

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO.3934 OF 2017
IN
WRIT PETITION NO.12178 OF 2016**

Dr. Komal Ravan Kagde ..Applicant

Vs.

Union of India
and anr. ..Respondents

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Mr.S.G.Chapalgaonkar, Advocate for Applicant
Mr.N.S.Choudhari, Advocate for respondent no.2

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**CORAM : S.V. GANGAPURWALA AND
SANGITRAO S. PATIL, JJ.
DATE : APRIL 03, 2017**

PER COURT :

Mr.Chapalgaonkar, learned Counsel for the applicant/petitioner, submits that the applicant was erroneously not allowed to complete the NEET-2017 examination for M.D.S. admission. The applicant had written her answer-sheet for almost one hour. The duration of the said examination was two hours. The applicant, after one hour, was asked to leave the examination hall on the ground

that she had not produced her original Aadhar Card which, according to the applicant, is illegal. The learned Counsel submits that the applicant had produced e-Aadhar Card which is a valid proof of identity.

2. The learned Counsel for the applicant further submits that for no fault of the applicant, the applicant cannot be made to suffer. He submits that on the basis of the marks given to the applicant for the questions attempted by her, marks may be given to her for all the questions on Pro-Rata basis.

3. Mr.Choudhari, learned Counsel for respondent no.2 submits that as the applicant had not produced the original Aadhar Card and the guidelines provide that a candidate should produce original identity card, she was rightly asked to leave the examination hall. He submits that in fact, the applicant initially was directed to bring original Aadhar Card so as to enable her to

appear for the examination. However, the applicant did not produce the original Aadhar Card. Other 6-7 students like the applicant, including the applicant, created ruckus and called journalists and in that ruckus, the applicant got entry in the examination hall and tried to write the paper. On noticing this, appropriate steps were taken.

4. The prayer in this Civil Application that the respondents may be directed to assign marks to the applicant on Pro-Rata basis, cannot be considered since it would be on hypothetical basis. The applicant might have attempted the questions, which, she was knowing to be correct. However, it cannot be presumed that the applicant could have answered the remaining questions with the same proficiency. It would not be possible for this Court to give directions to the respondents to give marks to the applicant on hypothetical basis. In view of that, the said prayer cannot be considered.

5. It is a fact that the applicant was not allowed to solve the complete question paper. The mark-sheet given to the applicant as 'unqualified' was on the basis of the marks given for the questions attempted by her as she was not allowed to attempt the entire question paper. As such, it cannot be said on merits, that the applicant has failed. The appearance for short time in the said examination would not tantamount to 'attempt'.

6. The Civil Application stands disposed of accordingly.

7. The Writ Petition will be heard with regard to the order passed on 13.12.2016 after three weeks.

[SANGITRAO S. PATIL, J.] [S.V. GANGAPURWALA, J.]

kbp