



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 06.07.2018
DELIVERED ON : 10/07/18

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CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
&
THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED

W.P. (MD) No.11916 of 2018
&
W.M.P. (MD) Nos.10872,10873 and 10874 of 2018

T.K.Rangarajan ... Petitioner
Vs.

1. Union of India through its Secretary
Ministry of Human Resources Development,
PO and PS Shastri Bhawan, A-Wing,
Dr.Rajendra Prasad Road, New Delhi-110001
2. The Central Board of Secondary, (CBSE) Education
rep. by Chairman
Siksha Sadan, No.17, Institutional Area Riouse Avenue
Delhi.
3. The Deputy Secretary, National Eligibility cum
Entrance Test Unit, Central Board of Secondary Education
Shiksa Kendra, 2, community Centre, Preet Vihar,
Delhi-110092
4. The State of Tamil Nadu
Department of Health and Family Welfare
rep. by Secretary, Fort. St.George, Chennai ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus to admit the students for M.B.B.S/B.D.s under the 4th respondent colleges based on the 12th standard marks of in the alternative direct the respondent to award 196 grace marks to all the candidates who sat for the NEET exam in Tamil Medium NATIONAL ELIGIBILITY CUM ENTRANCE TEST (UG) - 2018 (NEET(UG)-2018 for short) examination conducted on 06.05.2018 and to direct the 2nd respondent to admit students thereafter in the Medical/Dental Colleges for the year 2018-19.

<https://hcservices.ecourts.gov.in/hcservices/>

For Petitioner : Mr.N.G.R.Prasad, Senior Counsel



For R1

for Mr.L.Shaji Chellan
: Mr.V.Kathirvelu, Assistant Solicitor
General of India
Assisted by Mr.P.Paul Pandi, Central
Govt.Standing Counsel

For R2&3

: Mr.G.Nagarajan, CBSE Standing Counsel
for Mr.T.Jeevanathan

For R4

: Mr.K.Chellapandian, Additional Advocate
General
Assisted by Mr.R.Sethuraman, Special
Government Pleader

O R D E R

Petitioner, a politician and member of Parliament informs of having been working for the welfare of the people for the past 50 years. Explaining that the National Eligibility Cum Entrance Test Unit, UG-2018 (herein after referred to as NEET) question paper in all languages was of three hours/duration and contained 180 objective type questions, that for each question 4 marks were allotted, one negative mark would be deducted for each wrong answer and that the Tamil question paper in the examination conducted on 06.05.2018 contained as many as 49 erroneous questions i.e almost 1/3 of the questions were wrong. Petitioner *inter alia* prayed that 196 grace marks be awarded for all the candidates who attempted the NEET-UG-2018 in Tamil. Petitioner has further informed the opinion of his political party as being that there should be no NEET examination at all in Tamil Nadu since the same is based on more than one syllabus. He states the difficulty of students studying other than CBSE syllabus and particularly in Tamil medium as follows:

7. The syllabus for the test is based on the common syllabus notified by the Medical Council of India. Though it is stated as common syllabus, it was really based on the CBSE syllabus in Tamil Nadu. We are having Samacheer Syllabus which different from the CBSE syllabus. The CBSE is following books prescribed by the National Council of Educational Research and Training (NCERT for short) books. There are no Tamil books in Physics, Chemistry, Botany, Zoology and Biology with NCERT syllabus. I submit candidates who have studied under the Samcheer Syllabus have to study for the NEET examination separately.

8. I submit that no adequate steps were taken by the Govt. of Tamil Nadu to train the Tamil candidates who studied under Samacheer Syllabus to compete with all India candidates. Several academicians made a request for



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separate coaching centres to the aspiring State Board students who have studied in Tamil. One of the non-profit organizations, Tech for All also conducted a press meet and explained the difficulties in translating the question paper from English to Tamil, because there should not be any discrepancies between the word usage in Samacheer Syllabus and question paper. Otherwise, it will create a doubt in the young minds.

9. I submit that Tech for All created a separate mobile application to train the Tamil Medium Samacheer syllabus students. The same application was utilized by the Govt. of Tamil Nadu to conduct special coaching classes at free of cost. The main difficulty in providing coaching to the candidates is lack of adequate NCERT books in Tamil Language. The CBSE itself is providing those books in English, Urdu medium etc.

