

(2001) 08 P&H CK 0122
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 9838 of 2001

Ashish Kapuria

APPELLANT

Vs

Baba Farid University of Health Sciences, Faridkot and
Another

RESPONDENT

Date of Decision : 30-08-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 2002 P&H 80 : (2002) 1 RCR(Civil) 639

Hon'ble Judges : Swatanter Kumar, J;A.S. Gill, J

Bench : Division Bench

Advocate : M.S. Kang, T.R. Dutta, Kapil Kakkar, Vijay Sharma, B.S. Bhalla,
Amarjit Markan, G.S. Punia, R.K. Singla and Anupam Gupta, for the Appellant;

Final Decision : Dismissed

Judgement

Swatanter Kumar, J.—The petitioners in the above mentioned seven writ petitions under Articles 226/227 of the Constitution of India, impugn/challenge the Punjab Medical Entrance Test, 2001, hereinafter to be referred as P.M.E. Test 2001, held by Baba Farid University of Health Sciences, Faridkot, for and on behalf of the State of Punjab for admission to the M.B.B.S., B.D.S., B.A.M.S., B.H.M.S., Bachelor of Physiotherapy and Bachelor of Nursing Courses, in the specified institutions, on the following grounds:-

- (a) It was neither possible nor probable for the University to declare the result within few hours after the holding of the P.M.E. Test-2001;
- (b) The result has not been fairly compiled and declared in accordance with the terms of the brochure;
- (c) The petitioners are entitled to re-evaluation/re-check of their OMR response sheets and the conditions of the brochure to the contrary are liable to be set aside;

(d) The direction to use the pencil in answering the questions is again arbitrary and provides ample opportunity for the respondents to tamper with the OMR response sheets to cause prejudice to the candidates.

2. Though in every petition the petitioners have not taken each of the aforestated grounds, still the learned counsel for the petitioners have strenuously argued all the above points on the basis of the facts stated in their respective writ petitions. As all the petitions raise common questions of fact and law for consideration of the Court, it will be appropriate to dispose of these petitions by a common judgment.

3. The petitioners after passing their qualifying examination of 10+2 had taken the PME Test - 2001 for admission to various medical courses in the State of Punjab. On 25th June, 2001 petitioners were issued admit cards with different roll numbers. On 7th July, 2001 entrance test was conducted by the concerned authorities at six different cities, namely, Amritsar, Jalandhar, Patiala, Ludhiana, Faridkot and Hoshiarpur in 25 centres. According to the petitioners the test concluded at 2.00 P.M. and the respondents had declared the result on the intervening night on the same very day i.e. 7th July, 2001 at 11.00 P.M. The petitioners got ranks, like Shri Ashish Kapuria got rank No.555. According to this petitioner, alike the others, he was expecting very high rank i.e. between 60 to 100. According to the petitioners they are brilliant students and they have secured very high marks in their qualifying examinations. According to the petitioners a news item appeared on 10th July, 2001 where it was indicated that mal practices had been adopted in the said examination. The petitioners got very low ranks and had, therefore, requested the respondent-authorities to re-evaluate and re-check the OMR response sheets of the petitioners as they were ready to deposit any charges, but such requests were declined by the respondents.

4. According to the petitioners, it was neither possible nor probable for the respondent-authorities to declare the result within a short span. Being dissatisfied of the conduct of the examination and the action of the respondent-authorities, as afore-noticed, the petitioners have filed these writ petitions.

5. Upon notice, the respondent-University filed a detailed reply explaining that the University had worked in co-ordination with Punjab State Technical Education Board, Chandigarh, in holding the examination and declaring the result in a meticulous manner. It is admitted that there were 25 centres at six different afore-noticed stations and nearly 8000 students took the examination. The arguments advanced by the learned counsel for the petitioners were stated to be factually incorrect and legally not sustainable.

6. We have heard the learned counsel for the parties at great length. In the light of the above narrated facts, it will be appropriate to deal with arguments (a) and (b) referred above together as they are based upon common premises.

7. No doubt there were 25 centres at six different stations, but according to the

respondents it has been demonstrated that it was not only feasible but positively possible to compile and declare the result of the students within the short period. It is admitted that the result was declared at 11.00 P.M. on the intervening night. Not only this it is specifically pleaded that the result was doubly checked before declaration. At this stage it will be important to note that the result as well as the entrance test do not suffer from exercise of any mal-practices or doubt:-

"The University, being new and lacking in infrastructure, in consultation with the Punjab Government opted to avail the services of the Board for conduct and evaluation of P.M.E.T.- 2001. Even though the equipment and role model of the Board was followed during the conduct and evaluation of P.M.E.T.,-2001, the overall conduct, supervision and decision-making rested with the University.

