
(2008) 05 RAJ CK 0147
In the Rajasthan High Court

Gautam Morarka (Dr.) and Others

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 13-05-2008

Acts Referred:

Constitution of India, 1950 — Article 14, 15

Citation : (2008) 3 RLW 2742

Hon'ble Judges : Prem Shanker Asopa, J

Bench : Single Bench

Judgement

Prem Shanker Asopa, J.—By these writ petitions, the petitioner are challenging the system of negative marking as informed in Para 4(m) of the Instruction Booklet for the Pre-P.G. Medical Examination 2007 and 2008, except in one of the writ petitions-SBCWP No. 2095/2008 filed by Dr. Vikas Pareek and others, have challenged the decision of the Government dated 7.2.2008 extending the benefit of dispensing of negative marking of SC/ST candidates to in-service general candidates Pre-P.G. Medical Examination 2008.

2. In all the aforesaid writ petitions, except one SBCVVP No. 2059/2008, the similar issue of dispensing with negative marking in respect of SC/ST in-service candidates for achieving the target of minimum 40% marks, is involved, by making provision to prepare two results-one with negative marking and another without negative marking will be prepared and in case of non-availability of the candidates in result or with negative marking, then second result without negative marking will come into operation to fill up the remaining seats of SC/ST. In SBCWP No. 2059/2008 Dr. Vikas Pareek v. State government decision dated 7.2.2008 of dispensation negative marking for in-service general candidates is under challenge. Therefore, all the writ petitions have been clubbed, heard and are being decided together.

3. The facts mentioned in SBCWP No. 3295/2008 Dr. Sameer Dhingra and Ors. v. The State of Rajasthan and Ors. are taken as leading case for the purpose of deciding the controversy involved in these writ petitions.

4. Briefly stated, facts of the case are that the petitioners are in-service general candidates for Pre-PG Examination 2008 conducted by the respondent Rajasthan University of Health and Sciences (hereinafter referred to as "the Health University"). It has been stated in the writ petition that as per the Instruction Booklet for the Pre-P.G. Medical Examination 2008 (hereinafter referred to as "the Booklet 2008") the candidates eligible as per Ordinance 278-E and Ordinance 278-G of the University of Rajasthan as modified and adopted by the Health University could appear in the examination for the seats mentioned for Category 1(b) of the Booklet 2008. Category 1(a) is the category of candidates who are admitted on the basis of result of All India Competitive Entrance Examination for admission to P.G. Courses (MD/MS/Diploma) on open merit. Category 1(b) is the category of candidates who compete for remaining 50% of the total seats other than category 1(a). It is further stated in the writ petition that under the directions of the Medical Council of India and the State Government, 16% seats are reserved for SC and 12% seats are reserved for ST. The present dispute is in respect of Category 1(b) of grant of benefit of dispensing with negative marking in case of non-availability of SC/ST candidates.

5. In the writ petition, it is also stated that the qualification and service period eligibility of SC/ST in-service candidates are same. Emphasis has been laid on para 2(1) of Sub-clause (3) of the Instructions 2008 which provides that the candidate must secure at least 50% marks at Pre-PG Medical Examination, 2008 (hereinafter referred to as "PG Medical Examination, 2008"). However, relaxation has been given to the natural born SC/ST and OBC candidates who can be admitted on securing 40% minimum marks in the examination. Much emphasis has been laid on Para 4(m) of the Booklet 2008 which provides that each answer with correct response shall be awarded "4" marks. Negative marking will be adopted for incorrect response and one mark will be deducted for one incorrect response. Zero mark will be given for un-attempted question and if more than one answer has been indicated, it shall be considered as incorrect answer and one mark will be deducted. In Point No. 4* of para 7 of the Booklet-2008 further relaxation has been given for SC/ST candidates regarding preparation of two results-(i) with negative marking and (ii) without negative marking. In case sufficient number of SC/ST candidates do not pass the examination with negative marking then other result without negative marking will be declared and will be considered in counselling in order to give adequate representation to the reserved category. But the similar benefit of two result-(i) with negative marking and (ii) without negative marking has not been given to the in-service general candidates although both belong to one category of "in- service" and their qualification and eligibility is common. It is stated by both the counsel that the total number of papers are of 1200 marks and 50% marks for inservice general candidates are calculated as 600 and further 40% marks would be 480.

