

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2020

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

W.P.No.14365 of 2020 &
WMP.No.17834 of 2020

K.S.Adhiyan

... Petitioner

Vs.

1. National Medical Commission,
represented by Secretary,
Pocket 4, Sector No.8,
Dhuvaraga pace 1, New Delhi 110 077.
2. The Ministry of Human Resource and
Development,
The Department of Higher Education,
Government of India,
represented by the Secretary,
9th Floor, EVK Sampath Buildings,
College Road, Chennai,
Tamilnadu 600 006.
3. National Testing Agency,
The Ministry of Human Resource and
Development,
The Department of Higher Education,
Government of India,
represented by Senior Director,
Block C-20/1A/8, Sector-62,
Gautam Budh Nagar, Noida,
Uttar Pradesh 201 309.
4. Directorate General of Health Services,
Ministry of Health and Family Welfare,
Government of India,
represented by Director, Anna Salai,
Teynampet, Chennai, Tamilnadu 600 018.
5. NTA Observer,
Mohamed Sathak AJ College of Engineering,
34, Rajiv gandhi Salai (OMR),
Siruseri IT Highway,
Siruseri IT Park Egattur,
Siruseri SIPCOT,

Chennai, Tamilnadu 603 103.

6. Chief Superintendent of NEET Exam,
Mohamed Sathak AJ College of Engineering,
34, Rajiv Gandhi Salai (OMR),
Siruseri IT Highway,
Siruseri IT Park Egattur,
Siruseri SIPCOT,
Chennai, Tamil Nadu 603 103.
7. Centre Superintendent,
Mohamed Sathak AJ College of Engineering,
34, Rajiv Gandhi Salai (OMR),
Siruseri IT Highway,
Siruseri IT Park Egattur,
Siruseri SIPCOT,
Chennai, Tamilnadu 603 103. ... Respondents

Prayer: Writ Petition filed under Section 226 of Constitution of India praying for issuance of Writ of Mandamus to consider the representation on 13.09.2020 and 16.09.2020 to the respondents and directing the respondents to conduct Re-exam for the petitioner and other candidates who has appeared for the NEET Examinations 2020-2021 in the Hall No.502 of the Mohamed Sathak AJ College of Engineering on 13.09.2020 within a reasonable time as fixed by this Court.

For Petitioner : Mr. M. Velmurugan

For Respondents: Mr.V.P.Raman, Senior Counsel for R1
Mr.K.Gunasekar, SPGC for R2, R4
Mr.P.Nagaraj for R3

O R D E R

This Writ Petition has been filed for issue or Writ of Mandamus directing the respondents to reconduct the NEET Examination for the Academic year 2020-2021, in so far as Hall No.502 of Mohamed Sathak AJ College of Engineering.

2. The case of the petitioner is that he had completed 12th Standard and was aspiring to join MBBS course. Hence, he took the NEET Examination that was conducted on 13.09.2020. The grievance of the petitioner is that the Invigilator who was incharge of the Exam Hall No.502 delayed the distribution of the question paper by 15 minutes and thereby, the petitioner had only 2 hours and 45 minutes to complete the examination as against the 3 hours time that is allotted for the examination.

3. The 3rd respondent who will be the answering respondent

in this Writ Petition, has filed a counter affidavit along with supporting documents. The relevant portions in the counter affidavit are extracted hereunder.

'5. It is submitted that the 3rd respondent, vide its Letter(s) dated 27.10.2020 requested Mr.Dr.S.Vijaya Kumar, Centre Superintendent/7th respondent and the Observer(s) concerned, to submit a Factual Report (especially addressing the allegation made in the petition) along with a copy of the Centre Report (duly signed by Centre Superintendent, Invigilator concerned and Observer) which might have been sent to NTA along with other Centre details/materials.

