

Vanshika Yadav Vs. Union Of India

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Court : Supreme Court of India

Decided On : Aug-02-2024

Judge : HON'BLE THE CHIEF JUSTICE HON'BLE MR. JUSTICE J.B. PARDIWALA HON'BLE MR. JUSTICE MANOJ MISRA

Appeal No. : W.P.(C) No.-000335 - 2024

Appellant : Vanshika Yadav

Respondent : Union Of India

Advocate for Pet/Ap. : SUNNY KADIYAN __

Judgement :

Reportable 2024 INSC568IN THE SUPREME COURT OF INDIA CIVIL ORIGINAL JURISDICTION Writ Petition (Civil) No 335 of 2024 Vanshika Yadav Petitioner Versus Union of India & Ors Respondents With W.P.(C) No.362/2024 With W.P.(C) No.369/2024 With W.P.(C) No.368/2024 With W.P.(C) No.431/2024 With W.P.(C) No.379/2024 With W.P.(C) No.377/2024 With W.P.(C) No.376/2024 With W.P.(C) No.375/2024 With W.P.(C) No.425/2024 With W.P.(C) No.401/2024 With W.P.(C) No.415/2024 With W.P.(C) No.407/2024 1 | Page With W.P.(C) No.412/2024 With W.P.(C) No.383/2024 With W.P.(C) No.419/2024 With W.P.(C) No.406/2024 With W.P.(C) No.403/2024 With W.P.(C) No.414/2024 With W.P.(C) No.423/2024 With W.P.(C) No.427/2024 With W.P.(C) No.441/2024 With W.P.(C) No.420/2024 With W.P.(C) No.430/2024 With W.P.(C) No.446/2024 With W.P.(C) No.410/2024 With T.P.(C) No.1602/2024 With W.P.(C) No.382/2024 With W.P.(C) No.394/2024 With W.P.(C) No.384/2024 With W.P.(C) No.389/2024 With W.P.(C) No.417/2024 With W.P.(C) No.393/2024 With W.P.(C) No.435/2024 With W.P.(C) No.449/2024 2 | Page And With W.P.(C) No.392/2024 3 | Page

JUDGMENT

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committee constituted by the Union Government 55 H. Parting remarks 61 4 | Page PART A1 This batch of matters concerns the validity of the National Eligibility cum Entrance Test¹ for undergraduate students. The petitions were disposed of in terms of the directions issued by this Court by its judgment dated 23 July 2024. Detailed reasons were to follow the order. They are recorded in this judgment. A. Background 2. The National Testing Agency² conducts the NEET every year for admission into medical colleges. A total of 1,08,000 seats are available for the MBSS course. Of the seats available for the MBBS course, approximately 56,000 seats are in government hospitals and about 52,000 are in private colleges. Admissions to undergraduate courses in Dentistry, Ayurveda, Unani, and Siddha also utilise the results of the NEET for admission.

3. The NEET is divided into four segments comprising Physics, Chemistry, Botany, and Zoology. Each section contains forty-five questions. The test comprises a total of one hundred and eighty questions. Four marks are awarded for every question which is attempted correctly and one mark is subtracted for each incorrect answer. Questions which are not attempted attract neither positive nor negative marks. Hence, the test carries a maximum of 720 marks in total. The total duration of the test was three hours and twenty minutes.

4. This year, NTA opened the online portal for registration for the NEET on 9 February 2024. NEET was conducted on 5 May 2024 for over 23 lakh candidates at 4750 centres in 571 cities. The exam was also conducted in fourteen cities overseas. Soon after the exam, it became known that the question paper was 1 NEET 2 NTA 5 | Page PART A leaked or illegally circulated amongst some students prior to the conduct of the exam at Hazaribagh in Jharkhand and in Patna. First Information Reports³ were registered in multiple states including Bihar, Maharashtra, Gujarat, Rajasthan and Jharkhand. The Bihar Police appears to have issued a press release⁴ stating that its Economic Offences Unit had arrested thirteen persons in Patna in connection with the leak. The Additional Director General of Police, Economic Offences Unit appears to have issued a communication stating that the Economic Offences Unit has not released an official press statement.

5. When the results were declared by NTA on 4 June 2024, it emerged that compensatory or grace marks were awarded to 1563 candidates at certain centres who did not have the opportunity to utilize the entire duration of the exam (i.e., 3 hours 20 minutes). The compensatory marks were awarded upon the recommendation of the Grievance Redressal Committee constituted by NTA. Following the grant of grace marks, these candidates scored in the range of -20 to 720 marks.

6. The investigation into the leak of the paper and the adoption of other unfair means by candidates was transferred from the Bihar State police to the Economic Offences Unit in Bihar. The investigation was later transferred to the Central Bureau of Investigation.⁵ 3 FIR 4 Dated 10 May 2024 5 CBI 6 | Page PART A7 Various writ petitions were instituted inter alia for cancellation of the exam and conduct of a fresh exam. The petitions variously sought the issuance of the following directions: a. Direct NTA to conduct a fresh examination; b. Stay the counselling process scheduled to begin from 6 July 2024; c. Direct all states to constitute Special Investigation Teams to investigate paper leaks in their jurisdictions and to submit status reports on the same; d. Constitute an expert committee to: i. Enquire into the examination process and results; and ii. Make recommendations on how to improve the process of conducting the examination; e. Set aside the portion of the NTA Information Bulletin that discriminates between wrong questions and questions having two wrong answers; f. Issue guidelines to prevent papers from leaking in the future; g. Direct NTA to correct and republish the results, ranks, and percentiles based on the revised marks; h. Declare the award of grace marks to candidates unequally as arbitrary and illegal; and i. Stay the declaration of results. 7 | Page PART B B. Previous orders of the Court 8. Some candidates who had appeared for the NEET objected to the award of compensatory marks to 1563 candidates on various grounds. By its order dated 13 June 2024, this Court noted that NTA constituted another committee to reconsider the issue. The second committee met on 10, 11 and 12 June 2024 to discuss the grievances raised. It recommended that the grace marks be revoked, and the affected candidates be given the option to take a fresh test.

9. The 1563 affected candidates were given two options they could either choose to attempt the re-test, in

which case they would be ranked based solely on their scores in the re-test, or they could retain their scores from the first test without the compensatory marks. This Court found this course of action to be fair, reasonable and justified. It also recorded the submission of NTA that the re-test would be conducted on 23 June 2024 and the results would be declared before 30 June 2024. The re-test was conducted and the results were declared.

10. By its order dated 8 July 2024, this Court noted the central submissions urged on behalf of the petitioners. It observed that the question of whether the paper leak was confined only to Patna or extended across cities was a matter which must be reserved for more detailed consideration. It also noted that the litmus test for whether a re-test ought to be directed was based on the following aspects: a. Whether the alleged breach took place at a systemic level; b. Whether the breach was of a nature which affected the integrity of the entire examination process; and 8 | Page PART B c. Whether it was possible to segregate the beneficiaries of the fraud from the untainted students.

11. The Court also made certain observations on the competing considerations in a case such as the present one: 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.

12. Noting that a final decision in the matter would depend on a more detailed set of facts which must be placed on record, it issued five directions requiring the Union of India, NTA, and the Central Bureau of Investigation to each make certain disclosures. First, NTA was required to clarify the following aspects on the basis of all the material which was in its possession as of that date:

9. | Page PART B 14. (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.