6. Submission of Mr. R.N. Mathur, counsel for the petitioners in the writ petition of Dr. Sameer Dhingra, is that the Health University has adopted the Ordinance 278-E of the University of Rajasthan which has not been published. Mr. Mathur

and Mr. S.P. Sharma submit that the reason given in the aims and objects is adequate representation of the said class of in service SC/ST for which two results are to be prepared (i) with negative marking and (ii) without negative marking is common in both the categories. The said reason of non availability of candidates is equally applicable in their cases as against 56 seats of general category in-service, only 6 have qualified and now the remaining seats will be transferred to the open category, although on dispensing with negative marking, all the seats will be filled at minimum qualifying marks of 50%. Therefore, the State Government has acted arbitrarily as well as discriminatorily amongst similarly situate persons and in giving benefit of two results- (i) with negative marking and (ii) without negative marking in case of SC/ST of in-service and not extending the same to other similarly situate class of in-service general candidates is violative of Article 14 of the Constitution of India. The same is also contrary to the various pronouncements of the Supreme Court in Dr Preeti Srivastava and Another Vs. State of M.P. and Others, , The State of Madhya Pradesh and Others Vs. Gopal D. Tirthani and Others, , Subhash Chandra Verma and others, etc. Vs. State of Bihar and others, etc., and Harish Verma and Others Vs. Ajay Srivastava and Another, . Relevant paragraphs of the aforesaid judgments will be discussed in the later part of this judgment.

7. The counsel for the petitioners also submits that in case arbitrary and discriminatory provision is made by the respondents which results in wide disparity in the matter of selection of the last candidate of SC/ST and general category of in-service amounting to compromising the merit in high specialty of medical Postgraduate degree and diploma. The merit is the essence of the selection, thus the Court is competent to quash the arbitrary police or the Ordinance of decision of the Board of Management.

8. Mr. Bharat Vyas, Addl. A.G. appearing for the State Govt. and Mr. R.A. Katta, appearing for the Health University raised preliminary objections that the petitioners who knew well the scheme of the negative marking as well as relaxation and benefit of two results to SC/ST candidates, appeared in the examination without any protest therefore, they are estopped from challenging the system of marking and two results for the reason that they have acquiesced over it and it is no more open to them to challenge the same. Counsel place reliance on a judgment of this Court in Dr. Ramji Sharma and four Ors. v. State of Rajasthan and Ors. (2002 (2) WLC (Raj.) 83. The aforesaid point has also been considered in SBCWP 2042/2007 : 2007(3) RLW 2484 Dr. Mahesh Kumar Meena and Ors. v. State of Rajasthan and Ors. decided on 15.5.2007 and DBSAW No. 310/2004 : (RLW 2005(1) Raj. 1043) Dr. Deepak Goyal v. University of Rajasthan and Ors. decided on 28.2.2005.

9. The second preliminary objection raised by counsel for the respondents is that the present cases relate to academic matter for which the Health University under the Rajasthan Health University Act, 2005 is competent to prescribe the method of selection as well as marking system and in academic matters, the

Court should be slow to interfere.

10. Half heartedly, third preliminary objection was raised by counsel for the respondents that in the writ petitions, the prayers are not couched in proper manner.

11. On merit, both the counsel relied on same judgments of the Supreme Court. The respondents have contended that they have acted as per the judgment of the Supreme Court, referred by the petitioners, which are relevant for the purpose of deciding the present controversy but petitioner but placed reliance on specific para 8 wherein findings of the Supreme Court judgment have been recorded and respondents placed reliance on the said judgment without specifying any para in vague manner despite grant of two opportunities for the same.

12. On raising the query regarding constitution of the Board of Management as per Section 22 and 24 of the Act of 2005 and Academic Council, counsel for the Health University replied that the Board and the Academic Council have been constituted as per Section 22 and 24 of the Act of 2005 but he was not able to describe the name of the nominated Member as well as Elected Members of the Board of Management and further constitution of the Academic Council as per Section 24 of the Act has also not been placed on record.

13. I have gone through record of the writ petitions and further considered the results placed by counsel for the Health University with negative marking and without negative marking of in-service candidates, as per the direction of this Court dated 5.5.2008. I have also considered the rival submissions of the counsel for the parties.

14. Before proceeding to discuss the aforesaid judgments, relevant para 4(m) and Point No. 7-Four* of the Booklet-2008, order dated 5.5.2008 of this Court and the results referred above and placed before me need be quoted. The same are as follows:

Para 4(m) of the Booklet-2008

4 (m). Each answer with correct response shall be awarded four marks. Negative marking will be adopted for incorrect responses. One mark will be deducted for each incorrect response. Zero mark will be given for the question not answered. More than one answer indicated against a question will be deemed as incorrect and one mark will be deducted accordingly.

