

ITEM NO.59

COURT NO.2

SECTION XII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s).3253/2022

(Arising out of impugned final judgment and order dated 25-01-2022 in WA No. 1221/2021 passed by the High Court of Judicature at Madras)

NATIONAL TESTING AGENCY

Petitioner(s)

VERSUS

K.S. MANOJ & ORS.

Respondent(s)

(WITH IA No. 26827/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 29-08-2022 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MS. JUSTICE HIMA KOHLI

For Petitioner(s) Mr. Rupesh Kumar, AOR
 Ms. Pankhuri Shrivastava, Adv.
 Ms. Neelam Sharma, Adv.

For Respondent(s) Mr. Jayanth Muth Raj, Sr. Adv.
 Mr. M. Ravi, Adv.
 Ms. Vijetha Ravi, Adv.
 Mrs. Malavika Jayanth, AOR

Ms. Aishwarya Bhati, ASG
Mr. B.K. Satija, Adv.
Mr. Ashok Panigrahi, Adv.
Ms. Ruchi Kohli, Adv.
Mr. Apoorv Kurup, Adv.
Ms. Poornima Singh, Adv.

UPON hearing the counsel the Court made the following
O R D E R

- 1 The first respondent appeared in the NEET (UG) examination conducted by the petitioner on 13 September 2020. On 5 October 2020, scanned images of OMR sheets and recorded responses of all candidates were uploaded on the NEET

(UG) website. A public notice was issued so as to enable candidates to challenge the recorded responses between 5 and 7 October 2020. On 16 October 2020, the final answer keys and score cards of all candidates were uploaded on the website. The first respondent contends that, on 16 October 2020 at 10.44 am, the OMR/answer sheets were downloaded by him and on comparison with the answer key, he calculated his score to be 594 out of 720 marks. However, the grievance of the first respondent was that on 17 October 2020, another OMR /answer sheet was uploaded in terms of which his score was shown to be 248 marks out of 720. This led to the institution of a writ petition before the Madras High Court.

- 2 By an order dated 10 November 2020, the Single Judge directed the petitioner to show the original OMR sheet to the first respondent for verification on 20 November 2020, which was complied with. The petitioner filed an additional counter affidavit before the High Court stating that the OMR / answer sheets were uploaded only once on 5 October 2020 and that the candidate had logged in on multiple occasions. The petitioner's case is that there is only one OMR/ answer sheet recording that the first respondent scored 248 marks out of 720.
- 3 At this stage, it may be material to note that the contention of the first respondent was that the scanned answer sheets which were obtained by him and retrieved from the Google account indicate that the initial OMR sheet which was found to be uploaded showed that he had scored 594 out of 720 marks.
- 4 The Single Judge passed an order on 9 December 2020 permitting the first respondent to participate in the counseling with 594 marks. The Single Judge of the High Court directed that interim admission should be granted to the first respondent, based on the score of 594/720 in Thoothukkudi Medical College where he had been selected on the basis of the earlier order. Eventually, the

writ petition was disposed of on 1 March 2021, directing that an investigation should be conducted by the CB-CID. The DGP, CB-CID was directed to constitute a special team of experts from the Cyber Investigation Wing attached to the CB-CID to conduct a preliminary enquiry on this issue without registering a criminal complaint and to report. The continuation of the studies of the first respondent at Thoothukkudi Medical College was made subject to the outcome of the investigation.

5 When the matter was carried in appeal by the petitioner, the impugned judgment was delivered on 25 January 2022. The Division Bench observed that the basic relief which was claimed by the first respondent of declaring his having scored 594 marks out of 720 had neither been granted nor rejected by the Single Judge. Hence, the Single Judge was requested to record a final direction in relation to the said prayer for relief. The interim protection granted by the Single Judge was continued till the disposal of the petition. The admission which was granted to the first respondent has also been directed to continue. The Division Bench has stayed the direction of the Single Judge for an investigation by the CB-CID till the writ petition is taken up for further consideration by the Single Judge, leaving it open to the court to consider continuing or vacating it after hearing the parties. The consequence is that:

- (i) The writ petition which was disposed of by the Single Judge stands restored to file;
- (ii) The Single Judge has been requested to consider the prayer of the first respondent that he has secured 594 out of 720 marks at the NEET (UG) examination held in September 2020;
- (iii) The direction for investigation by the CB-CID stands stayed, pending further orders of the Single Judge; and

- (iv) The admission which was granted to the first respondent at Thoothukkudi Medical College has been directed to be continued.
- 6 The petitioner has placed reliance on the email of the National Informatics Centre dated 8 January 2021 in support of the submission that NIC uploaded only one OMR sheet and answer key.
- 7 The matter is at large for being considered on remand before the Single Judge. In our view, the ends of justice would be met by keeping all questions of fact open to be agitated before the Single Judge, including the defense of the petitioner that there was only one OMR sheet which reflected that the first respondent had scored 248 out of 720 marks. We clarify that this Court has not expressed any opinion in that regard. The Single Judge would take a final view on the writ petition which has been restored for reconsideration after taking into account all the submissions of the contesting parties.
- 8 The admission which has been granted to the first respondent shall abide by the final decision of the Single Judge.
- 9 The Single Judge is requested to dispose of the petition preferably within a period of two months from the date of receipt of a certified copy of this order.
- 10 The Special Leave Petition shall accordingly stand disposed of with the above clarifications.
- 11 Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)
DEPUTY REGISTRAR

(SAROJ KUMARI GAUR)
COURT MASTER