13. Second, the Court directed the Investigating Officer of the CBI to file a status report indicating the status of the investigation and the material which had been gathered until date. The Investigating Officer was directed to specify the modalities by which the leaked question paper was made available to students. 10 | Page PART B Additionally, both NTA and the CBI were directed make a disclosure in regard to the steps which had been taken to identify the beneficiaries of the leak. They were required to detail the following: 16. (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.

14. Third, the Union of India and NTA were directed to inform the Court as to whether it was feasible to use data analytics to identify suspicious cases. If such an approach was found to be feasible, the parameters used for flagging such cases (such as abnormal score patterns) were required to be placed on record.

15. Fourth, NTA was required to make submissions on the decision to be taken on the status of counselling, in view of the potential exercise to be conducted by NTA or the Union Government to identify further beneficiaries of the leak of the question paper.

16. Finally, the government was required to apprise the Court of the steps which were being taken to ensure that the sanctity of the NEET was not compromised in future iterations and issues similar to the ones which arose in 2024 are not repeated in the future. The Court was of the opinion that this was essential because the students who appeared for the examination and whose careers hung in the balance must have confidence in the process. The Court observed 11 | Page PART B that the government must consider constituting a multi-disciplinary committee with experts which could recommend measures to obviate breaches of the NEET as well as other exams conducted by NTA. If such a committee had already been constituted, the Court was to be apprised of its composition to enable it to consider whether the composition ought to be strengthened.

17. The Union of India as well as NTA filed affidavits complying with the above directions. The Ministry of Education requested IIT Madras to undertake comprehensive data analytics on the NEET results of 2024. The report submitted by IIT Madras was also tendered to the Court.

18. On 18 July 2024, this Court heard detailed arguments from Mr. Narendra Hooda, senior counsel for the petitioners, on the various issues arising for consideration in this matter. The Solicitor General appearing for the Union of India and Mr. Naresh Kaushik, senior counsel for NTA, also addressed the Court on certain aspects of the case. Other counsel on behalf of the petitioners and intervenors were heard.

19. The Court was of the opinion that it would subserve the principle of transparency if the results were published by NTA and made available to the public at large. Accordingly, it directed NTA to publish the city-wise and centre-wise results of candidates on its website after anonymising them, by 12 noon on 20 July 2024. Further, the Bihar Police was directed to apprise the Court of the material collected by it before the investigation was transferred to CBI. These directions were complied with. 12 | Page PART B20 On 22 July 2024, counsel for one of the petitioners advanced submissions inter alia on whether the approach adopted by NTA towards one of the questions in the examination was proper. The contours of this issue are delineated in detail in subsequent segments of this judgment. As one of the sub-issues concerned the correct answer to the question, the Court sought an expert opinion from the Indian Institute of Technology,⁶ Delhi. The Director of IIT, Delhi was requested to constitute a team of three experts to determine the correct answer to the question and communicate its opinion to the Court by 12 noon on the following day. The opinion of the expert committee was then communicated to the Court, as requested.

21. On 23 July 2024, the arguments in the case were concluded and the conclusions were pronounced in court after the hearings concluded. The Court held that the standard prescribed by decisions of this court for the cancellation of the test had not been met and that a re-test was not warranted. The conclusion of the Court rested on the absence of sufficient material, as on that date, indicative of a widespread or systemic leak or other malpractice. The conclusions of the Court are reproduced below: 11. (i) The fact that a leak of the NEET (UG) 2024 paper took place at Hazaribagh in the State of Jharkhand and at Patna in the State of Bihar is not in dispute; (ii) Following the transfer of the investigation to it, the CBI has filed its status reports dated 10 July 2024, 17 July 2024 and 21 July 2024. The disclosures by the CBI indicate that the investigation is continuing. The CBI has indicated that at the present stage, the material which has emerged during the course of the investigation would indicate that about 155 students 6 IIT 13 | Page PART B drawn from the examination centres at Hazaribagh and Patna appear to be the beneficiaries of the fraud; (iii) Since the investigation by the CBI has not attained finality at the present WPC3352024 7 point of time, this Court had in its previous order required the Union Government to indicate whether trends in regard to the existence of abnormalities can be

deduced through data analytics on the basis of the results emanating from 4,750 centres situated in 571 cities. Pursuant to the directions of the Court, the Union Government has produced a report of Indian Institute of Technology,⁶ Madras. The objection of the petitioners to the report of IIT, Madras on the grounds of alleged bias would be considered in the course of the reasoned judgment which will follow. At this stage, in order to obviate any controversy, the Court has independently scrutinized the data which has been placed on the record by the NTA; (iv) At the present stage, there is an absence of material on the record to lead to the conclusion that the entire result of the examination stands vitiated or that there was a systemic breach in the sanctity of the examination; (v) Added to the absence of conclusive material on the record at the present stage, the data which has been produced on the record city-wise and centre-wise and the comparison of data for the years 2022, 2023 and 2024 are not indicative of a systemic leak of the question paper impacting the sanctity of the examination; (vi) In arriving at the ultimate conclusion, the Court is guided by the well-settled 6 IIT WPC3352024 8 test of whether it is possible to segregate tainted students from those whose candidature does not suffer from any taint. If the investigation reveals the involvement of an increased number of beneficiaries over and above those who are suspects at the present stage, action shall be pursued against every student found to be involved in wrong doing at any stage, notwithstanding the completion of the counselling process. No student who is revealed to have engaged in acts of fraud or to have been the beneficiary of malpractice would be entitled to claim a vested right or interest in the continuation of the 14 | Page PART B admission in the future by virtue of the findings in this judgment; and (vii) Directing a fresh NEET (UG) to be conducted for the present year would be replete with serious consequences for over two million students who have appeared in the examination. Adopting such a course of action would, in particular, (i) lead to a disruption of the admission schedule for the commencement of medical courses, setting back the entire process by several months; (ii) lead to cascading effects on the course of medical education; (iii) impact the availability of qualified medical professionals in the future; and (iv) cause a serious element of disadvantage to students belonging to marginalized communities and weaker sections for whom reservation has been made in the allocation of seats.

22. The Court also accepted the report of IIT, Delhi on the correct answer to a particular question which was the subject of controversy. Consequently, NTA was directed to revise the marks of all candidates and update their ranks on the basis of the revised results. The Court also clarified that candidates could agitate any individual grievances, not bearing upon the issues resolved in that judgment, before the High Courts in accordance with law. Lastly, the Court noticed the constitution of the seven-member committee by the Union government to address any issues with the procedures adopted in the conduct of the exam and passed the following direction: 23. The Committee will abide by such further directions as may be issued by this Court in its final judgment and order in regard to the areas which should be enquired into by it so as to ensure that (i) the process of conducting the NEET (UG) and other examinations falling within the remit of the NTA is duly strengthened; and (ii) the instances which came to light during the course of the present year are not repeated in the future. 15 | Page PART C C. Submissions 23. The petitioners, represented by Mr Narender Hooda, Mr Sanjay R. Hegde, senior counsel and others, have broadly submitted that: a. There was a widespread leak of the question paper prior to the conduct of the exam, leading to the integrity of the exam being vitiated on a systemic level; b. The scores and ranks of candidates are highly inflated in 2024 as compared to previous years; c. NTAs explanation for the score and rank inflation is that they are due to a 25% reduction in the syllabus. This explanation is misleading as the syllabus also included new topics; d. The significant score inflation in NEET in 2024 has disadvantaged deserving candidates, making it difficult for them to secure admission to government medical colleges and pushing them towards private institutions, which many middle-class families cannot afford. This inflation has disrupted rankings and affected admission opportunities; e. Concerns have been raised about the handling and transportation of examination materials. Reports indicate a six-day delay in transporting question papers to Hazaribagh, which raises issues of possible tampering. These concerns are compounded by reports that contradict NTAs claims of secure transportation and live CCTV monitoring; f. The OMR sheets remain at the exam centre for some time after the exam, with persons who may tamper with them if they choose to; 16 | Page PART C g. NTA has not adopted a fair marking system for one of the questions. Although only one option is the correct answer, it has treated two

