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C.M.P.No.10141 of 2023
in W.A.No.672 of 2023

C.M.P.No.10141 of 2023
in W.A.No.672 of 2023

THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.

(Order of the Court was made by
the Hon'ble Mr.Justice D.Bharatha Chakravarthi)
The petitioner, *Mr.K.S.Manoj*, represented by his father and
natural guardian, *Mr.K.Sundararajan*, filed W.P.No.15959 of 2020 in
November 2020. It is the case of the petitioner that he appeared for the
NEET exam for admission to the Undergraduate Medical Courses for the
Academic Year 2020–2021. His application number was 200410282612.
He was assigned the Roll Number as 4102202104. He wrote the
examination at Karpagam Academy of Higher Education, Coimbatore on
13.09.2020 from 2.00 P.M. to 5.00 P.M.

2. On 16.10.2020, his O.M.R answer sheet was uploaded in the
official website with Test Booklet No.2137204. The same was downloaded
by the petitioner at about 10:44 A.M on 16.10.2020. On the same day at
about 5:30 PM, key answers were published and on a careful calculation,
the petitioner scored 594/720.

3. However, when the authorities released the results within a short



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span of time, the mark of the petitioner was mentioned as 248 and his All India Quota rank was declared as 418900. On 17.10.2020, another O.M.R sheet was uploaded which actually matches the score which was released as 248/720. The said O.M.R sheet is incorrect and it shows the questions which were not attempted by the petitioner as attempted and the questions which were attempted by the petitioner as not attempted.

4. Therefore, on 17.10.2020 at 9.44 A.M, the petitioner emailed the authorities duly attaching the O.M.R sheet downloaded by him, which reflected his correct score as 594. The National Testing Agency had replied by its email communication dated 26.10.2020 stating that it had verified the original O.M.R sheets and there is no discrepancy in the original and the marks declared by them. It was further stated that if the petitioner is not satisfied, the petitioner can also visit their office, and verify the original. Since the reply was vague without any comment regarding the O.M.R sheet downloaded by the petitioner on the previous date i.e., on 16.10.2020, the petitioner was before this Court.

5. By an interim order dated 09.12.2020, considering the fact that the



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counselling is going on, even while directing the National Testing Agency to consider the entire materials placed by the petitioner and to conduct an investigation and file a report before the court, an interim direction was granted to permit the petitioner to participate in the counselling for admission by taking his marks as 594/720 and the results of the counselling were directed to be kept in a sealed cover awaiting final orders in the Writ Petition.

6. On the basis of the order, the petitioner was called for counselling and was allotted M.B.B.S., seat at the Government Thoothukudi Medical College. Thereafter, considering the fact that the matter has to be gone into in detail, by another interim order dated 11.01.2021, this Court directed the third respondent to admit the petitioner at Thoothukudi Medical College since the cut-off date was 15.01.2021 and the admission was made subject to the result of the Writ Petition.

7. Thereafter, considering the report submitted by the National Testing Agency and all the materials on record, the Writ Petition was disposed of by an order dated 01.03.2021. By the said order, the D.G.P, C.B.C.I.D was directed to constitute a team of experts attached to Cyber



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Crime Investigation Wing, to conduct a preliminary enquiry in the matter without registering a Criminal Case and was directed to submit a report. The writ petitioner was permitted to continue his studies at Thoothukudi Medical College subject to the outcome of the investigation.

8. Feeling aggrieved, the National Testing Agency filed W.A.No.1221 of 2021 and a Division Bench, by order dated 25.01.2022, found that even though the learned Single Judge had considered about the need for investigation, no adjudication is made regarding the final claim of the writ petitioner and without the same, the Writ Petition could not have been disposed. On the said reasoning, the Division Bench remanded the matter back to the learned Single Judge for decision on merits. In the meanwhile, the order granting permission for the writ petitioner to continue his studies and the stay for direction relating to investigation were continued.

