared in the NEET examination, 2020. His case is that in the first OMR sheet uploaded by the 2nd respondent on 16.10.2020, the petitioner, on verification with the answer key, found that he secured 594 marks and on the next day, a different OMR sheet was uploaded, reflecting as if the petitioner had secured 248 marks. On the very same day, the petitioner made a representation to the 2nd respondent for which, the 2nd respondent by reply dated 26.10.2020 sent a communication to the petitioner that on verification of the original OMR sheet and score card of the petitioner, it was found that he secured only 248 marks out of 720 and suggested to approach the respondent office to verify the details. Aggrieved over the same, the petitioner had filed this present writ petition on 28.10.2020 and this Court has ordered notice to all the respondents.

3. After hearing the learned counsel for the petitioner and the counsel for the respective respondents, the learned Single Judge of this Court, who held this Port Folio then, has passed a detailed order on 09.12.2020, as follows:-

"The petitioner in this case right from the beginning was complaining that the OMR / Answer Sheet that was uploaded on 5.10.2020 in the website of the 2nd 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 2nd 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.

2. Initially, this Court was not convinced to dig deep into this issue, since the OMR uploaded in the website of the 2nd respondent was also physically shown to the petitioner after it was furnished by the 2nd respondent. This Court therefore directed

the 2nd respondent to file an additional counter affidavit and explain as to how, two OMR Sheets can be uploaded for the very same candidate showing completely different marks.

3. The 2nd respondent filed an additional counter affidavit and reiterated the stand that there was only one OMR Sheet that was uploaded in the website of the 2nd respondent and which reflected that the petitioner had secured 248 marks.

4. The Additional Rejoinder filed by the petitioner based on the account retrieved from the Google Account of the petitioner, changed the entire complexion of this case. On the face of it, these materials substantiate the case of the petitioner that there were two OMR Sheets that were uploaded in the website of the 2nd respondent. 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 Exams, has been filed by way of Additional Typed set of papers which contains the 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 face of it since it is not possible to manipulate the Google Account, which is not within the control of the petitioner.

5. It is not known as to how this OMR

Sheet completely changed from 17.10.2020 by bringing down the marks of the petitioner from 594 to 248. The petitioner who had informed about his marks to his friends and relatives and was confident that he will get an MBBS Seat, was shell shocked when he found that the subsequent OMR Sheet virtually reduced the marks by 50%.

6. *This Court is now really concerned and quite apprehensive as to whether such manipulation of OMR Sheet is a possibility. As it is, anything in an electronic mode is susceptible to manipulation and nobody can rule it out completely. If such manipulation is in fact possible, it is really a danger which requires immediate investigation. During my tenure in this Port Folio, there were several other cases which came up for consideration on the same ground that the OMR Sheet that was uploaded in the website does not truly reflect the actual answers given by the candidates in the Exam. This Court did not go deep into those cases since there was only one OMR Sheet that was available and therefore, this Court did not question that OMR Sheet merely based on the ipse dixit of the candidate. However, this case came as a surprise to this Court and made this Court think that probably there was some truth in the claim made by those students.*

7. *If manipulations are possible,*

everything happening in an on-line mode, the OMR Sheet of a bright student can always be swapped with the OMR Sheet of a mediocre student and nobody can really find out the truth unless it is thoroughly enquired. This is only a fear expressed by this Court and this Court fervently hopes that this fear does not ultimately prove to be right. Even if there is a remote chance of manipulating the OMR Sheet, that is a clear harbinger of the malady that it can cause to the entire selection process. This Court is taking this issue very seriously since these candidates are future Doctors and precious lives are involved.

8. In view of the above, there shall be a direction to the 2nd respondent to thoroughly consider the entire materials that have been placed by the petitioner and conduct an Investigation and a Report shall be filed before this Court. The Report must explain as to how two OMR Sheets containing the name of the petitioner was uploaded in the website and how it was completely in variance. It gives an opportunity to the 2nd respondent to plug the leak, if there is one.

