

Court No. - 2

Case :- WRIT - C No. - 5341 of 2024

Petitioner :- Ayushi Patel

Respondent :- Union Of India Thru. Secy., Ministry Education/ Deptt. Of Higher Education, New Delhi And Another

Counsel for Petitioner :- Shailesh Sachan, Gaurav Singh, Piyush Agnihotri, Sachin Kumar

Counsel for Respondent :- A.S.G.I., Shashank Bhasin

Hon'ble Rajesh Singh Chauhan, J.

Heard Sri Piyush Agnihotri, learned counsel for the petitioner, Sri Varun Pandey holding brief of Sri S.B. Pandey, learned Senior Advocate & D.S.G.I. for opposite party no. 1 and Sri Shashank Bhasin, learned counsel for the opposite party no. 2.

This Court has passed the order dated 12.6.2024 which reads as under :

"1. Heard Sri Shailesh Sachan, learned counsel for the petitioner, Sri Varun Pandey, Advocate holding brief of Sri S.B. Pandey, learned Senior Advocate and the Deputy Solicitor General of India for Union of India and Sri Shashank Bhasin, learned counsel who has filed Vakalatnama on behalf of the opposite party No.2, the same is taken on record.

2. By means of this writ petition, the petitioner has prayed for the following reliefs:-

"(I) to issue a writ, order or direction in the nature of mandamus commanding the opposite party No.2 to check the OMR sheet manually of the petitioner, in the interest of justice.

(II) to issue a writ, order or direction in the nature of mandamus commanding and directing the opposite party No.1 to conduct an enquiry against the opposite party No.2, in the interest of justice.

(III) to issue a writ, order or direction in the nature of mandamus commanding and directing the opposite parties not to start the procedure of counselling during the pendency of the present writ petition, in the interest of justice."

3. Sri Shashank Bhasin, learned counsel for the opposite party No.2 has produced the original OMR Sheet, Attendance Sheet and the Score Card of the petitioner before the court for perusal, which are taken on record. On these papers, the application number of the petitioner is 240411340741 and the petitioner herself has signed on such papers so, as per Sri Bhasin, she is acknowledging her application number as 240411340741.

4. Learned counsel for the petitioner has shown the Annexure No.4

of the petition to demonstrate that the Application Number for National Eligibility Cum Entrance Test (UG) 2024, NEET (UG) -2024 of the petitioner is 240411840741.

5. Learned counsel for the petitioner has submitted that the aforesaid application number is consistent in Annexure No.9 of the petition, which is photocopy of one e.mail relating to NTA NEET UG EXAM 2024 sent by one Sri Deshraj Singh addressed to the petitioner apprising her that NTA received damaged (torn) OMR on the same Application Form Number. Further, Annexure No.10 of the petition is a mail of the petitioner sent to NEET wherein she has indicated the same application number.

6. Learned counsel for the petitioner has provided photocopy of the some documents/ mails being exchanged between the petitioner and the NTA wherein the same application number has been indicated, though the original papers of the petitioner so produced by Sri Shashank Bhasin indicates the different Application Form Number as 240411340741. The documents/mails produced by the petitioner are taken on record.

7. At this stage, Sri Bhasin has stated that he is unable to understand as to why the petitioner is indicating another application number in her mails than the number which has been acknowledged by her on the original papers.

8. The careful perusal thereof reveals that all the numbers shown in the Application Form of the petitioner are the same except the middle digit/number 3 mentioned in the original Application Form, whereas the details provided by the petitioner contains the digit/number as 8.

9. On being confronted Sri Bhasin, learned counsel for the opposite party No.2, to clarify the aforesaid position, he prays for and is granted three days time to seek complete written instructions on that point and produce all original documents of the petitioner from the stage of her application form till declaration of result as well as the documents with regard to e.mail communication with NEET.

10. The petitioner shall also produce all her original documents enclosed with the petition.

11. List/ put up this case on 18.06.2024 as fresh. On that date, this matter shall be taken up immediately after fresh cases.

12. When the case is next listed, name of Sri Shashank Bhasin, learned counsel be printed in the cause list as counsel for the opposite parties."

Today, Sri Shashank Bhasin, learned counsel for the opposite party no. 2 has filed an application for taking on record the affidavit filed on behalf of opposite party no. 2 bringing on record all original documents of the petitioner in terms of the aforesaid order, same are taken on record.

An affidavit has been filed by one Sri Sandeep Sharma, presently posted as Deputy Director, National Testing Agency.

Sri Bhasin has stated with vehemence that all the documents filed with the petition are forged and fictitious. He has shown all the original documents of the petitioner in terms of the aforesaid order, perusal thereof reveals that the statement of Sri Bhasin is correct inasmuch as the documents, so filed by the petitioner in the writ petition are forged and fictitious.

Sri Bhasin has shown Chapter XIII of Information Bulletin of NEET (UG)-2004 which provides "UNFAIR MEANS PRACTICES AND BREACH OF EXAMINATION RULES", same is taken on record.

Sri Bhasin has referred Clause 13.1-(l)(q) and (r) which reads as under :

"l) Manipulation and fabrication of online documents viz. admit card, rank letter, self-declaration, etc.

q) Providing incorrect information and/or overwriting of the Roll No./Test Booklet No./own Name of the Candidate/Father's Name/Mother's Name/own Signature, on the OMR Answer Sheet.

r) Making fake claims by manipulating the responses in the OMR sheet one tampering it in any way whatsoever, uploaded on the website for the challenge before or after the declaration of the result.

Sri Bhasin has referred Clause 13.2 and 13.3 which reads as under :

"13.2 Punishment for using Unfair means practices

During the course of, before, or after the examination if a candidate indulges in any of the above or similar practices, he/she shall be deemed to have used unfair practices and booked under UNFAIR MEANS (U.F.M.) case. The candidate would be debarred for 3 years in future and shall also be liable for criminal action and/or any other action as deemed fit.

13.3 Cancellation of Result

a) The result of NEET(UG)-2024 of the candidates who indulge in Unfair means Practices will be cancelled and will not be declared.

b) Similarly, the result of those candidates who appear from the Centre other than the one allotted to them, write on the Test booklet/OMR Sheet of other candidates or allow other candidates to write on their Test Booklet/OMR Sheet will be cancelled (and will not be declared)."

Sri Bhasin has submitted that the competent authority / authorities has / have decided to take legal action in the case.

He has also drawn attention of this Court towards the judgment and order dated 6.2.2024 passed by this Court in ***Writ-C No. 19806 of 2023 : Madhvi Tiwari vs. Union of India and 3 others*** saying that the facts and circumstances of the present case are similar to the aforesaid case where the strict order has been passed by this Court vide order dated 6.2.2024.

On the other hand learned counsel for the petitioner has submitted that he has nothing to say or plead in this case, therefore, the present petitioner may be permitted to not press the petition.

Be that as it may, this is really sorry state of affairs that the petitioner filed a petition enclosing therewith the forged and fictitious documents, therefore, this Court can not restrain the competent authority / authorities to take any legal action against the petitioner strictly in accordance with law.

Since the learned counsel for the petitioner has requested that this petition may be dismissed being not pressed as he has nothing to say or plead in favour of the petitioner, therefore, this writ petition is ***dismissed being not pressed.***

[Rajesh Singh Chauhan, J.]

Order Date :- 18.6.2024

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