
(1996) 08 KL CK 0035

In the High Court Of Kerala

Case No : O.P. No's. 11369, 11506 and 11712 of 1996

Reshmi George

APPELLANT

Vs

State of Kerala and Another

RESPONDENT

Date of Decision : 21-08-1996

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1997 Ker 188

Hon'ble Judges : P. Shanmugam, J

Bench : Single Bench

Advocate : Mathew John, for the Appellant; K.K. Ravindranath, Govt. Pleader, for the Respondent

Judgement

P. Shanmugam, J.—All these writ petitions are filed challenging the results of common Entrance Examination held for admission to the Professional Courses 1996-97 and for connected and consequential reliefs. The Controller of Examinations who is an authority to conduct Entrance Examination for admission to various Professional Courses such as Engineering, Medical and Agricultural Courses notified for the examination for admission to these courses on 5-3-1996. Applications were called for the said admission through a common Entrance Examination for selection of candidates. A detailed brochure issued by the office of the Controller of Entrance Examinations and the prospectus issued by the Director of Technical Education set out in detail the procedure of applying and the scheme of the Entrance Examination and the selection. As per the programme notified by the authorities, the Entrance Examinations were conducted on 18th and 19 May, 1996. The rank list was published on 24-6-1996. The interview proposed to be held for admission on 12-7-1996 was postponed and held on and from 25-7-1996.

2. The challenge made by the petitioners against the validity of the Entrance Examination is mainly on the following grounds: (i) The question papers in one of the Kottayam Centres contained lesser number of questions than given to other

candidates and, therefore, the examination is discriminatory and illegal. (ii) Question booklet contained wrong answers for certain questions. (Hi) Organised copying in the Entrance Examination with the assistance and connivance of certain coaching centres in Trivandrum and Kottayam. (iv) Candidates of Malabar and Wayanad Districts are discriminated. (v) Extraordinary delay in publication of the results and the postponement of interviews.

3. The writ petitions are filed by candidates as well as the societies as a public interest litigation. Apart from espousing the cause of the petitioners, they seek for a general directions to quash the entire results of the Entrance Examinations. The State of Kerala, the 1st respondents, and the Controller of Entrance Examination have filed counters and additional counter-affidavits. I have heard the matter in extenso, gone through the documents and answer sheets.

4. Professional courses like Medicine, Engineering, Agricultural and allied subjects are most sought after by students these days. As the demand is 10 times the available seats, the selection has to be highly competitive. With the goal of getting a seat, the preparation starts even from the 10th standard and naturally nobody would like their efforts being defeated in the selection except by merit. The Government of Kerala has evolved a scheme of selection for the professional courses only by common Entrance Examination with objective type of questions and evaluation of the answers by computerised system. The system is considered as fast, accurate and reliable. However, in view of the dispensation of academic marks, the Entrance Examinations have secured the maximum attention and preparations. It is for the Government and academicians to choose and decide the correct mode and the need of proper selection. Consequent on the concentration of the Entrance Examinations, it is necessary to see-that the system does not leave any scope for manipulation. Any weak link in the chain of this system is likely to be exploited to the detriment of many deserving and hard working candidates. Therefore, the Original Petitions filed by public spirited persons cannot be blamed for having filed without materials and without due cause. There are very many areas of operation giving scope for manipulations, unless manned by persons of proven integrity. Hence it has become necessary to go into each and every allegations to satisfy that there is nothing wrong in the selection.

5. The salient features of this system is as follows:

(i) Candidates are provided with a set of questions with five suggested answers and they must find out the most appropriate answer. A model question would be as follows:

Question No... The internal energy of an in, Physics ideal gas depends only on - (A) Temperature. (B) Pressure. (C) Volume. (D) Volume and temperature. (E) Pressure and temperature. (ii) Candidates are provided with O.M.R. (Optional Mark Reading) answer sheets. The question numbers are followed by answers marked (A), (B), (C), (D) and (E). The candidate selects the answer by

blackening it. For instance:

PHYSICS

Questions No.

1

2

3

..