10. I submit that as per the statistics of NEET (UG) - 2018 submitted by the 2nd respondent totally 13,23,672 Indian candidates applied, in which 1,07,288 candidates appeared from the Tamil Nadu. According to the statistics published by the 2nd respondent totally 170 centres were allotted in Tamil Nadu. As per the media reports I came to know that there are some Tamil Nadu candidates allotted other states also. It created a lot of trouble to candidates as well as their parents also. Tamil Nadu is the 4th largest state having 1,07,288 candidates in the NEET-2018. According to the media reports, nearly 24,000 candidates appeared in NEET with Tamil language question papers. Around 24,000 Candidates were provided with Bilingual Test Booklet i.e. Tamil and English. These people were allotted centres cities in Tamil Nadu. The candidates were familiar only with Tamil having done 12th standard in Tamil Medium.

11. I submit that a comprehensive study of question paper was made by the Tech for All group. Based on the recommendations given by the various subjects' experts totally 49 out of 180 questions were in Tamil in correct. There were several mistakes in translating the technical words in Tamil. Therefore, totally 49 marks had to be given to the all Tamil Medium candidates in the alternative to do away with NEET for the year 2018-19.



Pointing out these irregularities, the Tech for All made a representation through e-mail to the CBSE on 10.05.2018 itself. On 10.05.2018, a separate representation was given to the CM Cell also pointing out the irregularities.

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2. To highlight the erroneous translation of the Tamil question paper he states in para 13 of the affidavit as follows:

13. I submit that the Tamil question paper is translated without any proper care and caution. While translating the technical words used in the Samacheer Syllabus is not used, it created confusion. For example in question No.75 "Cheetah" is translated literally as "Seetha," question No.77 in which "multiple allele" a technical word in Tamil was translated as "pala kuttu illegal" instead of "pal kootu". Question No.82 "Ureter" is not translated as "Siru neer nalam", Question No.76 "octopus" was written as "Aathatapus". Question No.50 "vitha vangi" printed as "vathi vangi", question no. "Nagam" printed as "ragam". These errors created a lot of confusion in the minds of the students and affected their overall performance in the examination.

and contends in para 14 as follows:

14. I submit that out of 180 questions there are 10 errors in Physics, 6 questions in Chemistry, in Biology 33. The separate list of questions and errors is annexed in the typed set of papers. Unless grace marks for the 49 questions are not given, it will create a great prejudice to the students who wrote in Tamil medium. Because the admission is solely based on, the marks obtained in NEET and on the all India Ranking issued by the CBSE. On 24.05.2018 without considering, any of the objections the CBSE issued answer keys.

3. On contentions as informed above petitioner prays for following reliefs:

(a) To issue an order of ad-interim injunction restraining the respondents 1 to 3 from publishing the National Eligibility Cum entrance Test - UG- 2018 results pending disposal of the writ petition.

(b) To issue an order of interim direction directing the respondents 1 to 3 to award grace marks to those 49 questions for all the candidates who sat for the National Eligibility cum Entrance Test - UG- 2018 examination in Tamil medium pending

disposal of the writ petition.

(c) To issue an order of interim direction directing the respondents to conduct M.B.B.S/B.D.S admission under the 4th respondent colleges with the 12th standard marks pending disposal of the writ petition.

(d) To admit the students for M.B.B.S/B.D.S under the 4th respondent college based on the 12th standard marks or in the alternative direct the respondent to award 196 grace marks to all the candidates who sat for the NEET exam in Tamil medium NEET (UG) -2018 examination conducted on 06.05.2018 and to direct the 2nd respondent to admit students thereafter in the Medical/Dental colleges for the year 2018-19.

4. We have heard the learned counsel for petitioner. Mr.V.Kathirvelu, Assistant Solicitor General of India for first respondent, Mr.G.Nagarajan, Standing counsel for respondents 2 and 3 and Mr.K.Chellapandian, AAG for R4.

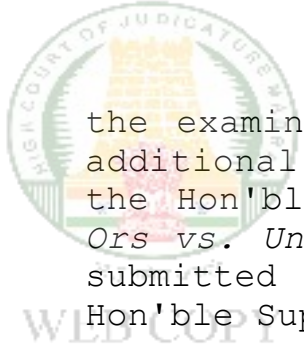
5. We would straight away state that we would restrict our consideration to the demand of grant of grace marks for erroneous questions for the Tamil medium question paper.

