
(2007) 07 AHC CK 0089
In the Allahabad High Court

Mrityunjay Singh Yadav and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 12-07-2007

Acts Referred:

Citation : (2007) 7 AWC 6741 : (2008) 1 UPLBEC 80

Hon'ble Judges : Sunil Ambwani, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Sunil Ambwani, J.—By these writ petitions, the petitioners, who appeared in U.P. Combined Pre Medical Test-2007 (CPMT-2007) conducted by Veer Bahadur Singh Purvanchal University, Jaunpur (the University), have questioned the correctness of the revised results of CPMT-2007, declared on June 21st 2007, rectifying the technical errors, in the results declared on June 14th 2007. They have alleged manipulations and foul play in preparation of revised results, and have prayed for directions commanding respondent-authorities to hold fresh CPMT-2007, by the University having good reputation under the supervision of some independent agency. They have also prayed for a writ of mandamus commanding the respondents authorities to hand over the entire investigation to an independent investigating agency like CBI and lodge First Information Report under different sections of Indian Penal Code and to prosecute the University authorities, involved in the malpractices, and anomalies.

2. Briefly stated the. facts, giving rise to these petitions, are, that in terms of the directions given by Lucknow Bench of this Court in writ petition No. 418 (MB) of 1998 Tulika Ram and Anr v. State of UP and Ors. the Governor/Chancellor nominated "Veer Bahadur Singh Purvanchal University, Jaunpur", from amongst the Universities recommended by a Committee, consisting of Principal Secretary, Medical Department; Director General, Medical Education; two Vice Chancellors and three Principals of the Medical Colleges. The State Government issued a Government Order No. 378/71-3-07-76/2006 dated 1.2.2007 providing for

detailed instructions and a strict time schedule commensurate with the directions of the Supreme Court in *Medical Council of India Vs. Madhu Singh and Others*, to hold CPMT-2007. According to the time schedule, the advertisements- giving the examination schedule was to be published on 3.2.2007; sale of forms from 20.2.2007 to 20.3.2007; last date of submissions of forms was fixed on 25.3.2007; date of examination on 22.5.2007; results of all the examinations were to be declared on or before 14.6.2007, scrutiny by 21.6.2007 and first batch of counselling from 1.7.2007 to 15.7.2007. This time schedule was fixed in compliance of the directions issued by Hon'ble Supreme Court fixing a lime table in the case of *Medical Council of India Vs. Madhu Singh and Others*, The CPMT-2007 was to be held for admitting students to six Government Allopathic Medical Colleges including UP King George Dental Sciences University, Lucknow; UP Gramin Ayurvedic Anusandhan Safai, Etawah for MBBS/BDS course as well as BHMS/BAMS/BUMS courses in the State Homeopathic/Ayurvedic and Unani colleges. The number of seats in these colleges is given in the schedule appended to the Government Order.

3. A total number of 81012 candidates were registered for appearing in CPMT-2007. The examinations were held on 22.5.2007 and the results published on 14.5.2007. As soon as the results were published, the candidates and their guardians raised strong protests to the flaws and anomalies suspecting foul play and manipulations in preparation of the results. The candidates expecting good marks received ridiculously low marks and that many others, who were not good students, were shown to have secured very high ranks. The State Government taking notice of these protests immediately took a decision vide a Government Order No. 44/SSE/2007 dated 16.6.2007 issued by Special Secretary, Medical Education, Anubhag-3, Lucknow to constitute a Committee to reexamine the revised results. This Committee consisted of Mr. S.K. Raghuvansi, Special Secretary, Medical Education, Government of UP, Lucknow; Dr. Kamal Sahni, Director General, Medical Education, UP Lucknow; Mr. U.S. Tomar, Registrar, UP Technical University, Lucknow and Mr. S.E.A. Naqvi, Technical Director, NIC, Lucknow. The Committee was given liberty to take assistance from two experts and requisite staff. The Committee appointed four experts to assist in the correctness of the results, which were prepared under the supervision of Dr. K.P. Singh, Vice Chancellor of Veer Bahadur Singh Purvanchal University, Jaunpur and Chairman of CPMT-2007. These persons chosen by the Committee were experts in the field of Information Technology. They included; (1) Dr. A.K. Khare, Former Prof. Vice Chancellor, UP Technical University; (2) Dr. Jai Prakash, Former Professor MNNIT Allahabad; (3) Dr. Uttam Singh, SGPGI Lucknow; (4) Dr. J.P. Saini, Professor BILT Jhansi, and (5) Mr. Rajendra Gupta, System Analyst, NIC Lucknow.

4. The Committee immediately set upon the task to verify the correctness of the result. The report of the Committee was placed before the Court in sealed cover. The Counsels appearing for the petitioners neither requested to supply copy of the report nor asked the Court to look into its findings. The court however after

perusing the report finds it appropriate to mention that contents of the report do not give any further facts, findings or conclusion, which are given in detail in the counter affidavit filed by Shri Naresh Chandra, Deputy Registrar, Veer Bahadur Singh Purvanchal University, Jaunpur.

5. Shri A.K. Raghuvansi, Special Secretary, Medical Education Department, Government of UP reported to the State Government that the Committee reached Jaunpur and started its work on 17.6.2007 to complete the enquiry by the end of the week, after which the revised results were to be declared. The committee was asked to do random sampling of results under the supervision of Shri U.S. Tomar, Registrar of UP Technical University, Lucknow. The work started in the forenoon of 17.6.2007 with discussions to prepare an action plan. According to the plan prepared by the Committee, the sealed office of CPMT at the residence of the Vice Chancellor was opened and an inventory of the documents and other material was prepared. The committee was informed that the two trucks parked in the campus were used for transporting the concerned documents and material. These documents and material were unloaded and an inventory was prepared. The committee enquired from the Vice Chancellor/Chairman, CPMT-2007, the details of procedure of examinations and the steps taken to maintain the secrecy and accuracy adopted by him in the examinations and preparation of results. The Vice Chancellor/Chairman, CPMT-2007 explained to the Committee the entire details and gave his report along with procedure adopted for examination and preparation of results. The report was signed by. Shri K.P. Singh, Vice Chancellor/Chairman, CPMT-2007, and his Associates including an Associate Professor, I.I.R. Roorkie and three Associate Professors of I.T. Banaras Hindu University, Varanasi. The Committee was informed that all the four Professors are renowned professors and have long experience of organising such examinations.