..

(A)

(A)

(A)

ROW

1

(B)

(B)

(B)

()

()

(C)

(C)

(C)

..

..

(D)

(D)

(D)

..

..

(E)

(E)

(E)

ROW

2

Question No.

21

..

..

..

..

()

()

ROW

6

Question No.

101

..

..

..

()

()

Total No. of questions answered (PHYSICS)

()

()

()

(iii) The key answer for all the subjects for each version are fed into the Computer. The scoring is done based on the answers given and corresponding key. Four marks are awarded for each correct answer. One mark is deducted for each incorrect answer. Thus, a candidate's mark = number of right answers x 4 -- number of wrong answers. The ranking is based on the total score obtained by the candidates for the relevant subjects. In Clause 8 of Chapter 8 of the Brochure, candidates were given an information as important to the effect that if any candidate has any complaint regarding the conduct of the examination, he /

she may register his/her complaint before" the Chief Superintendent of the Examination Centre with supporting details/information immediately after the particular examination session is over.

6. Less number of questions :-- In most of the original petitions, the petitioners have pointed out that in respect of some candidates appearing for Physics and Chemistry Entrance Examinations, the question booklets contained only 105 questions in Physics and 100 questions in Chemistry. This according to them is a serious illegality inasmuch as it is putting some candidates in an advantageous position and discriminating other candidates with 120 questions. It is further averred that candidates appearing at Kottayam Centre had the advantage of lesser number of questions and more time to answer. Besides, these candidates were awarded four marks per question omitted in the answer book and for the 15 questions they gained 60 marks. This has created undue advantage to a particular action of the candidates. It amounts to the granting of grace marks and wholly unauthorised and not supported by any provisions.

7. In reference to this specific allegation, the counter-affidavit states as follows : It was brought to his notice that one of the Invigilators appointed at an examination hall of the St. Anees G.H.S. for Girls did not properly act in accordance with the instructions. The error on the part of the Invigilator resulted in distributing 3 incomplete question booklets among three candidates, roll numbers 47980, 47976 and 47972, of the "D" version question booklet of Physics and Chemistry Examination held on 19-5-1996. The distribution of any damaged or incomplete question booklet among the candidates is not admissible according to the instructions and guidelines the Common Entrance Examinations. Sufficient question booklets were readily available at the centre for replacement. The said centre was provided with 360 numbers of booklets against the actual requirement of 300. In these three booklets, four sheets containing question numbers 73 to 89 for Physics and question numbers 6 to 25 for Chemistry were missing. This defect ought to have been detected by the Invigilator and cured then and there. Steps are being taken to initiate action against the Invigilator. The omission to include the four sheets happened at the binding stage. The question booklets made available by the printer in sealed packets were never opened at any stage except in the Examination Hall in the presence of the candidates just five minutes prior to the commencement of the examination. The Chief Invigilator has reported that since in spite of the students' request for replacement of the question booklets, they were by mistake not conceded by the Invigilator. The students were compensated by awarding marks with reference to the performance of each candidate in the concerned paper in the Entrance Examination under the circumstances. The following marks are awarded to those three candidates:

Roll No. .

Physics Mark

Marks awarded for mis-sing ques-tions

Total

Chemistry Mark

Marks awarded for mis-sing ques-tions

Total

Rank No.

47972

44

9

53

14

3

17

19123

47976

148

41

189

173

45

218

217

47980

39

7

46

39

4

43

14448

Out of these three candidates, candidate with Roll No. 47976 is within the rank list for admission to the courses and the remaining two others have no chance of being considered for admission to any of the courses.

