

Court No. - 40

Case :- WRIT - C No. - 34467 of 2023

Petitioner :- Pravin Kumar Tiwari

Respondent :- Union Of India And 2 Others

Counsel for Petitioner :- Sandeep Srivastava

Counsel for Respondent :- A.S.G.I., Fuzail Ahmad Ansari,
Sandeep Srivastava, Vivek Kumar Singh

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard learned counsel for the petitioner; Sri Vivek Kumar Singh, learned counsel for the respondent no. 1 and 2/Union of India and Sri F.A.Ansari, learned counsel for the respondent no. 3/National Testing Agency.

2. The present writ petition has been preferred for a mandamus commanding the respondent authorities to award 15 marks to the petitioner in Question No. 19, 67 and 119 (4 marks for each question and 1 mark for minus marking) and to declare the petitioner as the successful candidate in All India Ayush Post Graduate Entrance Test-2023.

3. The record in question reflects that the petitioner has appeared in All India Ayush Post Graduate Entrance Test-2023 in the stream of Ayurveda bearing Application No. 234010022211 and Roll No. UP41010078. The National Testing Agency (in short "NTA") has conducted the said examination on behalf of Ministry of Ayush with the approval of the Ministry of Education. The NTA has declared the result of said examination on 19.08.2023, wherein, the petitioner has obtained 102 marks out of 480 and the cut off score is 116, therefore, the petitioner has failed to obtain the cut off by 14 marks. Being aggrieved, the petitioner has preferred the present writ petition with the aforesaid relief.

4. At the very outset, Sri F.A.Ansari, learned counsel for the respondent no. 3 raised an objection regarding maintainability of the writ petition and placed reliance upon brochure of the NTA (Annexure No. 8 to the writ petition). Relevant Clause 17 and 18 of which are reproduced herein under.

"17. Display of Provisional Answer Key for Challenges

1. The NTA will display Provisional Answer Key of the questions on the NTA website: aiapget.nta.nic.in, with a Public Notice issued to this effect on the said website, to provide an opportunity to the candidates to challenge the Provisional Answer Keys with a non-refundable online payment of Rs.200/- per question challenged as processing charges. The provisional Answer Keys are likely to be displayed for two to three days.

2. Only paid challenges made during stipulated time through key challenge link will be considered.
3. The NTA's decision on the challenges shall be final and no further communication will be entertained. NTA will not inform the candidates individually about their challenges.
4. The subject experts will examine all the challenges received and then a final answer key will be displayed and declared.
5. The result will be complied on the basis of the Final Answer Key declared. No grievance with regard to Answer Key(s) after Declaration of Result of AIAPGET-2023 will be entertained.

18. Declaration of Results

1. The result will be complied based on Final Answer Keys. No grievance with regard to Answer Key(s) after Declaration of Result of AIAPGET-2023 will be entertained. The raw(actual) marks obtained by a candidate will be considered further for computation of the Result of AIAPGET-2023. No Score Card will be dispatched to the candidates and the candidates are advised to download their Score Cards from the website: aiapget.nta.nic.in only.

2. **There is no provision for rechecking/re-evaluation/re-totaling of the result/score and no query in this regard will be entertained."**

5. In this backdrop, an objection is being taken in spite of aforesaid leave, admittedly, the petitioner had not applied in terms of Clause 17 alongwith requisite fee questioning the validity of answer of aforesaid questions. He further submits that the public notice was also issued on 5.8.2023, even then, no objection has been filed by the petitioner and first time through the present writ petition, the objection is being taken questioning the validity of answer of aforesaid questions.

6. We have asked a pointed query from learned counsel for the petitioner as to whether in terms of the aforesaid provision, the petitioner had ever raised an objection to the aforesaid questions. The response is in 'Negative'. Even against the public notice dated 5.8.2023, no satisfactory response is being given by learned counsel for the petitioner.

7. Considering the facts and circumstances of the case and the objection so raised by learned counsel for the contesting-respondent, we are of the considered opinion once the petitioner himself had not volunteered to file any objection regarding validity of any question, at this stage, we are not inclined to accord any reprieve to the petitioner in our discretionary jurisdiction under Article 226 of the Constitution of India.

8. The writ petition lacks merit and is accordingly **dismissed**.

Order Date :- 30.10.2023

A.K.Srivastava