6. The relevant part of the report of the Vice Chancellor/Chairman, CPMT-2007 relating to the procedure adopted for preparation of the question papers, key answers, for the purposes of maintaining secrecy and correctness of the result, is quoted as below:

dqyifr @ ps;eSu] lh0ih0,e0Vh0&2007 dh fjiksZV ds eq[; va"k fuEufyf[kr gS%

izos"k ijh{kk ds izR;sd fo"k; ?twyksth] cksVuh] fQthDI] dsfeLV?h? ds fo"k; fo"ks"kkks ds ,d xzqi }kjk iz"u&i=ks dh mRrj dqath dk fuekZ.k fd;k x;k rFkk iz"ui= fuekZrk }kjk nh x;h mRrj dqath ls bldk feyku fd;k x;k ArRi"pkr foLr`r ppkZ ds mijkUr fo"k; fo"ks"kkks ds xzqi }kjk izR;sd iz"ui= dh mRrj dqath dk fuekZ.k fd;k x;k A

iwokZUpy fo"ofo|ky; ds vUnj vkSj ckgj ds ekgSky dks n`f"Vxr j[krs gq, ;g fu.kZ; fy;k x;k fd bULVhV;wV vkWQ VsDuksykWth] ch-,p;-w- okjk.klh rFkk vkbZ-vkbZ-Vh- :M+dh ds ofj"B f"kk{kdk ds dh lgk;rk ls lh-ih-,e-Vh-&2007 dh iksLV izkslsflx dk dk;Z IEiUu dj;k tk;s A

fo}ku fo"ks"kkks ls ppkZ ds mijkUr eSus ;g fu.kZ; fy;k fd izos"k ijh{kk dk iskLV

izkslsflax dk dk;Z mPpre Lrj dh xksiuh;rk ,oa "kqfprk cuk;s j[kus ds fy, tkSuiqj ds ckgj fdlh xksiuh; LFkku ij IEiUu dj;k tk;s A

eSus vius lg;ksxh;ks ds lkFk Loa; dh fuxjkuh es vks-,e-vkj- mRrj iqfLrdkvks dh iskLV izkslsflax dk;Z gsrq p;fur xksiuh; Lfky rd ys tkus dk dk;Z IEiUu fd;k A

iz"u&i= cqdysVks ij Nih lhjht ;Fkk ,]ch]lh vkSj Mh iw.kZr% Meh Fkh A budk iz"ui= cqdysV la[;k vFkok ckj dksM ls ckgj fdlh izdkj dk dksbZ IEcU/k ugh Fkk A ;g O;oLFkk mPpLrjh; laosnu"kh y ijh{kk es udy jksdus ds mn~ns"; ls dh xbZ FkhA

iz"ui= cqdysV la[;k rFkk vks-,e-vkj- "khV Nis ckj dksM es ,d xksiuh; laca/k Fkk A ftld ek;/e ls vks-,e-vkj- uEcj ius ds i"pkr iz"ui= cqdysV la[;k dk Lor% fu/kkZj.k fd;k tk ldrk gSA izos"k ijh{kk es cgq/kk dbZ ckj Nk= xyr lwpuk Hkj nssrs gSA ftl lq/kkjus es mDr O;oLFkk us lgk;ksx iznku fd;kA

vuqifLFkr Nk=ks dh lwph dk fuekZ.k 4 vfHkys[kks ?osjhQds"ku QkeZ lsUVj lqifjVsUMsUV dk ,clsUVh LVsVesUV] mi;ksx dh xbZ vks-,e-vkj- mRrj iqfLrdkvks dk fjdkM+Z] mi;ksx dh xbZ iz"ui= cqdysV l[a;k dk fjdkMZ? dh lgk;rk ls fd;k x;k gSA bUgs vkil es feyk;k x;k A bugs vkil es feyk;k x;k rFkk =qfV;ks dk lq/kkj djds vuqifLFkr Nk=ks dh lwph cuk;h x;h A

izR;sd iz"ui= ds lsV&1 dh mRrj dqath iw.kZr% "kq) cuk;h x;h ijUrq lsV&1 ls lsV&2] lsV&3 ,oa lsV&4 dh mRrj dqaft;ks dks cukrs le;] vutkus es xyrh gks x;h A mYys[kuh; gS fd 14 twu 2007 dks ijh{kkQy dh ?ksk"k.kk ds i"pkr ;g xyrh eSus Loa; idMh ,oa bl xyrh dks ehMh;k ds lekus Lohdkj fd;k A

lsV&2] lsV&3] ,oa lsV&4 dh mRrj dqaft;ks dh xyrh dks lq/kkj dj iw.kZr% "kq) mRrj dqaft;ks dk fuekZ.k fd;k x;k rFkk lh-ih-,e-Vh-&2007 dk iqujh{kr ijh{kkQy RkS;kj dj fy;k x;k gSA

lfefr us mDr lHkh f"i{k{k dks ls lh-ih-,e-Vh-&2007 ds IEcU/k es foLrkj ls okrkZ dh vkSj lqlaxr fcUnqvks ij muls vko;"d tkudkj izkIr dh A

lh-ih-,e-Vh-&2007 dh ijh{kk lfefr dh vk[;k ds eq[; fcUnq fuEu fyf[kr gS

ftu d{kks es ijh{kk ls IEcfU/kr xksiuih; lkexzh rFkk dEi;wVj vkfn j[kks gq, Fks mud lr~r fuxjkuh dh x;h rFkk leLr lkexzh dks jkf= es lhy cUn O;oLFkk ds vUrZxr j[kk x;k A

ijh{kk dsUnz ls izkIr xksiuh; lkexzh dh lhy lfefr dh mifLFkfr es [kksyh x;hA

dqN Nk=ks us ;k rks iz"ui= cqdysV la[;k vks-,e-vkj- mRrj iqfLrdk es ugh fy[kh Fkh vFko xyr fy[kh Fkh A ,sals izdj.kks dks fpfUgr dj mues lgh iz"ui= cqdysV la[;k ntZ dh x;h A

dbZ Nk=ks us vks-,e-vkj- mRrjiqfLrdk es vius vuqdzekad xyr fy[kks Fks A ,sls izdj.kks dks fpfUgr dj mues lgh vuqdzekad ntZ fd;s x;sA

vuqifLFkr Nk=ks dh lwpuk dk xgu ijh{k.k djds vuqifLFkr Nk=ks dh "kq) lwph cuk;h x;hA

