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

+ W.P.(C) 3935/2020

DR. VENKATESH M.C.

..... Petitioner

Through

Mr.R.Satish

Kumar

and

Mr.P.Srinivasan, Advs.

versus

NATIONAL BOARD OF EXAMINATIONS ..... Respondent

Through

Mr.Kirtiman Singh, Standing Counsel

with Mr.Waize Ali Noor and

Mr.Rohan Anand, Advs.

**CORAM:**

**HON'BLE MR. JUSTICE JAYANT NATH**

**ORDER**

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**27.07.2020**

This hearing is conducted through video conferencing.

**W.P.(C) 3935/2020 & CM APPL No.14152/2020**

1. This writ petition is filed by the petitioner seeking an appropriate direction for quashing the provision contained in Clause 6.6 of Bulletin of Information and Application Form for Diplomate of National Board Final Examination for the year December, 2019 as ultra-vires being contrary to Article 14 of the Constitution of India. A direction is also sought to the respondent to re-evaluate the mark-sheet of the petitioner and to declare the petitioner successful in the examination held by the NBE in the year December, 2019.

2. The case of the petitioner is that he is a doctor who has completed his MBBS in 2014. After completing his MBBS, he enrolled with the Ananthapuri Hospitals and Research Institute as DNB Resident in Emergency Medicine. He is doing his final year of residency. It is stated that in December, 2019 the petitioner having obtained the requisite period of

training applied for appearing in the final theory examination to be held in December, 2019 in the speciality of Emergency Medicine and gave the examination. A candidate has to secure at least 200 out of 400 marks in the aggregate of the four papers to qualify the theory examination. It is stated that the candidates who secured between 192 - 199 marks are eligible for grace marks of 2% being a maximum of 8/400. Those candidates who have cleared theory examination are permitted to appear for the practical examination.

3. The result of the examination was declared on 25.02.2020 and the petitioner was declared failed as he got 190 out of 400 marks. The petitioner immediately demanded a copy of the answer sheet which was given to the petitioner. It is the grievance of the petitioner that that answers to questions 3b and 7a were not evaluated. Further, it is pleaded that the petitioner has given the right answer to question No.7(b) but the answer has been marked as wrong.

4. It is pleaded that a request was made to the respondent for re-evaluation of the answer sheets. However, the respondents have relied upon the clause 6.6 of the Information Bulletin and rejected the request of the petitioner. Hence, this writ petition.

5. The respondent has filed a short reply affidavit. It has been stated in the affidavit that clause 6.6 of the Information Bulletin clearly states that there will be no re-evaluation or re-checking/re-totalling of answer sheets. It is also pointed out that the DNB final examination is a qualifying examination which is conducted twice a year in the month of June and December for the award of PG qualification. It is confirmed that the qualifying criteria to qualify in theory examination in the DNB course for

specialities is 200 out of 400 marks in the aggregate in the four papers. The grace marks of upto 2% of maximum marks i.e. 8/400 are given only to the candidates falling in the zone of consideration.

6. Regarding the plea of the petitioner that answers to questions No.3b and 7a have not been evaluated; learned counsel for the respondent has taken me through the answer sheet of the petitioner, which has been attached with the affidavit. A perusal of the answer sheet of the petitioner shows that the answers to question No.3b and 7a have been evaluated by the examiner.

7. Another plea which has been strongly raised by the petitioner that the question No.7(b) has been wrongly evaluated, the plea is denied. The answers to these questions, it is stated, are determined by the subject experts based on which the answer sheets are evaluated. It is also pleaded that this is not a multiple choice question. The answers had to be descriptive and essay type and had to be assessed accordingly. It is stated that the answer given by the petitioner does not match up to the model answer to the concerned question. Even if for some reasons it is assumed that the answer has been incorrectly marked, the petitioner cannot claim that he would have got the full marks for the answer to the question of a descriptive nature.

8. To satisfy myself I have perused the paper in question which was emergency medicine. The paper states “write short notes on: 7(b) *white cerebellar sign*”. The petitioner has written the answer though it is not in a very clear handwriting. The answer given is: “*sign of hypoxic brain injury irreversible*”. The examiner has marked the same as being incorrect.

9. In my opinion, it would not be appropriate for this court to interfere in the said evaluation done by an expert examiner. Even otherwise if the plea of the petitioner for some reason is accepted that the answer has been

wrongly marked, it is not possible to grant relief to the petitioner. That is because the answer had to be an essay type answer. The petitioner cannot expect that a five word short answer of the stated disease would give the petitioner the full marks, namely, which was two marks. Hence, the petitioner even otherwise have not been able to score the requisite marks to pass in the written i.e. 200 out of 400 marks. He would also not have qualified for grant of the grace marks of upto 2%.

10. Reference may also be had to clause 6.6 of the Information Bulletin issued by the respondent in December, 2019. Relevant portion of the said clause 6.6 reads as follows:

“ .....

There will be no re-evaluation or rechecking/re-totalling of answer sheets. Requests for re-evaluation/re-totalling shall not be entertained.”

11. The petitioner has taken the examination with the clear knowledge that no revaluation or re-checking can be done. Hence, the demand for revaluation cannot be accepted. Even otherwise no case is made out to direct re-evaluation.

12. Learned counsel for the respondent has pointed out that the written examinations are being held again in September, 2020 and the petitioner is free to take the said written examination again.

13. Taking the above statement of the learned counsel for the respondent on record, the petition is accordingly disposed of. All pending applications, if any, also stand disposed of.

**JAYANT NATH, J.**

**JULY 27, 2020/v**