



\$~

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

%

Reserved on: 02.08.2024
Pronounced on: 06.08.2024

+ **W.P.(C) 9089/2024 & CM APPL. 37211/2024**

PRANSH SINGH

.....Petitioner

Through: Mr. Dibyanshu Pandey, Mr.
Radhe Shyam Sharma and Mr.
Nilesh Tiwari, Advocates

versus

NATIONAL TESTING AGENCY & ORS.Respondents

Through: Ms. Pankhuri Shrivastava and
Mr. Alekshendra Sharma,
Advocates for R-1/NTA.
Mr Kirtiman Singh CGSC Mr
Waize Ali Noor and Mr
Varun Pratap Singh, Advs for
UOI.
Mr. Mohinder JS Rupal and
Mr. Hardik Rupal, Advocates
for Delhi University.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. The present writ petition under Article 226 of the Constitution of India, has been filed on behalf of the petitioner, praying as follows:



“1. To issue writ of mandamus/ appropriate writ, order or direction to Respondent No. 1 to correct the marks obtained by the Petitioner, to award five marks to the Petitioner and to declare the merit list of NEET (UG) 2024 with the corrected and updated marks of the Petitioner.”

2. Brief facts of the case are that the petitioner had appeared in National Eligibility-cum-Entrance Test (Undergraduate), 2024 [‘NEET (UG)-2024’] on 05.05.2024. Pursuant to conduct of the examination, the respondent no. 1 i.e. National Testing Agency [‘NTA’] had issued the provisional answer key and *vide* public notice dated 29.05.2024, NTA had invited candidates to challenge the said answer key. It is the case of the petitioner that the respondent no. 1 had unreasonably deprived the petitioner of an opportunity of challenging the Recorded Response of question number 188 in the OMR sheet by not giving the option of ‘none of these’ for challenging the said Recorded Response. The petitioner’s grievance is that the question i.e. question number 188 which was not attempted by the petitioner has been counted as attempted, and an attempted question i.e. question number 197 has not been counted, thereby reducing the total marks obtained by the petitioner by five marks which has adversely affected the rank of the petitioner in NEET (UG)-2024.

3. **Learned counsel for the petitioner** argues that the petitioner has not attempted question number 188, though there was a stray mark on one of the answer options in OMR sheet. It is further stated that when he had tried to challenge the same, he was not able to do so as the options available for challenging the recorded response were



only to select one of the answer options and there was no option for selecting that none of the options were attempted by the candidate. Therefore, in view of paucity of time and non-availability of the correct option, the petitioner was compelled to randomly choose one of the options in order to ensure that at least the challenge is registered. It is further stated that the petitioner had immediately made a representation before the Respondent No. 1 *vide* email dated 30.05.2024, stating that the appropriate option for challenging the recorded response was not available and had sought correction in the marks allotted to the petitioner.

4. It is further the case of the petitioner that the petitioner in the given section of the question, was supposed to attempt only ten questions and he had duly answered ten questions as per the instructions, however, one question which was not attempted i.e. question number 188 has been counted as attempted, and one correctly answered question i.e. question number 197 has been wrongly excluded from the total number of answered questions, thereby causing loss of five marks to the petitioner. It is also submitted that respondent no. 1 in the past had permitted the candidates to challenge the recorded response on the ground that the question was not attempted. It is further submitted that the respondent no. 1 did not act upon the representation with regard to challenging the recorded response and without correcting recorded responses, declared the result on 04.06.2024.

5. Learned counsel for the petitioner submits that the petitioner has secured 690 marks in the aforesaid examination with All India



Rank 5154. It is submitted that unreasonable loss of five marks caused irreparable damage to the Petitioner as the All India Rank achieved by the Petitioner got lowered by around two thousand five hundred.

6. **Learned counsel for respondent no. 1/NTA**, on the other hand, states that the petitioner had attempted question number 188 and the recorded response was option 4, because of which he had been awarded (-1) mark, it being the incorrect option. It is submitted that the bubbles darkened/marked in the OMR Answer Sheets of the candidates are picked by the machines during the scan, and the same are recorded in form of recorded responses. It is further stated that, as per the final answer keys declared, option 2 is the correct option for question number 188, and thus, appropriate marks have been deducted.

