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W.P.No.35028 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2023

CORAM :

The HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.35028 of 2014

K.Bharati
Rep. By her father and
natural guardian V.Kamakoti
Old No.19, New No.8, First Cross Street,
CIT Colony, Mylapore,
Chennai – 600 004

.. Petitioner

VS

The Director,
National Council of Educational Research and Training,
Sir Aurobindho Marg,
New Delhi – 110 016.

.. Respondent

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records of the respondent culminating in the evaluation of the petitioner's answer paper for award of scholarship, and quash the same and direct the respondent to reevaluate the petitioner's answer paper, taking into account ambiguity in question Nos. 14,15,16,31,37,41 & 50 of the MAT question paper.

For Petitioner : M/s.Menon Karthik Mukundan

For Respondent : Mr.D.S.Ramesh
Standing Counsel



W.P.No.35028 of 2014

ORDER

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This writ petition has been filed by an individual questioning the evaluation of her answer paper for award of scholarship in the 2014 National Talent Search Examination (NTSE). The petitioner has enumerated discrepancies/ambiguities in the Mental Aptitude Test (MAT) component of the NTSE 2014 examination, specifically, questions 14,15,16,31,37,41 and 50 (hereinafter referred to as 'disputed questions') that, according to her, give rise to multiple probable/possible answers.

2. As on date the writ petition is really infructuous as it has been instituted on 29.12.2014 and we are today in 2023. The benefit under the NTSE normally spans higher secondary and post graduate levels of education and this Court is unaware as to whether the petitioner, had she been successful in the examination, would continue to receive any benefit to this day. Learned counsel for the petitioner also confirms that it is not the intention of the petitioner to pursue the benefit of scholarship at this distance of time and the contest is on a matter of principle alone. Thus, and to satisfy itself that the procedure followed by the sole respondent i.e., Director, National Council of Education and Research and Training, was appropriate and commensurate with the purpose of the NTSE examination, records were called for, specifically to illustrate the



W.P.No.35028 of 2014

procedure followed.

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3. Mr.Ramesh, who appears for the respondent was asked to provide certain clarifications to explain the process. He was also requested to produce the records and there are several daily orders that capture the scope of the specific queries put to the respondent, two such daily orders dated 04.01.2023 and 24.01.2023 extracted below:-

Records are produced and are returned to the learned counsel for the respondent to facilitate compliance of the following directions, as it is unclear about the process that has been undertaken by the respondent prior to freezing of the answer key.

2. Though Mr.Ramesh, learned counsel for the respondent would state that the process involves vetting, both by internal as well as external experts, the procedure that has been followed must be set out by way of a note indicating each separate process by which the answer key has been circulated to the internal committee, who the constituents of the committee are and the external committee including the constituents of the external committee.

3. The note must be accompanied by the role played by each of the members of the internal and external committee that would reveal whether there has been application of mind by the expert committee members.

4. Let note and annexures be served upon the petitioner in advance.

5. List on 10.01.2023 as item 2.



W.P.No.35028 of 2014

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The files produced today does not contain a scrap of information as to whether the answer key has been placed before the panel of experts stated to have been constituted.

2. Final opportunity is granted to learned counsel to produce some/any material that would persuade the Court to accept the contention that the answer key has been placed for consideration of the expert panel, discussed and thereafter finalised, failing which, adverse inference will be drawn.

3. As of now, the procedure followed absolutely appears slipshod and does not inspire confidence of the Court.

4. The file shall be complete, that is to say, shall also include material to show that objections raised by the aspirants to the NTSE Examination have been placed before the Expert Committees.

5. Minutes of all meetings of the Expert Committee, both external and internal, from the framing of answer key to the rejection/acceptance of the objections, shall be produced.

6. List on 08.02.2023. The original records have been returned to the learned counsel, who shall retain the same till the disposal of the Writ Petition.

4. Admittedly, the NTSE Examination comprised two modules, Scholarship Aptitude Test (SAT) and MAT. The case of the petitioner is that the disputed questions that were part of the MAT module presented several equally plausible/ possible answers. This Court is



W.P.No.35028 of 2014

cognizant of the position that, as a thumb rule, it does not concern itself with examining or re-visiting examination question papers and I have no intention in doing that.

5. The scope of enquiry has thus been consciously restricted to whether there has been proper application of mind by the Committee of experts to the formulation of the question paper or more particularly, the answer key. The specific query put to the respondent was therefore, whether there had been deliberations by the Committee of Experts prior to formulation of the answer key and post examination, after receipt of grievances from the aspirants.

