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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 6455/2018**

ABHIMANYU BISHNOI (THROUGH GUARDIAN) Petitioner

Through: Mr. Prakhar Deep, Mr. Akshay
Srivastava & Mr. Kaustav Som,
Advocates.

versus

**ALL INDIA INSTITUTE OF MEDICAL
SCIENCES AND ORS.**

..... Respondents

Through: Mr. Bhagwan Swarup Shukla, CGSC
with Mr. Kamaldeep, Advocate for R-
2.
Mr. Zoheb Hossain, Advocate for R-
3.
Mr. V.S.R. Krishna & Mr. Subodh
Kr. Kaushik, Advocates for AIIMS

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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08.06.2018

1. The Petitioner is a candidate who appeared in the AIIMS MBBS Entrance Examination, 2018. He completed his schooling from Kendriya Vidyalaya, Air Force Station, District Bidar, Karnataka. He scored 89% in the CBSE Class XII examination. He chose the examination centre at Shahabad Road Shetty Institute of Technology, Gulberg, Kalaburagi (Gulbarga) Karnataka, to appear for the exam. The Petitioner had the option of giving any of his four identification documents namely, Aadhaar card, Voter I-card, Passport, or Class XII board examination certificate with photograph. The Petitioner is a minor and in his application, he gave his identification as the Aadhaar card number.

2. The Petitioner thereafter received his admit card on the AIIMS website www.aiimsexams.org. When he reached the examination centre on 26th May, 2018 at the reporting time i.e. 1:30 pm, the Petitioner produced his original Aadhaar card for verification. However, the official, who was verifying the documents of the students at the entry of the examination centre, was unable to scan the QR (Quick response) code of the Aadhaar card, on his phone, in order to establish its authenticity, for whatever reasons. Insofar as other identity cards were concerned produced by other candidates, they were only physically verified. Despite the Petitioner producing his original Aadhaar card, he was refused entry into the examination centre and thus could not give the examination. He has preferred the present writ petition seeking the following reliefs:

- “a. Issue a writ of mandamus or any other appropriate writ, order or direction to quash the AIIMS Entrance Examination–2018 conducted by the Respondent(s) held on 26.05.2018 and 27.05.2018.*
- b. Issue a writ in the nature of Mandamus or any other appropriate writ, order or direction to the Respondent(s) to conduct fresh examination for AIIMS Entrance Examination qua the Petitioner within a reasonable period of time; and*
- c. Issue an appropriate order or direction staying the publication of final result cum merit list till the disposal of the present Writ Petition; and*
- d. Issue an appropriate order or direction appointing a committee of experts to examine the grounds raised by the Petitioner in his representation submitted to Respondent(s) with a direction to submit a report in a time bound manner; and*
- e. Issue a writ of Certiorari or any other appropriate writ, order or direction in the nature thereof, directing to Respondent(s) to give an opportunity to*

appear in the said examination; and
f. Pass an order(s) as this Hon'ble Court may deem fit
and proper in the present case."

3. Notice was issued in the writ petition on 1st June 2018. The Respondent No.3/UIDAI has filed its counter affidavit and confirmed that the original Aadhaar card of the Petitioner is genuine. Mr. Zoheb Hossain, learned counsel for Respondent No.3, submits that production of Aadhaar identification was not compulsory in this case. He also submits that the QR code of the Petitioner's card is scannable and establishes that the Petitioner's Aadhaar card was genuine. He further submits that it is not clear as to why the QR code was not getting scanned in the phone of the official who attempted to verify the genuinity of it at the examination centre. In any event, it is his submission that this is not a case where any benefit is to be derived by the Petitioner, under the Aadhaar (Targeted Delivery of Financial and other Subsidies benefits and Services) Act, 2016 (*hereinafter 'Aadhaar Act 2016'*).

4. Insofar as AIIMS is concerned, despite issuance of notice on 1st June, 2018, they have not filed any reply. A perusal of the events, which transpired on 26th May, 2018 and 27th May, 2018, show that the controller of examination of AIIMS has adopted a callous attitude towards the Petitioner, inasmuch as they ought to have permitted the Petitioner to give the examination, subject to producing an alternative verification document or subject to verification of the Aadhaar card later. The Petitioner has been unnecessarily deprived of appearing in the AIIMS MBBS Entrance Examination, 2018 for no fault of his. The Petitioner sent an email dated 26th May 2018, at around 10pm which reads as under:

"To:exams.ac@gmail.com <exams.ac@gmail.com>;

Dear Sir/Madam,

This is to bring to your kind attention that when I reached the examination center "On Digital Zone, IDZ, Rajapur, Shahabad Road Shetty Institute of Technologies, 5th Km, Rajapur Shahabad Road, Gulbarga, Kalaburagi, karnataka - 585105" bearing center Code - KA0301 to give my examination AIIMS MBBS ENTRANCE EXAMINATION, 2018, I was asked to present my aadhaar card. Despite presenting my valid aadhaar card to the concerned officials, the officials denied me the entry to the examination center as it was not getting scanned in their digital machine, which was being used to scan the Aadhaar card. When their machine did not detect my Aadhaar card, I presented alternate id-proof in the form of Defence Dependent Card (Indian Air Force) which they denied to accept.

It is further to inform you that when I requested them to let me speak to the concerned superior official with respect to the said issue. The concerned superior official at the Examination Center said that if your Aadhaar Card is not being detected in our machine, then we will not allow you to give the examination.

My candidate details are as mentioned below:

Name – abhimanyu bishnoi

Roll no. – 8135851

Candidate id – 5181321391

Aadhaar card no. – 487625504189

You are requested to please take this issue on an urgent basis and help me with the same as I have been denied admission to the examination center and give my examination.