options as being correct and has awarded marks for both answers. This is unfair and disadvantages many candidates; h. The question paper was leaked via Telegram (an instant messaging platform); i. There are discrepancies in the data provided in Table 8 of NTAs press release dated 4 June 2024 compared to the results announced on 20 July 2024; j. The report of the Director, IIT Madras overlooks critical issues such as: (i) the unusually high number of candidates scoring the perfect score i.e., 720/720; (ii) a sharp increase in students scoring above 700 marks; (iii) significant rank inflation in the 600-720 range; and (iv) the concentration of top scorers in a limited number of cities; k. The report of the Director, IIT Madras is not reliable because there is a conflict of interest with this case. This is due to the Director being a member of the General Body of NTA; l. The selective awarding of compensatory marks to 1563 aspirants without transparent criteria as to how they were selected suggests manipulation to benefit certain candidates; m. Independent analyses suggest that anomalies in the data remain undetected, pointing to systemic issues rather than isolated incidents of cheating. This highlights the need for thorough scrutiny of the examination process; 17 | Page PART C n. Systematic failures, including widespread paper leaks, tampering with OMR sheets, and misuse of compensatory marks, suggest a broader security lapse within NTA; o. NTA's lack of transparency is evident from its initial denial of leaks and inconsistent statements about the extent of paper leaks and compensatory marks; p. The re-examination process was discriminatory. It did not provide all affected candidates an opportunity to participate. Furthermore, NTA did not include details about compensatory marks in its official press release; q. NTA appoints private parties to be invigilators. No adequate system of oversight is present to ensure that these private parties do not enable malpractice or are not corrupt; and r. The scandal has undermined public trust in the examination system and the medical profession, leading to mental health issues among students. Immediate reforms are necessary to restore public confidence and ensure fairness in the examination process.

24. The Solicitor General for the Union of India and Mr Naresh Kaushik, senior counsel for NTA, advanced the following submissions: a. No mass malpractice has taken place. There were only isolated incidents of malpractice which have been identified and dealt with. Cancelling the exam and conducting a re-exam is not warranted and is contrary to public interest; b. In Godhra, the attempt to cheat was foiled by prompt action by the authorities. In Patna, the investigation is underway and the results of some candidates have been withheld. However, the preliminary number of 18 | Page PART C candidates alleged to have cheated is miniscule compared to the total number of candidates; c. The high number of perfect scores and generally higher marks is because of a reduction in the syllabus by approximately 22-25% compared to last year. Further, the questions were prepared on the basis of universally accessible textbooks to ensure that those from disadvantaged socioeconomic backgrounds do not suffer and to reduce dependency on coaching centres. The top 100 candidates were from 95 different centres in fifty-six different cities in eighteen States or Union Territories; d. With reference to the question in controversy, the information bulletin released before the exam clearly states that if there are two correct answers, those who marked either one will be awarded marks. Therefore, candidates cannot claim that they did not answer this question because two correct answers were present; e. The report by the Director of IIT, Madras indicated that there was no evidence of mass malpractice or localized advantages in score distribution. It observed that there was an increase in marks, particularly in the range of 550 to 720, and attributed this to a 25% reduction in syllabus. Candidates achieving high scores were found across multiple cities and centres, suggesting minimal likelihood of malpractice; f. There was no leak of the question paper via Telegram; g. The results of candidates suspected of malpractice have been withheld. Show cause notices have been issued to such persons. NTA will respond appropriately to any future cases of malpractice as well; 19 | Page PART D&E h. A committee has been constituted to look into improvements to the exam; i. The reopening of the registration window did not lead to the facilitation of malpractice; and j. There is no conflict of interest with the Director of IIT, Madras analysing the data in this case because he is only an ex officio member. D. Issues 25. The following issues arose for consideration in this case: a. Whether the answer for the question in controversy ought to be revised by NTA; b. Whether there was a conflict of interest with the Director of IIT, Madras analysing the data in this case; and c. Whether the sanctity and integrity of the exam were compromised at a systemic level. E. Analysis i. Facts which have emerged during the course of the hearing a. Chain of custody of question papers

as detailed by NTA²⁶ In its affidavits as well as during the course of hearing, NTA provided a comprehensive account of the chain of custody for the question papers, detailing their handling of the question paper, from its preparation to its distribution on the day of the exam. The information provided by NTA is detailed in this segment. 20 | Page PART E27 The process begins with the preparation of the question bank. From August to December 2023, experts were invited to the NTA office to create questions in workshop mode. These sessions took place in a restricted area, with the experts sealing their work daily to maintain the security and confidentiality of the content.

28. The next phase involves the preparation, vetting, solving, and typing of the question papers. From 16 February to 28 February 2024, subject experts developed two independent sets of question papers under continuous CCTV surveillance. These papers underwent a rigorous vetting and solving process from 1 March to 7 March 2024, where feedback was collected, and necessary changes were implemented. The final versions of the question papers were then typed confidentially, with the question papers and answer keys lodged separately to prevent any breaches of security.

29. Following the preparation, the manuscripts were dispatched to two separate printing presses on 31 March 2024, adhering to stringent security protocols. Each press was tasked with producing twenty-four sets of question papers with randomized sequencing, overseen by two officers to ensure compliance with security measures.

30. Simultaneously, OMR sheets were printed at a different location and paired with the corresponding question papers which were then sealed in polythene covers to be accessible only to the candidates. These materials, totalling 72 booklets per batch, were then secured in cloth-lined envelopes, strapped, and placed in GPS-enabled trunks with electronic locks, which were monitored via real-time CCTV throughout the process. 21 | Page PART E31 The final stage involves the transportation and distribution of the question papers to the examination centres. The question papers for Hazaribagh, Jharkhand, were dispatched on 28 April 2024, via a private logistics company and transported in dedicated closed-body vehicles with electronic locks and GPS tracking.

32. The two different sets of question papers were stored in two separate custodian banks, in all cities: one set was stored in Canara Bank and the other in State Bank of India.⁷ Upon arrival at the custodian banks on 3 May 2024, the materials were stored in safety vaults. The papers were then transported from the banks to the examination centres using e-rickshaws.

33. On the day of the examination, city coordinators, appointed and authorized by the Director General of NTA are responsible for collecting the correct set of question papers from the custodian bank. According to the procedure, the city coordinator is required to accompany both the centre superintendent and a neutral observer appointed by NTA. The NTA uses a mobile application to communicate to the city coordinators as to which set of papers should be taken, from either Canara Bank or SBI. The city coordinators collected the materials on 5 May 2024 from SBI, upon being intimated that the question papers from SBI were to be distributed to the students.