6. This is absolutely necessary as the committee should be seen to have deliberated upon the questions, arrive at all possible solutions and then decide what the best answer is, in respect of each question. In the process, they must be seen to have noticed all possible answers, reconciled the same and only thereafter arrived at the best answer that presents itself for inclusion in the answer key. Had this been done, the Court would be stopped the intervention at that point as there would be no necessity or rather, justification, to have gone further into whether the answers were, in fact, the best versions of the responses or otherwise. However, this is not seen to have been done.



W.P.No.35028 of 2014

7. After several aborted attempts to secure answers for the questions posed by the Court, the respondent has finally filed compilation dated 21.02.2023 containing 14 documents and running to sixty four pages. Not a single one of the documents indicate any sitting of the Expert Committee at the stage of formulation of answer key.

8. Learned counsel for the respondent draws attention to paragraphs 10 and 11 of the counter extracted below, to emphasise that the procedure followed is sufficient:-

“10. The respondent submits that however, since the questions are prepared by eminent experts and are verified by a duly constituted committee after taking feedback from the general public only after that the result is prepared accordingly. NCERT published on the website the keys on 10th November 2014 and invited feedback from the stakeholders till 24th November 2014. 234 observations were received in MAT, 225 in SAT and 2 in language test. To examine the feedback received in above, a committee comprising of academicians both internal and external was constituted by NCERT to finalize the scoring keys.

11. It is submitted that after due deliberations, the keys were finalized and frozen for processing the result. Provisional result was declared on 23rd December 2014 and also put on the NCERT website. In the NCERT website, every candidate was given his/her own OMR sheet along with the cumulative scores in juxtaposition with the frozen key. The results were provisional in order to give another opportunity to the candidates to report discrepancy, if any with regard to their



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W.P.No.35028 of 2014

responses in OMR sheets. Candidates were asked to give their feedback by 3rd of January 2015 upto 5.00 p.m. Accordingly, 173 e-mails were received. These were examined and since no discrepancy was found and the result was approved by the competent authority on 5.1.2015. Results have also been uploaded on the NCERT website."

9. It is for the respondent to establish that they have actually gone through a proper process and it is for this purpose that the records were sought. Unfortunately, there is not a scrap of paper on record that would support the statements made in paragraphs 10 and 11 of the counter. The formulation of the answer key must reveal the process of discussion and deliberation by the committee of experts and all attempts to verify whether at all there had been any such discussion draw a blank. The records do not indicate any such discussions.

10. Despite repeated questions being posed to the counsel, my attention is drawn only to the minutes of deliberations post the conduct of examination, which was on 19.10.2014. The Court is also disappointed to find that the records do not indicate anywhere that the Committee has deliberated upon the grievances and questions expressed by the aspirants, post conduct of examinations in order to address and resolve the same.

11. I have consciously desisted from referring to the technical details of the questions/queries raised by the petitioner.



W.P.No.35028 of 2014

Incidentally, the petitioner has placed on record the views of several academicians/scholars on the disputed questions/answers, who state that there are multiple answers to the disputed questions. All the more that the committee should have taken note of the same, though it is certainly within their discretion to have rejected the disputes raised, though assigning reasons for such rejection.

12. The trajectory of hearings that have taken place between 19.12.2022 till date, and what has transpired therein, have left this Court with the unassailable and indelible impression that the NTSE Examination for the year 2014 has not been conducted in a transparent or proper manner. The purpose of the NTSE is not just to scour for talent but also to reward scholarship and academic excellence. In this pursuit, the authority concerned must follow a transparent and credible procedure that inspires confidence that the dreams and aspirations of the students are being addressed in a proper manner.

13. This writ petition is allowed with costs of a sum of Rs.25,000/- (Rupees twenty five thousand only) payable to the Cancer Institute, Chennai within four weeks from date of receipt of this order. Connected M.P.Nos. 1 and 2 of 2014 are closed.

23.02.2023

Index:Yes
Neutral Citation:Yes
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W.P.No.35028 of 2014

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To

The Director,
National Council of Educational Research and Training,
Sir Aurobindho Marg,
New Delhi – 110 016.



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W.P.No.35028 of 2014

DR. ANITA SUMANTH,J.

ssm

W.P.No.35028 of 2014

23.02.2023