

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 4530/2021

(Miss Devyani D/o Devendra Kusre vs. Union of India :Th. Its Principal Secretary and others)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

Shri A.S. Ghawde, Advocate for the petitioner
Ms.Nisha Burange, Advocate for respondent nos.1 and 2
Mr. PS.Chawhan, Advocate for respondent no.3

**CORAM : SUNIL B. SHUKRE &
ANIL L. PANSARE, JJ.**

DATED : 24th November, 2021.

1. Heard learned counsel for the petitioner.

2. The contention is that the OMR sheet, the scanned copy of which has been made available by the respondent no.3, which is the answer-sheet of the NEET taken by the petitioner, does not depict the correct position regarding the questions attempted and answers given by the petitioner.

3. It is the contention of learned counsel for the petitioner that the petitioner holds an excellent academic record, as could be seen from the market-sheets of petitioner for X and XII standard examinations and also the mark-sheets of internal examinations held by her coaching Class and, therefore, it is unimaginable that a brilliant candidate like the petitioner, would score so low marks like 217 out of 720 at the NEET (UG) 2021.

4. It is further submitted by the learned counsel for petitioner that if the original OMR sheet is directed to be produced before this Court and it is indeed produced, the above doubts expressed by the petitioner are likely to be proved right. He submits that the copy of the OMR-sheet made available to the petitioner shows that the petitioner did not attempt any question from Question No.1 to Question No.50 and attempted only four questions from Question No.51 to Question No.100. However, the fact is that the petitioner had given answers in respect of many of these questions inasmuch as the petitioner has attempted 171 out of 200 questions. It is further submitted that her OMR sheet shows lesser number of attempted questions than 171 attempted by the petitioner. For these reasons, according to the learned counsel for the petitioner, it is necessary that the matter is enquired into and the respondent no.3 is taken to task. He also makes a prayer for calling of the original OMR sheet from respondent no.3.

5. The submissions made by the petitioner, in our considered opinion, are not supported by the established facts. Copy of the OMR sheet (page 54) bears the signature and also the thumb impression of the petitioner, both of which are not denied by the petitioner. It is also an admitted fact that the answers which are recorded in the OMR sheet are by adopting a particular method which is of darkening of the right circle from out of 4 blank circles shown against each of the question number and such a darkening of the circle has been made by the petitioner not in pencil but by using prescribed ink. The roll number as well as test booklet number appearing on the copy of the OMR sheet annexed to the petition are also not disputed. With such facts being

already established on record, all the submissions made on behalf of the petitioner cannot be accepted. It is impossible for the respondent no.3 to remove the alleged darkened circles and turn them into blank circles against the respective question numbers which are said to be attempted by the petitioner. In fact the petitioner has not given any specific question numbers from out of question nos. 1 to question no.50 and from out of question no.60 to question no.100 which have been actually attempted by the petitioner by darkening of respective right circles. The petitioner has also not disputed the signature of the invigilator appearing on the OMR sheet which fact goes against the claim of the petitioner and, therefore, in our extraordinary writ jurisdiction under Article 226 of the Constitution, we do not think that this petition can be entertained by us. The petition raises, if at all does raise, several disputed questions of fact and remedy, if any, would lie elsewhere.

6. The learned counsel for the petitioner seeks to draw support from the directions issued by the learned single Judge of the Kerala High Court, in the case of Awasthi vs. Union of India and another, passed on 11th November, 2021 in WP (C) No 24488/2021. By this order, the learned single Judge in a petition where genuineness of the OMR sheet was doubted, directed the authorities to produce the original OMR sheet. We do not think that the view so taken by the learned single Judge would be enough on the backdrop of facts of this case discussed earlier for persuading us to follow it. The facts would show that there is no support material available on record which would, *prima facie*, substantiate the claim of the petitioner.

7. In the result, the petition stands dismissed. No costs.

JUDGE

JUDGE

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