9. The next round of counselling is commencing from tomorrow. The petitioner cannot be made to wait till the Report is received from the 2nd respondent, since all the seats by then will get filled up. Therefore, there shall be an interim direction to the 3rd and 4th 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 finalised and the results shall be kept in a sealed cover, awaiting the final orders in this Writ Petition.

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

In pursuance of the above order, the petitioner was allowed to attend the counselling and he was also allotted a seat in MBBS Course in Government Medical College, Thoothukudi and the order of allotment was kept in a sealed cover.

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 2nd 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 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 2nd respondent on 17.10.2020 tallies with the only OMR

Answer Sheets bearing Bar Code No.2137204 that exists on the record of the 2nd 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."

5.The Joint Director filed a report along with the statement of the Chief Secrecy Officer of National Testing Agency on the OMR sheet before this Court on 11.01.2021. By referring the report, Mr.Masilamani, learned Senior Counsel made his elaborate argument that it is only one OMR sheet, which was uploaded by the 2nd respondent and the petitioner though visited the website on 05.10.2020 at 17.17.55 has suppressed the same and has also pointed out some variations between the two OMR sheets. Though the respondents were directed to file the report by 23.12.2020, it was filed only on 11.01.2021, that only one OMR sheet was uploaded by them and the another one, referred to by the petitioner, is a forged one. Considering the fact that cut off date has been prescribed by the

Hon'ble Supreme Court on the admissions of MBBS Course for the year 2020 as 15.01.2021 and that this Court would remained closed for Pongal Holidays from 12.01.2021 to 17.01.2021, this Court on 11.01.2021 passed the following order:-

"Mr.G.Masilamani, learned Senior Counsel, assisted by Mr.G.Nagarajan, learned Counsel appearing for the 2nd respondent has demonstrated that the screen-shots relied by the petitioner from 05.10.2020 to 16.10.2020 showing more marks to the petitioner are fabricated ones and that there is only one OMR Sheet, which would expose that the petitioner has secured 248 marks and not more than that.

2. However, Mr.Ravi, learned counsel for the petitioner, after getting instructions from the petitioner and his parents, submits that the petitioner has not tampered any document, as claimed by the respondents and this Court can even order for an investigation, by any agency. According to him, the respondents are attempting to justify their second OMR sheet uploaded on 17.10.2020 and the truth can be ascertained only by a thorough investigation. He also pointed out certain lacunas on the counter filed by the respondents and requested for the copy of the report relied by the respondents. He also requested for an investigation and if it reveals in the investigation the petitioner has committed any fraud by manipulating the

screenshots, then the petitioner is prepared to face the consequence of criminal trial and on the contrary, if it is found that a mistake has been committed by the respondents, then the benefit must be given to the petitioner.

3. Mr. Abdul Saleem, the learned Counsel for the 3rd Respondent submits that pursuant to the earlier orders of this Court, the petitioner was called for Counselling and has been allotted at Tuticorin Medical College. However, the petitioner has not been admitted in the College, waiting for the outcome of the writ petition.

4. In view of the paucity of time and considering the fact that the report, as directed by this Court, has been filed only today, this Court is inclined to order for an interim arrangement for admission, subject to the outcome of this writ petition.

5. Post the matter on **21.01.2021**, for deciding the further course of action, as to the necessity and ordering of an investigation by an independent agency. It is made clear that if an investigation is ordered and the investigation reveals that any manipulation has been committed by the petitioner, not only the petitioner, but his parents will also be held responsible and have to face the legal consequences. Needless to state that the petitioner can neither take any advantage on the admission obtained

in the college, which was made pursuant to the order of this Court, nor can claim any refund of the fee paid at the time of admission. He is also liable to pay the discontinued fee. The petitioner and his parents, who are also present before this Court, virtually, agreed for the aforesaid terms.

6. Since the issue involved in the writ petition is yet to be decided, on the case and counter claims, by ordering an investigation, this Court, as an interim arrangement, extends the benefit to the petitioner, based on the marks on the screen-shots relied by him, for admission in the Tuticorin Medical College, where the petitioner has already been selected pursuant to the earlier directions of this Court.