6. Mr.N.G.R.Prasad, learned counsel submitted that the information bulletin for NEET 2018-19 informed of conduct of test on 06.05.2018, as was done, and declaration of results on 05.06.2018 (Tuesday). Mention of moving this Writ petition was made before this Court on 04.06.2018 at 10.30 a.m., when this Court informed that the matter may be brought up at 1.30 p.m. In an attempt to render the writ petition infructuous, the respondents have published the result on 04.06.2018 by 12.30 p.m as against the prefixed date of 05.06.2018.

7. Learned counsel referred this Court to a typed set wherein specific note had been made of the 49 questions wherein the Tamil translation had been erroneous and also a tabulation of the erroneous words and the corresponding correct words. Learned counsel submitted that such tabulation was made on the basis of words used in the text book used for Samacheer Kalvi printed at the Government press.

8. Referring to a communication of 10.05.2018 by email by Tech for All to CBSE as also to the Hon'ble Prime Minister, the communication of the petitioner dated 11.05.2018, as a member of Parliament, to the Hon'ble Minister for Human Rights Development, learned counsel submitted that the representations have gone unheeded and hence the necessity to approach this Court.

9. Learned counsel referred to judgment of Bombay High Court (Nagpur Bench), in W.P.No.2842 of 2018, Vaishnavi Sandeep Maniyar vs. The Board of Secondary Education, National Eligibility cum Entrance Test Unit, thr. Its Secretary, wherein such Court towards compensating a student for deprivation of time in writing



the examination, by way of final order dated 15.06.2018, granted additional proportionate marks by following the formula evolved by the Hon'ble Apex Court in W.P. (C)No.551/2018 (*Disha Panchal and Ors vs. Union of India, The Secretary and Ors.*). Learned counsel submitted that appeal against such order was dismissed by the Hon'ble Supreme Court by order dated 21.06.2018.

10. As an illustration, learned Senior counsel submitted that State wise number of candidates appearing in NEET, UG-2018-19 was informed on 04.05.2018 as 35,641 from Bihar and 1,07,288 from Tamil Nadu. The grand total was shown as 13,26,725. List of qualified candidates informed the total Bihar candidates who had registered as 66,071, appeared as 66003 and qualified as 37,899 i.e against the original list of 35,641 appearing from Bihar. Candidates who appeared from Tamil Nadu have been shown as 1,20,000 applicants, 1,14,602 appeared and 45,336 qualified. However, the grand total of applicants remained the same at 13,26,725. Learned counsel would wonder on how the candidates who qualified in Bihar would be more than those initially shown as appearing therein.

11. Learned counsel submitted that the complaint of Tech for All received by the office of the Hon'ble Prime Minister on 27.05.2018 had been forwarded to the Central Board of Secondary Education (CBSE) and the respondents date of action report dated 14.06.2018 had stated as follows:

" As alleged by some students that there is a translation error which is incorrect and all the question paper set in regional language is incorrect."

Learned counsel submitted that unless this Court came to the aid of the Tamil Medium students who had been put to serious disadvantage, interests of justice would suffer and their future would be rendered bleak. Learned counsel added that in Public notice dated 24.05.2018, CBSE and NEET had stated that the display of answer key would be made available on specific dates and the display of answer key and optical machine reading sheets and responses as also test booklet code would be displayed on particular dates and all these may be challenged by paying a process fee of Rs.1,000/- for each and every one of them. Learned Senior counsel submits that if a student is to challenge all three in respect of 49 questions he would have to pay $49 \times 3 \times 1000 = \text{Rs.1,47,000/-}$.

12. Learned Assistant Solicitor General of India appearing for 1st respondent submitted that the information published by the 2nd respondent was most elaborate and detailed. He took us to portions thereof to inform that candidates not complying with the

<https://hcmvscourt.gov.in/services>

of the CBSE was kept in the knowledge of students through hosting of material on the website and candidates have been advised to be



in constant touch with the website and check their emails/sms for latest updates. Learned counsel submitted that 2nd respondent would communicate all instructions through website only. He drew our attention to the introductory chapter wherein it has been stated as follows:

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" As per the directions of the Hon'ble Supreme Court of India in WP(C) 390/2017 dated 10.08.2017, the comprehensive affidavit as to how CBSE is going to conduct examination in future, was placed alongwith draft Information Bulletin before the Hon'ble Supreme Court of India. CBSE will therefore, hold NEET (UG), 2018 in compliance of the orders dated 25.01.2018.