Nk=ks ds vks-,e-vkj- fjLkUI dk ewY;kadu v/;{k} lh-ih-,e-Vh- ds funsZ"kks ds dze es fuEuklqkj fd;k x;k A

iz"ui= cqdysV uEcj 4 ls Hkkx nsus ij ;fn vo"ks"k 1 cps vFkok vfUre nks n"keyo vad 0-25 gks rks og lsV&1 gksxkA

iz"ui= cqdysV ua0 4 ls Hkkx nsus ij ;fn vo"ks"k 2 cps vFkok vfUre nks n"keyo vad 0-50 gks rks og lsV&2 gksxkA

iz"ui= cqdysV ua04 ls Hkkx nsus ij ;fn vo"ks"k 3 cps vFkok vfUre nks n"keyo vad 0-75 gks rks os lsV&3 gksxk A

iz"ui= cqdysV ua04 ls Hkkx nsus ij ;fn vo"ks"k 0 cps rsk vFkok vfUre nks n"keyo vad 0-00 gks rks os lsV 4 gksxk A

nksuks iz"ui=ks ds pkjks lsVks ds dEi;wVj ewY;kadu dh lSEiy eSuqvy psfdx dh x;hA

ps;jeSu us voxr dj;k;k fd izR;sd iz"ui= dk ewY;kadu pkj lnL;h; fo"k; fo"ks"kK lfefr }kjk fd;k x;k rFkk iz"uks ds lgh mRrj dk fu/kkZj.k djds iz"u&i= fuekZrk }kjk nh x;h dqath ls mldk feyku fd;k x;k A bl izdkj fo"ks"kkKks dh Vhe us izR;sd iz"u&i= ds lgh mRrjks dk fu/kkZj.k djrs gq, lsV&1 dh dqth cuk;h A izR;sd iz"ui= es pkjks lsVks es leku iz"u Fks ijUrq mudk dze cny x;k Fkk A fofHkUu lsVks es izR;sd iz"u ds dze la[;k dh lwruk ^lhDosal "khV ^ es j[kh x;h FkhA

izR;sd iz"u i= ess lsV ,d dh dqath rFkk lhDosal "khV dh lgk;rk ls "ksi lsVks lsV&2] lsV&3] lsV&4 gssrq daqth dk fuekZ.k fd;k x;k A =qfVo"ks" lsV&1 iz"uks ds lgh mRrjks ds lsV&2] lsV&3] lsV&4 ds iz"u dze es lhDosal lsV dh lgk;rk ls LFkkukarfjr djrs le; xyrh dh x;h ftlds dkj.k lsV&2] lsV&3]lsV&3] lsV&4 es ls izR;sd lsV dh dqath xyr cu x;h A dqath;ks dh psfdax u dh tkus ds QyLo:Ik lsV&2] lsV&3] lsV&4 dh dath;ks es lq/kkj ugh fd;k tk ldk A vr% lsV&2] lsV&3] lsV&4 ds iz"ui=ks dk ewY;kadu iw.kZr% xyr gks x;k A mYys[kuh; gS fd lsV&1 dh dqth es lHkh 100 iz"uks ds mRrj lgh Fksa Atcfd lsV&2]lsV&3]lsV&4 dh dqath es yxHkx 75 izfr"kr iz"uks ds mRrj xyr Fks Abl izdkj nksuks iz"ui=ks ds rhu lsVks dk ewY;kadu xyr gks tkus ds dkj.k fnukad 14 twu 2007 dks ?kksf"kr fd;k x;k ijh{kkQy nks"k&iw.kZ FkkA lfefr }kjk ijh{k.kkdjus ij ;g ik;k x;k fd xyr ijh{kkQy ?kksf"kr fd;s tkus dk ,dek= dkj.k nksuks iz"ui=ks es rhu&rhu lsVks dk nks"kiw.kZ daqth ls ewY;kadu fd;k tkuk FkkA

iqujhf{kr ijh{kkQy dk fuekZ.k

lh-ih-,e-Vh- ijh{kkQy dk fuekZ.k vkbZ-Vh-&ch-,p;-w- okjk.klh rFkk vkbZ-vkbZ-Vh- :M+dh ds pkj izksQsljks@f"i{k{kdkd dh Vhe }kjk fd;k x;k FkkA bl Vhe }kjk nksuks iz"ui=ks dh dqath;sk ds nks"kkds nkwj djds lgh dqath;kW cuk;h x;h A ftudh lgk;rk ls ewY;kadu fd;k x;k rFkk iwjs ijh{kkQy dh iqu% izkslsflax djds iqujhf{kr ijh{kkQy rS;kj fd;k Fkk A

lfefr us Loa; Hkh nksusk iz"u i=ks ds pkjks lSVks dh lgh daqft;ks dk fuekZ.k fd;k rFkk lHkh Nk=ks ds fjLikUl dh izsklsflax djds lgh daqft;ks ds }kjk ewY;kadu fd;k x;k ,oa ijh{kkQy dk fuekZ.k fd;k x;kA bl ijh{kkQy dk feyku lh-ih-,e-Vh lfefr }kjk cuk;s x;s iqujhf{kr ijh{kkQy ls djus ij ik;k fd nksusk ijh{kkQy ,d leku FksA bl izdkj lh-ih-,e-Vh- lfefr }kjk cuk;s x;s iqujhf{kr ijh{kkQy dh osfVax djds mldh "kq)rk lqfu" fpr dh x;h A