7. Accordingly, an interim direction is given to the third respondent to admit the petitioner at Tuticorin Medical College, where the petitioner has already been selected. It is made clear that this admission is subject to the result of the writ petition. Since the cut-off date is 15.01.2021, Mr. Abdul Saleem, the learned Counsel for the 3rd respondent is directed to communicate this order to the 3rd respondent to admit the petitioner in the College, subject to the result of the Writ petition."

6.The respondents consistently took a stand that it is only one OMR sheet that was uploaded by them, which is the present one that is available in the website and also produced before this Court.

With regard to the alleged OMR sheet produced by the petitioner, the respondents contended that it is a forged one. Though the respondents contend that it is a forged one, they have not demonstrated before this Court as to how can the OMR sheet be replaced.

7.By comparing the OMR Sheet produced by the petitioner dated 16.10.2020 and the OMR Sheet published by agency dated 17.10.2020, the learned Senior counsel for the second respondent pointed out certain dissimilarities and non-appearance of security features with the print outs produced by the petitioner relating to the screenshots. He further submitted that the data retrieved from the Google account are truncated, incomplete and unauthentic as to the date, time, quality and source of the document etc., He further submitted that the screenshots, as projected by the petitioner, has not been referred to in the affidavit and pleaded for the first time in the rejoinder of the petitioner filed on 09.12.2020 and further submitted that these screenshots are taken from the Google and not from the NIC Website. NIC is the authorized body for uploading the OMR Sheets and even as per the NIC, only one OMR sheet was uploaded and there is no reason or purpose for National Testing Agency and NIC to change

the petitioner's OMR Sheet, but, the petitioner is having every motive to do the same. The learned Senior counsel further submitted that the original OMR answer sheet with several details of the petitioner including the signature of the petitioner as well as the invigilator is placed before the Court and is also inspected by the petitioner and the learned counsel for the petitioner and it is not disputed.

8. Heard the learned Counsel appearing for the respective parties and perused the documents placed on record.

9. The sum and substance of the arguments advanced by the petitioner are as follows:

i. The petitioner visited the official website NEET through Google search engine and since there was no downloading option, he took screenshots of the OMR sheet. On verification with the answer key uploaded by the respondents, he found that he scored 594 marks. But, this OMR sheet was subsequently replaced.

ii. The respondents, knowing well that the Hon'ble Supreme Court has fixed the cut-off date for MBBS Admission, for the year

2020, as 15.01.2021 and that this Court would remain closed for Pongal Holidays from 12.01.2021 to 17.01.2021, has filed the report at the very fag end, only on 11.01.2021, though it was directed by this Court as early as on 09.12.2020 to file a report by 23.12.2020.

iii. The petitioner is confident with his case and is prepared to face any enquiry, as may be ordered by this Court, be it the Central Bureau of Investigation or the State CBCID, to conduct a free and fair investigation with the aid of highly qualified experts in cyber crimes. In the event of their misconduct being established, if any, the petitioner and his parents are also ready to face the consequences.

10. On the other hand, the sum and substance of the submissions made by the second respondent are as follows:

i. The scanned images of OMR Answer Sheets of all the candidates were uploaded by NIC on 05.10.2020 and on 16.10.2020 final answer keys, Score Card of all the candidates were uploaded.

*It is the case of the petitioner that he has downloaded his OMR on 16.10.2020 and on the very same same day at 05.30pm, Answer Keys were published and on petitioner's calculation it is shown

that he has scored 594 out of 720. On 17.10.2020 another OMR Answer Sheet was uploaded in the NTA website and the score of the petitioner was indicated as 248/720 and All India Rank of 418900. On the same day, the petitioner has mailed his grievance to NTA and on 26.10.2020, NTA replied that on verification the petitioner has scored only 248/720 and if the petitioner is not satisfied with that reply he was requested to approach the 2nd respondent office at New Delhi and verify all the details. However, the petitioner failed to come forward for verification and preferred the present writ petition. The respondents stick on to their stand that no OMR sheets, ie., the scanned images produced by the petitioner, were uploaded on 16.10.2020 & 17.10.2020 as alleged.