7. Important Points

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* Application form is required to be sent through the Directorate of Medical and

Health Services, Government of Rajasthan, Jaipur. The form of "In-service" candidates received directly will be rejected.

* For SC/ST Candidates, two results will be prepared-one with negative marking and other without negative marking. In case sufficient number of SC/ST candidates do not pass the exam with negative marking then the other result without negative marking will be declared and will be considered in the counselling. This is to be done simply to give adequate representation to the reserved category. Therefore, no candidate would be allowed to compare the first result with second result.

* ...

* ...

Order dated 5.5.2008 of this Court

The counsel for the respondent-University makes a request that unless the court direct, the comparison of marks of inservice candidate (general and inservice candidate (SC/ST) cannot be made.

The counsel for the petitioners submit that preparation of two results of inservice candidates (SC/ST), one with negative marking and another without marking have resulted in disparity of marks between the similarly situated person.

In view of above, I direct the respondent-University to produce the sealed envelope of the results of inservice candidates (General) as well as two results of inservice candidates of SC/ST, one with negative marking and another without negative marking, before this Court on 8.5.2008.

Put-up on 8.5.08 as jointly prayed.

Interim order shall continue upto 15.5.2008 subject to decision of the writ petition.

Results

Rajasthan University of Health Sciences Jaipur

Pre-PG MD/MS Exam. 2008

List of Pass In service Candidates

With & Without Negative Marking

	Roll No.	Name	Father's Name	Category	Marks with	Marks without
					Neg, marking	Neg. Marking

	6737	Rajesh Kumar				
Barupal Ins-SC	300	480	P Govind Lal Barupal	5408	Chuttan Lalmeena	Ins-ST
324	496	P Bhagwansahay	Meena	5531	Devender Grover	Ins-Gen
494	600	P Suresh Grover				

Rajasthan University of Health Sciences
Jaipur

Pre-PG MD/MS Exam. 2008

List Of Pass Inservice Candidates

With & Without Negative Marking

Roll No. Name Father's name Category Marks with Marks
without Neg. marking Neg. Marking _____
6824 Ruchi Somani
Ins.-Gen 495 600P Shanti Lal Somani 7230 Shivra Batra Ins.-Gen 480 600P
Madan Mohan Batra _____

Rajasthan University of Health
Sciences Jaipur

Pre-PG MD/MS Exam. 2008

List Of Pass In service Candidates

With & Without Negative Marking

Roll No. Name Father's name Category Marks with Marks
without Neg. marking Neg. Marking _____
7558 Narendra Singh
Rathore Ins-Gen 491 604P _____

Rajasthan University of Health
Sciences Jaipur

Pre-PG MD/MS Exam. 2008

List Of Pass In service Candidates

With & Without Negative Marking

Category Appeared Original Result Pass Total Last
Candidate (Pass with without Seats Marks After Negative Negative Waving
Negative Marking) Marking Marking _____
Ins-Gen 252 6 48 56
600 Ins-SC 99 4 17 17 480 Ins-ST 85 0 07 13 496 _____

15. First of all, I proceed to decide the preliminary objections.

16. On the issue of estoppel, as detailed out hereinabove, counsel for the respondents have placed reliance on Paras 17 and 18 of the judgment of this Court in Dr. Ramji Sharma (supra) wherein the writ petition had been dismissed

on the ground of estoppel after placing reliance on *Suneeta Aggarwal Vs. State of Haryana and Others*, , *Union of India and Another Vs. N. Chandrasekharan and Another*, , *Madan Lal and Others Vs. State of Jammu and Kashmir and Others*, and *Om Prakash Shukla Vs. Akhilesh Kumar Shukla and Others*, .

17. A perusal of the said judgment would reveal that violation of Article 14 of the Constitution of India has not been considered in the said cases. As regards decision of the Supreme Court in *Sunita Aggrawal (supra)* referred in the said judgment, the matter relates to challenging the non-approval the appellant's name by the Vice Chancellor even though the petitioner was recommended by the Selection Committee and the post was ordered to be re-advertised. The appellant therein again applied and after non selection against subsequent selection challenged earlier non-approval, therefore, the writ petition was rejected on the ground of acquiescence. Here, in the instant case, process of admission of 2008 are yet to be completed, therefore, the said case of Supreme Court is distinguished on facts.