7. Learned counsel for respondent no. 1 further draws this Court's attention to the instructions in relation to the OMR sheet, framed by respondent no. 1. The same are reproduced hereunder:

5

Signature Not Verified
Digitally Signed
By: ZEENAT PRAVEEN
Signing Date: 07.08.2024
12:17:08



been provided that there will be negative marking for Section B. It is argued that since the petitioner had attempted question numbers 186 to 192 and 194 to 196 in Section B, the 11th question being question number 197 has not been considered for evaluation. It is further submitted that in cases where there is a difference in the version placed on record by the examination conducting body, based on the records and the candidate, the version of the official exam conducting body ought to be given precedence over the candidate's claim and the said version of the examination conducting body is required to be upheld by the Courts, as otherwise there would be no finality to such exams and chaotic consequences can ensue, as observed by the Hon'ble Apex Court in the case of *Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupesh Kumar Sheth*, (1984) 4 SCC 27. Therefore, it is prayed that the present petition be dismissed.

9. This Court has **heard** arguments addressed on behalf of both the parties and has perused the material placed on record.

10. Essentially, the grievance of petitioner is that a 'stray mark' put by him on the OMR sheet in response to question number 188 has been accounted as a marked response, and the response to question number 197 in the OMR sheet has not been taken into account by the NTA, thereby resulting in loss of marks to the petitioner in NEET (UG)-2024. The respondent, however, relies on the instructions mentioned in the OMR sheet as well as Clause 3.2.(b) of Information Bulletin to refute the claims of the petitioner.

11. Further, the petitioner states that though he had submitted a



representation to the NTA that he had not attempted question number 188, and admits that there is a stray mark, he submits that he was not heard and his representation was not decided. Learned counsel for the respondent NTA, on the other hand, states that as per policy of NTA, individual candidates are not informed in case their representations are rejected. It has also been submitted that it is not possible to individually respond to various candidates, keeping in mind the number of objections received and the time constraints within which the results are to be announced. This Court finds merit in this contention raised on behalf of NTA.

12. During the pendency of present writ petition, this Court had directed NTA to produce the original OMR sheet of the petitioner, which was produced in a sealed envelope before this Court. A perusal of the same reveals that the circle *qua* question number 188 for filling in the answer, in the OMR sheet, does not bear a mere stray mark as contended by the learned counsel for the petitioner, but the circle is more than half filled and therefore, the same was scanned and picked up as answer to question number 188 by the OMR sheet scanning machine. The original OMR sheet was also shown to the learned counsel for the petitioner, who admitted that the circle for answer to question number 188 was more than half filled.

13. This Court is further of the opinion that the OMR sheet contained clear, specific, pre-defined and pre-declared instructions that *“please do not make any stray marks on the Answer Sheet. Incorrect Marks/Stray marks may be ready by the OMR scanner”*. This Court’s attention has also been drawn towards Clause 3.2.(b) of



the Information Bulletin, which clearly mandates that in the event a candidate attempts more than 10 questions, only the first 10 attempted questions will be considered for evaluation. This Court also takes note of the fact that as per the guidelines, it is provided that there will also be negative marking for Section B. Thus, since the petitioner had attempted question numbers 186 to 192 (including question number 188) and 194 to 196 in Section B, the 11th question being question number 197 could not have been considered for evaluation.

14. To sum up, this Court is of the opinion that every candidate taking the exam, i.e. NEET (UG)-2024 was specifically and clearly informed about the instructions in respect of the filling of the OMR sheets, which has been reproduced hereinabove in paragraph number 07. The original OMR sheet filled by the candidate/ petitioner herein was also perused by this Court. Considering the same, this Court is of the opinion that the present petitioner was well-aware that in case he fills the circle against the question, it will be scanned by the OMR reader/scanner, and further that only the first 10 attempted questions will be considered for the purpose of calculating the marks. As noted above, when the original OMR sheet was produced before this Court, which was also shown to learned counsel for the petitioner for his satisfaction, this Court had noticed that the circle against question number 188 was more than half filled, and thus, the same was counted as 'attempted' by OMR scanner. It is also to be noted that every OMR sheet is individually scanned by two scanners.

15. In view of the above, the petitioner cannot now plead that



question number 188 was not attempted by him, and that question number 197 attempted by him be considered for the purpose of calculating the marks obtained. As per rules and instructions, question number 188, being a part of the first ten attempted questions, has to be considered for the purpose of evaluation.

16. Ergo, in view of foregoing discussion, this Court finds no merit in the present petition.

17. Accordingly, the present writ petition alongwith pending application, if any, is dismissed.

18. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

AUGUST 6, 2024/at