*They would further submit that petitioner suppressed the fact that he had visited the NEET (UG) Website several times since 06.10.2020. Each candidate are provided with unique login ID and password through which a candidate can login.

*The respondent submits that after 40 days of filing the Writ Petition, the petitioner has produced incomplete and non-legible photocopies of the screenshots on 09.12.2020 in the additional typed set. They also submit that similar writ petitions were filed and also

withdrawn after the petitioners found that the Answer Sheets were correct.

*The respondents contend that screenshots pleaded by the petitioner have no security features when compared with strict and high quality security feature of NIC Server.

*They further rely on the report of Senior System Analyst, NIC who clearly stated that the OMR Answer Sheet of the petitioner was uploaded only once i.e., on 05.10.2020.

*Similar Writ Petitions challenging the OMR Answer Sheets were dismissed by the various High Courts.

*Finally, the respondents submit that NTA is a responsible body conducting NEET examination in an absolute FULL PROOF SYSTEM and there is no necessity for NTA to upload two OMR Answer Sheets neither has NTA grudge against the petitioner.

11.This Court has paid it's anxious consideration to the rival submissions and also to the materials placed on record.

12.It is an admitted fact that the petitioner appeared in the NEET Examination in the year 2020. His case is that two OMR sheets

were uploaded as against his registration number, which, of course, is refuted by the respondents. Right from the beginning, the petitioner contends that the OMR sheet uploaded on 05.10.2020 in the website of the second respondent showed that the petitioner had taken 594 marks and this position continued in the website till 16.10.2020. However, this position changed all of a sudden on 17.10.2020, when the petitioner noticed that there was a complete change in the OMR Sheet in the same website, wherein, the marks came down to 248.

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

Sl.No.	Date	Time	IP Address
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

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.

16.The second respondent claim that the petitioner has fabricated the OMR sheet. In the additional counter affidavit, the second respondent placed reliance on Clause 12.1 of the Information Bulletin of NEET (UG) 2020 where a punishment has been contemplated for unfairmeans practices such as manipulation and fabrication of online documents and for making vague claim in OMR Sheet on website. As per this stand of the second respondent, the manipulation or fabrication of online documents is not ruled out. If the

petitioner is capable of tampering the official website, then it has to be construed that the second respondent's official website is vulnerable and appears to be without any Full Proof Mechanism.

17. Of course, as rightly contended by the learned Senior Counsel, one should not lose sight of the fact that the respondents are not having any reason to tamper the OMR sheet, whereas, the petitioner is having every reason to fabricate the same. But, on this ground alone, this Court is not inclined to decide the case, nor on the submission made by the learned Counsel for the respondents, for the reason that the petitioner did not wait, but has made *bona fide* efforts by responding to the official respondents through e-mail communication on 17.10.2020, as soon as he came to know about the change in OMR sheets. In fact, on the earlier occasion, this Court had an interaction with the petitioner and his family members, virtually, where, this Court has cautioned the petitioner and his family members that in the event of any mischief being found on their part, not only the petitioner, but his parents also will be put to task, but the petitioner and his family strenuously stood on their case and volunteered for ordering for an investigation through any agency. In

fact, the learned Singe Judge, who held this port folio before me, did the very same exercise and having satisfied with himself, has passed an interim order on 09.12.2020, directing the respondents to permit the petitioner to attend the Counselling by taking the marks as 594, as claimed by the petitioner.

18.Be that as it may, the fact remains that now there are two physical OMR sheets, of which, one is available in the official website of the petitioner. The possibilities, in the minds of this Court, would be

- The petitioner could have broken-in the website of the respondents and swapped the OMR sheets; or
- Any corrupt official in the respondents Department could have done the malpractice or;
- After taking a screenshot of the OMR sheet, the petitioner could have tampered with the same using any photoshop tools, or any other possibilities, which this Court is not aware of, as of now.