18. The second case *Union of India v. N. Chandrashekharan (supra)* relates to promotion wherein the procedure for appearing was known to them and they have appeared in the written test without any protest and then challenged the marking of interview and ACR being disproportionate or that the authorities cannot fix minimum marks to be secured at interview or in ACR. In the said case also, the issue of estoppel has not been decided by the Supreme Court with reference to the scheme of examination before finalization of the process of admission. Therefore, the said Supreme Court judgment is not applicable.

19. In the third case - *Madan Lal and Ors. v. State of J & K and Ors. (supra)* the matter related to selection and marking system and the quantum of marking obtained was under challenge on the ground of unfairness and the defect in the Selection Committee. Supreme Court held that the petitioner appeared at the examination without protest and when he found that he would not succeed in the examination, he filed the petition challenging the said examination. Therefore, the High Court should not have granted any relief to the petitioner. In the present case, the candidates were not aware of disparity as the marks of the SC/ST candidates even after lowering down to minimum qualifying marks of 40% and further in order to achieving the said 40% marks, negative marking was dispensed with and the actual marks with or without negative marking were not known to them. Even the said situation of disparity could not have been visualised by the petitioners while the first result was declared and out of the total 56 seats of general category, only 6 stand in merit. The second result of SC/ST has not been published till today.

20. In the fourth case - *Om Prakash Shukla (supra)* the petitioner filed the writ petition after appearing in the examination without protest and realizing that he would not succeed. Here, in the instant case, the grievance of the petitioners is that on account of non dispensing with the negative marking out of the total 56 candidates only 6 candidates have been selected whereas the seats are likely to

be filled of SC and ST in service candidates by dispensing with negative marking. In my view, all the aforesaid reasons could not have been visualized by the petitioners at the time of admission and the issue of disparity came into existence at the stage when the marking of all in-service candidates with or without negative marking was called by this Court vide order dated 5.5.2008. The writ petitions have been filed just after publication of the 1st result wherein as against 56 general seats, only 6 have qualified for the reason of negative marking, therefore, the judgment of Division Bench of this Court in Dr. Rajiv Mangal Vs. Rajasthan University of Health Sciences and Another, whereby the Writ petition of the candidate of 2007 has been dismissed on 30.5.2007 just before one day of the last date for admission i.e. 31.5.2007 as belated and no relief can be granted will also not apply in the present case of 2008.

21. In the present cases, second result of SC/ST has not been published till date and the last date is 31.5.2008 but letter for counselling was issued to SC/ST as per 2nd result and admissions have not been made. Otherwise also, the issue relates to the arbitrary and discriminatory acts of the State Government resulting in violation of the fundamental right guaranteed under Article 14 of the Constitution of India in the matter of marking where all categories irrespective of reserved category are to be treated as candidates for P.G. Course, therefore, estoppel will not apply. For the aforesaid reasons, the preliminary objection regarding estoppel is over ruled and rejected.

22. As regards second preliminary objection that in academic matters, the court should be slow to interfere, it is well settled that the issue of arbitrariness and discrimination in case of system of examination and marking of the candidates appearing in the same examination made differently than it can be examined by the Court on touchstone of Article 14 of the Constitution of India. In view of this, the second preliminary objection is not sustainable.

23. The third preliminary objection relating to the prayers in the writ petition having not been couched in a proper manner for claiming desired relief also has no substance in view of their submission that they are only challenging the dispensing with of the negative marking in respect of SC/ST and further pray for doing away the negative marking for all the candidates, therefore, there is no defect in the prayers and the relief claimed. The third preliminary objection has no substance.

24. Having over-ruled/rejected the aforesaid preliminary objections, now I proceed to examine the matter on merit.

25. A perusal of the result, reproduced above, would reveal that for total 56 seats, out of 252 INS-GEN candidates, only 6 passed with negative marking and 48 passed without negative marking. The result also discloses marks obtained by the last candidate after waving negative marking i.e. 600 whereas in INS-SC category, as against total 17 seats, 99 candidates appeared out of which 4 passed with negative marking having obtained 300 marks and 17 passed without

negative marking having obtained 480 marks of the last candidate. Thus, there is wide disparity of 180 marks in SC category as detailed out hereinabove. Against total 13 seats in INS-ST category, 85 candidates appeared and none passed with negative marking on account of having 324 marks i.e. Less than 480 marks and only 7 passed without negative marking and the marks of the last candidate are 496, thus, there is wide disparity in different categories on account of dispensing with negative marking benefit of which has only been given to SC/ST category for giving them adequate representation.