lfefr dks miyC/k dj;k;h x;h f"kd;k;rks ds lECU/k es fVIi.kh

lfefr dks egkfun"kd] fpfdRIk f"kk{kk ds ek;/e ls Nk=ks dh lh-ih-,e-Vh- ijh{kkQy ds lECU/k es dh x;h f"kd;k;rks dh tkudkj nh x;h A bu lHkh f"kd;k;rdrkZ Nk=ks dk lEiw.kZ foj.k ;Fkk iwoZ es ?kskf"kr ijh{kkQy ,oa iqujhf{kr ijh{kkQy es mudk jaSd] fofHkUu fo"ks;ks es muds izkIrkad vkfn ,d lHYM fyQkQs es fjiksZV d layXu gS ftls ijh{kkQy dh ?kks"k.kk ds mijUr [kksyk tkuk mfpr gksxk A dqyifr@ps;jeSu] lh-ih-,e-Vh-&2007 us lfefr ds i=kad@eseks@dSi tkSuiqj fnukad 18 twu] 2007 ?layXud&7? ds rkjrE; es lfefr dks crk;k fd leLr ijh{kk lh-ih-,e-Vh-dk;Zky; ds Hkou es gh j[kh gS vkSj dgh vU;= ugh gSA mUgksus vuqjks/k fd;k fd lh-ih-,e-Vh- dk;kZy; dks muds vkSj lfefr ds fdLh lnL; ds gLrk{kj ls lqj{kk dh nqf"V ls lhy dj fn;k tkos A ftyk eftLV?sV tkSuiqj ls nwjHkk"k ij okrkZ djds vkSj mUgs i=kad eseks@dSi tkSuiqj fnukad 18 twu 2007 ?layXud&8? izsf"kr djds izLFkku ls iwoZ lfefr }kjk lh-ih-,e-Vh- dk;Zky; dks lhy dj;k;k x;k vkSj lqj{kk dh n`f"V ls ogka l"kkL= iqfyl dh rSukrh lqfuf"pr dh x;h A

lfefr dh vk[;k "kklu dks lwpukFkZ vkSj ;Fkksfpr dk;Zokgh gsrq izsf"kr gSA vk[;k ds lFk lHYM+ fyQkQs es lh-ih-,e-Vh-&2007 ls lECU/kr xksiuh; vkadM+s@lwpuk, vkfn vyx ls izsf"kr dh tk jgh gSA iqujhf{krijh{kk ifj.kkeks dh ?kks"k.kk dh dqyifr@ps;jeSu lh-ih-,e-Vh-&2007 }kjk fd;s tkus ds mijUr gh bu vkadM+ks@lwpukvks dks vko";drkuqlkj iz;skx es ykuk mfpr ,oa fof/k&lEer gksxk A^^

7. The Committee was informed that the atmosphere at Purvanchal University, Jaunpur was not such that copies could be valued and scanned at Jaunpur and therefore, the copies were evaluated/scanned at a place other than Jaunpur. The OMR answers books were transmitted in his personal supervision and that he was present throughout the period along with two professors associated with the examinations at the time of valuation/screening of the answer books.

8. The Committee verified the entire process of examination and the security maintained by the Vice Chancellor/Chairman of CPMT-2007. It found after random checking with the experts associated with the Committee that the key answers were prepared by the team of four professors/teachers after removing all the defects from the keys on the basis of which, the answer books were examined. The committee accepted the explanation given by Vice Chancellor/Chairman, CPMT-2007 that the errors in the result declared 14.6.2007 were on account of a bonafide mistake in feeding key answers of Set-2, Set-3 and Set-4 from Set-1. The Vice Chancellor/Chairman, CPMT-2007 owned the error which he

had discovered immediately on publication of the result and look full responsibility before the State Government and media. He thereafter took immediate steps to rectify the errors and to feed the correct key answers of Set-2, Set-3 and Set-4 and in preparing revised results of CPMT-2007.

9. The Committee also examined the result of Shri Dilip Gautam, enrollment roll No. 2204869, who had committed suicide after he was declared unsuccessful in the result published on 14.5.2007. It was found that his chances of admission on the basis of his rank in the revised result of CPMT-2007 were very weak as his rank was down below in the list. His revised result was kept in the sealed envelop to be opened after the entire set of revised results were to be declared. The Committee members appointed by State Government and all the experts who assisted the Committee helped the University in preparing the flawless results. The members of the Committee and the experts associated with it signed and verified the report on 20.6.2007, accepting the explanation of the Vice Chancellor/Chairman, CPMT-2007 and verified the correctness of the revised results.

10. The report submitted by the Committee was accepted by the State Government and the revised results were declared on 21.6.2007, which were accepted by almost all the candidates except those who have filed writ petition alleging that the anomalies and irregularities have not been adequately explained and that the results are manipulated.

11. Before discussing the grounds raised by Shri C.B. Yadav learned Counsel appearing for the petitioners in his writ petitions, which have been adopted by all other counsels, it will be appropriate to reproduce the relevant paragraphs 9, 10, 12, 13, 11, 15 and 16 of the affidavit of Shri Naresh Chandra, Registrar of the Purvanchal University:

9. That in reply to it the contents of paragraph No. 7 of the writ petition, it is submitted that the result placed on internet on 14.6.2007 gave rise to the agitation by CMPMT-2007 candidates in some of the cities in Uttar Pradesh. In this connection, it is stated that this all was due to technical translation error in the preparation of the answer-keys of Set Nos. 2, 3 & 4 of the question booklets and the evaluation and preparation of the previous result on the basis of those incorrect answer keys of 3 sets. But later on, the incorrect answer keys were rectified and the answer sheets were finally evaluated with the corrected answer keys and result was prepared and finally checked and verified from all possible angles by the technical experts and the members of the Enquiry Committee and, as such, the revised result doubly ensured was placed on internet on 21.6.2007 which has been widely accepted without reaction to it. Kind attention of the Hon"ble Court is invited to the provision 7.2 (ka) (Declaration of Result/merit list) of the Information Brochure CPMT-2007 according to which if any error comes into knowledge after declaration of results, necessary amendment will be also published. In the present due case to agitation in reaction to the result declared on 14.5.2007, no amendment could be placed on internet or published

in news papers. A copy of the provision 7,2 (ka) is enclosed and marked as Annexure No. CA-I.

