

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CWP No.15696 of 2020

Decided on : 17.02.2021

Khushi

... Petitioner

Versus

Union of India and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. Ravinder Bangar, Advocate for the petitioner.

Mr. Arun Gosain, Advocate for respondents No.1 & 2.

Mr. Jagdeep Jaswal, Advocate for respondents No.3 & 4.

(The proceedings are being conducted through video conferencing, as per instructions.)

G.S. Sandhawalia, J. (Oral)

The petitioner in the present writ petition filed under Articles 226/227 of the Constitution of India seeks directions to conduct the re-exam of the National Eligibility cum-Entrance Test (Under Graduate) 2020, which was held on 13.09.2020, because the invigilator stopped her to enter in the examination room after completion of half time of exam due to suspicion of being Covid-19 patient.

It has been averred that the petitioner had consumed 1 hour 10 minutes out of total timing of 3 hours and, therefore, it may be verified from the videography of the concerned centre, in the interest of justice. It has further been averred that there were total 14 rooms for the said examination and there was only one washroom for all rooms. The petitioner was going to the washroom, but due to bad arrangements of washroom, she had started vomiting.

Counsel at the outset submits that he does not press the first relief for conducting the re-exam and only seeks that costs be imposed upon the respondents No.3 & 4 by way of damages.

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The stand of respondent No.2 is that as per the report of the Central Superintendent and Observer, the candidate was accompanied by Invigilator herself to the washroom. After returning from the washroom, she informed her that she vomited and wanted to return home, as she was feeling uneasy and uncomfortable. She insisted on calling her father and going home. She was also consoled by the Control Room Incharge. She neither left the examination centre nor she was restrained from entering in the examination hall on suspicion of Covid-19 and contentions of the petitioner are wrong, false and unsubstantiated.

Similar is the stand of respondent No.3-School that the petitioner has concealed material facts. That after spending about more than one hour, she wanted to use the washroom and was taken by the first Invigilator Mrs. Shaily Kapila. She had vomited and insisted that she wanted to go home and wanted to call her father. She was asked to complete her examination and she again started to solve her paper. She, thereafter, again went to the washroom and vomitted and wanted to sit in a open place for a few minutes. She was made to sit in the room of Wing Incharge, next to Room No.F-14, where she had started solving her paper again by filling the OMR Sheet. She did not raise any objection at that point of time. Statements of the Invigilator have also been appended. It is the case of the respondents that after about five days of the examination, the petitioner has submitted her representation. It is also submitted that school has been inspected and found to be complying with the Health Promoting School Accreditation Standards by the premier

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institute. The photographs of the washroom has also been attached showing the level of cleanliness and maintenance as such. It is further submitted that as per Guidelines for the conduct of NEET (UG) 2020, petitioner could not be sent out of the examination centre before completion of the exam. The said guidelines are reproduced as under:-

“Invigilator should ensure that the candidates do not leave their seats without permission of the invigilator. No candidate should be allowed to leave the examination room till the examination is over and invigilator has counted OMR sheets.”

Keeping in view the above, this Court is of the opinion that disputed questions of law and facts as such are involved and the same cannot be decided, on the basis of affidavits, which have been filed by both sides. It is settled principle that where disputed questions and facts are involved, the Writ Court will not exercise its jurisdiction. The petitioner has only a grouse as such that she was stopped from completing her examination, on account of the invigilators, for which she can file an appropriate proceedings before the Civil Court for the necessary relief.

Accordingly, no case is made out to exercise the extraordinary jurisdiction under Articles 226/227 of the Constitution of India and the writ petition stands dismissed.

**(G.S. SANDHAWALIA)
JUDGE**

FEBRUARY 17, 2021

Naveen

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No