26. To be more specific by naming out the candidate, it would further reveal that INS-SC candidate Rajesh Kumar Barupal secured 300 marks with negative marking and 480 marks without negative marking whereas last candidate in INS-ST category Chuttan Lal Meena secured 324 marks with negative marking and 496 without negative marking. In general category, the last candidate INS-G could obtain 495 marks with negative marking and without negative marking 600, thus, there is increase of 105 marks. The comparative position of marking of all the aforesaid categories with negative marks is taken into consideration, then SC candidate has been called at 300 marks, ST candidate at 324 marks and general candidate at 494 marks. Thus, there is wide disparity of 105 marks in general, 186 marks in SC, 172 marks in ST and that too in highly specialised medical P.G. Course where in case of INS-G 6 candidates passed with negative marking increased to 48 without negative marking, in INS-SC 4 candidates passed with Negative marking increased to 17 and in INS-ST none passed with negative marking, increased to 7 candidates without negative marking when the law is well settled that even merit cannot be compromised for SC/ST candidates.

27. The judgments cited by the counsel for the petitioners are as follows:

1. Harla Vs. The State of Rajasthan,
2. S.K. Shukla and Others Vs. State of U.P. and Others,
3. D.B. Raju Vs. H.J. Kantharaj and Others,
4. The State of Madhya Pradesh and Others Vs. Gopal D. Tirthani and Others,

28. The Constitutional Bench of the Supreme Court in Dr. Preeti Srivastava (supra) held that wide disparity in qualifying marks for the reserved category candidates and general category candidates at the post graduate level is not permissible. Relevant portion of paras 26, 29, 30, 32, 33, 59 and 62 read as under:

However, the special provisions for SC/ST candidates-whether reservations or lower qualifying marks-at the specialty level have to be minimal. There cannot, however, be a big disparity in the qualifying marks for the reserved category of candidates and the general category of candidates at the postgraduate level. The difference in the qualifying marks should be at least the same as for admission to the undergraduate medical courses, if not less. This level is only one step below the apex level of medical training and education where no reservations are

permissible and selections are entirely on merit. At only one step below this level the disparity in qualifying marks, if the expert body permits it, must be minimal. It must be kept at a level where it is possible for the reserved category candidates to come up to a certain level of excellence when they qualify in the specialty of their choice. It is in the public interest that they have this level of excellence. Unless there is a proper control at the stage of admission on the different categories of the students who are admitted and unless the differences are kept to a minimum, such differences will not disappear in the course of time if the course of study is a specialised course such as a postgraduate course.

In the present case, the disparity of qualifying marks being 20% for the reserved category and 45% for the general category is too great a disparity to sustain the public interest at the level of postgraduate medical training and education. Even for the MBBS course, the difference in the qualifying marks between the reserved category and the general category is smaller, 35% for the reserved category and 45% for the general category. The marks cannot be lowered further for admission to the postgraduate medical courses, especially when at the superspeciality level it is the unanimous view of all the judgments of the Supreme Court that there should be no reservations. This would also imply that there can be no lowering of minimum qualifying marks for any category of candidates at the level of admission to the superspeciality courses. There is no logic or rationale for the difference to be larger at the postgraduate level. It is not permissible under Article 15(4), the same being unreasonable at the postgraduate level and contrary to the public interest.

29. Earlier to the aforesaid Constitutional Bench decision, in *Subhash Chandra Verma and others, etc. Vs. State of Bihar and others, etc.*, the Supreme Court while dealing with evaluation of the answer sheets, commented in para 25(3) that by not adopting the negative marking no candidate was put to any disadvantage in awarding marks because of any discrepancy. Relevant portion of appointment of Committee of experts suo motu by the Commission reads as under:

In the circumstances quoted above, the question of appointment of a Committee of Experts suo motu by the Commission did not arise.

It requires further to be noted that the Commission had given clear instructions to the evaluators to award full marks to the candidates in cases where (a) candidate has put tick mark against the correct answer and has also put correct answer in the box; (b) candidate has put only tick mark against the correct answer but has not written anything in the box; and (c) the candidate has written answer in the box but has not put any tick mark against the correct answers. No candidate was put to any disadvantage in awarding marks because of any discrepancy, ambiguity or duplicity. Moreover, there being no negative marking, no disadvantage was caused to any candidate on this count.

30. Mr. Bharat Vyas, Addl. AG has not been able to point out any finding of the

Supreme Court on the issue of disparity in their favour.