8. In the common Entrance Examination, about 40,000 candidates had registered and appeared for the examination and sufficient number of question booklets are supplied to each of the 114 centre for replacing the defective booklets. All the Invigilators have been instructed to replace the question papers, if question booklets or answer sheets are found damaged or incomplete in any respect. Of course, it may not be possible either for the Invigilator or for the candidate to immediately verify whether the booklet contained all the 120 questions. The candidates were directed not to open the pages unless, indication is given to them to start answer the questions. Therefore, only if they reached relevant question, namely, 72 in Physics and question No. 6 in Chemistry, they could have found the missing questions. They could not have answered in the absence of the questions and they have reported the matter immediately to the Invigilator. Necessary provisions to avoid such instances have been incorporated in para 5 of the Instructions No. III of the guidelines, which reads as follows:

"No candidate should be allowed to leave the room, with the question paper or the answer sheet. The Invigilator must also ensure that candidates do not detach any sheet from the question paper. If any question booklet, or any answer sheet supplied to a candidate, is found to be damaged, or incomplete in any respect, that particular question booklet or the answer sheet must be replaced by another one which is in order."

Hence, in the normal circumstances, the invigilator ought to have replaced or given them the question booklet containing these questions. As submitted by learned Government pleader, admittedly, this is a serious lapse, but it is also a fact that out of 40,000 candidates in 114 centres this is an isolated case which could have been avoided. If really" similar lapse had taken place in other centres, complaints would have been made to the Chief Superintendent or to the Controller of Examinations. According to learned Government Pleader, there was only one complaint from the Chief Superintendent of the particular centre, namely, St. Anees G.H.S. for Girls at Kottayam and that no other candidates were awarded marks other than the three mentioned. It has to be taken that the said lapse occurred beyond the control of the respondents and should be treated as an exception. It is not established by anybody that there is a general complaint of missing of questions in any of the question booklets except in reference to these three candidates. The question booklets given to these three candidates were of "D"version. Even here the version of particular question booklet is given to roll numbers having even number. All these three candidates have roll numbers with even numbers and they were given "D"version. It is also stated by the Controller that except these three candidates, no other candidates have been given marks for their failure to answer the questions. Even before awarding, the marks, they were satisfied that it was the fault of the Invigilator

for not substituting the question booklet when it was pointed out to him. The marks awarded is also based on the performance in reference to the remaining questions. Therefore, I have no doubt in my mind that these were the three isolated cases occurred in one centre where question booklets did not contain 15 questions. In this connection, the decision in Maharashtra State Board of Secondary and Higher Secondary Education and Another Vs. Paritosh Bhupeshkumar Sheth and Others, is relevant. While dealing with demand of revaluation of answer books, it is held as follows:

"What constitutes fair play depends upon the facts and circumstances relating to each particular given situation. If it is found that every possible precaution has been taken and all necessary safeguards provided to ensure that the answer books inclusive of supplements are kept in safe custody so as to eliminate the danger of their being tampered with and that the evaluation is done by the examiners applying uniform standards with checks and cross-checks at different stages and that measures for detection of malpractice, etc. have also been effectively adopted, in such cases it will not be correct on the part of the Courts to strike down the provision prohibiting revaluation on the ground that it violates the rules of fair play...."

"From the affidavit filed on behalf of the Board in the High Court, it is seen that from the initial stage of the issuance of the hall tickets to the intending candidates right upto the announcement of the results, a well-organised system of verification, checks and counter-checks has been evolved by the Board and every step has been taken to eliminate the possibility of human error on the part of the examiners in an effective fashion."

"29. Far from advancing public interest and fair play to the other candidates in general, any such interpretation of the legal position would be wholly defeasive of the same. As has been repeatedly pointed out by this Court, the Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day-to-day working of educational institutions and the departments controlling them. It will be wholly wrong for the Court to" make a pedantic and purely idealistic approach to the problems of this nature, isolated from the actual realities and grass root problems involved in the working of the system and unmindful of the consequences which would emanate if a purely idealistic view as opposed to a pragmatic one were to be propounded. It is equally important that the Court should also, as far as possible, avoid any decision or interpretation of a statutory provision, rule or bye-law which would bring about the result of rendering the system unworkable in practice."

