

Vanshika Yadav Vs. Union of India and Ors.

Writ Petition (Civil) No. 335 of 2024 · Supreme Court of India · 2024-07-23 · Dr. Dhananjaya Y. Chandrachud · J.B. Pardiwala · Manoj Misra · F2J-C-1481

Full judgment text

Vanshika Yadav Vs. Union of India and Ors.

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1. The National Eligibility-cum-Entrance Test (UG) 2024 examination was conducted by the National Testing Agency² on 5 May 2024. The results were declared on 4 June 2024.

2. The examination was conducted at 4,750 centres comprised within 571 cities, besides 14 cities overseas. About 23,33,297 candidates appeared for the examination. They are competing for 1.08 lac medical admissions at the undergraduate level, of which approximately 56,000 seats are in government hospitals while the balance 52,000 seats are in privately managed institutions.

3. The 50th percentile represents the cut-off for qualification. The examination consists of 180 questions, each carrying four marks, thus making a total of 720 marks overall. One negative mark is assigned for an incorrect answer. Based on the result of the NEET (UG) 2024, the 50th percentile has worked out to 164 marks out of 720.

Candidates who have attained this threshold are eligible to be considered for admission but are not guaranteed admission into the MBBS program. Seats are allocated both among the unreserved category of students and the reserved category, consisting of candidates belonging to Scheduled Castes, Scheduled Tribes, Other Backward Classes and Economically Weaker Sections.

4. In this batch of cases, the petitioners assert that a direction should be issued for convening a re-test on the ground that (i) there was a leakage of the question paper; and (ii) there are systemic deficiencies in the modalities envisaged for the conduct of the examination.

5. The submission which has been urged on behalf of the petitioners is that the leak which took place in the course of the NEET (UG) examination is systemic in nature and, coupled with the structural deficiencies in the conduct of the examination, the appropriate course of action in view of the previous decisions of this Court, including in *Tanvi Sarwal vs Central Board of Secondary Education and Others*³ and *Sachin Kumar and Others vs Delhi Subordinate Service Selection Board (DSSSB) and Others*,⁴ is to direct a re-test.

6. By an interim order dated 8 July 2024, this Court called for disclosures on affidavit by the NTA; the Union of India; and by the Central Bureau of Investigation.⁵ While flagging the principal issues in contention, the CBI has been involved in the process because the FIRs which were registered in Delhi, Gujarat, Rajasthan, Jharkhand, Maharashtra and Bihar have been transferred to it for investigation. In the earlier order, this Court noted that it would have to scrutinize the following aspects on the basis of the data which would emerge on the record, namely:

(i) Whether the alleged breach took place at a systemic level;

- (ii) Whether the breach is of a nature which affects the integrity of the entire examination process; and
- (iii) Whether it is possible to segregate the beneficiaries of the fraud from the untainted students.

7. Directions were consequently issued to the above agencies of the Union to make specific disclosures on the issues which have been highlighted in the previous order.

8. Arguments have been heard over four days. We have had the benefit of considering the submissions urged on behalf of the petitioners, the Union of India and the NTA. Mr Y V Krishna, Additional Director, CBI has in the course of the proceedings apprised the Court on the status of the investigation.

9. Arguments have been concluded and judgment has been reserved.

10. There is an urgent need to provide certainty and finality to a dispute which affects the careers of over two million students. Hence, it is imperative that the final conclusions of the Court be recorded at the present stage. The reasons for the ultimate conclusions will follow later.

