

(2024) 03 BOM CK 0080
In the Bombay High Court
Case No : Writ Petition No.2558 Of 2024

Mast. Gaurav Sonawane

APPELLANT

Vs

National Testing Agency And Others

RESPONDENT

Date of Decision : 21-03-2024

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2024) 03 BOM CK 0080

Hon'ble Judges : A.S. Chandurkar, J;Jitendra Jain, J

Bench : Division Bench

Advocate : Kedar B. Dighe, Rui Rodrigues, Jainendra Sheth

Final Decision : Dismissed

Judgement

Jitendra Jain, J

1. Rule. Rule made returnable forthwith. Mr. Rodrigues, learned counsel waives service of notice for Respondent No.1-NTA. By consent of the parties, petition is heard finally.

2. By this petition under Article 226 of the Constitution of India, the Petitioner has challenged the process of exam conducted by Respondent No.1, whereby it is informed to the Petitioner that he has attempted only 49 questions out of 75 questions.

Brief facts are as under:-

3. The Petitioner appeared for JEE (Main) Session 1 on 27th January 2024. The said exam is a computer based test, whereby a student is provided with the computer and the question paper appears on the screen which the Petitioner has to attempt by selecting appropriate options specified therein.

4. On 6th February 2024, response sheet of the Petitioner was emailed by Respondent No.1 which showed that the Petitioner has attempted only 49 out of 75 questions. On receipt of the said email, the Petitioner immediately responded

by email dated 12th February 2024 wherein, he raised a grievance that the number of questions attempted by him does not match the information provided in the response sheet and this discrepancy has laid to inaccurate representation of his performance in the examination.

5. On 14th February 2024, the results were declared wherein the Petitioner's score was declared 86 percentile and consequently, he did not qualify for JEE (Advance) exams. Being aggrieved by the non-response of the Respondents to the grievance raised by the Petitioner, the present petition is filed.

6. The Petitioner submitted that he has attempted 73 out of 75 questions and, therefore, the response-sheet emailed to him which indicates that he has attempted only 49 questions out of 75 is incorrect. The Petitioner further submitted that although he had raised the grievance on this count, the Respondents have not replied. The Petitioner, therefore, submitted that electronic record of the Respondents be called for by this Court to verify the exact number of questions attempted by the Petitioner and consequently his results be re-declared upon re-valuation.

7. Per contra, the Respondents submitted that in the email dated 12th February 2024, the Petitioner has made a general grievance and did not specify exactly, as to how many questions he had attempted, but same has been averred for the first time in the petition. Be that as may be, the Respondents further submitted that the exam is conducted electronically on computer system which is based on random basis and the screen of each candidate reflects different questions in randomised sequences. The Respondents further submitted that on 9th March 2014, they had replied to the Petitioner's email and informed that there is no discrepancy in the response sheet or score card and based on the actual performance in the said exam marks have been awarded. The Respondents further submitted that as per the Information Bulletin issued by them for JEE (Main) 2024 exam it is specifically stated that there shall be no re-evaluation/re-checking of the result and no correspondence in this regard shall be entertained. The Respondents further relied upon the decision of the Supreme Court in the case of Dr. NTR University of Health Sciences Vs. Dr. Yerra Trinadh & Ors. 2022 SCC Online SC 1520 and in the case of Dr. B.R. Ambedkar University, Agra Vs. Devarsh Nath Gupta & Ors. 2023 SCC Online SC 970 and contended that in the absence of any provision for re-verification, the prayers sought by the Petitioner should not be granted.

8. The Respondents further submitted that the next attempt of the said exam is in the first week of April and the Petitioner can attempt the same and if he qualifies, he would be eligible for JEE (Advanced) exam and therefore, the Petitioner would not be really at a loss since the year will not be wasted and he have a chance to improve his score.

9. We have heard the learned counsel for the Petitioner and the learned counsel for the Respondents and with their assistance have perused the documents

annexed to the petition and reply filed by the Respondents.

10. Paragraph 13.4 of the information brochure issued by the Respondents very categorically states that there shall be no re-evaluation/re-checking of the result and no correspondence in this regard shall be entertained. Therefore, the Petitioner cannot seek re-evaluation or re-checking of the result. Furthermore, the procedure prescribed in the Public Notice dated 6th February 2014 for submitting challenge/objection was to be submitted from 7th February to 9th February 2024 has also not been followed. The grievance made by the Petitioner is on 12th February 2024 which is after the prescribed date. Therefore on both these counts, the Petitioner is not entitled to seek relief prayed for.

11. The Respondent is justified in placing reliance on the decision of the Supreme Court in the case of Dr. NTR University of Health Sciences (supra) and in the case of Dr. B.R. Ambedkar University, Agra (supra) wherein the Supreme Court has categorically observed and held that in the absence of any provision for re-evaluation, the High Court was not justified in ordering re-evaluation after calling for the record of the answer sheet. These decisions of the Supreme Court have in turn analysed various decisions rendered by the Supreme Court on this very issue. Therefore, in our view, it is now no more res integra that in the absence of any provision for re-evaluation, the Petitioner, as a matter of right cannot pray for re-evaluation of the answer sheet.

12. It is important to note that in the email dated 12th February 2024 by the Petitioner, a general statement is made that there is discrepancy between attempted questions and the response sheet without giving any specific details which the Petitioner could have since the response sheet was emailed to him and more particularly since the specific grievance of the Petitioner was with respect to number of the questions he has attempted and number of questions shown to have been attempted in the response sheet. Therefore even on this count, the Petitioner is not entitled to seek any relief.

13. In any view of the matter, a student is entitled to appear for the exam twice, once in January and second in April 2024 and the best of two would be considered for JEE (Advanced) Exam. The second exam is due in the first week of April 2024 and therefore as such, no severe prejudice would be caused, since the Petitioner can appear in April 2024 thereby the apprehension of losing one year is also avoided.

14. In view of the above, the writ petition is dismissed with no order as to costs.