It is necessary to place before this Hon"ble Court a summary of events and the safeguards taken by the University during the conduct and evaluation of P.M.E.T.-2001. The University invited application from the candidates which were on Optical Mark Reader(OMR) based application forms. These from are read by a microprocessor based machine capable of reading upto 5000 sheets in an hour. The Board has two such machines, which can easily give a combined output of about 7000 to 8000 sheets in an hour. This enabled the University to issue out roll numbers 7157 candidates. Surprisingly, the writ petitioners have questioned the efficacy of the same machines which had so correctly issued the roll numbers. At no stage the data is physically punched into the computers as punching of data in computer is an obsolete method which is prone to human errors."

"P.M.E.T.-2001 was conduct from 10.30 A.M. to 1.00 P.M. on 7th July, 2001. On an average, a centre takes about half an hour in packing the examination material, for which pre-prepared packing material was given to the examination centres so that they do not lose time for packing the examination material. All the centre Superintendents and the Chief Co-ordinators in the districts were specially instructed to get the examination material ready for despatch back to the camp office of the University at the premises of the Board in Chandigarh for immediate evaluation, it goes to the credit of the Chief Coordinators that the first lot of examination material was received from Patiala in camp office at 3.50 P.M. The University in collaboration with the Board had kept its staff ready for immediate evaluation of the O.M.R. response sheets. As mentioned earlier, the Board has two O.M.R. machines, each individually capable of giving an output of 5000 sheets in one hour and thus a combined output of 10,000 sheets an hour. However, keeping in view the practical efficacy of the machine and also the time taken for stacking the O.M.R.sheets, straightening any folded sheet or any other such task which may need manual involvement, we can comfortably get an output of about 3000-4000 sheets an hour from each machine. Thus, the Board has a capability of evaluating about 7000-8000 O.M.R. responses in one hour.

As stated earlier, the first lot of O.M.R. responses sheets reached the camp office of the University, established within the premises of the Board, at about 3.50

P.M. and its scanning was finished at about 4.15 P.M. By and by, the O.M.R. response sheets started coming from other cities (Annexure R-1) and the same were evaluated as they reached the camp office of the University. The last lot of O.M.R. response sheets totalling 1377 were received from Amritsar at 7.10 P.M. The same were scanned by 7.30 P.M. After scanning of O.M.R. response sheets, keys (correct responses) were given to the Systems Analyst of the Board for matching with the responses of the candidates. It is pertinent to mention here that even though manipulation is not possible in such a fast evaluation process, still as a matter of caution the correct responses were fed to the computer after entire scanning had been completed. The Evaluation Committee for P.M.E.T.-2001 was headed by the vice Chancellor, Baba Farid University of Health Sciences, with the Assistant Registrar of the University, Secretary, Punjab State Board of Technical Education and Industrial Training and the Systems Analyst of the Board as its members. At no stage did any of these senior ranking officers leave the venue of the evaluation. The result was prepared and subsequently physically checked for accuracy and the same was converted into H.T.M.L. files and unloaded on the web site of the University at 11.30 P.M. Thus, it is clear that the University could have declared the result at 8.00-8.30 P.M. However, in order to satisfy the University authorities, the computerised result was manually checked randomly for a certain number of candidates and only on the satisfaction of the Evaluation Committee the result was posted on the website of the University."

8. The respondents have also placed on record a letter dated 26th July, 2001 (Annexure R/2) issued by the SPS International Limited, the relevant extract of which reads as under:-

"This is to inform you that the OPSCAN-8/50 OMR Systems installed at your office are both 5,000 sheets per hour, dual side OMR Scanners. These Scanners have been supplied with dual side Ink Read Head, capable to read both ink and pencil marks. Transport Bed speed is 5,000 sheets per hour and the actual throughput on these machines is comfortably over 70% of the rate speed of 5,000 sheets per hour, we wish to inform that in reasonable working conditions, the throughput is generally in the range of 3,500 to 4,200 sheets in our hour."

