

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.21497 of 2017

ORDER:

Declaring the action of the respondents in not evaluating the OMR sheet of (answer script) of the petitioner, who appeared for NEET test 2017 with Roll No.909109980, as illegal and arbitrary, the present Writ Petition came to be filed.

2) The petitioner herein, after completing his X class from Sri Chaitanya School, Kukatpally joined in Intermediate with Biology, Physics and Chemistry group in Chaitanya College, C.V. Raman Branch, Kukatpally. He completed his Intermediate by securing 85%. Thereafter, he joined at Akash, Kukatpally and also other institutes for specialized training to the entrance exam. Pursuant to a notification issued, the petitioner herein applied and was allotted Roll No. 909109980 for appearing in the entrance test. After the examination, the candidate was permitted to take back the question paper and according to the averments, he was sure of getting anywhere between 300 to 430 marks. After completing the evaluation process, the respondent published the key answers and also uploaded the OMR sheets in the official website of the respondents, which was made available for downloading by the candidates. Since the respondents themselves admitted that three of the questions in Physics were wrong, about 12 marks were added to each of the candidates. The results declared showing that the petitioner secured

only 12 out of 720 marks and All India Rank was shown as 1078793. Shocked by this result the petitioner downloaded the sheet and was surprised to notice that there was no blackening on the OMR sheet to any of the answers. On a close scrutiny of the OMR sheet, it was found that there was an extra dot in the first row of the test booklet Number. In the last column, apart from "0" serial No."1" was also slightly blackened. A representation was sent to the Chairman of the first respondent/Central Board of Secondary Education on 23.06.2017, but there was no response. Since the admission process is about to begin, the present Writ Petition is filed.

3) The learned counsel for the petitioner mainly submitted that it is highly improbable to believe that a student who secured 87% marks in Intermediate examination, could not have darkened even one single answer. It is his case that as there was darkening of the bubble twice in the last column of test booklet number, there is every possibility of OMR sheet being not evaluated by the system. In the absence of any such warning being given to the students, the action of the respondents would amount to changing the rules of the game after the commencement of the game. He placed reliance on variance judgments of different courts to show that non-evaluation of the answer sheet due to an error in darkening, is illegal and improper. Since all the columns in the OMR sheet have been fulfilled, he submits that ends of justice would be met if the original OMR sheet is summoned to the court so as to verify whether there was really any

blackening of the answer sheet or not and. If for any reason, the test paper is not evaluated in spite of blackening of the answers, the authorities may be directed to physically evaluate the sheet. Pursuant to the repeated requests made by the counsel, on the ground that all the answers in the OMR sheet were wiped off due to error committed in blackening the bubble twice, he seeks interference from this Court. Pursuant thereto, on 05.07.2017 this court directed the standing counsel for the respondents to produce the hard copy of the answer sheet/OMR sheet of the petitioner and also directed the authorities to verify the number of marks which he will get, if the paper is evaluated manually. In view of the directions of this Court, the answer sheet/OMR sheet of the petitioner was brought in a sealed cover by a representative of the respondent/organization from New Delhi and the same is produced before the Court on 12.07.2017. The same was opened in the presence of both the counsel. A perusal of the same, indicated that none of the answers were answered/no blackening was noticed to any of the questions. The same was shown to the counsel for the petitioner and also to the father of the petitioner, who was also present in the court. All of them perused the answer sheet, verified the Hall Ticket number and other particulars and were also satisfied that the answer sheet is that of the petitioner. After perusing the sheet, the counsel handed over the same to the respondent, who in turn kept it back in the cover and returned it to the person who brought it from Delhi. Copies of the said sheet are

filed before this Court by the respondent counsel. Thereafter, the matter was directed to be listed for hearing on the next day.

4) On 14.07.2017, when the matter was taken up for hearing the learned counsel for the petitioner would contend that it is highly improbable to believe that the petitioner could not have answered even one question or blackened even one answer either with correct or wrong answer. According to him, some mischief has occurred and the answer sheet, which is produced before the Court is not the one, which was handedover by the petitioner in the exam hall. The said fact is strongly objected to by the learned counsel for the respondents contending that when the signature on the answer sheet is not disputed, the question of raising genuinity or authenticity of the OMR sheet cannot be accepted.

5) It is to be noted that, earlier, the learned counsel for the petitioner, while arguing the matter earlier pleaded that if the original OMR sheet is produced before this Court, things would answer for themselves. Pursuant to the repeated requests made, more particularly with regard to the knowledge and capabilities of the petitioner, this Court summoned the answer sheet. Strangely it was found that there was no blackening to any of the answers in the OMR sheet. Had the answer sheet was not produced before the Court, probably the argument of the counsel that the darkenings got wiped off or the system did not evaluate the same because of an error in blackening the test booklet number could have been accepted. But

now the answer sheet is produced before the Court and on physical verification of the same, it was found that none of the questions were answered by the petitioner. The genuinity of the signature of the petitioner on the answer sheet was not disputed earlier, though it was perused not only by the counsel for the petitioner but also by the father of the petitioner and his friend. Now, during the course of arguments, the authenticity and genuinity of the OMR sheet is doubted. There is no necessity for the respondents to produce a fake or a duplicate or an unanswered answer sheet. No motive is attributed to any of the respondents to produce a fake OMR. At the same time, it should also be noted that the answer sheet contains the signature of the candidate and also that of the Invigilator, which tallies with the OMR sheet downloaded by the petitioner on the date of announcements of results and filed along with the writ petition. In fact, the same is not disputed. Therefore, the plea that a fake or duplicate answer sheet has been produced to defeat the rights of the petitioner in securing a seat in a Medical course, cannot be accepted. Hence, this court feels that there is no merit in the Writ Petition and the same is liable to be dismissed.

6) Accordingly, the Writ Petition is dismissed. No costs. Miscellaneous Petitions, pending if any, in this Writ Petition shall stand dismissed.

JUSTICE C. PRAVEEN KUMAR

Dt:20.07.2017
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