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19.If the first and second possibilities are taken into consideration, which this Court fervently hopes that it would be a false

accusation, then the FULL PROOF MECHANISM, as claimed by the respondents, warrants improvements. The second respondent agency is also administered by the human beings. If it is possible for the petitioner to tamper or create an OMR sheet through a screenshot, is equally possible by an Officer from the second respondent/Office who can access to the details.

20.What has been produced before this Court by the petitioner is only the physical copy of the OMR sheets. Unless or otherwise the softcopy of the physical copy, ie., the source file is verified, the third possibility, as aforesaid, cannot be ruled out.

21.When this Court opted for ordering for an investigation, the learned Senior Counsel opposed that it would open up a pandora's box and every candidate, who scored lesser marks, would come up with such a plea. But then, when this Court appraised him about the facts and circumstances involved in the present case, the *bona fide* steps taken on the part of the petitioner, the materials that are available with the petitioner and especially, the stand of the petitioner and his family, when this Court interacted with them, the learned Counsels accepted

for ordering for an investigation.

22.In fact, the learned Senior Counsel, while opposing for ordering for an investigation, has made a submission that it would tarnish the reputation of the respondents Department, which are conducting the noble job of conducting examinations for the future Doctors, throughout the Country, for about 13 lakh students every year, without giving room for any malpractice. No doubt, the respondents are doing an excellent job, which no body could find fault with and therefore, their reputation matters. But, on this ground alone, the case of the petitioner could not be thrown out. In fact, the individual's reputation is also on the hang. Therefore, when it comes to maintaining the reputation, this Court has to balance it, be it the Institution's reputation or the Individual's reputation. Depending on the outcome of the investigation, the balance would tilt. The one, whose hands are clean like Sita, may come out brighter. The another one would have to face the music.

23.The learned Senior counsel appearing for the NEET and the learned Additional Solicitor General has submitted that to ascertain

the truth it is suffice an enquiry by the Secretary, Higher Education Department of the Central Government or by the NIC the agency which publish the results instead of an investigation.

24.In fact by order dated 09.12.2020, this Court permitted the respondents to conduct an investigation and file a report before this Court. In pursuant to that order, an investigation was conducted by the Joint Director (Admin), National Testing Agency and submitted his finding that only one OMR sheet was uploaded i.e., on 05.10.2020 and there cannot be any two OMR sheets as claimed by the petitioner. The respondents have taken a ground that the petitioner has not only visited their website on 16.10.2020 but also on various other dates. The screen shots produced by the petitioner match the date and timing claimed by the second respondent on the petitioner access to their website with the IP Address.

25.When this Court suggested for ordering an investigation through the State Police, viz., CB-CID, the learned Senior Counsel submitted that it should be entrusted with the Central Burueau of Investigation (CBI). This Court is not in a position to accede to this

submission for more than one reasons. Though the respondents Department have jurisdiction all over the Country and are responsible for the conduct of the examinations throughout the Country, the present case pertains to the State of Tamil Nadu alone and not other than that. Therefore, *prima facie*, this Court is of the opinion that inter-state investigation is not required. Already, the CBI is loaded up with several cases, involving scams that would affect the socio-economic situation and the very integrity of the Country and by entrusting this case to them, this Court does not want to load them up any more. Of course, if situation warrants, the investigation has to be entrusted to them, but, such is not the case herein. That apart, it is a settled principle that unless or otherwise the situation warrants, the CBI should not be loaded up with much cases.

26.If the learned Senior Counsel apprehends of an investigation concerning a Central Agency by a State Investigation Agency, rather than a Central Investigation Agency, then this Court could not help for it, for the simple reason that law does not sanction such an inference. On this plea, this Court also reminds about the recent observation by a learned Single Judge of this Court [Justice P.N.PRAKASH] in

C.Ramasubramaniam v. Inspector of Police and another, that all policemen have to be trusted and it does not lie in the mouth of one to say that the CBI have special horns, whereas, the local police have only a tail.

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.