.....

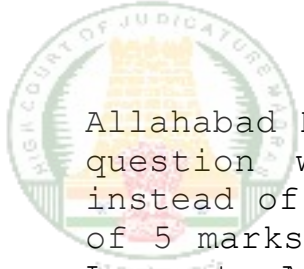
The responsibility of CBSE is limited to the conduct of the entrance test, declaration of result and providing All India Rank to the Directorate General of Health Services, Ministry of Health and Family Welfare, Governor of India for counselling of 15% All India Quota seats. Deemed Universities/Central Universities of ESIC & AFMC including BHU & AMU and providing the result to the State Counselling Authorities and Admitting Institutions."

He would stress on the following in the chapter on general information wherein it has been stated as follows:

"(vi) In case of any ambiguity in translation of any of the questions, its English version shall be treated as final. "

13. Learned Assistant Solicitor General of India submitted that without any communication to the 2nd respondent the petitioner had straight away moved this Court by way of this writ petition.

14. Learned counsel for 2nd respondent raised a preliminary objection to the maintainability of the writ petition informing that none of the aggrieved students had approached this Court and this petitioner had no *locus standi* to present this petition. Petitioner raised a challenge very much after the conduct of examination on 06.05.2018. The 2nd respondent was only an examination conducting authority, the syllabus was not in keeping with that of the CBSE but it was the Medical Council of India which informed the syllabi. This was to establish uniformity across the country keeping in view the relevance of different areas in Medical Education. Learned counsel submitted that the question paper was set only in English. CBSE requested State Services from the respective States to submit a list of translators. Using their services the question papers were translated to the respective regional languages. Learned counsel submitted that a student had moved the



Allahabad High Court seeking grant of marks on the ground that the question was a mistake. The Allahabad Court High Court had, instead of 4 marks originally allotted to her, directed allocation of 5 marks. The Hon'ble Supreme Court had under orders in Special Leave to Appeal (C) No.21705 of 2017 dated 24.08.2017, stayed such judgment and also requested such High Court not to entertain any writ petition in such regard. Learned counsel submitted that counseling of students was on and this Court would not interfere. Learned counsel submits that he is not in a position to inform why results were published one day prior to the announced date and immediately just before this Court has commenced hearing of this writ petition. He also informs that as of now he is unable to explain the discrepancy informed viz., the number of candidates who have qualified in Bihar being more than the number found eligible to appear.

15. We have given anxious consideration to the rival submissions.

16. The Hon'ble Supreme Court under orders dated 10.08.2017 in *Sankalp Charitable Trust vs. Union of India, Ministry of Health and Family Welfare & Ors.* observed :

"Having heard learned counsel for the parties at length, we are of the considered opinion that the NEET examination conducted by the CBSE should be without any kind of ambiguity. Be it stated that the question papers are set in English, Hindi and Signature Not Verified Digitally signed by regional languages. The picture that has been NEELAM GULATI Date: 2018.02.02 projected before us is that there is difference in 15:25:14 IST Reason: the question papers and, therefore, CBSE applies the principle of equivalent difficulty. We are disposed to think that it would be appropriate for CBSE the question papers set in English, Hindi or in regional languages should be the same. It shall facilitate the students' community to choose the language they intend to adopt to answer the questions and in that event the principle of uniformity shall be appositely maintained for all the categories of students. When there is appropriate translation, the identity and uniformity of the question papers will be in the realm of certainty. We have been apprised that it is difficult to translate certain areas in regional languages pertaining to medical terms. In such circumstances, it shall be within the domain of the experts to use the medical terms as



they are. It relates to the experience of the experts.

In view of the aforesaid, we direct the CBSE to file a comprehensive affidavit as to how it is going to conduct the examination in future. Let these matters be listed on 10th October, 2017.

As we are contemplating to dwell upon the uniformity of the question papers, we request all the High Courts not to entertain any writ petition in this regard."