34. We were informed that the question paper trunks were stored in CCTV-monitored rooms and opened 45 minutes before the exam (at 1:15 pm), with the process witnessed and certified by two invigilators and two candidates. Each invigilator 7 SBI 22 | Page PART E received an envelope containing 24 booklets, which were distributed according to the seating plan. Candidates were allowed to open the question paper seals at 1:55 pm, just before the commencement of the exam. b. Issues in Hazaribagh, Sawai Madhopur, Patna and other places 35. Counsel for the parties disagreed on when the paper was leaked. During the course of the hearing, the petitioners submitted that the leak occurred before 5 May 2024. They argued that the paper was leaked on 3 May, prior to being deposited in the bank, suggesting that the leak took place at an early stage in the process. The Solicitor General of India stated that the paper leaked on the morning of 5 May 2024, purportedly from the Oasis School, Hazaribagh, Jharkhand.

36. The NTA has reported that the leak of the examination paper occurred between 8:02 am and 9:23 am on 5 May 2024. According to their submission, the accused gained unauthorized access by entering the strongroom at Oasis School through a rear door. Once inside, the individual accessed one of the trunks containing the examination materials. This trunk was part of the secure storage intended to safeguard the question papers before distribution. CCTV footage from the school shows him entering at 8:02 am and leaving at 9:23 am. It was also submitted that the accused opened the trunk from the rear so as not to break the seal, took the papers from the trunk, photographed them, resealed the envelope, and delivered the digital copies to the paper solvers by around 9:30 am.

37. Following the transfer of the investigation to it, the CBI has filed its status reports dated 10 July 2024, 17 July 2024 and 21 July 2024. The reports presently 23 | Page PART E indicate that the Botany and Zoology segments were solved first, followed by the Physics and Chemistry segments. According to the report, the scanned papers were subsequently sent over WhatsApp to persons in Patna. Furthermore, the reports stated that the solved papers were sent to persons in Hazaribagh. Specifically, two locations in Patna and two in Hazaribagh were identified in the report. The investigation (at this stage) has revealed that the question paper was shared with the candidates only after 10:15 AM, and after 12 noon, they were asked to go to their examination centres.

38. NTA issued a press release on 5 May 2024, acknowledging the issue of incorrect distribution of question papers, which resulted in a significant loss of time for the candidates at Girls Higher Secondary Model School, Mandir, Mantown, Sawai Madhopur, Rajasthan. However, during the course of arguments before us, it emerged that twelve centres initially received question papers from Canara Bank instead of SBI. Of these, four centres replaced the papers originating in Canara Bank with papers lodged in safe custody with SBI upon realizing the mistake. Consequently, in eight centres, candidates attempted the Canara Bank paper in full. As a result, approximately 3,307 candidates were assessed on their performance with respect to the Canara Bank papers instead of the SBI papers. NTA has stated that both sets of papers were prepared by moderators to ensure that the difficulty level was the same.

39. The reports filed by the CBI indicate that the investigation is ongoing. At this stage, the CBI has indicated that the material gathered during the investigation suggests that about 155 students from the examination centres in Hazaribagh and Patna appear to be beneficiaries of the fraud (around 30 in Patna and around 24 | Page PART E125in Hazaribagh). No material has been placed before us to demonstrate that the question paper or the solved answers were circulated at random or en masse over social media.

40. Separately, it appears that a plan to use unfair means in Godhra was uncovered before it could be executed. The affidavit filed by NTA states that a Deputy Superintendent of Examination had conspired with some students to fill in the answers in the OMR sheet after the conclusion of the test. The affidavit further states that the police became aware of this plan and that they arrested the accused persons before the test began. The candidates suspected to be involved in this conspiracy were identified. NTA submits that their results were withheld and that show cause notices were issued to them.

41. This situation highlights several administrative and procedural flaws within NTA's management of the exam. Firstly, the fact that question papers from Canara Bank were distributed to students in twelve centres instead of papers from SBI reveals a lapse in coordination and oversight. The fact that four centres managed to rectify the mistake while eight continued with the incorrect papers suggests a lack of effective communication between NTA, the centre-coordinators and the banks involved in the distribution process.

42. Secondly, the use of e-rickshaws for transporting question papers to examination centres raises concerns about the security and reliability of paper-handling procedures. E-rickshaws are relatively unsecured and lack proper monitoring, making them unsuitable for the secure transit of sensitive examination materials. This method might be vulnerable to theft, tampering, and mishandling, posing a serious risk to the integrity of the examination process. Although no lapses on 25 | Page PART E this count have emerged this year, the

possibility of such lapses is enough to warrant a change in the mode of transportation.

43. Thirdly, the use of private courier services for transporting examination materials introduces variability in handling standards and may not ensure the same level of security as official channels. Proper protocols and accountability measures need to be in place to ensure that such services maintain the highest standards of security and reliability.

44. Fourthly, CCTV surveillance is essential for monitoring activities and ensuring that all procedures are followed correctly. Any deficiency makes it challenging to prevent, detect, and address any irregularities or breaches that may occur during the examination process. ii. The marks awarded for one of the questions must be revised because only one of the options is the correct answer.

45. One of the questions in the NEET (UG) 2024 exam was as follows: Given below are two statements: Statement I: Atoms are electrically neutral as they contain an equal number of positive and negative charges. Statement II: Atoms of each element are stable and emit their characteristic spectrum. In light of the above statements, choose the most appropriate answer from the options given below: (1) Statement I is incorrect but Statement II is correct. (2) Both Statement I and Statement II are correct. 26 | Page PART E (3) Both Statement I and Statement II are incorrect. (4) Statement I is correct but Statement II is incorrect.

46. We have not specified the question number, as both the question and the options may vary across different series of the question paper. Initially, the NTA answer key indicated that the fourth option was correct.

47. Subsequently, based on representations submitted to NTA, a decision was taken to treat both option (2) and option (4) as correct answers. The representations highlighted that the second option was based on an older edition of the NCERT textbook. Many candidates had relied on the outdated textbook and accordingly, sought the award of four marks if they had marked option (2) as the correct answer. They also relied on the NTA Information Bulletin 2024. This bulletin states that if a question is found to be incorrect or dropped after key verification, all candidates will be awarded four marks, regardless of whether they attempted the question.⁸ The relevant portion is as follows: (vi) If none of the options is found correct or a Question is found to be wrong or a Question is dropped then all candidates who have appeared will be given four marks (+4) irrespective of the fact whether the question has been attempted or not attempted by the candidate. In response to the representations from aspirants, NTA amended its answer key and awarded marks to all students who had selected either option (2) or option (4). ⁸ NTA Information Bulletin 2024, Chapter 3: Examination Scheme, Clause 3.2 - Pattern of the Test. 27 | Page PART E⁴⁸ Some petitioners argue that this change in marking led to unfair advantages for some students while disadvantaging others, thereby impacting the overall merit list and the rankings. This discrepancy could have altered admission outcomes for many students who narrowly missed the cut-off marks or ranks due to the inclusion of the second option as correct. As held in *Kanpur University v. Samir Gupta*,⁹ if prima facie a question is considered ambiguous, such a question should be deleted. This precedent emphasizes the need for clarity and precision in competitive examinations to maintain fairness and transparency.

49. On 22 July 2024, this Court requested the Director of IIT, Delhi to constitute a three-member committee to determine the correct answer. The Director and Professor from the Department of Energy Science & Engineering, reported on 23 July 2024, that a committee had been formed. This committee consisted of Professors Pradipta Ghosh, Aditya Narain Agnihotri, and Sankalpa Ghosh from the Department of Physics.

50. The expert team constituted has opined that option (4) is the correct answer. This answer reads as follows: (4) Statement I is correct but Statement II is incorrect.