11. We proceed to record the essential conclusions in the following terms:

(i) The fact that a leak of the NEET (UG) 2024 paper took place at Hazaribagh in the State of Jharkhand and at Patna in the State of Bihar is not in dispute;

(ii) Following the transfer of the investigation to it, the CBI has filed its status reports dated 10 July 2024, 17 July 2024 and 21 July 2024. The disclosures by the CBI indicate that the investigation is continuing. The CBI has indicated that at the present stage, the material which has emerged during the course of the investigation would indicate that about 155 students drawn from the examination centres at Hazaribagh and Patna appear to be the beneficiaries of the fraud;

(iii) Since the investigation by the CBI has not attained finality at the present point of time, this Court had in its previous order required the Union Government to indicate whether trends in regard to the existence of abnormalities can be deduced through data analytics on the basis of the results emanating from 4,750 centres situated in 571 cities. Pursuant to the directions of the Court, the Union Government has produced a report of Indian Institute of Technology, Madras. The objection of the petitioners to the report of IIT, Madras on the grounds of alleged bias would be considered in the course of the reasoned judgment which will follow. At this stage, in order to obviate any controversy, the Court has independently scrutinized the data which has been placed on the record by the NTA;

(iv) At the present stage, there is an absence of material on the record to lead to the conclusion that the entire result of the examination stands vitiated or that there was a systemic breach in the sanctity of the examination;

(v) Added to the absence of conclusive material on the record at the present stage, the data which has been produced on the record city-wise and centre-wise and the comparison of data for the years 2022, 2023 and 2024 are not indicative of a systemic leak of the question paper impacting the sanctity of the examination;

(vi) In arriving at the ultimate conclusion, the Court is guided by the well-settled test of whether it is possible to segregate tainted students from those whose candidature does not suffer from any taint. If the investigation reveals the involvement of an increased number of beneficiaries over and above those who are suspects at the present stage, action shall be pursued against every student found to be involved in wrong doing at any stage, notwithstanding the completion of the counselling process. No student who is revealed to have engaged in acts of fraud or to have been the beneficiary of malpractice would be entitled to claim a vested right or interest in the continuation of the admission in the future by virtue of the findings in this judgment; and

(vii) Directing a fresh NEET (UG) to be conducted for the present year would be replete with serious consequences for over two million students who have appeared in the examination. Adopting such a course of action would, in particular, (i) lead to a disruption of the admission schedule for the commencement of medical courses, setting back the entire process by several months; (ii) lead to cascading effects on the course of medical education; (iii) impact the availability of qualified medical professionals in the future; and (iv) cause a serious element of disadvantage to students belonging to marginalized communities and weaker sections for whom reservation has been made in the allocation of seats.

12. Ordering the cancellation of the entire NEET (UG) 2024 examination is not justified on the application of the settled tests which have been propounded in the decisions of this Court or on the basis of the data and material available on the record.

13. Apart from this, it is necessary to deal with another contention of the petitioners. One of the questions in the course of the NEET (UG) 2024 was in the following terms:

"Given below are two statements:

Statement I: Atoms are electrically neutral as they contain equal number of positive and negative charges.

Statement II: Atoms of each element are stable and emit their characteristic spectrum. In the light of the above statements, choose the most appropriate answer from the options given below:

(1) Statement I is incorrect but Statement II is correct.

(2) Both Statement I and Statement II are correct.

(3) Both Statement I and Statement II are incorrect.

(4) Statement I is correct but Statement II is incorrect."

14. We have not indicated the number of the question since the number of the question as well of the options is likely to vary in different series of the question papers in view of the procedure which is followed to preserve the integrity of the process.

15. Initially, the answer key which was prepared by the NTA indicated that the fourth option extracted above was the correct answer. Subsequently, on representations submitted to NTA, a decision was taken to the effect that both the second as well as the fourth options would be treated to be the correct answers.

16. By an order of this Court dated 22 July 2024, the Director of IIT, Delhi was requested to constitute a three-member committee to submit its opinion on which of the options noted above would be the correct answer to the above question. The Director and Professor of the Department of Energy Science & Engineering at IIT, Delhi has in a report dated 23 July 2024, indicated that a three-member Committee from the Department of Physics comprising of (i) Professor Pradipta Ghosh; (ii) Professor Aditya Narain Agnihotri; and (iii) Professor Sankalpa Ghosh was constituted for that purpose.

17. The expert team constituted by the Director of IIT, Delhi has opined that option (4), as extracted above, is the correct answer. In order to obviate any ambiguity, option (4) which is to be treated as the correct answer is set out below:

"(4) Statement I is correct but Statement II is incorrect."