6. That the Centre Superintendent submitted a Factual Report to NTA on 27.10.2020. The Report is reproduced hereunder for ready reference:

"I hereby state that the allegation made by K.S.Adhiyan towards our institution is totally baseless and false. On 13.09.2020 (Sunday) from 2:00 p.m. to 5:00 in our Centre No.4101105 (Mohamed Sathak A.J.Engineering) total 960 students wrote the examination and in the particular Examination hall No.502-12 students have wrote the exam.

As per NTA Guidelines:

1. At 1:50 p.m. - Distribution of Test Booklet to the candidates;
2. At 1:55 p.m. - Seal of the Test Booklet to be broken/opened by the candidates to take out the OMR Answer Sheet
3. At 2:00 p.m. - Commencement of Examination.

The above said timings have been followed strictly in all the examination halls.

In this regard no one has made any complaint about the time delay or distribution of wrong series of Test Booklet and Answer Sheet to the candidates.

Hence, the claim of K.S.Adhiyan regarding 15 minutes wasting is totally baseless and false'.

7. It may be mentioned that the Observer concerned, also submitted his Report on 31.10.2020 and the same is reproduced hereunder:

' I observed that all the question papers are distributed 10 minutes before the commencement of examination to all the students. There is no such incident happened in the centre including the Examination Hall No.502. So that, the issue raised by Mr.Adhiyan was not correct. The Examination went on well in the Centre as per the guidelines given by NTA.'

A copy of the above report(s) sent by 7th respondent and the Observer concerned are Annexed herewith.

Therefore, it has been categorically stated and confirmed by the Examinational Personnel concerned i.e. the Centre Superintendent and the Observer that the allegations made by the petitioner are totally baseless and false. The prescribed timings have been followed strictly in all the examination hall(s).'

4. The learned counsel for the petitioner submitted that the petitioner lost 15 minutes of precious time due to the mistake committed by the Invigilator in circulating a wrong question paper and ultimately the petitioner got only 2 hours and 45 minutes to complete the examination. The learned counsel for the petitioner further submitted that the petitioner got 369 marks in the NEET Examination and if he had utilised the entire 3 hours, the petitioner would have received higher marks and there were bright chances for the petitioner to secure the MBBS Seat in some college.

5. The learned counsel submitted that the mistake committed by the Invigilator must be owned up by the 3rd respondent and a re-exam must be conducted for the petitioner.

6. Per contra, Mr. Nagarajan, learned Standing Counsel appearing on behalf of the 3rd respondent submitted that there were totally 12 students who took the examination in Exam Hall No.502 and except the petitioner, no one else had made any complaint about the delay caused in distributing the question papers. The learned counsel further submitted that the examination was commenced at the stroke of 2 p.m. in the centre and the petitioner had the entire 3 hours to complete the examination. The learned counsel further submitted that totally 960 students wrote the examination in the concerned College and no one else had any grievance with regard to the manner in which the examination was conducted and the allegation made by the petitioner is totally unsustainable.

7. The learned Standing Counsel in order to substantiate his submissions, also placed reliance upon the letter of the Superintendent who was incharge of the concerned College, where the examination was conducted and also the explanation of the observer who was incharge of the Hall No.502.

8. In the considered view of this Court, the issue raised by the petitioner is a pure question of fact. Except the petitioner, no one else has made any complaint with regard to the delay in distribution of the correct question paper. The NEET

Examination is already over and the Rank List has already been published and the counselling is underway. At this stage, there is no scope for giving any directions to reconduct the NEET Exam only for the petitioner.

9.This Court, exercising its jurisdiction under Article 226 of the Constitution of India cannot go into disputed questions of fact.

10.In view of the above, this Court is not inclined to accede to the relief claimed by the petitioner and accordingly this Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

msr

To

1. National Medical Commission,
represented by Secretary,
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Siruseri SIPCOT, Chennai, Tamilnadu 603 103.

+1cc to Mr.M.Velmurugan, Advocate, S.R.No. 37224
+1cc to Mr.V.P.Raman, Advocate, S.R.No. 37623

W.P.No.14365 of 2020
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PA (CO)
GN(18/01/2021)

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