



§~

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on : 31 May 2024
Pronounced on : 3 June 2024

+ W.P.(C) 5172/2024 and CM APPLs. 26202/2024, 28633/2024

VIBHUTI NEGI

... Petitioner

Through: Ms. Meenakshi Joshi and Ms.
Aprajita Verma, Adv.

versus

NATIONAL TESTING AGENCY & ANR Respondents

Through: Mr. Sanjay Khanna, Ms. Pragya
Bhushan, Mr. Karandeep Singh, Mr.
Tarandeep Singh, Advocates for R-1.

Ms. Monika Arora, CGSC with Mr. Jitendra
Kumar Tripathi, Advocates for UOI.

Mr. Arjun Mitra, Advocate for IIT Madras.

CORAM:**HON'BLE MR. JUSTICE C. HARI SHANKAR****JUDGMENT****3.06.2024**

%

The Controversy

1. The petitioner undertook the Joint Entrance Examination (JEE) for entrance into Indian Institutes of Technology (IITs) and other Engineering Colleges, which provide admissions based on the JEE. The JEE is conducted by the National Testing Agency (NTA). The petitioner alleges that the NTA uploaded, on its website, two response sheets and two score cards of the petitioner. The first response sheet is stated to have been uploaded on the website of the NTA on 6 February



2024 and downloaded by the petitioner on 7 February 2024 at 2.33 am. The second response sheet is stated to have been downloaded at 11.10 am on 8 February 2024. The score cards were downloaded at 6 am and 8 am on 12 February 2024. The first score card reflected her score as 99.8493935 percentile and the second score card reflected her score as 74.5733907 percentile.

2. According to the petitioner, the first response sheet which was uploaded on 6 February 2024, and the first score card which was downloaded by her at 6 am on 12 February 2024 and which reflected her score as 99.8493935 percentile, are correct, and the second response sheet which was uploaded on 8 February 2024 and the corresponding score card which was downloaded by the petitioner at 8 am on 12 February 2024 do not pertain to her and are incorrect. She, therefore, seeks issuance of an appropriate writ, quashing the second response sheet which was downloaded by her on 8 February 2024 at 11.10 am and the second score card which was downloaded by her at 8 am on 12 February 2024.

Facts

3. The JEE, which is conducted by the NTA, has to be cleared by any candidate who seeks entry into any of the Indian Institutes of Technology (IITs), apart from certain other reputed engineering institutions. The JEE is held in two stages, the first of which is referred to as the JEE (Mains) and the second as the JEE (Advanced). According to the averments in the writ petition, the candidate has two



attempts at the JEE (Mains) and two attempts at JEE (Advanced), and the better of the two attempts is adopted as the candidate's score. The two attempts at the JEE (Mains) are referred to as Session 1 and Session 2. A candidate may opt to attempt only one of the two Sessions or to attempt both. In the latter case, the better score of the candidate would be taken.

4. The petitioner attempted both sessions of the JEE (Mains).
5. Thus far, there is no dispute.
6. According to the petitioner, the NTA, *vide* Public Notice dated 6 February 2024, displayed on its website the provisional answer key for the JEE (Mains) papers and the recorded response sheet of the candidates, which included the petitioner's recorded response sheet. Candidates who desired to challenge the provisional answer keys could do so between 6 February and 8 February 2024. In the event of a challenge made by a candidate being found to be correct, the Public Notice stated that the provisional answer key would be revised and the revised final answer key applied to all candidates. Based on the revised final answer keys, the candidates' results would be declared.
7. According to the petitioner, her response sheet, as uploaded by the NTA on 6 February 2024 with the provisional answer key, was the correct response sheet.
8. On 6 February 2024 itself, a revised Public Notice was issued



by the NTA, changing the window period during which candidates could challenge the provisional answer keys from 7 February 2024 to 9 February 2024. It was stated that the schedule had been revised due to a technical glitch in the server.