9. Aggrieved thereby, the National Testing Agency further carried the matter on appeal to the Hon'ble Supreme Court of India. By order dated 29.08.2022 in S.L.P(C).No.3253 of 2022, the Hon'ble Supreme Court of India disposed of the appeal by holding that the interest of justice will be better served by keeping all questions open to be agitated before the learned



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Single Judge to whom the matter is remanded. Specific liberty was granted to the National Testing Agency to contend that there was only one O.M.R sheet in the matter.

10. On remand, the learned Single Judge found that the report of the National Testing Agency, clearly answered the claim of the petitioner. The learned Judge found that the O.M.R sheet produced by the Agency was sent for verification of the petitioner's signature and it was found to be correct. It contains the correct signature of the invigilator. It contains a Bar Code and Serial Number which are correct. Therefore, when the original O.M.R sheet is produced which was thoroughly verified and found unaltered, untampered and in pristine form, the learned Judge dismissed the Writ Petition by order dated 03.03.2023. Pursuant thereto, the writ petitioner was relieved from the course.

11. Aggrieved thereby, the writ petitioner preferred W.A.No.672 of 2023. A Division Bench of this Court, of which one of us (D.B.C.J.,) was a party, considered the issue and by a judgment dated 21.03.2023, dismissed the appeal. The Division Bench found that the original O.M.R sheet is produced. It is very much intact and there is no sign of any tampering. The



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petitioner admits his signature in the same. The same was compared and found to be his signature. The serial number and all the other entries including the signature of the invigilator tally. Therefore, finding that there was no necessity for any investigation, the appeal was dismissed.

12. Thereafter, the present application is filed by the writ petitioner for modification. The claim of the writ petitioner is that upon orders of Court, the petitioner has completed two years of study in his M.B.B.S., course. As a matter of fact, the petitioner had done well in his exams. Even if it is now concluded that the petitioner has got only 248 marks, still the petitioner is eligible to pursue his M.B.B.S., in any private college as the mark is above the qualifying mark. There are vacancies in private institutions and therefore, the order must be modified directing the respondent authorities to permit his admission in any one of the private medical colleges so that he can continue his studies. Reliance is placed upon an earlier order of this Court in W.A.No.521 of 2023, where this Court came to the aid of yet another student who was affected.

13. *Mr.M.Ravi*, the learned Counsel appearing on behalf of the



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petitioner would submit that very future of the student is at stake. He had already undergone the M.B.B.S., course from 2021-2023 and had completed two full years of study. Now, it is not just the seat but the very education of the petitioner is in jeopardy. Till date, it remains to be answered as to how a different image of O.M.R sheet was uploaded in the respondent's website. Even now the student is ready for any kind of investigation. When investigation by C.B.C.I.D was ordered, it was National Testing Agency, which felt aggrieved. If by the mistake of the respondent authorities or even by the mischief of any third person, if the petitioner's marks is shown as 594 and pursuant thereto, when the petitioner is granted provisional admission and he having underwent the Course for two long years, belatedly relieving him from the course in the year 2023 results in grave injustice to the student and therefore, prays that the same may be remedied by appropriately modifying the earlier order.

14. In response, *Mrs.Shubaranjani Ananth*, the learned Counsel appearing on behalf of the National Medical Commission, by relying upon Medical Council of India Regulations on Graduate Medical Education, 1997, submitted that such belated admission is impossible and migration cannot be allowed at this stage on the present ground. The other



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respondents also categorically oppose the prayer and submit that there is no way the petitioner could be permitted to continue in the same college or some other college.

15. We have considered the rival submissions made on behalf of either side. Now, the question is, considering that the petitioner had scored 248 marks only, whether the petitioner shall be granted an opportunity to continue his M.B.B.S., course in any other private college where there may be a vacancy or in the same institution, considering the two years of course undergone by the petitioner and his future ?

16. Firstly, the respondents submit that such a belated admission or migration is not feasible under the rules. Therefore, whether the same has to be ordered by this Court on equitable considerations is the question. In this regard, it can be seen that the original O.M.R sheet is produced before this Court. The petitioner admits his signature in the O.M.R sheet. It was also compared and found to be true. The serial number tallies with the one entered by the invigilator in the examination hall. The following is the image of the O.M.R Sheet :



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Annexure-A 21

ANSWER SHEET

The candidate should ensure that Roll No. and Test Booklet No. have been marked correctly and Test Booklet Code printed in this sheet and Test Booklet is the same.