The Supreme Court in reference to in certain stray instance of errors or irregularities recalled with approval the observations made by Krishna Iyer, J. in R.S. Joshi, Sales Tax Officer, Gujarat and Others Vs. Ajit Mills Limited and Another, that a law has to be adjudged for its constitutionality by the generality

of cases it covers, not by the freaks and exceptions it martyrs. Applying this principle it cannot be concluded that all the candidates in Kottayam Centres have been given question booklets with less number of questions and consequential discrimination in the award of the marks.

9. Wrong Answer:-- It is contended by the petitioner in O.P.No. 11721 of 1996 that for one particular question in Biology paper two correct answers were given confusing the candidates as to which one he has to choose and this is a glaring mistake in the examination. In the additional counter-affidavit filed by the Controller of Examinations he has extracted the relevant question and the option provided for the candidates, which is as follows:

"Pollutant responsible for turning library book pages into yellow is :

(A) No₂: (B) So₂: (C) No₂: (D) 2 Co₂: (E) O₂" According to the respondent, the answer given "B", i.e. "So₂" is the correct answer and No₂ is not the correct answer. Inasmuch as No₂ (Nitrous Oxide) is not an appropriate answer the candidates would not be put to any disadvantage. The petitioner has not established as to how So₂ is not the correct answer. The petitioner along with his reply affidavit enclosed two opinions of experts, Dr. A. Salahuddin -- Kunju, Reader in Chemistry and Dr. K.P. Dharmaraj Iyer, Rtd. Professor in Chemistry, to say that the correct answer to the question is not Sulphur Dioxide. Both these opinions do not refer to the question emphasising "Pollutant". Learned Government Pleader furnished the opinions of Dr. K. Sundaresan, formerly Professor of Chemistry and Professor C. Manohara Chary approving So₂ as the appropriate answer. Therefore, the petitioner is not correct in assuming that incorrect answer is given. I do not find any substance in the contention that this entry has affected the entrance examination.

10. Organised Copying:-- The case of the petitioners is that there was systematic attempt to copy in the examination and manipulate the results. In that process, groups of students belonging to some coaching centres submitted their applications together on the last day and got adjacent roll numbers to enable them sit and copy. On an analysis of the ranks obtained by the candidates, a pattern of ditto copying is found i.e. candidates with consecutive roll numbers who are seated in rows or seats score higher and corresponding ranks. According to the petitioner in O.P. No. 11942 of 1996, he had subjected the results of the common entrance test of 1996 to a statistical study and he was shocked to learn that 165 students in Medicine and 133 students in Engineering who resorted to organised copying in Trivandrum District got the higher ranking. From nine Districts, 803 students passed through common entrance test by resorting to malpractices. The figure would go up to 1,200 if the study in the other Districts is completed. It is also contended that there is a possibility of changing the answer sheets to suit their convenience. It is also pointed out that computer reading itself could be manipulated". While denying the allegations, the 2nd respondent set out as to how they have conducted the examinations, without giving any scope for manipulation, it is stated that applications received for entrance

examinations are subjected to shuffling in the office before allotting roll numbers. Even those who are allotted adjacent roll numbers are given different versions of booklets. In reference to the specific allegations about the candidates, it is pointed out that roll numbers 58079 and 58086 wrote the examination in two different examination halls, similarly in case of roll numbers 57018 and 57022. Out of the 22 pairs shown in Table-1 (Engineering), 19 pairs received different versions of question booklets. Out of 17 pairs showing in Table-1 (Medical), 12 pairs received different versions of question booklets. Learned Government Pleader produced before me a model of sitting arrangements in each hall and, according to the said arrangement, a maximum of 20 candidates have to be seated in one hall and the sitting arrangements are made in such a way that different versions of four question booklets are given to the candidates and consequently version "A" is given to the 1st candidate and the same version of booklet will be given to the 5th candidate. Therefore, there is absolutely no possibility for a candidate copying from his neighbour. The order of questions in "A" version will be different from "B" or "C" or "D" versions, and therefore it is impossible for copying from the neighbour. "A", specimen of the seating arrangement is-given below:

Version of Booklet

A

B

C

D

Roll No.

