

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE Ms JUSTICE J.UMA DEVI

+ Writ Petition No.29296 of 2018

% Date: 29-8-2018

Dr. Nagalla Vijay Krishna S/o Ganapathi Prasad,
Aged: 30 years, Occ: Doctor, R/o D.No.33-8-25,
Kanchiraju Vari Street, Tanuku, West Godavari District
... Petitioner

Vs.

\$ 1. The Union of India, Rep. by Secretary,
Ministry of Health Medical Family Welfare,
Nirman Bhavan, New Delhi-110 011

2. Directorate General of Health Services,
Ministry of Health & Family Welfare,
Govt. of India, Nirman Bhavan, New Delhi-110 011

3. National Board of Examinations, Medical Enclave,
Ansari Nagar, Ring Road, New Delhi-110 029,
Rep. by Executive Director

4. Medical Council of India, Rep. by its Secretary,
Pocket-14, Sector-8, Dwarka Phase-I,
New Delhi-110 077

... Respondents

! Counsel for Petitioner: Mr. Kambhampati Ramesh Babu

Counsel for Respondents 1to3: Mr. K.Lakshman,
Asst. Solicitor General

Counsel for Respondent No.4: Mr. S.Vivek Chandra Sekhar

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> Head Note:

? Cases referred:
Nil.

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Order: (per V.Ramasubramanian, J.)

The petitioner who appeared for NEET-SS 2018, for admission to Super Speciality Courses in Medicine, has come up with the above writ petition challenging the method adopted by the 3rd respondent for calculating the percentile, for determining the cut-off mark.

2. Heard Mr. Kambhampati Ramesh Babu, learned counsel for the petitioner, Mr. K.Lakshman, learned Assistant Solicitor General of India for the respondents 1 to 3 and Mr. S.Vivek Chandra Sekhar, learned Standing Counsel for the 4th respondent/Medical Council of India (MCI).

3. In the mail addressed by the Deputy Director of the National Board of Examinations, to the learned Assistant Solicitor General, he has indicated the method of calculating the percentile ranks of candidates. It reads as follows:

“Percentile ranks are commonly used to clarify the interpretation of marks on standardized tests. For example, a test mark that is greater than or equal to 80% of the marks of candidates taking the test is said to be at the 80th percentile, where 80 is the percentile rank. Whereas percentage of mark is simply calculated based on the mark obtained out of the maximum mark in the test. For example, a test mark of 75% in a test with a maximum mark of 1000 indicates a mark of 750. The percentage of marks is not affected by the candidate's merit position in comparison to other candidates who took the test.

The formula used to calculate Percentile is:

Percentile for candidate with Y marks = $(N-R) * 100$

Where N is the total number of candidates and R is the merit position of the candidate with Y marks.

This is a standard formula for determining percentile which incorporates both the marks obtained by the candidates and the total number of presentee candidates. This formula has been used by NBE for all its MCQ based exams where calculation of percentile is required.

However, candidates with the same scores were considered having the same percentile for the purpose of determining cut-off positions.”

4. But on instructions, it is stated by Mr. S.Vivek Chandra Sekhar, learned Standing Counsel for the MCI, that the formula adopted by the National Board of Examinations is not correct and that percentile has to be calculated by a different formula. The formula should have been as follows:

“The mark obtained by the individual X 100
The highest mark”

5. It is clear from the statement made by the learned Standing Counsel for the MCI that the formula now followed by the 3rd respondent is not correct. When the MCI Regulations prescribed a particular formula, the 3rd respondent cannot adopt its own formula.

6. But still we are unable to grant any relief to the petitioner for the simple reason that despite the adoption of a wrong formula, no candidate who secured lesser marks than the petitioner has secured admission to Super Speciality Courses. In other words, all candidates who have secured admission are more meritorious than the petitioner. Therefore, no relief can be granted to the petitioner. Hence,

this writ petition is dismissed. However, it is made clear that the National Board of Examinations should follow only the formula submitted by the MCI by their Regulations. The pending applications, if any, shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

J.UMA DEVI, J.

29th August, 2018.
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AND
HON'BLE Ms. JUSTICE J.UMA DEVI

Writ Petition No.29296 of 2018
(per VRS, J.)



29th August, 2018.
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