51. The committee formed at IIT, Delhi has unequivocally clarified the correct answer, confirming that option (4) is indeed accurate. This option was initially ⁹ 1983 4 SCC309 28 | Page PART E identified by the NTA as the correct answer. Moreover, options (2) and (4) are mutually exclusive, meaning they cannot both be correct

simultaneously.

52. The team of experts from IIT Delhi has unequivocally opined that the fourth option (noted above) is the one and only correct answer to the question. NTA did not dispute this during the hearing. We accept the report of IIT, Delhi. The contention based on the NTA Information Bulletin is fallacious. The question itself was not incorrect. Nor was it the case that none of the options were correct. Further, this is not a case where there were two correct answers. Only one of the answers was correct. The issue arose due to the discrepancy in an outdated version of the textbook, not due to an inherent flaw in the question or the absence of correct options. NTA's decision to award marks for both options was not justified. The validity of the question is upheld, and NTA must treat only option (4) as the correct answer.

53. This is crucial to ensure the integrity and fairness of the examination process. The recalibration of ranks is necessary to reflect the true merit of the candidates, correcting any distortions caused by the earlier inclusion of an incorrect answer. This action will restore confidence in the examination system, ensuring that all candidates are evaluated on an equal and just basis. It also addresses the grievances of those who may have been unfairly disadvantaged, thus upholding the principles of equity and transparency in competitive examinations. 29 | Page PART E iii. There is no conflict of interest with the Director of IIT, Madras analysing the data in this case 54. In response to the query of this Court as to whether it was possible to use data analytics to identify suspicious cases or suspicious trends in the results of the NEET, the Union of India filed an affidavit answering the question. Pursuant to the order of the Court, the Department of Higher Education, Ministry of Education made a request to the Director, IIT Madras to undertake comprehensive data analytics of the results of all candidates who appeared in the exam this year. A set of parameters was also requested to be devised.

55. IIT, Madras then analysed the data. The affidavit states that this was done with the help of Python for data processing, PostgreSQL for data storage and Metabase for analysis after receiving the relevant data and information from NTA. The executive summary of the report prepared by IIT Madras is as follows: Executive Summary a. The marks distribution follows the bell-shaped curve that is witnessed in any large-scale examination indicating no abnormality. b. City wise and center wise analysis was done for two years (2023 and 2024) to find out if there are any abnormal indications. The Analysis is carried out for the Top 1.4 lakh ranks given that the total number of seats across the country is around 1.1 lakhs. c. This Analysis is granular enough to indicate any abnormality, had a large number of students gotten into high ranks (top 5%), due to malpractice or if students from a particular exam-centre or city were benefitted. d. The analysis shows that there is neither any indication of mass malpractice nor a localized set of 30 | Page PART E candidate being benefitted leading to abnormal scores. e. There is an overall increase in the marks obtained by students, specifically in the range of 550 to 720. This increase is seen across the cities and centres. This is attributed to 25% reduction in syllabus. In addition, candidates obtaining such high marks are spread across multiple cities and multiple centers, indicating very less likelihood of malpractice.

56. Counsel for the petitioners expressed concerns about the independence and impartiality of the Director of IIT, Madras who signed the report analysing the data. The concern stemmed from the position held by the Director in the General Body of NTA.

57. By a notification dated 6 March 2019, the Ministry of Human Resource Development (which is now the Ministry of Education) constituted the General Body of NTA. The relevant part of the notification is extracted below: (iii) Three Directors of IITs in their ex officio capacity as the present, preceding and succeeding chairpersons of JEE (Advanced) Member

58. Since JEE (Advanced) was conducted by IIT Madras this year, the Director of the institution was the ex-officio member of the General Body by virtue of the notification referred to above. The bye-laws of NTA define the role of the General Body inter alia as providing overall policy guidance and direction, considering and approving the balance sheet and annual audited accounts presented by the Member Secretary along with the

remarks of the Managing Committee, considering and approving the annual report, recommending the annual action plan and budget for the each year, nominating members of the General Body in terms of the relevant rules, delegating any of its powers to the Managing 31 | Page PART E Committee or the Member Secretary, creating or abolishing posts in NTA, determining the procedure for appointment of persons to various posts, appointing committees or sub-committees for any purpose, demanding and receiving fees of the exams and tests conducted by NTA, and acquiring properties and investing surplus funds.

59. The functions of the Managing Committee are also set out in the bye-laws. They include taking all operational decisions, managing the resources of NTA, handling its activities, monitoring the financial position to ensure smooth income flow, provide comments or inputs on the annual statements, annual reports, and other reports placed before the General Body. The general superintendence, direction and control of NTA and its income and property is also entrusted to the Managing Committee. Significantly, the bye-laws stipulate that all duties, powers and functions related to carrying on the objectives of NTA shall only be exercised or performed by the Managing Committee. The deliberations of the Managing Committee are required to be reported to the General Body from time to time and the former is required to work in terms of the policy laid down by the latter.

60. From a comparison of the functions of the Managing Committee with those of the General Body, it is evident that the General Body is responsible for supervising the administration of NTA and exercising general oversight of its functioning while the Managing Committee is in charge of its day-to-day administration. Members of the General Body would not, it appears, have a hand in formulating the detailed protocol for the conduct of every examination or in responding to concerns that arise in real-time. Further, the current Director of IIT Madras, Prof. V Kamakoti nominated Prof. A Gopalakrishna to attend the most recently held 32 | Page PART E meeting of the General Body, on 29 September 2023. The last meeting Prof. Kamakoti attended was on 29 December 2022. A combination of all these factors (including the fact that he is merely an ex officio member of the General Body) lead us to the conclusion that the report of the Director of IIT Madras cannot be faulted on the ground of bias. In any event, in the interests of justice and fairness, the Court has independently considered the data placed on record before reaching a decision on whether the petitions in this case ought to be allowed. iv. There is no evidence to indicate a systemic leak as on date a. Position of law 61. The facts of this case and the resultant issue before this Court do not call for the development of new legal principles. It is settled law that the cancellation of an examination, either for the purposes of gaining admission into professional and other courses or for the purpose of recruitment to a government post, is justified only in cases where the sanctity of the exam is found to be compromised at a systemic level. Courts may direct the cancellation of an examination or approve such cancellation by the competent authority only if it is not possible to separate the tainted candidates from the untainted ones.

62. In *Anamica Mishra v. U.P. Public Service Commission*,¹⁰ the recruitment process concerning appointment to various educational services posts in Uttar Pradesh was cancelled. The process consisted of two stages a preliminary written examination and an interview. Only those candidates who scored high marks in the former were invited to participate in the latter. In that case, mistakes 10 (1990) Supp SCC69233 | Page PART E in data entry resulted in some candidates who scored high marks being left out of the interview process even as other candidates who scored low marks were interviewed and even selected. Upon realising this error, the State Public Service Commission cancelled the entire recruitment process. The High Court of Allahabad upheld this decision. The appeal against the decision of the High Court was allowed by this Court. This Court found that there was no justification for cancelling the written examination, considering that the errors were confined to the interview process. It found that a more appropriate course of action would have been to set aside the selection of candidates and conduct a fresh set of interviews on the basis of the written exam which had already taken place. Hence, in that case, the Court was of the opinion that it was not a suitable course of action to cancel an examination when no systemic issues persisted. Although not expressly stated by the Court, a proper appreciation of the decision leads to the conclusion that it considered whether a fresh examination was proportionate to the nature of grievance and the extent to which the integrity of the exam

was vitiated.