29.The learned counsel appearing for the second respondent has produced the original OMR Sheet of the petitioner along with attendance sheet. Registry is directed to keep the same in a sealed cover and hand it over to the Investigating Agency. Registry shall get an acknowledgement from the concerned Investigating Agency and the same shall form part of the files. In view of cut off date for admission in MBBS Course, by interim order dated 09.12.2020, the petitioner was permitted for counselling and also directed to be admitted at Thoothukkudi Medical College, subject to the result of the Writ Petition. It is made clear that the continuation of the petitioner's studies at Thoothukudi Medical College is subject to the outcome of the investigation.

30.With the above observations, the writ petition stands disposed of. No costs. Consequently, the connected miscellaneous

petition is closed. Post this matter for reporting compliance on 02.06.2021.

01.03.2021

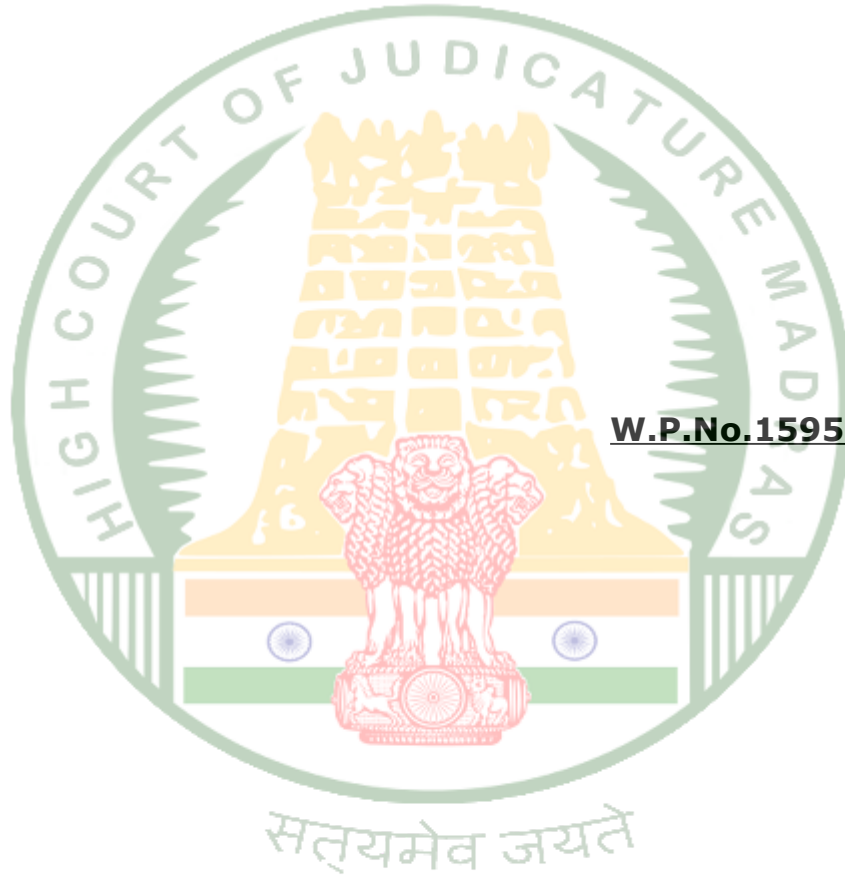
mrm/kkn
Index: Yes/No
Internet: Yes/No

To

1. Secretary to Government,
Union of India,
Ministry of Human Resource Development,
New Delhi.
2. The Secretary,
National Testing Agency,
(National eligibility - cum - Entrance Test (UG) - 2020)
Department of Higher Education, MHRD,
NSIC - MDPP Building
Okla Industrial Estate Phase III,
New Delhi - 110 020.
3. The Secretary,
The Medical Counselling Committee,
All India Quota for Medical UG 2020,
Directorate General of Health Services,
Government of India,
Room No.348, A Wing,
Nirman Bhavan, New Delhi.
4. The Directorate of Medical Education,
#162, Periyar EVR High Road,
Kilpauk, Chennai - 600 010.
5. The Secretary,
The National Medical Council,
Pocket 14, Sector 8,
Dwaraka, New Delhi - 110 077.

B.PUGALENDHI.J.,

mrm



W.P.No.15959 of 2020

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