

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION No.31838 OF 2016

ORDER: (Per Hon'ble Sri Justice V. Ramasubramanian)

The petitioner, who appeared for TS EAMCET-III but could not secure admission to a good college, in a course desired by her, has come up with the present writ petition, seeking a *mandamus* to declare the action of the respondents, in not awarding marks to her in respect of certain questions, as illegal and to grant consequential relief.

Heard Mr. K.G. Krishna Murthy, learned senior counsel appearing for the petitioner, Mr. P. Prabhakar Rao, learned counsel for the 2nd respondent-university, and Mr. V. Ramchander Goud, learned counsel appearing for the 3rd respondent-university.

The grievance of the petitioner is that after the conduct of TS EAMCET-III, on 11.09.2016, some persons filed objections to the key answers to some of the questions, which led the respondents to award full marks in respect of eight questions. This was on the ground that those eight questions were out of syllabus. The first grievance of the petitioner is that she has correctly answered at least two out of those eight questions and that if all the candidates had not been awarded marks for those eight questions, the petitioner would have secured sufficient cut off marks and a rank so as to get admission in a good medical college.

The second grievance of the petitioner is that in respect of question No.40, her answer was correct but the key answer was wrong. The provisional key answer originally given by the respondents tallied with the answer given by the petitioner but the respondents changed the key

answer resulting in the petitioner not getting marks for question No.40. The contention of the petitioner is that her answer and the provisional key answer to the question No.40 were correct.

Before we proceed to consider the contentions of the petitioner, it must be recorded that the last date for admission to medical courses is already over. The petitioner has also secured admission, probably in an insignificant institution. Therefore, the question of granting a *mandamus*, as prayed for, and re-working the allotment of candidates to various colleges would not arise at this distance of time. In other words, even if the petitioner succeeds, the entire select list cannot undergo a change now. Consequently, the only question that would remain is as to whether the petitioner would be entitled to any compensation, if the respondents are guilty of any wrong.

Keeping the above in mind, if we consider the contentions of the learned senior counsel for the petitioner, it is seen that the first objection relates to the questions that are supposedly asked out of syllabus. Insofar as such questions are concerned, there is no strict mandate of law. Some times some universities follow the practice of deleting all questions asked out of syllabus, so that all the candidates, who appeared for the examination, are given a level playing field. Some universities adopt a different method of providing a level playing field by giving marks to all candidates for those questions which were out of syllabus.

Though the petitioner may argue in favour of any one of these two methods, no person can claim that after having attempted an out of syllabus question successfully he or she should not be deprived of the marks. While preparing the rules for a game, it is not possible to envisage all kinds of situations and provide for all contingencies. If a rule has

universal application, the fact that some genuine cases get affected by the rule cannot be a ground to test the very correctness of the rule. The respondents have decided, on representations of several individuals, to award full marks to eight questions on the ground that they were out of syllabus. Therefore, the petitioner would have also secured marks for those eight questions. Hence, she cannot really make out a grievance.

Insofar as the second contention is concerned, the same revolves around the correct answer to question No.40. Admittedly, the provisional key contained one answer and the respondents have changed the same after objections were received. Once an expert body has taken a decision to arrive at a conscious decision, it may not be possible for us to see which is the correct answer. But, all that we can say is that when lakhs of young children participate in a competitive examination, the respondents should also be more careful. The Supreme Court has pointed that the universities cannot play with the lives of the young children and shatter their dreams by setting up questions which are either wrong or out of syllabus or to which the key answers are wrong.

Therefore, with the above observations, the writ petition is dismissed. No order as to costs.

As a sequel to dismissal of the writ petition, miscellaneous petitions, if any, pending in this writ petition, shall stand dismissed as infructuous.

V. RAMASUBRAMANIAN, J

G. SHYAM PRASAD, J

Date: 01-11-2016.
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(Order of the Division Bench delivered by
Hon'ble Sri Justice V. Ramasubramanian)

Date. 01-11-2016

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