

(1992) 09 AHC CK 0051

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 21479 of 1992

Dr. Shantanu Singh

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision : 29-09-1992

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1993 All 85 : (1993) 1 AWC 255 : (1993) 1 UPLBEC 221

Hon'ble Judges : Vihay Bahuguna, J

Bench : Single Bench

Advocate : Smt. Archana Srivastava and Pankaj Srivastava, for the Appellant;

Final Decision : Dismissed

Judgement

1. The petitioner challenges the validity of the 1992 Post Graduate Medical Entrance Examination for filling up M.D./M.S. seats in all the seven Medical Colleges of the State of Uttar Pradesh.

2. For the Post Graduate Medical Examinations of 1992 the petitioner was one of the candidates, who appeared in the Examination held on 11th of January 1992 and was allotted Roll No.4181 and secured 748 marks out of 3000. The petitioner has challenged the fairness and validity of the examination and its subsequent result on the following grounds:

1. That 49 questions were leaked out prior to the examination.

2. That securing 50% marks in the PG MEE was neither a prevailing practice in the "State of U. P. before the commencement of the competitive test nor this 50% bar was imposed by the Supreme Court while introducing residency scheme on the basis of the recommendation of the Medical Council of India which was approved and accepted by the State of U. P. few years back and as such 50% criterion is arbitrary, illegal and against statutory norms.

3. That 15 questions mentioned in paragraph 19 of the writ petition and the

supplementary affidavit had multiple correct answers as a result of which marking was not proper.

3. Counter and rejoinder-affidavits have been exchanged and I have heard learned counsel for parties and have also perused the material on the record of the case.

4. The petitioner has failed to prove that the examination papers were leaked out and there is nothing on record to substantiate the plea of the petitioner. In the counter-affidavit a specific denial has been made and in the absence of any material on record it is not possible to uphold the allegation made in the writ petition that papers were leaked out as a result of which the examinations were not conducted fairly.

5. With regard to the criterion of 50% qualifying marks the case of the petitioner will be covered by the recent decision of the Supreme Court rendered in Writ petitions Nos. 451, 454, 525 and 545 of 1992 *Dr. Indu Kant v. State of U. P.* decided on 30th July 1992 reported in (1992) 4 JT 581. The Apex Court has upheld the validity of the 50% criterion for qualifying in the test, but has further given a direction to fill in the vacant seats of the 1992 academic session strictly in accordance with the merit in the entrance examination according to the combined merit list of the entire State of Pradesh. The court has relaxed the requirement of the minimum marks to such extent which may meet the necessity of maintaining academic standards for admission to Post Graduate Course as well as the regulations prescribed by the Medical Council of India in this regard. As a result of the decision of the apex Court if seats are vacant then the candidates who have secured less than 50% qualifying marks would be eligible for being admitted strictly on the basis of marks secured in the Entrance Examination.

6. Counsel for the petitioner vehemently argued that 15 questions had dual correct answers and as such the marking of the question papers was not fair and that has caused prejudice to the candidates who attempted the said questions.

7. In the supplementary counter affidavit sworn by Brij Pal Das Mehrotra, Deputy Registrar (Administration) Lucknow University, it was stated in paragraph 4 that after the examinations were over in order to ensure that no mistake or discrepancy occurred in the question-response, particularly the most appropriate response that formed the key answer, senior teachers in Medical sciences were requested to go through the question booklet and the key answers. They were directed to examine the discrepancies, if any, with the key answer.

8. A committee was constituted with the Pro-Vice-Chancellor and necessary changes were made in the "key answer sheet" which formed the basis for computer based evaluation of the answer sheets of the candidates and it was ensured that no candidate was put to any disadvantage in award of marks because of any discrepancy/ ambiguity or duplicity of the response causing disadvantage on this account. It was stated that only 6 questions were ambiguous and contained more than one correct answer and as such full 10

marks were awarded in these questions and no negative marking was done. In para 3 of supplementary counter affidavit of Brij Pal Das Mehrotra and it has specifically been stated that only 6 questions where there was ambiguity in the question or duplicity in answers and as such full 10 marks were awarded in these questions.

9. Pursuant to the order of this Court dated 12-8-1992-3 members of the committee appeared in person and in presence of the counsel for the petitioner explained that after the examinations the Review Committee, which consisted of experts re-examined the question papers and found that only 6 questions had duplicity in answers and as such a direction was issued by the Committee and the Registrar of the Lucknow University that no negative marking should be done and that full 10 marks should be awarded.

10. It has been stated in the counter-affidavit and the supplementary counter-affidavit, as also by the Experts who were in this Court, that out of 8 questions referred to in paragraph 19 of the writ petition only 6 questions in different sciences had dual correct answers and for them no negative marking was done.

11. In proceedings under Article 226 of the Constitution it is not possible for this court to further probe into the matter and on the basis of affidavits and documents on record it has not been established that more than 6 questions had dual correct answers resulting in any disadvantage to the candidates who attempted the said questions. The University has directed that no negative marking on the disputed 6 questions should be done and as such no prejudice has been caused to the students who appeared in the examination. It is noteworthy that the University suo motu examined this aspect after the examinations were over and constituted a Committee of Experts to ensure that the students did not suffer on this score.

12. For the reasons given above, the writ petition fails and is dismissed. There shall be no order as to costs.

13. Petition dismissed.