13221

13222

13223

13224

D

C

B

A

13228

13227

13226

13225

A

B

C

D

13229

13230

13231

13232

D

C

B

A

13236

13235

13234

13233

A

B

C

D

13237

13238

13239

13240

Besides, there will be one invigilator for every 20 candidates. In Physics and Chemistry 240 questions had to be answered in 180 minutes. The answer sheet contains answers of all the 240 questions and it will be impossible for a student to glance over and copying it from neighbour since the pebbles of each question is so small and would not be visible beyond two feet. It is impossible to make out from a distance. All these factors would make it practically not possible for a pre-arranged mass copying. As pointed out by the Controller of Examinations, he has

not received any complaint from the students about mass copying. Clause 8 of Chapter VII dealing with conduct of Examination in Brochure states as follows:

"8. Important:--- If any candidate has any complaint regarding the conduct of the Examination, he/she may register his/her complaint, before the Chief Superintendent of the Examination Centre, with supporting details/information, immediately after the particular Examination session is over."

If the allegations of the petitioner is true to the effect that thousands of candidates were involved in mass copying, there would have been complaints regarding the same to the Controller of Examinations. Even the petitioners do not have a case that they have made any complaint to the Controller of Examinations regarding the mass copying. The case of the petitioner is that from the pattern of the results they were able to analysis and find out that it should have been by mass copying. The petitioner was not able to establish even from the analysis that there was mass copying. First of all the petitioners have not come out with sufficient materials either immediately after the examination or even now before this Court about the mass copying. Their only contention is that it should be inferred from the results that it should have been done by mass copying. In view of the factual position that the candidates are provided different roll. numbers by shuffling their applications, they were given different version booklets, they were seated in such a way that different question booklets are distributed to the adjoining candidates and one invigilator for every 20 candidates in a hall is provided and that questions are to be answered in objective manner within a time frame. It is not possible to countenance the contention. In the absence of any complaint by the petitioners or others at the relevant point of time and without any materials even now, this Court cannot accept the stand of the petitioners that there was mass copying in the entrance examination.

11. Many of the petitioners have contended that candidates who appeared from certain coaching centres and agents operating in Trivandrum and Kottayam were able to manipulate in such a way that the candidates of their choice are able to get higher rank. The 2nd respondent in his counter stated that they have no control over the private agency. They are in no way connected with the office of the 2nd respondent. For any claim made by the 7th respondent, who is a private individual, the 2nd respondent is not responsible. According to him, petitioner's assumption is without any basis. Learned Government pleader submits that no private agency has any role to play in awarding higher ranks and according to him, no material has been placed to sustain such kind of wild allegation. I do find much force in the stand of the 2nd respondent. The petitioners have not come forward with any specific acceptable material to sustain the argument that certain private agencies were able to manipulate the results. Except to say that these are self-serving statements, no material whatsoever is forthcoming from them. Hence, I do not find any merit in the said contention.

12. As to the allegation of the scope of manipulation regarding answer sheets

and in the computer centre, the counter states as to how the question booklets and answer sheets are processed. The question booklets and answer sheets are treated as highly confidential and they are packeted and sealed under the direct supervision of the Controller and are sent to the State Treasuries nearest to the venue of examination. The representatives of the Controller will collect the sealed packets from the Treasuries on the day of examination and hand over to the Chief Superintendent of the Examination Centres. The Chief Superintendent will open the bundle containing the sealed packets and hand over, the respective invigilators in the class rooms five minutes before the commencement of the examination. In each centre, an attendance sheet in the prescribed pro forma containing the signatures of the candidates is maintained. A statement of absentees and answer sheets is prepared by the Chief Superintendent setting out the roll numbers allotted to the venue, roll number of absentees and number of answer sheets in the bundle. The answer and question booklets are sent back in sealed packets with these particulars. The answer sheet packets are opened only at the time of scanning. The candidates' full particulars are gathered from the Computer Data Sheet at the time of application is stored at Master Data preparation. The answer sheet also contains particulars of the candidates. The collection of the data from both these sources are correlated to avoid any scope of errors. The following summary also makes it clear that the answer sheets used and unused were tallied and certified:

Sl. No.