10. That in reply to it the contents of paragraph No. 8 (1 & 111) of the writ petition, it is submitted that the allegations of the petitioners that the entire result has been tempered on the ground of wrong coding (A,B,C,D.) of the question booklets and also the tempering has been done with the barcode in the answer sheets, are categorically rejected. At no point. University has tempered the code number of the question booklets and the barcode of the answer sheets. In this connection, it is stated that letter coding/version A,B,C,D being printed on question booklet is completely dummy, and it has no bearing with actual set number of the booklet,

The real coding of question booklet is inbuilt in the booklet itself and the method to find out the set number of the booklet along with the answer keys for each of the 4 sets has been published in the daily newspaper "Hindustan" dated 22.5.2007 accordingly-

(1) If the candidate's question booklet number divided by 4. gives 2 digits after decimal as 25 or remainder as 1 then the set number is 1 (i.e. Set-1).

(2) If the candidate's question booklet number divided by 4, gives 2 digits after decimal as. 50 or remainder as 2 then the set number is 2 (i.e. Set-2)

(3) If the candidate's question booklet number divided by 4, gives 2 digits after decimal as 75 or remainder as 3 then the set number is 3 (i.e. Set-3)

(4) If the candidate's question booklet number divided by 4, gives 2 digits after decimal as 00 or the question booklet number is perfectly divisible the set number is 4 (i.e. Set-4)

This has been published to facilitate the candidates in finding out the set of their question booklet, they have used and thereby, themselves can evaluate their carbonless answer sheets and can find out their marks. Even if they are. not satisfied, they can opt the provision of scrutiny specified at Page 8 of the Information Brochure, CPMT-2007, V.B.S. Purvanchal university, Jaunpur within a period of 8 days from the date of declaration of result. It is further stated that barcode in the answer sheets is also inbuilt in the answer sheet itself. It has not been tempered at any stage because sealed packets of the used answer sheets as received from the examination centres were taken to the evaluation centre by the then Chairman, CPMT-2007. Moreover, if barcode of answer sheet is any way disturbed, the same can be known by other preventive measure which is as follows:

(i) Paper-1 Question Booklet No. +210147 = Bard Code No.

(ii) Paper-II Question Booklet No. +190973 = Bard Code No.

This high-tech inbuilt system in the question booklet and answer sheet was maintained to check the unfair means/copying in the examination. A copy of the

methods and answer keys published in "Hindustan" on 22.6.2007 and the provision of scrutiny specified in Information Brochure are enclosed and marked as Annexure N. CA5 & CA-6 respectively.

12. That in reply to it the contents of paragraph Nos. 9 & 10 of the writ petition, it is submitted that carbonless candidate's copy of answer sheet has been provided to the candidate at the end of examination. In regard to answer keys to be made available on the internet to facilitate the candidates for tallying and comparing their solved questions, it is submitted that answer keys were to be given on the internet on 15.5.2007 after declaring the result on 14.6.2007, but due to agitation in reaction to the result, the same could not be given on internet. However, the answer keys have been made available on the internet on 22.5.2007 and have been also published on 22.5.2007 when the revised result was declared on 21.6.2007.

13. That in reply to it the contents of paragraph No. 11 of the writ petition, it is submitted that the allegation of the petitioners regarding the change of coding procedure is strongly refuted, as the coding brochure has not been changed at all. It is relevant to point out here that coding system of the question booklets has been maintained as inbuilt system in the question booklets themselves, which has full transparency and can be checked and verified at any time by any one through the method specified in paragraph under reply. It is further stated that the revised result prepared on the basis of correct answer keys has been duly checked and verified from all possible angles by the technical and competent members of the Enquiry committee. Moreover, the revised result published on 21.5.2007 has been widely accepted and appreciated.

14. That the contents of paragraph Nos. 12 & 13 of the writ petition are vehemently denied. In this connection, it is stated that the process of selection in CPMT-2007 has not been tempered at any stage. The only mistake which has resulted in incorrect preparation of result published on 14.5.2007 is the Technical Translation Error in preparing the answer keys for the Set Nos. 2, 3 & 4 of the question booklets in spite of the correct jumbling. However, the incorrect answer keys for these sets were cancelled and in their place, correct ones, were prepared, thoroughly checked and finalized with the help of the Enquiry Committee members and subject and technical experts. Subsequently, the result prepared on the basis of these correct answer keys was revised and its correctness was doubly insured by committee members and technical experts from different aspects. Accordingly, the revised result was finally declared and displayed on Internet on 21.5.2007. In addition, the correct answer keys were also displayed on Internet on 22.5.2007 and were published as well in different newspapers on the same date.

It is further reinstated (reiterated) that the Enquiry Committee too in its enquiry has found only this Technical Translation Error as a major mistake in the preparation of the answer keys for Set No. 2, 3 & 4. It is further submitted that when the revised result was duly checked by Enquiry Committee members and

technical experts has been published and widely accepted without any agitation to it, then any enquiry by CBI or any agency will be a futile exercise.

15. That in reply to it the contents of paragraph No. 14 of the writ petition, it is submitted that the allegations made by the petitioners in paragraph under reply are vehemently denied, as the High Power Enquiry Committee constituted by government consisted of four members including Dr. S.F.A. Naqvi, Director (Technical), N.I.C. Lucknow and three technical experts in the field of computer data.

16. That the contents of paragraph No. 15 of the writ petition are categorically denied. The four members of the Enquiry Committee and three technical experts in the field of computer data base initiated the enquiry and through rectification process checked, rechecked and verified the answer keys, evaluation of the answer sheets and result data. Thereafter the revised result on the recommendation of the committee members and technical experts was declared and was displayed on the internet on 21.5.2007. Moreover, the result has been widely accepted without any agitation.