9. The petitioner did not submit any objection to the provisional answer key.

10. According to the petitioner, a second response sheet of the petitioner was uploaded by the NTA on its website, which was downloaded by the petitioner at 11.10 am on 8 February 2024. This second response sheet, asserts the petitioner, was “false”, and did not pertain to the petitioner at all.

11. The result of the JEE (Mains) was uploaded by the NTA on its website on 12 February 2024.

12. Here, again, the petitioner alleges that two score cards of the petitioner were uploaded, of which the first was downloaded by the petitioner at 6 am and the second at 8 am. According to the first score card, the petitioner had scored 99.8493935 percentile whereas, according to the second score card, she had scored 74.5733907 percentile.

13. It is important to note that, in para 7 of the writ petition, it is acknowledged by the petitioner that the first score card corresponds to the first response sheet (uploaded on 6 February 2024 and downloaded



on 7 February 2024) and that the second score card corresponds to the second response sheet (downloaded on 8 February 2024). The said averment may be reproduced:

“7. That by way of the present writ petition, the petitioner is seeking the quashing of the second response sheet, as well as, the second score card uploaded as on being 08.02.2024 and 12.02.2024 respectively, as uploaded arbitrarily and in total violation of the norms and principles. The second response sheet and score card are totally contrary to the previous/first response sheet and score card as uploaded on 07.02.2024. **That it is pertinent to mention here that as per the uploaded first response sheet dated 07.02.2024 downloaded at 02:33 AM which is mid-night of 06.02.2024, in which the total questions to be attempted were 75 and out of which the petitioner attempted 73 and whereas the correct answers were 62 and incorrect were 11. And hence the total expected marks were 248 and total obtained marks were 237 after negative marking (248-11= 237). And the same is also clear from the score card dated 12.02.2024 wherein the petitioner has obtained 99.8493935 percentile.**

That it is also submitted that as per the uploaded second response sheet dated 08.02.2024 downloaded at 11:10 AM in which the total questions to be attempted were 75 and out of which the petitioner attempted 73 and whereas the correct answers were 16 and incorrect were 57. And hence the total expected marks were 64, and total obtained marks were 7 after negative markings (64-57= 7). And the same is also clear from the score card dated 12.02.2024 wherein the petitioner has obtained 74.5733907percentile.

That the petitioner has done the self evaluation of both the response sheets from the provisional and final answer key as uploaded by the respondent No. 1.”

(Emphasised as provided in the original writ petition)

14. The NTA has filed a counter-affidavit to the writ petition, according to which the first response sheet and the first score card are manipulated and fabricated. It is stated that, in the record of the NTA, neither the first response sheet nor the first score card of the petitioner,



as filed with the petition, are available.

15. The counter-affidavit sets out the entire mode of examination, the manner in which answers are marked by the candidates and the manner in which the response sheet and the score card are generated, thus:

“10. That the Joint Entrance Examination, JEE (Main) comprises of two papers i.e. Paper 1, which is conducted for admission to Undergraduate Engineering Programs (B.E./B.Tech) at NITs, IITs, other Centrally Funded Technical Institutions (CFTIs), and Institutions/ Universities funded/ recognized by participating State Governments, and Paper 2, which is conducted for admission to B. Arch and B. Planning courses in the country. The JEE (Main) - 2024 has been conducted in 02 (two) sessions for admissions in the academic year 2024-25. Noteworthy is to mention that JEE (Main) is also an eligibility test for JEE (Advanced), which is conducted for admission to IITs.

11. That the mode of examination of JEE (Main) Paper 1 (B.E./ B.Tech) is a Computer Based Test (CBT) mode. Each Subject had two sections. *Section A* consisted of Multiple Choice Questions (MCQs) and *Section B* had Questions whose answers were to be filled in as a numerical value. In *Section B*, candidates had to attempt any 05 (five) questions out of 10 questions.

In Multiple Choice Questions (MCQ) format i.e. to answer a question, the candidate was required to choose one option corresponding to the correct answer or the most appropriate answer and Questions for which answer is a numerical value, with equal weightage to Mathematics, Physics and Chemistry.