Description

Biology

Physics & Chemistry

Mathematics

Architecture

1.

Total no. of qn. booklets issued

28820

45180

25520

6420

2.

Total no. of qn. booklets used

24127

37910

21417

3789

3.

Total no. of qn. booklets return-ed (balance)

4693

7270

4103

2631

4.

Total no. of answer sheets issued

28820

45180

25520

6420

5.

Total no. of answer sheets used

24127

37910

21417

3789

6.

Total no. of answer sheets re-turned (balance)

4693

7270

4103

2631

7.

Total no. of answer sheets scanned for eva-luation

24127

37910

21417

3789

Note : (1) The sum of the total no. of qn. booklets used and balance tallies with the total no. of qn. booklets issued for each subject.

(2) The sum of the total no. of answer sheets used and balance tallies with the total no. of answer sheets issued for each subject.

(3) The total no. of answer sheets scanned for valuation tallies with the total no. of answer sheets used for each subject."

Thus, inbuilt safeguard and secrecy are maintained. In the light of this detailed supervision at every stage, I do not find any reason to support the argument that the answer sheets could be replaced or scanning of computer can be changed to suit the circumstances. The candidates, in the answer sheets, write their row number of questions attempted and total number of questions answered. There is a serial number for every answer sheet and signature of candidates, question booklet number and Us version. If there is any specific complaint, all these can be verified and correlated.

13. By order dated 12-3-1996 I directed the respondents to produce all the question booklets, mark-lists, answer-sheets and their applications along with qualifying marks relating to Kottayam and Trivandrum Districts. Learned Government Pleader made available the answer-sheets and applications along with mark-sheets. I had gone through them at random in order to correlate the signatures of the candidates, invigilators and the marks in the qualifying examinations. I am not able to find out any doubts about these answer-sheets. The following table gives some details of this inspection :

"Details of Marks secured by the candidates in the qualifying exam. (PDC or equi.) who have been selected for MBBS course.

Sl. No.

Roll No.

Name

Indl. Rank

Physics

Chemistry

Biology

1.

66515

Renjith P.S.

74

114/150

1 6/150

112/150

2.

66519

Renjith Paul

42

120/150

119/150

117/150

.

674 5

Meena K.

10

71/100

80/100

86/100

4.

44524

Ambily Varghese

2 5

1 5/150

119/150

12 /150

5.

44507

Arun Alex

07

12 /150

14 /150

125/150

6.

4451

Mathew JosephPulickal

165

90/100

78/ 100

88/100

7.

44514

Siljo Jose

1 6

141/150

149/150

1 8/150

8.

44517

Ashly Elizaoeth Joseph

29

1 6/150

149/ 150

146/150

9.

44564

Shinoy Ansari

251

1 4/150

129/150

129/150

10.

44607

Manjusha S. Menon

226

1 4/150

140/150

142/150

11.

67095

Arun Mohan

24

1 /150

1 /150

1 4//150

12.

668 1

Sreekanth S. S.

85

1 2/150

1 1/150

147/ 150

1 .

66755

Sreeram Prasad

60

127/150

125/150

! 40/150

14.

6672

Chitra Sam

67

117/150

1 6/150

140/150

15.

67067

Sudin S. R.

96

1 8/150

127/150

141/150

1.

Total number of candidates appeared at Kottayam for medical course

2330

39558 (Total appeared)

2.

Total number of candidates selected at Kottayam for Medical course

46

1.

Total number of candidates appeared at Trivandrum for Medical course

4826

39558

2.

Total number of candidates selected at Trivandrum for Medical course

95

"

From this, it is clear that the candidates who have scored high marks in their qualifying examinations have obtained high marks in the entrance examination

also. Some of these numbers are referred to in Ext. P9 in O.P. 11942/96 contending that there was a possibility of mass copying. Of course, many of their qualifying examination's marks are not available, since they were allowed to write the entrance examination even with appearance in their pre-degreed and mark-sheets are not obtained thereafter. But the method of admission without securing the original or attested copy of marklist of qualifying examination is surprising, leaving no scope of verifying their marks at a later stage. The mark is important to verify the minimum required and a possibility of comparing with the entrance mark. Now anybody can disown the claim regarding minimum mark.

