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W.P.No. 27487 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :13.10.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.27487 of 2022

and WMP.Nos.26714 & 26715 of 2022

T.Udhaykumar
S/o.Thanasekaran

..Petitioner

Vs.

1. The Union of India,
Rep. By its Secretary to Ministry of Human Resource
Development, 122-C, Shastri Bavan,
New Delhi – 110 001.
2. The National Testing Agency,
Ministry of Human Resource Development,
C-20, 1A/8, IITK Outreach Centre,
Sector – 62, Noida,
Utter Pradesh - 201 309.
3. National Medical Commission(Under Graduate),
Pocket -14, Sector - B,
Dwarka, Phase – I,
New Delhi – 110 077.
4. The Principal Secretary,
Government of Tamil Nadu,
Health & Family Welfare (MCA-1) Department,
Fort. St. George, Chennai – 600 009.
5. The Secretary,
Selection Committee,
Directorate of Medical Education,
162, Periyar E.V.R.High Road,
Kilpauk, Chennai – 600 010.

..Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India for Writ of Mandamus, direct the respondents to award 4 marks for the question No.97 in the NEET Exam 2022 to the petitioner as per key No.5 in NEET and consequently direct the respondents to allot MBBS seat for the petitioner for the academic year 2022-2023 in any Government or private medical college situated in Tamil Nadu or all over India keep a seat allotted/reserved for the course MBBS in the academic year 2022-2023 available in the medical colleges Tamil Nadu.

For Petitioner	: Mr.R.Sankarasubbu for Mr.Ilayaraja Kanthasamy
For Respondents	: Mr.V.Ashok Kumar Central Government Counsel [R1] Ms.Sunita Kumari Standing Counsel [R2] Ms.Shubharanjani Ananth Standing Counsel [R3] Mr.Stalin Abhimanyu Additional Government Pleader [R4] Ms.M.Sneha Standing Counsel [R5]

ORDER

The prayer sought for herein is for a writ of mandamus directing the respondents to award 4 marks for the question No.97 in the NEET Exam 2022 to the petitioner as per key No.5 in NEET and consequently direct the respondents to allot MBBS seat for the petitioner for the



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academic year 2022-2023 in any Government or private medical college situated in Tamil Nadu or all over India keep a seat allotted/reserved for the course MBBS in the academic year 2022-2023 available in the medical colleges in Tamil Nadu.

2. For the purpose of disposing this writ petition, the prayer in entirety is extracted hereunder:

“For the reasons stated in the accompanying affidavit, it is therefore prayed that this Hon'ble Court may be pleased to issue appropriate Writ, Orders or Directions in particularly issue a Writ in the nature of MANDAMUS to direct the respondents to award 4 marks for the question No.97 in the NEET Exam 2022 to the petitioner as per key No.5 in NEET and consequently direct the respondents to allot MBBS seat for the petitioner for the academic year 2022-2023 in any Government or private medical college situated in Tamil Nadu or all over India keep a seat allotted/reserved for the course MBBS in the academic year 2022-2023 available in the medical colleges Tamil Nadu and pass such further or other order as this Hon'ble Court may deem fit in the proper circumstances of this case and thus render justice.”

3. The petitioner is one of the students, who written the NEET 2022-2023 examination and he secured 92 marks. Since there were 31



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correct answers and 32 wrong answers, as per the pattern of evaluation of OMR answer script, the said marks of 92 was awarded to the petitioner.

4. In this context, the petitioner though attended question No.97, the four options given for question No.97 were wrong and therefore, no right answer can be given by any one.

5. After completing the examination and after realizing the said mistake committed by the second respondent, the NTA, who conducted the NEET examination, has dropped question No.97, because none of the options/answer given in question No.97 was right.

6. Therefore, in this context, in order to get the grace marks for the question No.97, as every person, who wrote the examination is entitled to get such marks, the petitioner had already filed a writ petition in W.P.No.24778 of 2022, where also the following prayer has been sought for:

“PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of mandamus directing the 1st to 3rd respondents to grant a grace marks to the petitioner for a wrong question No.97



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and answers found in the Test Booklet bearing No.7267427 and Test Booklet Code S5(AOLBH) and consequently directing the respondents to allot one MBBS seat for the academic year of NEET (UG) – 2022 in any of the Government Medical College and private College with deemed College situated in Tamil Nadu and all over India.”

7. In fact the said writ petition was dismissed as withdrawn by the orders of this Court dated 28.09.2022 with the following orders:

“Mr.A.Saravanan, learned counsel appearing for the petitioner on instruction would submit that, the petitioner wants to withdraw this writ petition and hence it is dismissed as withdrawn. No costs. Consequently connected miscellaneous petitions are also dismissed.”

8. Within a span of 13 or 14 days, the present writ petition has been filed by the very same petitioner with the aforestated prayer unmindful of the withdrawal order already made in the earlier writ petition filed by the very same petitioner, thereby, this is the second writ petition filed by the same petitioner for the same prayer.

9. When this question was asked to the learned counsel appearing for the petitioner, the learned counsel appearing for the petitioner would



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contend that, though the said writ petition earlier filed by the petitioner for the very same relief has been withdrawn, to meet the ends of justice this writ petition can be entertained and the Court can show its indulgence to entertain this writ petition and decide the same on merits.

10. I have also heard Ms.Sunita Kumari, learned Standing Counsel appearing for the second respondent.

11. The earlier writ petition since has been withdrawn unconditionally and the orders have been passed to that effect on 28.09.2022 as has been extracted herein above, the question of filing one more writ petition by the same petitioner for the same relief does not arise.

12. The only change between these two writ petitions is that, the change of counsel and no other changing circumstances or no other separate cause of action arising for consideration.

13. If the plea of the learned counsel appearing for the petitioner that, this writ petition can be entertained to meet the ends of justice, is



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accepted on the very same ground i.e, to meet the ends of justice, every litigant, who comes before this Court would file writ petition under Article 226 of the Constitution and withdraw the writ petition unconditionally and in the next moment they may also file a writ petition saying that, to meet the ends of justice the second writ petition is filed by the very same petitioner for the same relief. If that is entertained, then it will lead to a total confusion in the system being maintained herein as that kind of second litigation by the same litigant for the same relief is unknown to the legal system and that kind of cases or petitions never be entertained.

Therefore, this Court has no hesitation to hold that this writ petition cannot be entertained for the aforesaid reasons, therefore, it is liable to be dismissed and accordingly, it is dismissed. No costs. Connected miscellaneous petitions are closed.

13.10.2022

Index : Yes/No
Speaking Order: Yes/No
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Note: Issue order copy today(13.10.2022)



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To

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Rep. By its Secretary to Ministry of Human Resource
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R.SURESH KUMAR, J.

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