ROLL No. **A102202104**

TEST BOOKLET No. **2137204**

ORIGINAL COPY
Answer Sheet No.

Test Booklet Code
H3

Q.No. Response

001	1 2 3 4
002	1 2 3 4
003	1 2 3 4
004	1 2 3 4
005	1 2 3 4
006	1 2 3 4
007	1 2 3 4
008	1 2 3 4
009	1 2 3 4
010	1 2 3 4
011	1 2 3 4
012	1 2 3 4
013	1 2 3 4
014	1 2 3 4
015	1 2 3 4
016	1 2 3 4
017	1 2 3 4
018	1 2 3 4
019	1 2 3 4
020	1 2 3 4
021	1 2 3 4
022	1 2 3 4
023	1 2 3 4
024	1 2 3 4
025	1 2 3 4
026	1 2 3 4
027	1 2 3 4
028	1 2 3 4
029	1 2 3 4
030	1 2 3 4
031	1 2 3 4
032	1 2 3 4
033	1 2 3 4
034	1 2 3 4
035	1 2 3 4
036	1 2 3 4
037	1 2 3 4
038	1 2 3 4
039	1 2 3 4
040	1 2 3 4
041	1 2 3 4
042	1 2 3 4
043	1 2 3 4
044	1 2 3 4
045	1 2 3 4
046	1 2 3 4
047	1 2 3 4
048	1 2 3 4
049	1 2 3 4
050	1 2 3 4
051	1 2 3 4
052	1 2 3 4
053	1 2 3 4
054	1 2 3 4
055	1 2 3 4
056	1 2 3 4
057	1 2 3 4
058	1 2 3 4
059	1 2 3 4
060	1 2 3 4
061	1 2 3 4
062	1 2 3 4
063	1 2 3 4
064	1 2 3 4
065	1 2 3 4
066	1 2 3 4
067	1 2 3 4
068	1 2 3 4
069	1 2 3 4
070	1 2 3 4
071	1 2 3 4
072	1 2 3 4
073	1 2 3 4
074	1 2 3 4
075	1 2 3 4
076	1 2 3 4
077	1 2 3 4
078	1 2 3 4
079	1 2 3 4
080	1 2 3 4
081	1 2 3 4
082	1 2 3 4
083	1 2 3 4
084	1 2 3 4
085	1 2 3 4
086	1 2 3 4
087	1 2 3 4
088	1 2 3 4
089	1 2 3 4
090	1 2 3 4
091	1 2 3 4
092	1 2 3 4
093	1 2 3 4
094	1 2 3 4
095	1 2 3 4
096	1 2 3 4
097	1 2 3 4
098	1 2 3 4
099	1 2 3 4
100	1 2 3 4

Q.No. Response

101	1 2 3 4
102	1 2 3 4
103	1 2 3 4
104	1 2 3 4
105	1 2 3 4
106	1 2 3 4
107	1 2 3 4
108	1 2 3 4
109	1 2 3 4
110	1 2 3 4
111	1 2 3 4
112	1 2 3 4
113	1 2 3 4
114	1 2 3 4
115	1 2 3 4
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117	1 2 3 4
118	1 2 3 4
119	1 2 3 4
120	1 2 3 4
121	1 2 3 4
122	1 2 3 4
123	1 2 3 4
124	1 2 3 4
125	1 2 3 4
126	1 2 3 4
127	1 2 3 4
128	1 2 3 4
129	1 2 3 4
130	1 2 3 4
131	1 2 3 4
132	1 2 3 4
133	1 2 3 4
134	1 2 3 4
135	1 2 3 4
136	1 2 3 4
137	1 2 3 4
138	1 2 3 4
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141	1 2 3 4
142	1 2 3 4
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148	1 2 3 4
149	1 2 3 4
150	1 2 3 4
151	1 2 3 4
152	1 2 3 4
153	1 2 3 4
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155	1 2 3 4
156	1 2 3 4
157	1 2 3 4
158	1 2 3 4
159	1 2 3 4
160	1 2 3 4
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162	1 2 3 4
163	1 2 3 4
164	1 2 3 4
165	1 2 3 4
166	1 2 3 4
167	1 2 3 4
168	1 2 3 4
169	1 2 3 4
170	1 2 3 4
171	1 2 3 4
172	1 2 3 4
173	1 2 3 4
174	1 2 3 4
175	1 2 3 4
176	1 2 3 4
177	1 2 3 4
178	1 2 3 4
179	1 2 3 4
180	1 2 3 4