14. When doubts were raised by petitioners in O.P. 11852/96 about the valuation of their answer-sheets, they were called for to satisfy the allegations and satisfy the conscience of the Court. Their answers and writing were verified carefully with the correct answers. The learned Counsel was given opportunity to address argument after looking into the answer-sheets. He could not make out anything wrong in the valuation. In the total number of questions answered in the rows and total being written in ball pen there was no erasure and hence nothing doubtful about it.

15. District Discrimination:--Petitioners pointed out that the students coming from Wayanad and Malabar area are not able to secure higher ranks whereas students from Trivandrum and Kottayam have secured top ranks. From Wayanad only one would reach within the first hundred ranks. Similarly, from the areas like Malappuram, they could not get sufficient number of candidates within the hundred ranks whereas majority of candidates from Trivandrum and Kottayam could secure higher ranks. From this, the petitioners wanted to infer that these candidates from Trivandrum and Kottayam were able to secure higher ranks through private centres by manipulation.

16. Learned Government Pleader was able to give the particulars of number of candidates appeared in the various Districts, which is as follows:

District Total No. of candidates registered Kasaragod 481 Kannur 1681 Wayanad 201 Kozhikode 2159 Malappuram 884 Palghat 1032 Trichur 2467 Ernakulam 3060 Thodupuzha 706 Kottayam 3330 Alappuzha 1126 Pathanamthitta 1107 Kollam 2165 Trivandrum 4826

From the above table, we could find that the number of candidates appearing for the examinations are comparatively larger than from northern Districts. As per instance in Wayanad, there are only 201 applicants whereas in Trivandrum there are 4826 applicants. Naturally, the number of candidates who could secure and come within the rank would be higher than from Wayanad. It is pointed out that total number of candidates appeared at Kottayam for medical courses are 2330 out of total 39558. Of these, only 46 got selected from the open quota available (350). Similarly, from Trivandrum, out of 4826 candidates, only 95 got selected and the final results are still awaited. In view of the regional reservation of 5 : 8 between Malabar and T.C. area, they are likely to get more ranking. Therefore, I

do not find anything unusual in the results.

17. Delay in publication :-- All the petitioners contend that there is an unexplained delay in publications of the results and holding of the interview. According to them, the Government had postponed the interview from 12-7-1996 to 25-7-1996 without assigning any reason. Normally, in computerised valuation, there is no need for such a long delay besides the postponement of interviews could only go to show that there was an attempt to manipulate the affiliation and the ranking of the candidates. In answer to this allegation, learned Government Pleader gave the various dates involved in the scheme:

Date

Events

1.

5-3-1996

Notification for examination.

2.

20-4-1996, 5.15 P.M.

Last date for receipt of the application.

3.

18/19-5-1996

Entrance Examination.

4.

24-6-1996

Publication of rank list.

5.

12-7-1996

Proposed date of interview.

6.

18-7-1996

Govt. notification regarding free seats.

7.

25-7-1996

Actual date of beginning of the interview.

According to learned Government Pleader, from the date of the entrance examination, the department would require normally 30 to 40 days to finalise the results and there was no delay in this case in finalising the results. In reference to the reasons for postponement of the interview from 12-7-1996 to 25-7-1996 on behalf of the Government, the 1st respondent, a counter-affidavit has been filed by the Joint Secretary to Government. As per this counter, the Controller of Examinations has reported to the Government on 16-5-1996 that it would be beneficial to have a discussion for determining the methodology to be adopted for the common admissions. This suggestion was made taking into account the difficulties experienced by the student community during previous years in appearing before the concerned authorities on more than one occasion. A large number of candidates had to attend the admission centres several rounds in order to ascertain their possibility of getting actual admission. Hence the Government convened a meeting of all concerned on 22-5-1996 and decided to coordinate the admission work. In the meantime the Government felt to review the affiliation with regard to the self-financing colleges in the State, especially regarding the payment seats. The Government was of the view that 50% of the seats in those self-financing colleges should be made free seats in the interest of meritorious students, who would find it difficult to get admissions in those colleges due to financial strains. Pending final decision on this issue, Government issued a direction on 6-7-1996 to the 2nd respondent to postpone the interview and admissions to the professional colleges and to fix fresh dates later. Hence there was a postponement of the interview to be held on 12-7-1996. On a subsequent meeting held on 16-7-1996, it was decided that the interview would commence on 25-7-1996 including 50% of the seats as free seats in the self-financing colleges. By virtue of this policy 400 students would be getting admission in the self-financing colleges on the basis of merit.

18. Considering the steps involved in the preparation of the ranking after getting the results from the computer, I do not find that there is any inordinate delay in preparing the ranking. The delay from 12-7-1996 to 25-7-1996 has been properly explained. In the above circumstances, I do not find any merits to countenance the argument that the delay was intended only to manipulate the results.

19. Another issue raised is related to the apparent conflict in reference to the eligibility and preparation of rank list. As per the Prospectus for Engineering Degree Admission -- 1996 (4.4) candidates seeking admission to Engineering courses should appear for two papers (i) Physics and Chemistry; and (ii) Mathematics. In the Prospectus for Medical courses -- 1996 Clause IX (f) it is stated that candidates seeking admission to Medical/Agricultural courses should appear for the papers (i) Physics and Chemistry; and (ii) Biology. Candidates desirous of obtaining admission to Engineering as well as Medical/ Agricultural courses should appear for three papers (i) Physics and Chemistry; (ii)

Mathematics; and fiii) Biology. These conditions and stipulations are set by admitting authorities in the Directorate of Technical Education and Directorate of Medical Education. But, brochure prepared by the office of the Controller of Entrance Examination gives a general information regarding the Entrance Examination. Clause 5 (Introduction) of it requests the candidates to go through the Prospectus. It also states (under Clause 6) the importance of Prospectus, which is as follows:

"6. The Importance of a Prospectus:

(a) A Prospectus is a basic document, meant primarily for the prospective candidates, and general public at large, which sets out the ingredients of the conditions of admissions to a particular professional course, and what all the courts entails.

(b) Among other things, a Prospectus mentions the following important information, such as: Eligibility Conditions for admissions"

Hence the statement in Clause IX of brochure dealing with "The Declaration of Results" that a candidate without appearing for Mathematics Paper can figure in the Rank List for Engineering course will not enable them to seek and get admission. Mere inclusion in the rank list will not entitle a candidate without satisfying the eligibility as set out above. As a matter of fact, the candidate if he applies for writing only for Physics and Chemistry without Mathematics for Engineering and without Biology for Medicine should not have been permitted to write the Entrance Examination. Any selection of such candidates would be illegal and arbitrary. It will be discriminatory to those who have prepared and appeared for both based on Prospectus. The petitioner in O.P. 11942/96 has raised a point in paragraph 4 of the Original Petition and the reply-affidavit dated 5-8-1996. There is no satisfactory reply for this. The Government Pleader gave a list of 9 candidates selected for Engineering courses who had not appeared for Mathematics, which is as follows :

Roll No.

Name of candidates

Engineering Rank No.

1.

28061

Indu M. Namboodiri

1608

2.

34064

Hemanth M.

1673

3.

44683

Shajahan S.

1755

4.

50039

Anju T.

2581

5.

56061

Vinod G.

2142

6.

50185

Reena Mathew

1570

7.

56169

Rajeev

1656

8.

61511

Priya Rajagopal

2524

9.

62759

Sunil R.

1934

These selections are illegal. The respondents are directed to take immediate steps to cancel their selection or admission if any made, in accordance with law.

20. All the questions/points that arose for consideration are answered against the petitioners excepting that related to the selection of 9 candidates for Engineering courses without writing Mathematics paper.

The Original Petitions are accordingly disposed of.