For each question in *Section B*, the candidates were to enter the correct integer value of the answer using the mouse and the on-screen virtual numeric keypad in the place designated to enter the answer. For *Section B*, the answer should have been rounded off to the nearest Integer.

The Marking Scheme for JEE (Main) 2024 is as under:

- for every correct answer or 'most appropriate' answer- plus four marks (+4);



- for every incorrect answer - minus one mark (-1).
- for every question 'unanswered/ marked for review'- no marks (0).

12. That the entire process of examination was conducted in an environment that is not susceptible to any data infringement or manipulation. The mechanism is so designed that when a candidate appears for the examination, the computer system on which he/ she gives the exam is selected on a random basis, and the screen of each candidate displays the questions in a different, randomized sequence. The response of the candidate to each question, the movement of his/ her cursor on the screen, the option selected as well as changed (if any), etc. are all captured and stored electronically.

13. That the petitioner appeared for JEE (Main) 2024 Session 1 under Application Number 240311135687 and Roll Number UKO 1004390, Slot 2 on 31.01.2024 conducted by the answering respondent.

14. That making the examination transparent, the answering respondent evolved the scheme of displaying the Recorded Response and Question Paper. As per the scheme of the examination, the Recorded Responses and Question papers attempted by the candidates were displayed on the Official Website of JEE (Main) 2024: <https://jeemain.nta.ac.in/> before the declaration of the result/ NTA Score for each Session. For the period of 06.02.2024 to 08.02.2024 (up to 11:00 P.M.). A Public Notice dated 06.02.2024 was published in this regard which is annexed herewith as **Annexure RI/1**.

15. That pertinent is to mention that once the Recorded Responses of examination and Result of the JEE (Main) 2024 Session 1 examination for all candidates, including the Petitioner, were uploaded on the Official website of JEE (Main) 2024, it remained the same.”

16. On the basis of the second response sheet, downloaded by the petitioner on 8 February 2024 and which, according to the NTA, is the correct response sheet, the NTA submits that the score of the petitioner, as per the second score card stated to have been downloaded by the petitioner at 8 am on 12 February 2024, reflects



her correct score of 74.5733907 percentile.

17. Mr. Khanna submits that this is not a first case in which fabricated score cards have been made the basis of a claim in a writ petition even with respect to the JEE Examination. The counter-affidavit places reliance on earlier cases in which similar attempts had been made and, on the perpetrators being unmasked, the petitions been dismissed with costs, to wit *Shristi Shrivastava v. National Testing Agency*¹, *Selishia Mohandas v. U.O.I.*², *Yasha Tasaneem v. UOI*³, *Sami Khan S. v. U.O.I.*⁴, *K.S. Manoj v. U.O.I.*⁵ and *Gaurav Jaiswal v. U.O.I.*⁶, among others. He submits that this petition should meet a similar fate.

18. Finally, Mr. Khanna submits that, at any rate, the case involves seriously disputed questions of fact, which cannot be decided in exercise of the writ jurisdiction conferred on the Court by Article 226 of the Constitution of India.

19. Mr. Khanna is clear in his stand. He contends that the petitioner has fabricated the first response sheet and the first score card. The second response sheet and the second score card, are according to him, the actual response sheet and score card of the petitioner. They are the documents which are available on the record of the NTA. He submits that, in the entire scheme of filling in of the answers by the candidates,

¹ W.P.(C) 13058/2022

² W.P.(C) 10089/2023

³ W.P.(C) 7659/2023

⁴ W.P.(C) 36173/2022

⁵ W.P.(C) 15959/2020



generation of response sheets and computation of scores is AI⁷ and computer driven with no human interface. There is, therefore, he submits, zero chance of error. To support his stand, Mr. Khanna points out that the first score card which, according to the petitioner, is correct, reflects the petitioner's Application Number as 24031113568 without the terminal "7". As against this, the second score card which according to the petitioner, is the incorrect response sheet, correctly shows her Application Number as 240311135687. He also submits that the emblem of the National Testing Agency, as shown on the first score card is not the actual emblem of the NTA, and that the logo of the Ministry of Education is also distorted. Further, submits Mr. Khanna, every score card has a unique QR code which, on being scanned takes one to the details of the candidate, whereas the QR Code on the first, purportedly correct, score card, on being scanned, redirects to a Wikipedia page.

