

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2546 OF 2016

Mrs. Vinaya Vijay Ingavale	}	Petitioner
versus		
The State of Maharashtra	}	
and Anr.	}	Respondents

Mr. S. M. Oak with Mr. Sagar A. Joshi for
the Petitioner.

Ms. Sushma Bhende - AGP for
Respondent No. 1.

Mr.S.S.Patwardhan for Respondent No.2.

**CORAM :- S. C. DHARMADHIKARI &
G. S. PATEL, JJ.**

DATED :- FEBRUARY 29, 2016

P.C. :-

The Petitioner in this Petition has passed examination
of Bachelor of Medicine and Bachelor of Surgery in November,
2012 and was conferred the degree on 4th April, 2014.

2) She appeared for a common entrance test to pursue
her post graduate medical courses on 24th November, 2016. She
states that on 27th January, 2016, question paper booklets, along
with provisional keys of each version was displayed on-line on
website.

3) On 27th January, 2016, objections to question paper and answer keys were to be submitted on-line. The Petitioner raised as many as 9 objections and submitted the same on-line. Number of other students also submitted their respective objections. On 29th January, 2016 optical mark reader (OMR) answer sheets were made available on the website of Directorate of Medical Education and Research.

4) On 22nd February, 2016, the provisional result/marks of the said common entrance test of post graduate medical courses were declared. Another notification of the same date was displayed and published by respondent No. 2. That indicated the details of non-evaluative/invalid multiple choice question. In the said details of multiple choice question, the representation of the Petitioner, as far as 4 out of 9 objections are concerned, came to be accepted. However, the representation insofar as her 5 objections are concerned, was not considered and taken to be rejected.

5) The rejection of this representation is also on-line. 26th February, 2016 was the last date of verification of marks at the office of the designated authority and now the final merit list is going to be published and declared on 5th March, 2016.

6) This writ petition is by the Petitioner on the point that her 5 objections, *inter alia* dealing with multiple choice questions and the one indicated for sample as a multiple choice question No.282 which is set out in a compilation handed over by Mr. Oak and which is taken on record and marked as 'X' for identification, deal with the method of health communication.

7) That question and the possible answers read as under:-

“282. Method of health communication in which 4 to 8 qualified experts talk about a topic in front of a large group or audience is _____
 A) Group discussion B) Symposium
 C) Workshop D) Panel discussion”

8) Mr. Oak, learned Counsel appearing for the Petitioner was at pains to point out that there cannot be two key answers and taken to be correct one. For, a symposium cannot be understood as a same thing as panel discussion or the workshop. They all cannot be correct answers to this question.

9) This and other grievances highlighted in the Petition, according to Mr. Oak, would enable us to issue the same writ as is issued by this Court in a writ petition, namely, Writ Petition (L) No. 1681 of 2015.

10) It is submitted that this Court, on a scrutiny of the question in that case and the possible correct answer, was pleased

to direct that an expert committee headed by the dean of Grant Government Medical College and Sir J. J. Group of Hospitals, Mumbai should be appointed and which will consider the representation of that Petitioner and pass an appropriate order thereon.

8) Mr. Oak submits that relying upon this order, he is not suggesting that the same committee be conferred the powers, but all that the petitioner desires is a consideration of the representation, copy of which is at annexure 'C' dated 23rd February, 2016.

9) Mr. Patwardhan, learned counsel appearing for the 2nd respondent would submit that the petitioner has no vested right much less a fundamental one to question the competence of an authority designated as one for considering the objections and representations of aggrieved students. In the garb of making a representation to a distinct committee and which is subject matter of a particular order of this Court, the petitioner cannot enlarge the ambit and scope of the powers conferred in an authority to take note of any grievance relating to such a test styled as common entrance test for post graduate medical courses.

10) Mr. Patwardhan would submit that no Court order can displace or do away with the mechanism set up by the State and merely because the petitioner's representation has not met with complete success, she cannot approach this Court in writ jurisdiction and seek a direction in terms of prayer clause (a).

11) After hearing both sides, we find considerable substance in the contentions of Mr. Patwardhan.

12) We find at page 11 annexure 'B' to the writ petition is a notification dated 22nd February, 2016. That sets out the provisional result/marks of the post graduate medical common entrance test 2016. In para 2 of this notification, there is a specific reference to the objections/representation received from the candidates and the decision thereon by the competent authority. The process of evaluation has undergone some changes and in the manner set out in this notification.

13) It also purports to deal with another set of objections and with regard to some of the objections, what the competent authority states that the serial number of questions with change in key answers is shown in table 2 and another table would indicate version wise serial numbers of questions with two correct answer keys. Thus, in terms of this notification, the

competent authority purports to deal and dispose of the objections.

14) The Petitioner makes a representation, copy of which is at annexure 'C' and would submit that the questions with two answer keys are not acceptable according to standard textbooks and international medical journals published from time to time. In her submission, only one answer can be correct and second possible answer cannot be so. That is why the decision should be reviewed.

15) It is time and again held by the Hon'ble Supreme Court of India that in matters of this nature, the decisions of academic experts should not be interfered with unless they are found to be palpably arbitrary, illegal and vitiated by lack of bonafides. Just because another view is possible and in the opinion of the candidate appearing in such an examination, this Court cannot substitute the views of the grievances redressal mechanism. Merely because in one case the Court has done this and appointed a Committee does not mean it is a permanent mechanism put in place. That committee was meant for considering the grievance of that particular candidate who had approached this Court. The committee has no permanent power much less to displace the competent authority set up by the State. This Court has no

expertise and cannot therefore substitute its view with that of the experts in the field. Once the candidate like the Petitioner has no vested right on insisting on complete satisfaction of her grievances or redressal of her objection, then, all the more we are disinclined to entertain this writ petition.

16) As a result of the above discussion, the writ petition fails. It is dismissed. There would be no order as to costs.

(G.S.PATEL, J.)

(S.C.DHARMADHIKARI, J.)