The above order reflects the concern of the Hon'ble Supreme Court that conduct of the NEET examination by CBSE should be without any kind of ambiguity. Of course the Hon'ble Supreme Court has said that where translation of medical terms in certain areas in regional language is difficult it would be within the domain of experts to use the medical terms as they are. Reproducing its order of 10.08.2017 the Hon'ble Supreme Court under orders dated 25.01.2018 has taken note of the following in the affidavit filed on behalf of the CBSE:

".. Pursuant thereto decision has been taken by the Central Board of Secondary Education (CBSE) which has been stated on oath thus:

"9. I further say that in compliance with the aforementioned order of this Hon'ble Court, the Central Board of Secondary Education, Delhi (in short, 'CBSE')-Respondent No.2 has decided about the pattern of NEET-UG,2018-19 as follows:

(a) The Entrance Test shall consist of one paper in all languages containing 180 Chemistry and Biology (Botany and Zoology) to be answered on the specially designed machine-gradable sheet using Ball point pen provided by CBSE at examination centre only.

(b) The duration of test would be 03 hours.

(c) Language of the question papers.

(i) Candidates can opt for question papers in either of the following languages:

ENGLISH	HINDI	ASSAMESE	BENGALI	GUJARATI	KANNADA
MARATHI	ORIYA	TAMIL	TELUGU	URDU	

ii. Option of medium of question paper will be exercised while filling in the application form. The option once exercised by candidates cannot be changed later.

Iii. Candidates opting for English would be provided Test Booklet in English only.



Iv Candidates opting for Hindi would be provided Bilingual Test Booklet i.e in Hindi and in English.

v. Candidates opting for vernacular languages would be provided Bilingual Test Booklet i.e in selected language and in English.

vi. In case of any ambiguity in translation of any of the questions, its English version shall be treated as final.

SYLLABUS FOR THE TEST

The question papers for the test shall be based on a common syllabus notified by the Medical Council of India.

10. I further say that with regards to eligibility criteria pertaining to minimum qualifications, Age, Syllabus and other conditions, for which Medical Council of India and Dental Council of India are the Competent Authorities, shall be as decided by them and shall be given in the Information Bulletin of NEET-UG, 2018.

11. I further say all the relevant information regarding National eligibility cum Entrance Test- UG, 2018 (Sessions 2018-19) for admission to MBBS/BDS through Information Bulletin, which would be made available to the candidates on its website. A copy of the Draft Information Bulletin of National Eligibility cum Entrance Test-UG, 2018 in which the scheme of NEET-UG is given is annexed as ANNEXURE 'R-2/8'."

In Conclusion the Hon'ble Supreme Court has held:

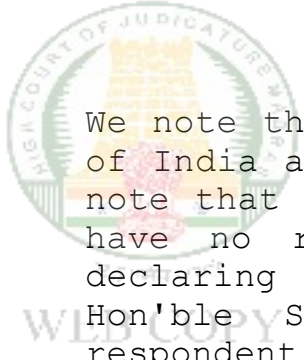
"In view of the statement so made, the order passed by this Court on 10.08.2017 stand complied with.

Let examination be held as assured by the CBSE as mentioned in aforementioned paras 9,10 & 11.

Accordingly the writ petition stands disposed of."

17. We note that the affidavit filed by the CBSE has passed muster. We note that in the affidavit the following has been slipped in:

<https://hcservices.ecourts.gov.in/hcservices/>. In case of any ambiguity in translation of any of the questions, its English version shall be treated as final."



We note that this is what the learned Assistant Solicitor General of India appearing for the Central Government has harped upon. We note that the submission of learned counsel for CBSE is that they have no role to play except conducting the examinations and declaring the results. We ask ourselves this question. Can the Hon'ble Supreme Court be understood as permitting the 2nd respondent/CBSE, to play "Pontius Pilate" and wash its hands off all responsibility. In our understanding what the Hon'ble Supreme Court has permitted is the use of medical terms as informed in English, in teaching conducted in regional languages.

18. We would think that if medical terms in English used by experts may be used in question papers, then CBSE had an obligation to inform the students community what the respective medical term meant/relates to. English, is to us a Foreign language. It is common knowledge that save for those who have had the good fortune of studying in elitist English medium schools, the average knowledge of English even of one who has gone through school in the English medium of study, generally is just about adequate. Can a student, who all through his school years has studied in the Tamil medium and in all probability given to 'nibbling at the edges' in so far as English is concerned, be told that in case the question in Tamil is ambiguous, the English version would be treated as final. We would think not. It is this concern that has prompted us to raise the following questions on 02.07.2018, requiring answers by way of affidavit from CBSE.