12. In the counter affidavit filed by Shri Javed Ahtesham, Deputy Secretary, Medical Education Department, U.P. Secretariat, Vikas Bhawan, Lucknow on behalf of the State Government it is stated in paragraphs 11, 12, 13 and 14 as follows:

11. That Veer Bahadur Singh Purvanchal University, Jaunpur was assigned the responsibility of conducting Combined Pre-Medical Test-2007 by. His Excellency the Governor/Chancellor, who had nominated this University from a panel of three Universities prepared by the Committee constituted by the Chancellor, in view of the judgment and order dated 15.12.1998 passed by the Hon'ble High Court, Lucknow Bench, Lucknow in Writ Petition No. 418 (MB)/98 Tulika Ram and Anr. v. State of U.P. and Ors. which is as follows:

The Chancellor shall nominate the University, which shall conduct the Combined Pre Medical Test. For this purpose the Chancellor shall constitute a Committee, which will consist of six more members, which shall include the Principal Secretary, Medical Department, the Director General of Medical Education, 2 Vice Chancellors and 2 Principals of Medical Colleges. No University shall be assigned this task for more than a year consecutively because if the University is assigned this task consecutively for more than a year, the people connected with this test are able to acquire the knowledge to manipulate the matters.

In continuation of the Chancellor's nomination of the University, Government Order No. 378/71-03-76/2006 dated 01.2.2007 was issued in which the following time schedule was intimated to the Vice Chancellor of Veer Bahadur Singh Purvanchal University, Jaunpur:

Advertisement - 03.2.2007 Sale of forms - from 20.2.2007 to 20.3.2007 Last date of deposit/ submissions of forms - 25.3.2007 Date of Examination -

22.5.2007 Declaration of examination results 14.6.07 or before it Scrutiny -
21.06.2007 First round of counselling - From 01.7.07 to 15.07.07 Last date of
joining in the college allotted in the counselling of the first round - 25.8.2007
Date of constituting the medical board for handicapped candidates 20.06.2007
Second round of counselling From 25.8.07 to 28.8.07 Last date of joining in the
colleges allotted in the counselling of the second round 30.8.2007 Start of
session 01.8.2007 Last date of admission 30.9.2007

A copy of the Government Order No. 375771-03-7672006 dated 01.2.2007 is
being filed herewith and marked as Annexure CA-1 to this counter affidavit.

12. That in fact the time schedule was issued in view of the judgment dated
11.09.2002 passed by the Hon'ble Supreme Court in the case of Medical Council
of India Vs. Madhu Singh and Others, . This is evident from Circular No.
23(1)/2003-MED/22582 dated 09.11.2003 of Medical Council of India, New
Delhi. A copy of the Circular No. 25(1)/2003-MED/22552 dated 19.11.2003 of
Medical Council of India is being filed herewith and marked as Annexure No. CA-2
to this counter affidavit.

13. That since the result of Combined Pre-Medical Test-2007 declared by Veer
Bahadur Singh Purvanchal University, Jaunpur 14 June 2007 was widely
protested against in view of flaws and errors indicated here and there the State
Government immediately vide. Government Order No. 44/SSE/2007 dated
16.6.2007 constituted a Committee to reexamine it. The copy of the Government
Order No. 44/SSE/2007 dated 16.6.2003 is being filed herewith and marked as
Annexure No. CA-3 to this counter affidavit.

This Committee was as follows

- I. Mr. S.K. Raghuvanshi, Special Secretary, Medical Education, Government of
UP, Lucknow
- II. Dr. Kamal Sahni, Director General, Medical Education, UP. Lucknow
- III. Mr. U.S. Tomar, Registrar, UP Technical University, Lucknow,
- IV. Mr. S.F.A. Naqvi, Technical Director, NIC, Lucknow

This Committee was assisted by following experts.

- I. Dr. A.K. Khare, Former Pro-Vice Chancellor, U.P. Technical University.
- II. Dr. Jai Prakash, Former Professor, MNNIT, Allahabad.
- III. Dr. Uttam Singh, SGPGI, Lucknow
- IV. Dr. J.P. Saini, Professor, BIET, Jhansi
- V. Mr. Rajendra Gupta, Sr. System Analyst, NIC, Lucknow

The High Power Committee examined and detected the reasons of incorrectness
of the result of Combined Pre-Medical Test-2007 and held Dr. K.P. Singh, Vice

Chancellor, Veer Bahadur Singh Purvanchal University, Jaunpur responsible for the erroneous preparation and declaration of this result. The Committee has found that there was no manipulation etc. In fact due to technical error the proper result was not declared. The mistake detected was curable as such the Committee helped the University in preparing 100% falwless result. This result was declared by Vice Chancellor, Veer Bahadur Singh purvanchal University, Jaunpur and Principal Secretary, Medical education, Government of U.P on 21.6.2007. The revised result was placed on the website: 222.cpint.nic.in for public knowledge. This revised result has been widely welcome all over the State and on the basis of these results counselling is going to commence from July 8th July, 2007. The deponent craves the leave of the Hon''ble Court to produce the report of the Committee at the time of argument. 14. That the request to hold fresh, examination does not contain force as the time schedule fixed by the Hon''ble Supreme Court for the conduct of examination etc. has to he strictly complied with. In case of a fresh examination being ordered, it will be difficult to go by the directions of the Hon''ble Supreme Court. In that case the session might be a zero one and this will affect the wider and larger interest of the students of the State.

13. Shri C.B. Yadav, learned Counsel for petitioners submits that concealed number, in the answer sheets was known only to Prof. K.P. Singh, the Vice Chancellor of the University, who happens to be professor in Information Technology. He had provided dummy number in the booklet. Since the concealed number was known only to one person the chance and possibility of manipulation increases manifold. All the four sets were examined by answer keys available by Set-1 and on the basis of which 14000 participants were declared to be successful. The rest of sets were wrongly examined by answer key available for Set-I. Every participant got at least two sets in four papers and therefore if three sets numbers were subsequently examined by the answer keys, there must be deviation of marks by the candidates, who were earlier declared to be successful or who have been shown to be qualified candidates but no such result has been brought on record with regard to deviation of marks and therefore the formula as demonstrated is factually incorrect.