31. During the course of arguments, one more question was raised with regard to the fact that whether fulfilling of 50% remaining seats of open competition by holding it State in-service is reservation or source of recruitment. The said issue is clinched by the judgment of the Supreme Court in *The State of Madhya Pradesh and Others Vs. Gopal D. Tirthani and Others*, reliance on which has been placed by both the parties wherein the in-service candidates have not been held to belong to any reserved category and the same has been held to be source recruitment in between open market and in-service candidates.

32. Mr. S.P. Sharma in view of the said judgment as well as amended Ordinance 278-E and G of the Rajasthan University does not press his argument that in Ordinance 278-E and G of the University of Rajasthan as adopted by the Health University with modification. However, he pressed the argument that no adequate representation of inservice general candidate is there on account of passing of 6 candidates out of 56 seats, otherwise also, the in-service candidates cannot be said to belong to any reserved constitutional category. The constitutional reservation of SC/ST stand on higher pedestal. Therefore, counsel for the petitioner cannot claim benefit of 40% minimum qualifying marks for SC and ST. However, they can certainly raise the issue of disparity consequently resulting in compromising the merit in case of SC/ST candidates in a highly specialised PG medical course which has been raised and pressed and further the same has force also. The aforesaid issue has been dealt with in the earlier paras of the judgment and in subsequent paras the finding is given.

33. Mr. R.N. Mathur has also submitted that even the said Ordinance 278-E and G have not seen the light of the day on account of non publication. On this issue, counsel for the respondents submit that the issue is to be examined with reference to the Act of 2005 and not with reference to the University of Rajasthan Act, 1946. The petitioners do not succeed on this argument for the reason that the Health University is having independent statutory status having competence to frame the Ordinance and even if any defective provision is adopted then also, the validity of the same is to be examined as per the Act of 2005 and I find that no infirmity in the competence of the University in issuing the Booklet-2008 has been shown under the Act of 2005. Therefore, this contention of the petitioners is liable to be rejected.

34. In view of the above analysis, the law on the subject of disparity, is finally settled by the Constitutional Bench of the Supreme Court in *Dr. Preeti Srivastava (supra)*. Supreme Court has also held that for SC/ST candidates, minimum standard of obtaining lower percentage can be prescribed i.e. 50% for general and 40% for inservice SC/ST candidates. The preparation of the second, result without negative marking of SC/ST candidates results in discrimination of marking system which is always the same in general as well as reserved category, therefore, dispensing with negative marking in respect of SC/ST candidates is liable to be quashed. It cannot be presumed that the students are

perfect. The commission of mistake by the student or anyone is human conduct for which mark of the question was not given and further deduction of one more mark of the right answer in such a situation is not only arbitrary but results in compromising the merit for the reason that usually in the examination, deduction of one mark of the wrong answer was there is the Instruction Booklet but further deduction of one mark of right answer on account of wrong answer would amount to double jeopardy and that too, in competition where for one seat two or more than two candidates are waiting for their turn even after obtaining equivalent marks. Hence, the negative marking system is arbitrary on this count also. In case of Dr. Vikas Pareek (SBCWP No. 2059/2008), Mr. Bharat Vyas, Additional Advocate General stated that the Government is not going to implement its decision dated 7.2.2008 of dispensing with negative marking for in service general candidate but it was felt that the issue of not dispensing with negative marking is required to be dealt with in an independent manner and answered in other connected cases, as indicated above.

35. Accordingly, (i) S.B. Civil Writ Petitions No. 795/2008, 3776/2008, 3835/2008, 1780/2008 and 3295/2008 are allowed in part; the policy of the State Government as published in the Instruction Booklet for the Pre-P.G. Medical Examination, 2008 dispensing with negative marking in case of SC/ST candidates is quashed on the ground of being violative of Article 14 of the Constitution of India. The respondents are directed to pass appropriate orders after considering all the judgments of the Supreme Court and this Court including this judgment within a period of seven days from today and declare the result accordingly.

(ii) The admission exercise be completed by 30.5.2008.

(iii) Writ petition No. 4221/2007 filed by Praveen Kumar relating to the year 2007 is dismissed on the ground that after lapse of one academic year, it is too late to grant any relief.

(iv) As regards SBCWP No. 2059/2008 Dr. Vikas Pareek, the government is free to pass final order in respect of the impugned order dated 7.2.2008 which has been kept in abeyance as per the findings and directions recorded/given hereinabove. The petitioner Dr. Vikas Pareek is free to make representation to the respondents within five days and the same shall be considered before passing an appropriate order.

(v) No order as to costs.