63. From the observations of this Court in *Bihar School Examination Board v. Subhas Chandra Sinha*,¹¹ it can be seen that the number or proportion of students who can be believed to have indulged in malpractice is a relevant factor in deciding cases such as the present one. The relevant observations are extracted below: 13. This is not a case of any particular individual who is being charged with adoption of unfair means but of the conduct of all the examinees or at least a vast majority of them at a particular centre. If it is not 11 (1970) 1 SCC64834 | Page PART E a question of charging any one individually with unfair means but to condemn the examination as ineffective for the purpose it was held

64. In *Madhyamic Shiksha Mandal, M.P. v. Abhilash Shiksha Prasar Samiti*,¹² the Board concerned with the exam in that case cancelled the exam upon receiving a report from a Naib Tehsildar who had visited the exam centre. He found that the students were copying even before the question paper was distributed and that they were permitted to enter the exam hall with their books and other material. The report also stated that the invigilators and supervisors did nothing to prevent the students from copying. This Court found that the Board was left with no alternative but to cancel the exam and that it was exceedingly difficult to identify the students who were committing malpractice and those who were not.

65. In *Sachin Kumar v. Delhi Subordinate Service Selection Board*,¹³ the Court analysed multiple judgments related to the issue before us and made the following pertinent observations on the scope of judicial review in such proceedings: 56. The decisions in *Railway Recruitment Board [All India Railway Recruitment Board v. K. Shyam Kumar, (2010) 6 SCC614; (2010) 2 SCC (L&S) 293]*, *Gohil [Gohil Vishvaraj Hanubhai v. State of Gujarat, (2017) 13 SCC621; (2018) 1 SCC (L&S) 80]*. and *Kalaimani [State of T.N. v. A Kalaimani, (2021) 16 SCC217:*

2019. SCC OnLine SC1002 all go to emphasise that a recruiting authority is entitled to take a bona fide view, based on the material before it, that the entire process stands vitiated as a result of which a fresh selection process should be initiated. The integrity of the selection process cannot be lightly disregarded by the High Court 12 (1998) 9 SCC23613 (2021) 4 SCC63135 | Page PART E substituting its own subjective opinion on the sufficiency of the material which has been taken into account by the decision making authority. Undoubtedly, fairness to candidates who participate in the process is an important consideration. There may be situations where candidates who have indulged in irregularities can be identified and it is then possible for the authority to segregate the tainted from the untainted candidates. On the other hand, there may be situations where the nature of the irregularities may be manifold and the number of candidates involved is of such a magnitude that it is impossible to precisely delineate or segregate the tainted from the untainted. A considered decision of the authority based on the material before it taken bona fide should not lightly be interfered in the exercise of the powers of judicial review unless it stands vitiated on grounds of unreasonableness or proportionality.

66. The purpose of testing whether the integrity of the exam has been compromised at a systemic level is to ensure that the cancellation of the exam which has already taken place and the conduct of a fresh examination is a proportionate response.¹⁴ This is also why courts are required to assess the extent of the use of unfair means and separately, consider whether it is possible to separate tainted and untainted candidates. A holistic view must be taken.

67. In arriving at a conclusion as to whether an examination suffers from widespread issues, courts must ensure that allegations of malpractice are substantiated and that the material on record, including investigative reports, point to that conclusion. There must be at least some evidence to allow the Court to reach that conclusion. This standard need not be unduly strict. To elaborate, it is not necessary for the material on record to point to one and only conclusion which is that malpractice has taken place at a systemic level. However, there must be a ¹⁴ In this regard, see our analysis of *Anamica Mishra (supra)* at paragraph 62 of this judgment as well as the observations of the Court in *Rajesh PU (supra)* at paragraph 69 of this judgment. 36 | Page PART E real possibility of systemic malaise as borne out by the material before the

Court. In Bihar School Examination Board (supra), this Court recognised that sufficient material must be present to justify a decision to cancel examinations: 14. If at a centre the whole body of students receive assistance and are managed to secure success in the neighbourhood of 100% when others at other centres are successful only at an average of 50%, it is obvious that the University or the Board must do something in the matter. It cannot hold a detailed quasi-judicial inquiry with a right to its alumni to plead and lead evidence etc., before the results are withheld or the examinations cancelled. If there is sufficient material on which it can be demonstrated that the university was right in its conclusion that the examinations ought to be cancelled then academic standards require that the university's appreciation of the problem must be respected.

68. In Madhyamic Shiksha Mandal, M.P. (supra), too, the Court placed great reliance on the report of the Naib Tehsildar, which indicated that the students in question were copying unchecked and that it was not possible to separate them from the ones who were not copying.

69. In Union of India v. Rajesh P.U.,¹⁵ the Court was concerned with a case where it was possible to separate the beneficiaries of malpractice from the candidates who conducted themselves in an upright manner. It held that there was no justification to cancel the entire selection and emphasized the importance of the information available to the Court as well as that of concrete and relevant material, in the following terms: In the light of the above and in the absence of any specific or categorical finding supported by any concrete and relevant material that widespread 15 (2003) 7 SCC28537 | Page PART E infirmities of an all-pervasive nature, which could be really said to have undermined the very process itself in its entirety or as a whole and it was impossible to weed out the beneficiaries of one or the other irregularities, or illegalities, if any, there was hardly any justification in law to deny appointment to the other selected candidates whose selections were not found to be, in any manner, vitiated for any one or the other reasons. Applying a unilaterally rigid and arbitrary standard to cancel the entirety of the selections despite the firm and positive information that except 31 of such selected candidates, no infirmity could be found with reference to others, is nothing but total disregard of relevancies and allowing to be carried away by irrelevancies, giving a complete go-by to contextual considerations throwing to the winds the principle of proportionality in going farther than what was strictly and reasonably to meet the situation. (emphasis supplied) b. The present case 70. That the question paper was leaked and some students indulged in malpractice is beyond cavil. No party before the Court including NTA disputes this. The question, however, is whether this leak was systemic and of a nature as to vitiate the sanctity of the exam. There are various aspects in this case which require the consideration of the Court the inflation of marks and ranks, the leak of the question paper, other forms of malpractice, the reopening of the registration window, the change of city when the form was opened for corrections, and the award of compensatory marks to 1563 students. These are considered in turn.

71. At the outset, it is necessary to understand certain aspects of the NEET. It is well-known that the counselling process or the process by which admission is gained into different medical colleges depends on the rank of the candidate. The 38 | Page PART E concept of qualifying marks is, however, sometimes misunderstood. The qualifying mark is arrived at after the declaration of results each year and corresponds to the 50th percentile. This year, the 50th percentile was identified to be at 164 marks of a total of 720 marks, for the unreserved category. Candidates who score 164 marks or above are eligible for admission to the MBBS course. However, not all those who have qualifying marks will necessarily gain admission to a medical college. The qualifying marks are necessary but not sufficient for admission. NTA, in its affidavit, states that the purpose of qualifying marks is to ensure that private colleges do not grant admission to totally undeserving candidates. Only a small percentage of those who obtain the qualifying marks will be allotted one of the 1,08,000 available seats. As mentioned above, 56,000 seats of the total figure are in government medical colleges and the remaining 52,000 are in private colleges. Hence, it is appropriate to assess the percentage of success with respect to the 1,08,000 available seats. Rank 1,08,000 corresponds to 577 marks and rank 56,000 corresponds to 622 marks.