14. Shri C.B. Yadav further submits that the written test was held on 22.5.2007 and that the University took 22 days in preparation and declaration of results. It is surprising that 75% incorrect answer sheets were examined by applying answering keys normally for Set-2, Set-3 and Set-4 of each each key and result was rectified by the University or by the State within three days. He submits that the history of manipulation in the Combined Pre Medical Test demonstrate that purity of CPMT examination was interfered at various stages including present one. He has relied upon judgments reported in 2005 (4) ESC 233 and in 2006 (2) ESC 1220 in which the allotments of plot made by NOIDA were tempered by process known as "SQL" in the software prepared by the wrong dowers. He submits that in the cases where results are prepared to the software, there are more chance of manipulation which must be ruled out completely to maintain

transparency and purity in the results of the examinations, which determine the career of thousands of students.

15. Shri Yadav submits that in Tulika Ram's case this High Court directed that same University should not be given responsibility of holding examinations twice. In the past in the Veer Bahadur Singh University was handed over the responsibility in 1981 and that in that year also there was leakage of examinations papers. This year the Vice Chancellor/Chairman, CPMT-2007 made the process so complicated that the transparency in holding the examination was ignored. In the high level examination the authorities must take all precautions in maintaining transparency. The concealed formula adopted by the Vice Chancellor of the University has ignored the principle of maintaining transparency and therefore the entire examination is required to be cancelled. He submits in his written arguments that the report, which has been brought on record, was not made available to the petitioners and therefore, only this Court can examine the correctness of the report and also rectification of entire 75% result prepared within the period of three days. The formula of feeding key answers may also be examined and that if this formula is correct then admittedly Set-I, was wrongly examined and after examination of Set-2, Set-3 and Set-4, there must be deviation of marks of the students declared as on 21.6.2007 who were earlier declared successful in the result dated 14.6.2007 but it has not happened.

16. Shri Zafar Naiyer, learned Additional Advocate General, appearing for the State Government, submits that the State Government has taken every possible care to maintain secrecy, purity and transparency in CPMT-2007. Shri K.P. Singh, the Vice Chancellor/Chairman, CPMT-2007 maintained complete secrecy in preparing the question papers and key answers and in coding of the answer books, to avoid any attempt of manipulation. The code was very simple but could only be deciphered, after it was made open along with the key answers. As soon as the mistake in the results was detected and the students raised hue and cry, the State Government appointed a high level committee, which with the aid of experts examined the entire process and found that the technical mistake was not by way of any deliberate attempt to favour any person. It was a bonafide mistake. The preparation of revised results, started immediately" after detecting the errors and that after the Committee was satisfied with the scrutiny and certified by random checking that there was no manipulation, the Committee recommended publication of revised results. The State Government accepted the report of the committee and declared the revised results, which have been accepted by almost all the students, who secured ranks to seek admissions in the counselling. Shri Naiyer submits that the State Government had taken all steps and has allowed the revised results to be published after it was satisfied with the scrutiny of the process and accuracy of the result,

17. Shri P.S. Baghel, appealing for the University took pains to explain the process adopted in the examination. He submits that there is no complaint of leakage of examinations papers. The Vice Chancellor/Chairman, CPMT-2007 is an

expert in Information Technology. He chose a team of professors, including experts from IIT, Roorkee and IT Banaras Hindu University, Varanasi. They prepared a simple but secret procedure of coding the question papers, answer sheets and its evaluation by scanning. The question papers were prepared with re herring dummy codes and that the real coding of the question booklet was to be found in the booklet itself. The method to find out the set numbers of the booklet along with answer keys of all the four sets was published in daily newspapers "Hindustan" dated 22.6.2007 to facilitate the candidates to find the correct sets of their question booklets they had used. All the candidates after ascertaining their set of questions booklet can evaluate their carbonless answer sheets and find out their marks. If they are not satisfied they can opt for scrutiny provided by the examining body specified at page is of the Information Brochure (PMT-2007, Veer Bahadur Singh Purvanchal University, Jaunpur within 8 days from the date of declaration of their result.

18. Shri P.S. Baghel submits that bar code in the answer sheets is not visible to eyes. It was not tempered at any stage. The answer sheets were taken to the evaluation centre by the Chairman himself. If the bar code was disturbed the same could be known by other preventive measures given in paragraph No. 10 of the affidavit of the University.

19. Shri B.S. Baghel has relied upon examination brochure in submitting that the University had in para 7 of the brochure informed the candidates that if there is any error in declaring of result, the same may be rectified by necessary corrections to be published in the newspapers and the website of the University. This disclaimer clause clearly protected the University as in such a large selection there could always be an error. He further submits that the Vice Chancellor/ Chairman. CPMT-2007 took responsibility of the bonafide error and had resigned. He however took active interest to rectify the error and offered full cooperation to the committee of experts in examining the secrecy maintained by him in the examination. The entire error crept on account of feeding wrong keys (prepared for Set-1) for Set-2, Set-3 and Set-4. The result of the first set was correct and as such there was no change in the marks obtained by the first 14000 candidates. It is only the remaining candidates whose marks were affected by the result due to which the ranking of the first 14000 candidates was affected. The error was owned by the Chairman and promptly rectified under expert supervision and that the complaints of the petitioners are no longer justified.

20. It is interesting to note that out of the twelve petitioners in writ petition No. 28124 of 2007, who secured very low ranks ten petitioners have secured a higher rank increasing their chances of success in getting admission to the medical colleges.

21. Shri C.B. Yadav, learned Counsel for petitioners has annexed news report published in "Hindustan Times" dated 24.0.2007 with the caption "Pre-medical manipulations by Ganrav Saigal. In this report, the newspapers has detailed the history of irregularities in the CMPT Examinations beginning from 19801. It is

reported that in the year 1980, there was allegations of impersonation by fake candidates from Bihar by coaching mafias. In CPMT 1987-88 the Supreme Court gave directions that No. institute should be given a second consecutive chance to conduct entrance examination. In the year 1991 there was paper leakage in CPMT-1991 conducted by Veer Bahadur Singh Purvanchal University. The results were acknowledged and the examination was held again by Kumaon University in November of same year, The then Vice Chancellor of the Kumaon University refused to bow before the coaching mafias. He met with an accident after the examinations in which his son died. In 1994 the result of 43 admissions of Jhansi Medical College was cancelled by the Court on the ground that the candidates had used forged documents. In the year 2002, nearly 450 results were found manipulated but no action was taken. In the year 2003, fake/proxy candidate entered in the examination battles. Nearly three dozen such candidates were caught impersonating. In the year 2005 CPMT conducted by the Agra University, the Vice Chancellor has to face the wrath of the State Government after questions were raised upon the conduct of the examinations. In CMPT-2006 former Vice Chancellor of UP King George's University of Dental Sciences involved such administrative machinery for the examinations and that in the year 2007 once again the examination results were vitiated by technical error in the first round.