MOTHER'S NAME (in handwriting)

G. Esther Rajathi

FATHER'S NAME (in handwriting)

K. Sundararajan

CANDIDATE'S LEFT HAND THUMB IMPRESSION

[Signature]

CANDIDATE'S NAME AND SIGNATURE

K.G. MANOJ

SIGNATURE OF SUPERVISOR

M.A. 13/01/2023

NATIONAL TESTING AGENCY
Plot-Block C-20/1A/3, Sector-62
RTI Odessa Centre, Gurgaon
Gurgaon Nagar, Haryana, Uttar Pradesh-201307

Do Not Write Beyond This Line



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17. The following is the record of the attendance sheet and receiving of the O.M.R sheet and test booklet by the petitioner :

NATIONAL TESTS National Eligibility Cum Entrance Test (NET) UG - 2023			
Mo. & Name : 4102202 KARPAGAM ACADEMY OF HIGHER EDUCATION, COIMBATORE (B1 U-932) (CENTRE 2), POLLACHI MAIN ROAD, EACHANAR POST, COIMBATORE COIMBATORE EACHANAR, EACHANAR, COIMBATORE, TAMIL NADU PIN : 641023 Exam Date & Time : 13-09-2020 2:00 P.M. TO 5:00 P.M.			
4102202103 KRITHIKA R RAMASWAMY S  in Paper Medium : ENGLISH Inv No. : 200431407023	R. CHELLAMMAL Test Booklet No. : 2137203 Code : G3 OMR Answer Sheet No. : 2137203 Code : G3 Candidate's Signature : R. Chellammal Invigilator's Signature : M. K. S. Narayanan	 Candidate's Left Hand Thumb Impression : R. Chellammal	
4102202104 K. S. MANOJ K. SURESHKANNAN (This is the true copy of the Declaration sheet of Mr. K. S. Manoj) (U.C. Light) in Paper Medium : ENGLISH Inv No. : 2004108457023 H's Name : K. S. MANOJ H's Name : K. SURESHKANNAN DOB : 10/09/2004	K. ESTHER RAJASREE Test Booklet No. : 2137204 Code : H3 OMR Answer Sheet No. : 2137204 Code : H3 Candidate's Signature : K. Esther Rajasree Invigilator's Signature : M. K. S. Narayanan	 Candidate's Left Hand Thumb Impression : K. Esther Rajasree	
4102202105 VASANTHA KUNARI K in Paper Medium : ENGLISH Inv No. : 200438170780	VASANTHA KUNARI K Test Booklet No. : 2137205 Code : E3 OMR Answer Sheet No. : 2137205 Code : E3 Candidate's Signature : V. K. Vasantha Invigilator's Signature : M. K. S. Narayanan	 Candidate's Left Hand Thumb Impression : V. K. Vasantha	23

18. The Google image produced by the petitioner is also of the same O.M.R sheet, including the serial number, bar code etc., but only the answer portion alone differs, that is the portion marked as ABCD in the below image alone differs :



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Annexure-1A 21

ANSWER SHEET

The candidate should ensure that Roll No. and Test Booklet No. have been marked correctly and Test Booklet Code printed in this sheet and Test Booklet is the same.

