

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (C) No. 1958 of 2015**

1. Dr. Sandeep Sahu S/o M.R.Sahu, aged about 29 years, C/o Brijraj Singh Verma, Shanti Bihar Colony, Tarun Nagar, Dagania Raipur, P.S. D.D. Nagar, District Raipur, Chhattisgarh.
2. Dr. Budhesh Patel S/o Dolsingh Patel, aged about 38 years, C/o Brijraj Singh Verma, Shanti Bihar Colony Tarun Nagar, Dagania, Raipur, P.S. D.D. Nagar, District Raipur, Chhattisgarh.
3. Dr. Rameshwar Thawait S/o Murari Lal Thawait, R/o Deendayal Colony, Uslapur Bilaspur, P.S. Mangla (Chowki) P.S. Civil Line, District Bilaspur, Chhattisgarh.
4. Dr. Vinay Kumar Prajapati S/o Ramsobhit Prajapati, aged 28 years, C/o Dr. Ramesh Prajapati, R/o village Marwahi, District Bilaspur, Chhattisgarh.
5. Dr. Nitesh Agrawal S/o Kaushal Agrawal, aged 25 years, R/o Gayanagar, P.S. Mohannagar, District Durg, Chhattisgarh.

---- Petitioners**Versus**

1. The Union of India, through Chief Secretary, Health and Planning, New Delhi.
2. The Chairman Central Council of India Medicine (CCIM) Government of India, New Delhi.
3. State of Chhattisgarh Through Chief Secretary, Health and Planning Government of Chhattisgarh Mantralaya Mahanadi Bhawan, Raipur, Chhattisgarh.
4. The Vice Chancellor, Ayush and Health Sciences University of Chhattisgarh, G.E. Road, Raipur, Chhattisgarh.

---- Respondents

For Petitioners	:	Shri Arjun Yadav, Advocate.
For Respondent No. 1 & 4	:	Shri Narendra Kumar Vyas, Assistant Solicitor General.
For Respondent/State	:	Shri B. Gopa Kumar, Deputy Advocate General.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri P. Sam Koshy, J.

Order on Board

Per Navin Sinha, Chief Justice

19/11/2015

1. The Petitioners were candidates for the Pre Post Graduate Ayurved (MD/MS) Degree Course for 2015-2016 in response to the advertisement dated 6.9.2015. They appeared at the examination unsuccessfully and now seek to challenge the selection process and counselling commenced pursuant to the same from 23.10.2015.

2. Learned Counsel for the Petitioners submits that the whole process of examination was fundamentally flawed. Not only were the candidates asked to pay exorbitant fees but they have been failed in an illegal manner as many questions were wrong as also the answers to the same. There was lack of transparency in the examination and publication of results. The examination was not fairly conducted as the candidates were required to write their names on the answer sheets which could identify those who were to be favoured for tallying their papers with the model answer sheets for award of higher marks. There were flaws with regard to the service employee category candidates as the advertisement in respect thereof was not published in scheduled time but subsequently on the notice board only on 22.10.2015 and the first candidate in that category selected in another State was shown selected in the State of Chhattisgarh. Two of the Petitioners sought information under the Right to Information Act (hereinafter referred to as 'the RTI Act') which was not being supplied.

3. On the aforesaid basis, it is contended that the whole examination conducted on 15.10.2015 was a scam. The process of counselling is still going on and the admissions are yet to be confirmed by the Central Counsel of Indigenous Medicine. An enquiry by the Central Bureau of Investigation may therefore be directed with regard to the illegalities in conduct of the examination and

declaration of the result alongwith monetary compensation to the Petitioners.

4. Learned Counsel for Respondent No. 1 and 4 submits that the Petitioners are unsuccessful candidates seeking to challenge the entire selection process which is not permissible. They were all along aware of the fees being charged and the manner in which the examination was to be conducted. There has been no violation of any rules or procedures. What may or may not have been happened with regard to the service employee category is not relevant as the Petitioners do not belong to the service employee category. The allegations of any alleged defective questions or that any questions had two correct optional answers was made in a vague and generalised manner. In the absence of any specific assertion with details of the questions, it is not possible for the Respondents to deal with the contentions.

5. We have considered the submissions on behalf of the parties.

6. It is not in dispute that the Petitioners are unsuccessful candidates in the examination. From the applications stated to have been filed by the Petitioners No. 1 and 2 under the RTI Act, they have sought information with regard to the matters like what was the total amount of fees collected for the examination, under what law Rs. 3000/- was charged as fee from reserved category candidates and Rs. 5000/- from general category and notwithstanding the same, Rs. 5000/- fee was also charged from the OBC candidates. No further details have been mentioned. It is next stated why time to file objections was not given to the candidates. The next application states why the information with regard to allotment of seats in the course was not put up on the website, the reason why reservation roster for seats was not made known earlier and why fee was charged from Medical Officers in the extremely backward caste and general category. The next application states that 10-15 questions suffered from error in printing out of 100 questions, and how was the defect removed? But there is no mention of what these 10-15 questions were and what was the nature of defect in them. Likewise,

it is next stated that 100 questions were deleted as wrong on what basis, without any further details of the same. If questions have been cancelled, obviously it has applied across the board to all the candidates and has not worked to the prejudice of individual Petitioners in any manner. They have then sought a copy of the question paper and model answer under the RTI Act. The next grievance is that in some of the questions, the nature of which is unidentified, two options were correct and in what manner it has been dealt with.

7. It is to be noticed that the grievance raised in the writ petition that the candidates were required to disclose their names in the answer sheets did not form part of the applications filed by the Petitioners. Surely if the Petitioners had succeeded they would not have raised the issue as it would then have suited them. There is nothing on record to demonstrate that the Petitioners had protested in this regard at any earlier time before raising it in a vague generalised manner in the writ petition for the first time. The contents of the applications make it apparent that the Petitioners being applicants for the examination were all along aware of the entire procedure and participated in the same. It is not their case that any one of them had been charged a wrong fee and much less does the applications state to that effect. Even if excess fee has been charged, that would not vitiate the sanctity of the examination. The grievance with regard to the errors in the question papers, deletion of questions etc. are all too vague and it appears that after having been unsuccessful, the Petitioners seek a roving and fishing enquiry to somehow find fault in the process with a hope that they may get another opportunity if the examination are cancelled and re-examination is ordered.

8. The Court finds no merit in the writ petition. It is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE