

ITEM NO.31+41+42

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition (Civil) No.335/2024

VANSHIKA YADAV

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With IA No.119476/2024 - EXEMPTION FROM FILING O.T., IA No. 136442/2024 - INTERVENTION APPLICATION)

WITH W.P.(C) No.362/2024 (X)

(With IA No.135182/2024 - APPROPRIATE ORDERS/DIRECTIONS, IA No.130607/2024 - EXEMPTION FROM FILING O.T., IA No.130606/2024 - GRANT OF INTERIM RELIEF, IA No.135183/2024 - INTERVENTION/IMPLEADMENT and IA No.135181/2024 - STAY APPLICATION)

W.P.(C) No.369/2024 (PIL-W)

(With IA No.136116/2024 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 131601/2024 - EXEMPTION FROM FILING O.T. and IA No.135632/2024 - INTERVENTION APPLICATION)

W.P.(C) No.368/2024 (PIL-W)

(With IA No.131968/2024 - EARLY HEARING APPLICATION, IA No.131530/2024 - EX-PARTE AD-INTERIM RELIEF, IA No.134489/2024 - INTERVENTION/IMPLEADMENT)

W.P.(C) No.373/2024 (PIL-W)

(With IA No.132309/2024-GRANT OF INTERIM RELIEF)

W.P.(C) No.377/2024 (PIL-W)

(With IA No.134302/2024 - APPROPRIATE ORDERS/DIRECTIONS and IA No. 132828/2024 - EXEMPTION FROM FILING O.T.)

W.P.(C) No.376/2024 (PIL-W)

(With IA No.132820/2024 - EXEMPTION FROM FILING O.T. and IA No. 132819/2024 - STAY APPLICATION)

W.P.(C) No.375/2024 (X)

(With IA No.132817/2024 - EX-PARTE STAY and IA No.132818/2024 - EXEMPTION FROM FILING O.T.)

W.P.(C) No.394/2024 (PIL-W)

(With IA No.135671/2024 - PERMISSION TO APPEAR AND ARGUE IN PERSON)

W.P.(C) No.382/2024 (X)
W.P.(C) No.389/2024 (X)
T.P.(C) No.1602/2024 (XV)
(With IA No.134285/2024 - EX-PARTE STAY)
T.P.(C) No.1597/2024 (XVI)
(With IA No.133980/2024-EX-PARTE STAY)
T.P.(C) No.1596/2024 (XVI)
(With IA No.133634/2024-EX-PARTE STAY)
W.P.(C) No.383/2024 (X)
(With IA No.134197/2024-GRANT OF INTERIM RELIEF and IA
No.134198/2024-EXEMPTION FROM FILING O.T.)
T.P.(C) No.1600/2024 (IX)
(With IA No.134256/2024-EX-PARTE STAY)
W.P.(C) No.381/2024 (X)
(With IA No.133878/2024 - EX-PARTE AD-INTERIM RELIEF)
W.P.(C) No.384/2024 (X)
(With IA No.134205/2024-EX-PARTE STAY)
W.P.(C) No.410/2024 (PIL-W)
W.P.(C) No.419/2024 (PIL-W)
W.P.(C) No.412/2024 (X)
W.P.(C) No.415/2024 (X)
W.P.(C) No.425/2024 (X)
W.P.(C) No.407/2024 (X)
W.P.(C) No.414/2024 (X)
W.P.(C) No.404/2024 (X)
W.P.(C) No.420/2024 (X)
(With IA No.140324/2024-STAY)
W.P.(C) No.423/2024 (X)
W.P.(C) No.427/2024 (X)
W.P.(C) No.401/2024 (X)
(With IA No.136640/2024-EX-PARTE STAY)
W.P.(C) No.403/2024
(With IA No.136825/2024-EX-PARTE STAY)
W.P.(C) No.398/2024
W.P.(C) No.406/2024
(With IA No.137965/2024-EX-PARTE STAY AD-INTERIM RELIEF and IA
No.137964/2024-EXEMPTION FROM FILING O.T.)
W.P.(C) No.1659/2024
(With IA No.138484/2024-STAY)
W.P.(C) No.379/2024
(With IA No.133080/2024-GRANT OF INTERIM RELIEF)
W.P.(C) No.385/2024

Date : 08-07-2024 These matters were called on for hearing today.

CORAM :

**HON'BLE THE CHIEF JUSTICE
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HON'BLE MR. JUSTICE MANOJ MISRA**

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TPC 1597/2024,
TPC 1596/2024,
TPC 1600/2024 & Mr. Naresh Kaushik, Sr. Adv.
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**UPON hearing the counsel the Court made the following
O R D E R**

1 On 9 February 2024, the National Testing Agency¹ issued an online application form for the National Eligibility-cum-Entrance Test,² a qualifying examination for admission to undergraduate medical and dentistry programs, for the year 2024. NTA conducted the NEET (UG) examination on 5 May 2024. Results were declared on 4 June 2024.

2 Certain basic facts which are not in dispute must be mentioned at the outset.

1 "NTA"

2 "NEET (UG)"

About twenty-four lakh students registered for the NEET (UG) examination which was to be conducted in the month of May 2024. About 23,33,297 students appeared for the examination. The examination was conducted at 4750 centres comprised within 571 cities. The examination was also held in fourteen cities overseas. The total number of medical seats for undergraduate courses is 1.08 lakh of which approximately 56,000 are seats in government hospitals.

- 3 The NEET (UG) 2024 examination consisted of multiple-choice questions involving a total of 180 questions. Each of the 180 questions carried four marks (if answered correctly), with the maximum possible score being 720 marks. Forty-five questions each were allotted to the segments in physics, chemistry, botany and zoology. The examination envisaged the award of one negative mark per incorrect answer. A question which was left unattempted attracted neither positive nor negative marks. Candidates were given three hours and twenty minutes to attempt the examination. NTA had got set two sets of question papers prepared. One set was stored in safe custody with the State Bank of India and the other with Canara bank. The question set which would be distributed to candidates was to be revealed shortly before the scheduled time of the test.
- 4 From the materials which have emerged on the record at the present stage, it appears that on 5 May 2024, a First Information Report, bearing FIR No 358 of 2024 was lodged at Shastrinagar Police Station, Patna alleging a leak in the NEET (UG) 2024 question papers implicating offences under Sections 407, 408 and 409 read with Section 120B of the Indian Penal Code.
- 5 According to the petitioners, on 23 June 2024, the Economic Offences Unit of the Bihar Police issued a press release in regard to the paper leak. On the other hand, it appears that a communication was issued on 23 June 2024 by the Additional Director General of Police, Economic Offences Unit, stating that the Bihar Police has not issued an official press release or statement. Be

that as it may, in this batch of petitions, one of the primary reliefs which has been sought is for a court-mandated re-test of the NEET(UG) examination which was conducted on 5 May 2024.

- 6 In support of the plea that this Court should direct a re-examination, the petitioners have primarily relied on two circumstances. First, it has been submitted that only a handful of candidates secured the maximum of 720 marks in each of the years between 2020 and 2023. As opposed to this, in NEET (UG) 2024, as many as sixty-seven candidates are reported to have secured the maximum of 720 marks. The submission can best be highlighted by reproducing the chart which was placed before us during the course of the hearing:

Year of NEET-UG examination	Candidates securing AIR-1 in the examination	Scores achieved by AIR-1	Total candidates appeared (in lakh) (approx.)	Difference in number of candidates against the preceding year (in lakh) (approx.)
2020	1	720/720	13.66	-
2021	3	720/720	15.44	1.78
2022	1	715/720	17.64	2.2
2023	2	720/720	20.38	2.74
2024*	67	720/720	23.33	2.95

- 7 The above chart indicates that while one student in 2020, three students in 2021, one student in 2022 and two students in 2023 secured a perfect score, there has been a radical increase in the number of students (sixty-seven) who secured a perfect score of 720 marks in 2024.
- 8 The second submission proceeds on a comparative tabulation of the ranks which were allotted to students receiving identical marks at different levels in 2022, 2023 and 2024. The above submission is sought to be highlighted

from the following tabulated data:

2022			2023			2024		
Marks	Ranks	% Rise	Marks	Ranks	% Rise	Marks	Ranks	% Rise
700	94	--	700	247	162	700	2250	810
685	616	--	685	1132	83	685	6777	498
675	1285	--	675	2050	59	675	11600	465
662	2400	--	662	4065	66	662	19738	393
630	9685	--	630	13536	39	630	48600	259
539	55874	--	539	72988	31	539	155817	113

- 9 The above chart indicates that students receiving a specific level of marks between 539 and 700, who had secured a particular rank in 2022, secured lower ranks in 2023 and radically lower ranks in 2024 for corresponding marks. Hence, it has been submitted that the number of students who obtained marks in the upper ranges has been unduly high in NEET UG - 2024. The petitioners urged that the two circumstances detailed above indicate that the question paper for this year was leaked on a large-scale and that numerous candidates benefitted from this leak.
- 10 The Court has been apprised of the fact that First Information Reports were registered in Delhi, Gujarat, Rajasthan, Jharkhand and Maharashtra, in addition to Patna. Whether the paper leak is confined only to Patna or is an issue which extends across cities is a matter which must be reserved for more detailed consideration. The lodging of FIRs in multiple jurisdictions suggests that the complaints necessitate a thorough investigation to determine the full extent and implications of the paper leak. The investigation has in the meantime been handed over to the Central Bureau of Investigation³.

3 "CBI"

- 11 The above narration indicates that the examination was conducted over a wide spectrum comprising of nearly 23 lakh students in over 4750 centres in India. The law on whether a retest should be ordered in a situation such as the present one is based on certain settled parameters. The Court would have to scrutinize the following aspects on the basis of the data which emerges on record:
- (i) Whether the alleged breach took place at a systemic level;
 - (ii) Whether the breach is of a nature which affects the integrity of the entire examination process; and
 - (iii) Whether it is possible to segregate the beneficiaries of the fraud from the untainted students.
- 12 In a situation where the breach in the sanctity of an examination affects the entirety of the process and it is not possible to segregate those who are the beneficiaries of wrongdoing from others, a re-test is likely to be the most appropriate course of action. On the contrary, where the breach is confined to specific areas or centres and it is possible to identify those who are the beneficiaries of wrongdoing, it may not be appropriate to order a re-test particularly in an examination which has been conducted on such a massive scale and which involves over 23 lakh students. The Court cannot also be unmindful of the social consequences involving such a large body of students who have studied for the examination, undertaken costs and expenses and would have to undergo the rigours of a fresh examination if one were to be ordered by the Court. Balancing these considerations requires a careful assessment of the extent and impact of the breach on the integrity of the examination process, ensuring fairness to all stakeholders.
- 13 While flagging the above issues, we are of the view that a final decision would have to be deferred until a more detailed set of facts are placed on

record. For that purpose, we direct NTA and the Union Government to make a full disclosure before the Court as detailed below.

- 14 The first aspect pertains to the nature of the leak, the places where the leak took place and the amount of time which elapsed between the occurrence of the leak and the conduct of the examination. From this perspective, NTA is directed to clarify the following issues on the basis of all the material which is in its possession as on date:
- (i) When and how NTA first became aware of the paper leak, including any internal notifications or external reports;
 - (ii) The cities or towns and the centres at which a leak has been noticed or in which candidates have complained of a leak;
 - (iii) The manner in which the question papers leaked were disseminated to candidates or other persons who would, in turn, distribute them to candidates. In other words, information about the medium through which the leak took place and whether it was electronic (including social media or mobile applications) or physical shall be placed on record;
 - (iv) The duration of time between the occurrence of the leak or the suspected occurrence of the leak and the actual conduct of the examination which took place between 2 pm and 5:20 pm on 5 May 2024;
 - (v) The chain of custody of the question paper from the time of its preparation to the time of its dissemination to candidates on the day of the examination; and
 - (vi) Whether the entirety of the question paper was leaked or whether certain sections or questions were leaked.

- 15 On the above aspect, we are also of the view that since the investigation has been entrusted to the CBI, the concerned Investigating Officer should place a status report before this Court indicating the status of the investigation as on date and all the material which has been gathered during the course of the investigation. The Investigation Officer shall also place before this Court the modalities by which the leaked question papers were made available to candidates or other unauthorised personnel. The Investigation Officer shall specify whether electronic applications such as Whatsapp, Telegram, Facebook or other social media or instant messaging applications were used to disseminate the question paper and to what extent. Other modalities which involved the use of the internet shall also be specified.
- 16 The second aspect on which NTA shall make a disclosure to this Court is in regard to the steps which have been taken until now to identify the beneficiaries of the leak. In this regard, the Court should be apprised, *inter alia*, of the following:
- (i) The steps which were taken by NTA to identify the centres/cities at which the leak took place;
 - (ii) The modalities followed for identifying the beneficiaries of the leak; and
 - (iii) The number of students who have so far been identified to be the beneficiaries of the leaked question papers and the centres at which they appeared for the examination.
- 17 The Investigating Officer shall also submit a status report bearing on the above aspects.
- 18 The third aspect on which it is necessary to have a further disclosure by the Union Government as well by NTA is whether it would be feasible, using data analytics either within the cyber forensic unit or any other expert agencies

within the government or which may be employed by the government to identify suspect or suspicious cases. If this is possible, the authority shall identify the modalities which can be followed so as to segregate the students suspected of using unfair means from the other students. If the stance of the Union Government or the NTA is that such an approach is feasible, the affidavits filed shall describe the parameters and criteria proposed to be used for flagging suspicious cases, such as abnormal score patterns.

- 19 The fourth aspect on which we would require a disclosure from NTA is in regard to the modalities to be followed between the conclusion of the examination including the re-test which was held for 1563 students and the actual commencement of the counselling process. If an exercise is to be conducted by NTA and by the Union Government so as to identify any further beneficiaries of the question paper leakage, a considered decision at the policy level would have to be taken by the government on the status of the counselling. This decision is also likely to have an impact on the start of the academic year.
- 20 Fifthly, the Court must be apprised of the steps which would be taken hereafter to ensure the sanctity of the NEET so that instances of the kind which have transpired during the course of the present session are not repeated in the future. Several million students appear annually in the entrance tests conducted by NTA. The aspirants who appear for admission tests for prized courses in medicine and other branches must have confidence in the fairness of the process. The careers of millions of students are at stake. As indicated earlier, the number of seats available for allocation is a fraction of the number of candidates who appear year on year. In this regard, it would be necessary for the government to consider setting up a multi-disciplinary team consisting of renowned experts who command the wider confidence of the community to ensure that due measures are being taken to obviate any further breaches in the NEET examinations or other examinations conducted by NTA, in the future. If a committee has already

been set up by the government for deducing the steps to be taken for the future, a complete set of details regarding the committee shall be made available to the Court. The Court may then consider whether the committee which has been appointed by the government should be allowed to proceed as it is or whether the composition of the committee should be enhanced so as to bring together a pool of talent from diverse fields bearing not only on administration but also on domain expertise and data analytics.

- 21 The Solicitor General appearing for the Union of India and Mr Naresh Kaushik, senior counsel for the NTA have requested the Court to list the batch of cases for further hearing on 11 July 2024 so as to enable them to make available the material in pursuance of the above queries by 5 pm on 10 July 2024. The affidavits shall simultaneously be shared with the counsel appearing on behalf of the petitioners.
- 22 The report of the Investigating Officer of the CBI shall also be placed on record by 5 pm on 10 July 2024.
- 23 In view of the large number of counsel who are appearing on behalf of the petitioners, it has been agreed that Mr Sumit Kumar Sharma and Mr Shwetank Sailakwal shall act as nodal counsel. All the counsel appearing for the petitioners who are desirous of pressing their submission for a re-test shall file together file one common set of submissions not exceeding ten pages before the hearing takes place on 11 July 2024.
- 24 Counsel appearing for all the petitioners/intervenors shall serve copies of their respective petitions on Mr M K Maroria and Mr Vardhman Kaushik, counsel instructing Mr Tushar Mehta, Solicitor General and Mr Naresh Kaushik, senior counsel respectively. The Union of India and NTA shall prepare a tabulated statement grouping the petitions into distinct categories so as to facilitate their disposal.

- 25 List the Petitions on 11 July 2024 along with Writ Petition (Civil) No 431 of 2024, Writ Petition (Civil) Diary No 29373 of 2023, Writ Petition (Civil) No 430 of 2024 and Writ Petition (Civil) Diary No 28450 of 2024.

Writ Petition (Civil) No 373 of 2024

- 1 Ms Praveena Gautam, counsel for the petitioner seeks the permission of the Court to withdraw the petition.
- 2 The Writ Petition is dismissed as withdrawn.

Writ Petition (Civil) No 385 of 2024

- 1 De-tag and list on 23 July 2024.

(CHETAN KUMAR)
A.R. -cum-P.S.

(SAROJ KUMARI GAUR)
Assistant Registrar