ROLL No.									
2	1	0	2	2	0	2	1	0	4
1	0	1	1	1	1	1	1	1	1
2	2	2	2	2	2	2	2	2	2
3	3	3	3	3	3	3	3	3	3
4	4	4	4	4	4	4	4	4	4
5	5	5	5	5	5	5	5	5	5
6	6	6	6	6	6	6	6	6	6
7	7	7	7	7	7	7	7	7	7
8	8	8	8	8	8	8	8	8	8
9	9	9	9	9	9	9	9	9	9
0	0	0	0	0	0	0	0	0	0

TEST BOOKLET No.									
2	1	3	7	1	0	4			
1	0	1	1	1	1	1	1	1	1
2	2	2	2	2	2	2	2	2	2
3	3	3	3	3	3	3	3	3	3
4	4	4	4	4	4	4	4	4	4
5	5	5	5	5	5	5	5	5	5
6	6	6	6	6	6	6	6	6	6
7	7	7	7	7	7	7	7	7	7
8	8	8	8	8	8	8	8	8	8
9	9	9	9	9	9	9	9	9	9
0	0	0	0	0	0	0	0	0	0

ORIGINAL COPY
Answer Sheet No.

Test Booklet Code
H3

2137204

Q.No.	Response	Q.No.	Response	Q.No.	Response	Q.No.	Response	Q.No.	Response
301	1	327	1	673	1	100	1	146	1
302	1	328	1	674	1	110	1	147	1
303	1	329	1	675	1	111	1	148	1
304	1	330	1	676	1	112	1	149	1
305	1	331	1	677	1	113	1	150	1
306	1	332	1	678	1	114	1	151	1
307	1	333	1	679	1	115	1	152	1
308	1	334	1	680	1	116	1	153	1
309	1	335	1	681	1	117	1	154	1
310	1	336	1	682	1	118	1	155	1
311	1	337	1	683	1	119	1	156	1
312	1	338	1	684	1	120	1	157	1
313	1	339	1	685	1	121	1	158	1
314	1	340	1	686	1	122	1	159	1
315	1	341	1	687	1	123	1	160	1
316	1	342	1	688	1	124	1	161	1
317	1	343	1	689	1	125	1	162	1
318	1	344	1	690	1	126	1	163	1
319	1	345	1	691	1	127	1	164	1
320	1	346	1	692	1	128	1	165	1
321	1	347	1	693	1	129	1	166	1
322	1	348	1	694	1	130	1	167	1
323	1	349	1	695	1	131	1	168	1
324	1	350	1	696	1	132	1	169	1
325	1	351	1	697	1	133	1	170	1
326	1	352	1	698	1	134	1	171	1
327	1								



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19. Thus, it can be seen that only the Google image produced by the petitioner which is incorrect. It is true that this Court did not find it fit to order criminal investigation and it is not proved that the petitioner did any mistake. Even assuming for a moment that such a wrong sheet was initially uploaded on the website, ultimately, it is not true. Even if it is actually downloaded from the respondents' website, the difference is not one or two. The petitioner had attempted 157 questions only and had not attempted 23 questions. 81 answers were found to be correct and 76 answers were found to be wrong and thus, the petitioner was awarded 248 marks. In this background, when the score had come as 594, the difference in marks was 346. When second O.M.R sheet was uploaded on 17.10.2020 even according to the petitioner and he had in his hand both the images and the Writ Petition is filed only in the month of November, 2020, he had all the time to realise that the Google image was not the one written by him. As a matter of fact, he specifically came up with a false case as if the Google image is the one which shows all the questions attempted by him. The second image is contended to be false. But the truth turned out to be otherwise. Therefore, even if there is no criminal investigation as to who



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was responsible for the wrong image to be uploaded, still the petitioner is not entitled for any equitable consideration as he had come up with a false case. Therefore, we do not find any equitable consideration to grant him relief. Accordingly, no relief could be granted to the petitioner and this C.M.P.No.10141 of 2023 shall stand dismissed.

20. It is true and sad that the petitioner had lost two years and was undergoing the M.B.B.S., Course for two years in the litigative process of two rounds. But we trust that the truth in black and white, in the form of the O.M.R sheet, was very much for the petitioner to see and therefore, he has to reconcile. There is a world of unlimited opportunities beyond medical admission too.

(S.V.G., CJ.) (D.B.C., J.)
09.01.2024

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THE HON'BLE CHIEF JUSTICE
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