9. The respondents have stated that the examination was conducted at 1.00 P.M. They have also furnished details on record to show as to when the OMR response sheets were seated, sent from the centres and received at Chandigarh. They were checked and scanned by the scanner and the duration taken thereof. From the evidence/facts stated in the reply we have no reason to disbelieve the stand of the University and it will be unfair to attribute any mala fides or other errors to the conduct of examination and declaration of result. It is rare that the results are declared so expeditiously and by avoiding chances of any manipulation etc. Expeditious declaration of results itself cannot be ground for a valid challenge to the compilation of the result. The entire process was undertaken by a committee of very senior and responsible officers, being headed by the Vice Chancellor itself.

10. The learned counsel for the petitioners while relying upon the judgment of

the Supreme Court in, the case of Shivajirao Nilangekar Patil Vs. Dr Mahesh Madhav Gosavi and Others, contended that this Court should hold enquiry into the allegations made in the petition in regard to the credibility of the examination and compilation of the result of P.M.E.T.-2001. It may be noted at the very outset that in that case there was definite allegations of tampering the card-sheets and that too at the behest of the Chief Minister of the State. The allegations were definite. They disclosed a lamentable state of affairs prevailing in the University and affidavit was filed in support thereof, while in the present case, no such allegations have been made. As already noticed, it is only mere apprehension on the part of the petitioners that they have not been awarded the ranks which they thought they would get in the test. It is a settled principle of law that even in a writ petition, the pleadings have to be definite in terms and must disclose at least prima facie case for interference. There are no allegations much less allegations supported by proper facts which could persuade the Court to draw any adverse inference against the mechanism of the examination.

11. It is also a settled principle of law that presumption of correctness is for the things done in normal course of its business. No facts or data has been placed by the petitioners on record which in any case could even create a shadow of doubt on this entire process of the P.M.E.T.-2001, Mere fact that the petitioners have secured a lower rank than what they expected is a mere self-serving statement of no consequences.

12. The petitioners have claimed that they had requested the respondents for re-check/re-evaluation of their OMR response sheets and they are willing to deposit the requisite fee. Under Clause 3.10, Re-checking/Re-evaluation of OMR response sheets is not permissible. This has specifically been declared in the brochure. Such clause per se can neither be stated to be arbitrary or unreasonable. These are entrance examinations where large number of candidates take examination and the concerned authorities take due care in checking and awarding marks of the OMR response sheets. In the present case not only that the OMR response sheets were scanned by the scanner, but before declaring the result, re-check was again done manually at random. The respondents also re-checked the result of the scanner. Once all these steps are taken, the Court has no reason to accept the contention relied on behalf of the petitioners, The respondents have stated before the Court and produced the OMR response sheets of the petitioners in Court, It was confirmed that on a manual re-check the marks obtained by the petitioners remained unchanged. Learned counsel for the respondent-University, which conducted the test, relied upon the case of Maharashtra State Board of Secondary and Higher Secondary Education and Another Vs. Paritosh Bhupeshkumar Sheth and Others, where the Hon'ble Supreme Court held as under;-

"Further, it is in the public interest that the results of public examination when published should have some finality attached to them. If inspection, verification in the presence of the candidates and revaluation are to be allowed as of right, it

may lead to gross and indefinite uncertainty, particularly in regard to the relative ranking etc. of the candidates, besides leading to utter confusion on account of the enormity of the Labour and time involved in the process."

The Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day-to-day working of educational institutions and the departments controlling them."

13. In view of the law afore-enunciated by the Hon"ble Apex Court in any case, the contention raised on behalf of the petitioners, has no merit and is liable to be rejected.

14. The last submission raised on behalf of the petitioners in any case is devoid of any merit. Under clause 4.3 under the head "GENERAL INSTRUCTIONS FOR THE CANDIDATES", of the Prospectus, it is optional for a candidate to use a ball point pen or HB pencil. It is not mandatory that a candidate should only use HB pencil. A reason has also been given in the same clause that the Optical Scanner would reject any OMR response sheets where the candidate has used pencil other than HB pencil or blue ball point pen. In fact use of pencil is to the advantage of the students as they can change the answer by removing the pencil mark by a rubber on the OMR response sheet and putting an appropriate answer.

15. For the reasons afore-stated we are of the considered view that the examination, compilation of result and declaration of result of P.M.E.T,Test-2001 does not suffer from error of mal-practice and is not liable to be set aside on any of the grounds stated by the petitioners. And so, we dismiss the writ petitions without any order as to costs.