72. Data analysis of results has long been an accepted method of discerning the extent to which an

examination has been vitiated. In Bihar School Examination Board (supra), this Court considered the validity of the decision to cancel a secondary school examination conducted at a particular centre in Bihar due to the adoption of unfair means by the students. At the centre in which malpractice appeared to have taken place, the percentage of successful examinees was about 80%. In stark contrast, the average percentage of successful candidates at other centres was 50%. The Court also considered the percentage of success subject-wise for thirteen subjects. The marks detailed in the judgment indicate that the candidates performed exceedingly well in all subjects, leading the Court 39 | Page PART E to hold that the figures speak for themselves. Despite this conclusion, the Court called for some answer booklets and inspected them. Its conclusion (which was based on the data) that the exam was vitiated was substantiated by the answer booklets, which showed that there was remarkable agreement in the answers. Data analysis is a useful tool in the endeavour to detect malpractice.

73. The data placed before us on the percentage of success from different centres did not account for seats which would be allotted on the basis of reservation for the Scheduled Castes, Scheduled Tribes, Other Backward Castes, and Economically Weaker Sections. Were such seats to be accounted for, the figure of 1,08,000 would almost be halved. Hence, the data analysis errs on the side of caution.

74. Certain centres found themselves in the midst of the controversy in this case. It was averred that malpractice was widespread in Hazaribagh, Jharkhand, Patna, Bihar, and Godhra, Gujarat. The data provided by NTA in relation to Hazaribagh for 2024 is as below: a. 2733 candidates in total appeared for the exam; b. 126 candidates are within Rank 1,08,000. This indicates a success rate of 4.6%; and c. 58 candidates are within Rank 56,000. This indicates a success rate of 2.1%. Further, the statistics from previous editions of the NEET indicate that the success rate (relative to the total number of available seats) for Hazaribagh was 7.2% in 2022 and 6.0% in 2023. When these figures are compared with the 40 | Page PART E success rate for 2024 which is 4.6%, no abnormality becomes evident. To the contrary, the success rate for this year is lower than for the past two years.

75. Similar data for Patna for 2024 is encapsulated below: a. 48,643 candidates in total appeared for the exam. The exam was conducted in 70 centres across the city; b. 2691 candidates are within Rank 1,08,000. This indicates a success rate of 5.5%; and c. 1482 candidates are within Rank 56,000. This indicates a success rate of 3.0%. In 2022, the success rate (relative to the total number of available seats) was 8.9% and in 2023, the success rate was 7.7%. In Patna, too, the success rate for this year (5.5%) is lower than for the past two years. Even otherwise, there is no irregularity which comes to light.

76. The numbers for Godhra for 2024 are as follows: a. 2484 candidates in total appeared for the exam. The exam was conducted in 2 centres; b. 21 candidates are within Rank 1,08,000. This indicates a success rate of 0.8%; and c. 13 candidates are within Rank 56,000. This indicates a success rate of 0.05%. 41 | Page PART E To compare, the success rate (relative to the total number of available seats) in Godhra was 1.5% in 2022 and 2.1% in 2023. Hence, in Godhra, fewer candidates are within the zone in 2024. There are no other deviations in the data which are cause for concern and which meet the standard of indicating a systemic malaise.

77. From the above figures, it becomes clear that there are no abnormalities in the results for 2024 when compared with the results for the past two years. The report of the Director of IIT, Madras also supports the conclusion of this Court. The report stated that there were no abnormal indications in the results for this year, when compared to previous years. It also stated that analysis shows that there is neither any indication of mass malpractice nor a localized set of candidates being benefitted leading to abnormal scores. Hence, an analysis of the results does not lend support to the case of the petitioners who seek the cancellation of the exam. The leak of the paper does not appear to be widespread or systemic. It appears to be restricted to isolated incidents in some cities, which have been identified by the police or are in the process of being identified by the CBI.

78. We now turn to the issue of the reopening of registration for NEET. The registration window was initially

to be open from 9 February 2024 to 9 March 2024. The last date for registration was later extended to 16 March 2024. Thereafter, NTA reopened the registration portal for two days 9 and 10 April 2024. During the course of the hearing, the Court enquired into the reasons for the reopening as well as the performance of the candidates who registered when the portal was reopened. 42 | Page PART E79 NTA stated that it received numerous representations from candidates who raised issues related to One Time Passwords, Aadhar authentication, uploading of documents, and payment. Other technical issues were also raised. Further, it appears that the High Courts of Rajasthan and Karnataka directed NTA to permit certain petitioners, who reported such issues during their registration, to register after the last date. NTA states that it reopened the registration portal to permit all similarly situated candidates to submit their forms for the exam.

80. The data submitted to the Court reflects the performance of the candidates who registered for the exam on 9 and 10 April 2024 and thereafter, appeared for the exam. The students who registered on these dates but did not appear for the exam are excluded from this analysis. Of the 8039 candidates who registered on 9 April 2024, it is seen that five candidates were within the top 1,08,000 ranks and two candidates were in the top 56,000 ranks. This indicates a success rate of 0.06% and 0.02% respectively. Further, of the 14,007 candidates who appeared after having registered on 10 April 2024, forty-four were within the top 1,08,000 ranks and twenty-three were in the top 56,000 ranks. The success rate was 0.31% and 0.14% respectively. This data does not indicate that an abnormal number of candidates who registered on 9 and 10 April 2024 were successful. We do not find that an unusually high number of students who registered on these dates have been successful. Hence, the Court cannot reach the conclusion that the reopening of the registration portal led to or facilitated malpractice. There is no other material on record at the present time which would indicate the same.

81. The next aspect which falls for consideration is that some candidates changed their preferred cities for the exam, which in turn led to the change of their exam 43 | Page PART E centre. The petitioners averred that this was done to enable malpractice. After changing their preferred city, 33 aspirants went to Hazaribagh, 637 went to Patna, and 24 went to Godhra. Out of the 33 who appeared from Hazaribagh, only one candidate's scores placed him in a rank higher than or equal to Rank 56,000. Thus, the success rate is 3%. Out of 637 candidates who changed their centre to Patna, only 35 were in the top 1,08,000 ranks, indicating a success rate of 5.5%. 17 candidates scored more than 622 marks (corresponding to Rank 56,000). The success rate is 2.7%. Out of 24 candidates who went to Godhra, no candidate scored more than 577 marks (corresponding to 1,08,000 rank). Here, too, the data is not abnormal and therefore does not indicate that a systemic breach has taken place. An unusual number of candidates who changed their preferred cities do not appear to have a higher rate of success. This is a facility which is intended to subserve the interests of candidates. Therefore, the fact that some aspirants changed their preferred cities, taken alone, cannot be considered evidence of malpractice or of dishonest intention. The choice to appear for the exam from a different city may be motivated by myriad factors and the option to change the preferred city is made available every year. Some other relevant and concrete material must be present before the Court can infer that this led to mass malpractice.

82. The parties in the hearing also addressed submissions on a video on Telegram (an instant messaging application) purportedly showing the leaked paper. It was alleged that the leak took place on 4 May 2024. The NTA, in its affidavit, stated that the video shared on Telegram was fabricated and the time-stamp was altered to indicate that the leak took place before the examination date. The investigation by CBI revealed that the images in the video were indeed doctored. 44 | Page PART E The Telegram channel itself was created on 6 May 2024 and the paper was uploaded on 7 May 2024. Hence, there is no merit in this allegation.