(i) Whether any exercise has been undertaken by CBSE to ascertain which of the English Words in the syllabi for science subjects are incapable of being reproduced in an equivalent word in Tamil?

(ii) If such exercise had been conducted, has the CBSE compiled a dictionary informing the English word and the equivalent Tamil word as near as may be in Tamil.

(iii) If so, has such compilation been brought to the knowledge of teachers conducting classes in Tamil medium?

(iv) Has any exercise been conducted towards educating the students studying in Tamil medium that the name of an organ, body part, plant, substance, etc., informed as a particular word in English shall be referred in Tamil as a specified word in Tamil?"

19. Learned counsel for CBSE has informed replies in the form of a statement informing that want of time did not enable filing the answers by way of affidavit. We have accepted such explanation. The answers are as follows:

[https://hcservices.ecourts.gov.in/hcserv\(cis\)](https://hcservices.ecourts.gov.in/hcserv(cis)) . Whether any exercise has been undertaken by CBSE to ascertain which of the English Words in the syllabi for science



subjects are incapable of being reproduced in an equivalent word in Tamil?

(ii) If such exercise had been conducted, has the CBSE compiled a dictionary informing the English word and the equivalent Tamil word as near as may be in Tamil.

NATIONAL ELIGIBILITY CUM ENTRANCE TEST (UG) - 2019 is conducted as per regulations framed under the Indian Medical Council Act-1956 as amended in 2018 and the Dentists Act-1948 as amended in 2018. The responsibility of the CBSE is limited to conduct of the examination and declaration of result. It is humbly submitted that it is not feasible for CBSE to ascertain that which word of the English in the syllabi for science subject are incapable of being reproduced in an equivalent word in Tamil. CBSE is using subject experts of the concerned language in the field of Physics, Chemistry and Biology. In case of the Tamil language, experts are those, who are teaching these subjects in the regional languages and aware about Tamil terminology that have been used to translate the English version of question paper into Tamil language. The same is the case with the other 10 languages viz, English, Hindi, Assamese, Bengali, Gujarati, Kannada, Marathi, Oriya, Telugu and Urdu. It is not out of place to mention here that main question paper is framed in the English language and thereafter it is translated by the subject experts of the concerned regional language. These experts are using the dictionary available in the market in the regional language and other supportive material to translate the question paper into the regional medium.

3. If so, has such compilation been brought to the knowledge of teachers conducting classes in Tamil medium?

In case of the teachers, it is stated that they are already teaching physics, chemistry and biology in the regional languages and they are trained in the subjects. However, it is not the responsibility of the CBSE to inform all the states in which the question paper of NEET is conducted in the regional language. The question paper are conducted in the regional language because already the teachers are teaching the physics, chemistry and biology in the regional medium in these



subjects certain dictionary are available. The same is the case with the student as there is also being taught in the regional medium by the teachers.

4. Has any exercise been conducted towards educating the students studying in Tamil medium that the name of an organ, body part, plant, substance, etc., informed as a particular word in English shall be referred in Tamil as a specified word in Tamil?"

It is pertinent to mention that when the issue of regional language question paper was discussed in the case of Sankalp Charitable Trust, in the writ petition 390/2017 before the Hon'ble Supreme Court, the Apex Court observed as under:

"..... We have been apprised that it is difficult to translate certain areas in regional languages pertaining to medical terms. In such circumstances, it shall be within the domain of the experts to use the medical terms as they are. It relates to the experience of the experts."

It is most respectfully submitted that in all the regional languages, the subject experts are those, who are the experts in the regional language concerned and they have been requested to translate the question paper from English to regional medium and the same is the case with the Tamil medium."

We are unable to accept the answers given. The answers afforded by the CBSE to the effect that teachers in the respective languages have knowledge of relevant technical terms and would have thought the students the same are in the realm of presumption.

20. If the Hon'ble Supreme Court permits the using of technical terms determined by experts in respect of that which is not capable of easy translation into a regional language, it stands to reason that the student who is to take the NEET examination, be it any in regional language, be apprised thereof.

21. The issue of CBSE publishing key answers etc., calling for challenges thereto on payment of cost and thereafter arriving at a decision upon which a decision is taken on what is the most appropriate answer and that such answer would form basis of correction and grant of marks has been raised before us. We are left wondering whether the CBSE, a Board, entrusted with the conduct of an examination at the national level can be so uncertain about the answer to the questions raised by it. Such an exercise might be acceptable in respect of civil service examination, but it could have the effect of raising the level of precision of an answer but to do the same in respect of NEET Examination where the general age of students is 17 - 18, would



be to raise the degree of difficulty - to that which has not been taught.