20. Ms. Joshi, appearing for the petitioner, on the other hand, submits that there is no way in which the petitioner could have generated a fabricated score card and fabricated response sheet. She submits that the bungling has taken place at the end of the NTA and the NTA must be answerable therefor. She denies the allegation that the emblem of the NTA and of the Ministry of Education, as contained on the first score card, are manipulated. She submits that, if the answers given by the petitioner in both the response sheets are compared with the final answer key, it would be seen that the first

⁶ W.P.(C) 6838/2020

⁷ Artificial Intelligence



score card is correct and that the second score card is incorrect. This, she submits, should clinch the issue.

21. Ms. Joshi further submits that the proscription on a writ court adjudicating on disputed questions of fact is not absolute, and that, in appropriate cases, where it is possible to ascertain the correct facts without having to record evidence, the writ court is perfectly competent to do so.

Analysis

22. That the writ court cannot adjudicate on disputed questions of facts, is a well settled principle. That this principle is not absolute is, however, equally well settled and, to that extent, Ms. Joshi is correct. There is no iron-clad proscription against a writ court adjudicating on disputed questions of facts. That course of action must, however, be followed in very rare cases, and only where the Court is satisfied that the material on record is sufficient for it to adjudicate on the disputed issue without having to enter into the arena of recording of evidence. It hinges, in the ultimate eventuate, on the discretion of the writ court, to be judiciously exercised given the relief sought and the extent to which the facts and the dispute are amenable to Article 226 adjudication.

23. Given the fact that what hangs in the balance is the academic career of the petitioner, I deemed it appropriate to travel the extra mile and examine whether there was any *prima facie* basis for this Court to believe the first response sheet and the first score card of the petitioner



to be correct and to disbelieve the second response sheet and the second score card. For this purpose, I compared the answers in the first response sheets with the answer key released by the NTA. The petitioner has also done this comparison and has placed on record “self-evaluation” charts. According to the self-evaluation done by the petitioner, which would support the first score card, the answers of the petitioner to questions 1 to 7, 8, 9, 10, 11, 13, 14 16, 17, 18, 19, 21, 22, 30 to 38, 40 to 43, 45, 47 to 49, 53 to 55, 60 to 65, 67 to 73, 75 to 82, 86 and 87 are correct. There can be no doubt that if the position that is reflected in the self-evaluation conducted by the petitioner, of her first response sheet *vis-a-vis* the final answer key of the NTA, is correct, the petitioner would in fact score 99.8493935 percentile.

24. On comparing the first response sheet with the final answer key, however, there is one small, but fatal, hitch in accepting the self-evaluation as conducted by the petitioner. This may be explained thus, with respect to Question 2, by way of example. The first, and, according to the petitioner, her “correct” response sheet, apropos Question 2, was as under:

Q2 Let (α, β, γ) be the mirror image of the point $(2, 3, 5)$ in the line $\frac{x-1}{2} = \frac{y-2}{3} = \frac{z-3}{4}$. Then, $3\alpha + 3\beta + 4\gamma$ is equal to

Options

1. 31
2. 32
3. 34
4. 33

Question Type: MCQ
 Question ID: 4058591210
 Option 1 ID: 4058593831
 Option 2 ID: 4058593832
 Option 3 ID: 4058593834
 Option 4 ID: 4058593833
 Status: Answered
 Chosen Option: 3

25. Each question, and each answer option, thus, has an associated ID. Question 2 corresponds to the Question ID 4058591210. It had four options below it, which corresponded to Option IDs 4058593831



(Option 1), 4058593832 (Option 2), 4058593834 (Option 3) and 4058593833 (Option 4). As per the final answer key, the correct option, against Question ID 4058591210, was 4058593833. In the first response sheet, the petitioner is shown to have chosen Option 3, which is 4058593834. The Option ID 4058593833 (which represented the correct option) corresponds to Option 4. The petitioner has therefore, as per the first response sheet, selected the wrong option for Question 2.