18. The expert determination by the team constituted by the IIT, Delhi leaves no manner of ambiguity in regard to the correct option. This was, in fact, initially the only option which was treated as the correct answer by NTA. Options (2) and (4) are mutually exclusive and both cannot stand together.

19. We accept the report of IIT, Delhi. Accordingly, NTA shall revise the result of the NEET (UG) 2024 on the basis that option (4), as extracted above, represents the only correct answer to the question. NTA is directed to update the ranks of all candidates.

20. During the course of the hearing, the Court had been apprised of the fact that NTA was conducting a special test for 1,563 students in supersession of the compensatory marks which were awarded. The 1,563 students were given the option of either appearing for the special test or in the alternative, to opt for their original marks without the addition of compensatory marks. NTA is permitted to act following the test which was held.

21. The principal issue which has been urged before the Court relates to the sanctity of the NEET (UG) 2024 examination and whether the process should be scrapped and a fresh test should be reconvened. Having answered the question in the above terms, it needs to be clarified that if any student, including in the present batch, has an individual grievance not bearing on the issues which have been resolved by this judgment, it would be open to them to pursue their rights and remedies in accordance with law, including by moving the jurisdictional High Courts under Article 226 of the Constitution. However, before moving the High Court for the grant of relief, the petitioners would have to seek the withdrawal of their petitions before this Court, if any have been filed.

22. The Union Government has constituted a seven-member Expert Committee chaired by Dr K Radhakrishnan, former Chairman, ISRO consisting of the following members:

- (i) Dr K Radhakrishnan, Chairman
- (ii) Dr Randeep Guleria, Member
- (iii) Prof B J Rao, Member
- (iv) Prof Ramamurthy K, Member
- (v) Shri Pankaj Bansal, Member
- (vi) Prof Aditya Mittal, Member
- (vii) Shri Govind Jaiswal, Member Secretary

23. The Committee will abide by such further directions as may be issued by this Court in its final judgment and order in regard to the areas which should be enquired into by it so as to ensure that (i) the process of conducting the NEET (UG) and other examinations falling within the remit of the NTA is duly strengthened; and (ii) the instances which came to light during the course of the present year are not repeated in the future.

24. The transfer petitions at the instance of the NTA or any other party raising the issue as regards the validity of NEET (UG) 2024 examination are allowed. The resulting transferred cases shall stand disposed of in terms of the above directions subject to the clarification that individual grievances, if any, that remain, may be addressed before the jurisdictional High Court. The interlocutory applications raising individual grievances are similarly permitted to be withdrawn with liberty reserved in the above terms.

T.P. (c) No. 1602 of 2024

25. Counsel for the petitioner in TP (Civil) No 1602 of 2024 seeks permission of the Court to amend the petition. Permission is granted to amend the petition during the course of the week.

Writ Petition (Civil) No. 404 of 2024, Writ Petition (Civil) No. 381 of 2024, Writ Petition (Civil) No. 398 of 2024 & Writ Petition (Civil) Diary No. 28729 of 2024

26. Counsel for the petitioners seek the permission of the Court to withdraw the Petitions with liberty to pursue their rights and remedies in accordance with law, including by moving the jurisdictional High Courts under Article 226 of the Constitution.

27. The Petitions are dismissed as withdrawn with liberty as sought.

IA No. 146158 of 2024 & IA No. 146162 of 2024 in Writ Petition (Civil) No. 379 of 2024

28. Mr. Kunal Cheema, counsel for the applicants seeks the permission of the Court to withdraw the Interlocutory Applications with liberty to pursue their rights and remedies in accordance with law.

29. The Interlocutory Applications are dismissed as withdrawn with liberty as sought.

.....CJI. [Dr. Dhananjaya Y. Chandrachud]

.....J. [J.B. Pardiwala]

.....J. [Manoj Misra]

New Delhi;

July 23, 2024

1 "NEET (UG)"

2 "NTA"

3 (2015) 6 SCC 573

4 (2021) 4 SCC 631

5 "CBI"

6 "IIT"

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