22. In the present case, there is no allegation of paper leakage, cheating, copying or fake/proxy candidates, appearing in the examination. The process of examination is not under doubt. It is only the declaration of revised result, in which the Vice Chancellor/Chairman, CPMT-2007 fairly admitted the technical error which is under cloud.

23. Learned Counsels for petitioners have raised reliance upon in *Manish Ujwal and Others Vs. Maharishi Dayanand Saraswati University and Others*, and *Guru Nanak Dev University v. Saumil Garg and Ors.* (2005) 13 SCC 749 in which the reliance was placed by the Supreme Court of *Kanpur University v. Samir Gupta*(183) 4 SCC 309 *Mridul Dhar (Minor) and Another Vs. Union of India (UOI) and Others*, . All these cases related to presumption of incorrect key answers. The Supreme Court held that there is an assumption about the key answers being correct and in case there is doubt, the Court unquestionably refers the key answers. In *Manish Ujwal's* case the counsel appearing for examining body fairly admitted that the answer, as per University key of six questions, was incorrect. The Supreme Court did not interfere with the first counselling as the directions for revaluation were made applicable only to the second round of counselling. The facts in these cases are not relevant to the present case, the question of law, however that the Court would lean in favour of the presumption of correctness of result in public examination of such large magnitude, is to be made applicable to the present selection as well.

24. The Vice Chancellor/Chairman, CPMT-2007 was a professor of information technology. He was aware of the difficulties in conducting the test of such

magnitude. In the background of the previous examinations and the possible interference he decided to adopt a fool proof method to maintain secrecy in the preparation of question papers, and the key answers. He along with his team prepared four sets of question papers for each subject in the examinations. In order to avoid leakage and cheating by use of signs which is common in objective type examinations, dummy number was given to the four sets of question papers. The real number of the sets was hidden in the number given in the question papers but the key to find out the correct was with the Vice Chancellor/Chairman, CPMT-2007. The key was very simple but unless it was known the candidates it could be deciphered. The answers sheets were provided with concealed numbers given in bar code. It was easy to find out the bar code from the number of the answer sheet, in case the bar code was tempered. To this extent, there was no error in the preparation of question papers and answer sheets.

25. The Vice Chancellor/Chairman, CPMT-2007 look the answer sheets for evaluation/scanning to a place, which was not known to any other person. He fairly admitted that although he was present throughout, a technical error crept in preparation of the results. The key answers to the Set-1 were wrongly fed in Set-2, Set-3 and Set-4. Whereas the results of the Set-1 were correctly prepared. The results of the Set-2, Set-3 and Set-4 were wrongly prepared. The Vice Chancellor, however, has not explained as to how such an error could be made when he was present for evaluation/scanning of the answer sheets and why such an error was not checked or cross checked before preparation of the results. The answers to these queries however do not affect the revised results as the error was detected as soon as the result was published and was immediately rectified in order to allay any doubt or allegation. The Vice Chancellor/Chairman, CPMT-2007 took care to inform the State Government, which promptly constituted a Committee including experts in the field of Information Technology for examining the bonafides of the errors. The Committee look help of the experts and de-sealed the entire premises. The Committee thereafter conducted a probe in which the Vice Chancellor was made to disclose the entire secrets of the question papers and answer sheets. The revised result was checked by random sampling and after the Committee found that the technical errors was bonafide, and have been rectified the report was submitted to the State Government. When the State Government accepted the report, the University published the revised results with the key answers and the method to find out the set of key answers to compare it with the carbonless answer sheets.

26. During the course of argument both on 4.7.2007 and 6.7.2007 learned Counsel appearing for the petitioners did not ask for a copy of the report. The request was not made apparently for the reason that Shri P.S. Baghel had explained the entire facts in great detail and the reasons for which the technical error occurred and vitiated the result published on June 14, 2007. In fact the report is contained nothing but the same explanation which the Vice Chancellor/

Chairman, CPMT-2007 had given to the expert's committee and the verification of his explanation. The entire details of coding and decoding of the question papers and answer sheets was explained in detailed by Shri P.S. Baghel appearing for the University in the Court. There is nothing much in the report to be examined. The Court, however, has taken care to reproduce the relevant parts of the report in the judgment to avoid any apprehension to be kept by either the counsels or the candidates, who had appeared in the examinations.

27. To err is human. When the man takes help of machines there is always a possibility of error. In the present case, the Vice Chancellor/Chairman, CPMT-2007 maintained the secrecy of the questions papers and key answers and devised a method to keep secrecy of the code, which was otherwise very simple upto the publication of result. He also look care to own the responsibility and to explain the error and to provide key codes as well as key answers in the revised result. The intentions of the Vice Chancellor/Chairman, CPMT-2007 were never in doubt. The expert Committee examined and accepted the explanation and found that it was only because of bonafide technical error that the initial declaration of result dated June 14, 2007 could not be accepted. The defect however did not affect to change the marks of the students, who were given the answer books of Set-1. Their ranking, however, went down after the correct results of the Set-2, Set-3 and Sct-4 of question papers was published.

28. For the detailed reasons given in the judgment, the Court accepts the explanation of the bonafide technical error in publishing the results and appreciates the Vice Chancellor/Chairman,CPMT-2007 in accepting the moral responsibility and efforts made by the State Government to immediately examine the entire matter by appointing expert's committee.

29. The petitioners have not proved their allegations of manipulations, malpractices or any motive in the entire process of CPMT-2007. All the students, who appeared, except the petitioners, have accepted the correctness of revised results. Any individual, who is not satisfied with the award of marks, could have applied for scrutiny in accordance with the rules of CPMT-2007 within eight days of publication of revised results. All the writ petitions are dismissed.