26. The petitioner has, however, in her self-evaluation, assessed herself as having answered Question 2 correctly. Ms. Joshi submits, on instructions, that before assessing the correctness of the option exercised by the petitioner in the first response sheet *vis-a-vis* the correct answer as per the final answer key, one has to re-arrange the four options in ascending order of Option IDs. Once this is done, Option 1 would be Option ID 4058593831, Option 2 would be Option ID 4058593832, Option 3 would be Option ID 4058593833 and Option 4 would be Option ID 4058593834. If this is done, the petitioner's choice of option is found to be correct.

27. This position continues in other answers as well in the self-evaluation done by the petitioner.

28. The "rearrangement" plea of the petitioner cannot, however, be accepted, for want of any material to support it. There is nothing placed on record by the petitioner which would indicate that, before comparing the correctness of the option as chosen by her and reflected



in the first response sheet, with the correct option as per final answer key released by the NTA for any particular question, one has to re-arrange the Option IDs in numerical order, or that the candidate attempting the paper had to rearrange the options in numerical order before choosing the correct option. Accepting this submission would require the Court to regard, for example, in respect of the options alongside Question 2 in the screenshot above, that Option 3 as 4058593833, which is contrary to what is shown on the Response Sheet itself. The petitioner cannot simultaneously seek to rely on the Response Sheet and request the Court to tinker with its contents.

29. Perhaps, if one re-arranges the options in numerical order, the score reflected in the first score card may turn out to be correct. The difficulty is that there is not one, but two score cards. Had there been one accepted and admitted score card, one could have compared the two response sheets with that score card and even considered the petitioner's submission that, while assessing the correctness of the responses chosen in the response sheet, one should first re-arrange the Option IDs in ascending numerical order. However, the petitioner cannot seek to use the first score card as supportive of her plea of correctness of the first response sheet as according to the respondent, both the first score card and the first response sheet are fabricated.

30. I cannot, therefore, in exercise of my jurisdiction under Article 226 of the Constitution of India accept the petitioner's submission that one should assess the correctness of the first response sheet *vis-a-vis* the final answer key after re-arranging the Option IDs in numerical



order, especially as nothing is forthcoming on record which requires such re-arrangement to take place. No instruction or guideline, requiring the candidate to re-arrange the provided options before choosing the correct option, has been placed on record.

31. The first response sheet, even if treated as correct, does not correspond to the score reflected in the first score card.

32. In that view of the matter, it cannot be said that, even on merits, the petitioner has succeeded in making out a case.

33. It is also difficult for the Court to believe *prima facie* that the functioning of the NTA is so faulty that, in an examination as prestigious as the JEE, two response sheets and two score cards can be issued for one candidate. While this Court cannot pronounce on the contention of Mr. Khanna regarding the logo of the Ministry or the emblem as reflected on the first score card, it is a fact that the QR code on the first score card, if scanned, directs one to Wikipedia.

34. It is also correct that though the petitioner's application number is 240311135687, the application number reflected on the first score card of the petitioner – which she asserts – is 24031113568, without the terminal “7”.

Conclusion

35. No *prima facie* case, therefore, can even be said to have been



made out by the petitioner, as could persuade this court to accept her submission that the first score card and the first response sheet should be accepted, and the second score card and second response sheet declared illegal.

36. Any further enquiry into the controversy would require the court to enter into a dense factual thicket, which cannot be undertaken under Article 226 of the Constitution of India. Suffice it, therefore, to state that, in exercise of Article 226 jurisdiction, this Court is, in the facts before it, unable to accept the petitioner's assertion that two response sheets and two score cards had been issued by the NTA.

37. Accordingly, the writ petition is dismissed with no orders as to costs.

C.HARI SHANKAR, J

JUNE 3, 2024/yg