Yours Sincerely,

Abhimanyu Bishnoi"

5. A perusal of the All India Institute of Medical Sciences, New Delhi,

Prospectus, 2018 - MBBS Courses (hereinafter, 'the Examination Brochure') shows that the only clause relating to admission of a student to the examination centre reads as under:

“6. No candidate will be allowed to enter the Examination Hall without a valid Admit Card (Original print out), ID proof and one photograph. The ID proof should be the same as the one mentioned in the Application.”

6. From the above clause, it is clear that the Petitioner carried his Admit card as also the original Aadhaar card and he thus fulfilled the criteria fixed for admission to the examination centre. The scanning of the QR code by the official at the entry point is not even prescribed as a requirement in the brochure. Thus, the rejection of the Petitioner's entry to the examination centre is completely untenable. The Aadhaar Act of 2016 defines in Section 2(a) the 'Aadhaar number'. The same is an identification number issued to an individual under Section 3(3) of the Act. The said provision permits individuals to obtain an Aadhaar number which shall therefore be an identification. The said two provisions read as under:

“Section 2 (a) “Aadhaar number” means an identification number issued to an individual under sub-section (3) of Section 3

Section 3 – Aadhaar number. (1) Every resident shall be entitled to obtain an Aadhaar number by submitting his demographic information and biometric information by undergoing the process of enrolment: Provided that the Central Government may, from time to time, notify such other category of individuals who may be entitled to obtain an Aadhaar number.

(2) The enrolling agency shall, at the time of enrolment, inform the individual undergoing enrolment of the following details in such manner as may be

specified by regulations, namely:-

(a) the manner in which the information shall be used;

(b) the nature of recipients with whom the information is intended to be shared during authentication; and

(c) the existence of a right to access information, the procedure for making requests for such access, and details of the person or department in-charge to whom such requests can be made.

(3) On receipt of the demographic information and biometric information under sub-section (1), the Authority shall, after verifying the information, in such manner as may be specified by regulations, issue an Aadhaar number to such individual.”

7. As per the brochure of AIIMS, Aadhaar card, was only one of the identification proofs. It was not compulsory. The said identification, in the present case, does not relate to any ‘benefit or subsidy’ being claimed under the said Act, as rightly pointed out by UIDAI.

8. A perusal of the above email written by the Petitioner shows that there was lack of coordination amongst the officials who were in-charge of the conduct of the examination both at the examination centre and at AIIMS. The present situation could have been easily averted, with some sensitive handling of the issue. There is a need to have clear guidelines during the conduct of such examinations at a National level to deal with issues that arise immediately before, during and after the examination. Despite, notice having been accepted. No reply has been filed by AIIMS. Learned proxy counsel for AIIMS, even today, is not ready to argue the matter on the ground that the main counsel is travelling out of Delhi and seeks an adjournment.

9. It is not in dispute that the result of AIIMS MBBS Entrance Examination, 2018 is to be announced on 18th June, 2018. It was put to the proxy counsel for AIIMS, who is appearing in the matter today, to take instructions as to whether AIIMS would be in a position to allow the Petitioner to give an examination, *albeit*, with a different question paper, prior to the announcement of results. However, Learned counsel for the Petitioner submits that the AIIMS examination follows a percentile method of evaluation and therefore, all candidates would have to be adjudged on the basis of the same entrance examination. Thus, the Petitioner himself submits that even conducting of a separate examination would not serve the purpose. The only relief he prays for is to conduct the examination itself afresh. He, therefore, prays that the result of the AIIMS MBBS Entrance Examination, 2018 be put on hold.

10. Insofar as the relief that can be granted to the Petitioner is concerned, it is observed that the grant of any relief as prayed for, would cause a lot of disturbance to other students who have already appeared in the examination. The withholding of their result in any manner would lead to great injustice to thousands of such candidates, who are awaiting their results. In order to undo the injustice caused to the Petitioner, it would be unfair to impose the burden of another examination on those candidates who have already given the examination. The Court has to balance the interests. The scrapping of the examination or directions for withholding of the results, or conducting of fresh examination, is completely impractical and also not feasible.

11. On a query from the Court, it has been informed that the Petitioner has appeared in various other medical entrance examinations. In view of the above circumstances, the relief prayed for cannot be granted to the

Petitioner. It is however deemed appropriate to issue the following directions to avoid students and candidates appearing for the AIIMS examinations being confronted from such incidents and situations. Accordingly it is directed as under:

- (i) AIIMS is directed to, as part of its brochure, provide the manner in which examination centres respond to various situations such as identification documents, medical conditions, discrepancies in admit cards, discrepancies in question papers and manner of marking answers, and the manner of dealing with the same on an immediate basis;
- (ii) In future, the controller of examinations of AIIMS shall ensure that a response team is constituted to deal with issues raised on the day of the examination and such a team should also be able to respond immediately in such emergent situations.
- (iii) Since the examination is conducted in centres across the country, the heads of Examination centres ought to be given uniform set of instructions to ensure that students are not made to suffer in this manner.
- (iv) If the examinations are conducted online, there ought to be an emergent technical response team to deal with any technical glitches that may arise.

12. To turn back a student from an entrance examination centre would result in a *fait accompli*, as has happened in the present case, which has to be avoided under all circumstances. In view of the non-responsive attitude of AIIMS, both to the candidate's representation and before this Court, the Petitioner deserves to be compensated with costs for the treatment that has

been meted out to him. In view of the harassment and frustration caused to the Petitioner, AIIMS is directed to pay costs of Rs.50,000/- to the Petitioner. Petition is disposed of with the above observations and directions.

PRATHIBA M. SINGH, J.
(VACATION BENCH)

JUNE 08, 2018/dk