22. Before returning to the issue on hand, we will deal with the question of locus-standi of petitioner raised by learned counsel for CBSE merely to inform that the issue raised viz., of 49 out of 180 questions being erroneous is of large enough public interest and its matters little, who raises the same.

23. Coming to the issue on hand we would draw a distinction between ambiguity, i.e. that which is unclear and error, i.e. that which is wrong. In this case we are dealing with 49 errors in the Tamil medium question paper which have cost or had the likelihood of costing students dearly. In the Allahabad case cited before us, the matter related to a single error. Here we have as many as 49 errors which the CBSE admits to. The difficulty of a student taking the examination of such importance in understanding rightly a wrong question, be however so mild error is to be appreciated placing ourselves in his shoes and not in the shoes of those having the leisure of easy chair reflection.

24. We are of the view that students who have taken the NEET - 2018 examination in Tamil medium suitably should be compensated to provide them a level playing field.

25. A Lament:

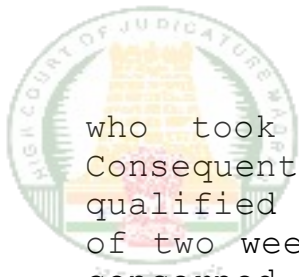
We note that students who pursue private study in plus two are not eligible to apply for NEET. Why is this so?

We have tens of thousands of children, having to support a mother, siblings, ailing parents and elders and sometimes a deserving father, by eking out a living by earning that extra rupee which keeps the home fire burning and yet in real earnest pursue private study simply because they want to be educated. They want to lift themselves out of the squalor their lives are. Why are such children being deprived? Is it because they do not put in 'n' number of fixed hours of study or is it because science subjects require practical training which they are not exposed to?

If it is the first question, is it not the knowledge gained as reflected by performance in examination that matters?

If it is the second, should not Government/Education bodies provide for practical training, widely publish the availability thereof and thus enable such deserving students to hope for a better tomorrow. At the end of the day, our Constitutional scheme is inclusive, not exclusive. We trust that the issue will engage the attention of the authorities.

<https://hcservices.courts.gov.in/hcservices/> 26. In the result, this writ petition is partly allowed. We direct the 2nd respondent/ CBSE to grant 4 marks for each of the 49 erroneous questions, that is in all 196 marks to the candidates



who took the NEET (UG)-2018-19 examination in Tamil medium. Consequently, the 2nd respondent/ CBSE shall revise the list of qualified candidates and publish the same afresh within a period of two weeks from today. It shall then be open to the authorities concerned to go about counseling eligible candidates. As a necessary corollary to the above, the list of qualified candidates shall be kept in abeyance as would the counseling sessions, pending publishing details of the qualified candidates afresh in keeping with the above order. Connected Miscellaneous Petitions shall stand closed. No costs.

Sd/
Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar

To

1. The Secretary
Union of India
Ministry of Human Resources Development,
PO and PS Shastri Bhawan, A-Wing,
Dr.Rajendra Prasad Road, New Delhi-110001
2. The Chairman
Central Board of Secondary, (CBSE) Education
Siksha Sadan, No.17, Institutional Area Rouse Avenue
Delhi.
3. The Deputy Secretary, National Eligibility cum
Entrance Test Unit, Central Board of Secondary Education
Shiksha Kendra, 2, community Centre, Preet Vihar,
Delhi-110092
4. The Secretary, State of Tamil Nadu
Department of Health and Family Welfare
rep. by Secretary, Fort. St.George, Chennai

Copy to :

- 1.The Secretary,
Higher Education Department,
Fort St. George,
Chennai.
- 2.The Secretary,
School Education Department,
Fort St. George,
Chennai.



3.The Secretary,
Social Welfare Department,
Fort St. George,
Chennai.

+2cc to Mr.L.SHAJI CHELLAN, Advocate, SR.No. 71923
+1cc to Mr.P.PAUL PANDI, Advocate, SR.No.71873
+1cc to Mr.G.NAGARAJAN, Advocate, SR.No. 71870
+1cc to M/s.Special Government Pleader,SR.No. 71907

W.P. (MD) No.11916 of 2018
10.07.2018

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