83. As for the re-exam conducted for the 1563 candidates who were initially awarded compensatory marks, the order of this Court dated 13 June 2024 found the re-exam to be fair and justified. The issue no longer subsists. NTA was also permitted to act accordingly following the test which was held, by the order of this Court dated 23 July 2024.

84. Hence, sufficient material is not on record at present which indicates a systemic leak or systemic malpractice of other forms. The material on record does not, at present, substantiate the allegation that there has been a widespread malpractice which compromised the integrity of the exam. To the contrary, an assessment of the data indicates that there are no deviations which indicate that systemic cheating has taken place. The information before us at this stage does not show that the question paper was disseminated widely using social media or the internet, or that the answers were being communicated to students using sophisticated electronic means which may prove difficult to trace. The students who were beneficiaries of the leak at Hazaribagh and Patna are capable of being identified. The CBI investigation reveals the number of students who are the beneficiaries of the malpractice at Hazaribagh and Patna at this stage. This leads us to conclude that it is possible to separate the beneficiaries of malpractice or fraud from the honest students. This being the case, the Court cannot direct a re-exam.

85. In the previous section which sets out the position of law on this issue, this Court noticed that the purpose of assessing whether the sanctity of the exam has been 45 | Page PART E vitiated at a systemic level was to facilitate and encourage a proportional response. If it is possible to separate the tainted candidates from the untainted ones, there would be no justification to cancel the exam. This is because honest candidates would be made to suffer without reason due to the actions of some unscrupulous candidates. It is also important for the response to malpractice to be proportionate. Ordering a re-test would disrupt the academic schedule for the year. The delay in completing admission will impact the availability of resident doctors to attend to patient care in the future. Any such direction will have disproportionate consequences for candidates from marginalised backgrounds. They would be disadvantaged, in the event of a re-exam neither are desirable outcomes.

86. The petitioners have placed reliance on the judgments of this Court in *Tanvi Sarwal v. CBSE*¹⁶ and *Sachin Kumar (supra)* in support of their contention that a re-test must be directed. It is necessary to briefly advert to the facts and the ruling in these cases to appreciate their applicability to the present case.

87. In *Tanvi Sarwal's* case (*supra*), the Court adjudicated writ petitions challenging the validity of the All India Pre-Medical and Pre-Dental Entrance Test 2015 on the ground that the integrity of the exam had been compromised by the use of unfair means. After the exam was conducted, news reports revealed that answer keys had been transmitted to many candidates in the course of the examination, using electronic devices. The Court noticed the following from multiple status reports filed by the investigating agency in that case:

16. (2015) 6 SCC 57346 | Page PART E a. Some arrested persons stated that they had planned to recover Rs. 20 lakhs from each student who wished to avail of their services to cheat in the exam; b. One of the arrested persons was a doctor. Several answer keys were found to be stored on his mobile phone. They were also forwarded to two other mobile numbers using WhatsApp; c. Vests for men and women fitted with micro SIMs were recovered from some persons suspected to be involved in the scam; d. Bluetooth devices were recovered from a person suspected of facilitating cheating; e. The question paper had been leaked in Behror, Alwar District, Rajasthan. The arrested persons planned to communicate the answers to the students during the conduct of the examination using the vests fitted with micro SIMs. At least three hundred such vests were used; f. The persons suspected of being the masterminds of the scam were found to have called several people in Jharkhand, Bihar, Uttar Pradesh, Rajasthan, Delhi, Maharashtra, Odisha and Haryana, using different phone numbers; g. 358 mobile numbers were used to transmit the answers to the question paper to various beneficiaries across the country; h. Some candidates admitted to having received the answers during the exam, through electronic devices supplied to them by the alleged offenders; i. Until that point, forty-four beneficiaries of the leak had been identified; 47 | Page PART E j. The investigating agency stated that it was beyond doubt that the plan to provide answers during the exam was prepared and executed by an organised gang with a network spreading across the country; and k. The Inspector General of Police, Haryana admitted that it may not be possible to identify every single beneficiary of the leak.

88. On the basis of the information before it, the Court noted that it could choose one of two alternatives

direct that the results of the forty-four beneficiaries of malpractice be withheld and permit the counselling process to proceed or direct the conduct of a fresh exam. The Court was of the opinion that the modus operandi of the leak made it likely that numerous candidates, apart from the forty-four who had been identified at the time, were likely to have been beneficiaries of that system of malpractice. It held that it was not possible to identify all the beneficiaries of the leak. Further, it ruled that the segregation of the forty-four identified beneficiaries of the leak was not a viable solution because there was a possibility that unidentified beneficiaries would stand to gain at the cost of honest candidates. The Court, finding that the sanctity of the exam had been compromised, cancelled the exam and directed the conduct of a fresh exam.

89. Tanvi Sarwals case (supra) is distinguishable from the case before us on many counts. First and foremost, the unscrupulous candidates in that case used sophisticated technology including vests fitted with micro SIMs to cheat. No such technology has come to light at present, in this case. Second, the question paper was found to have been shared on WhatsApp before the date of the exam. Once shared through social media, it is exceedingly difficult to trace the journey of a post or message or document. Here, the record at present does not indicate that 48 | Page PART E the question paper was shared on social media before the date of the exam. Third, In Tanvi Sarwals case (supra), the assistance of a gang with a nationwide network was stated to have been taken and calls were made by the accused to persons living in numerous states in the country. No such nationwide ring is seen at present in this case. Fourth, the Court found that it was not possible to separate the beneficiaries of the leak from the honest candidates. Here, the Court has concluded that the fraudulent candidates may be identified by the investigating agency. For these reasons, the decision in Tanvi Sarwal (supra) does not support the case of the petitioners. The allegations in this case are not substantiated by the material on record.

90. In Sachin Kumars case (supra), the two-Judge Bench of this Court (of which one of us, D Y Chandrachud, J., was a part) was concerned with the recruitment process for the post of Head Clerk. The Government of the National Capital Territory of Delhi cancelled the process on the basis of certain irregularities in the conduct of the examination. The Central Administrative Tribunal annulled this decision of the Government. In proceedings under Article 226 of the Constitution before a Division Bench of the Delhi High Court, the decision of the Central Administrative Tribunal was partly affirmed. The appeals arising from the decision of the High Court resulted in the case before this Court.

91. In that case, a committee was appointed to conduct an enquiry into the complaints regarding malpractice during the exam. In its report, the committee inter alia found that a large number of candidates in the zone of selection hailed from a small geographical area within Delhi, a significant proportion of candidates belonged to the same community (as indicated by their surnames), and the 49 | Page PART E failure to randomise the seating plan resulted in candidates from the same family being seated in consecutive seats. In addition, the committee noted that certain persons had masterminded a racket which led to the impersonation of candidates, the leakage of question papers, and the dilution of the processes in place to ensure the fair conduct of the exam, including blurring of videography, faulty jammers, etc.

92. The Government of the National Capital Territory of Delhi then constituted a second committee to scrutinise candidates who were in the zone of consideration with a view to identifying cases of impersonation. This committee found that there were no irregularities with the candidature of those persons who had come forth for assessment. The Deputy Chief Minister of Delhi then cancelled the examination, leading to the eventual challenge of his decision.

93. The question in Sachin Kumar (supra) was whether the decision to cancel the recruitment process was justified. The Court held that the credibility of the entire exam stood vitiated by systemic irregularities, as highlighted by the findings of the first committee appointed by the government. It found that the allegations made regarding the sanctity of the exam had been substantiated by the investigation which followed. It therefore upheld the decision of the Deputy Chief Minister to cancel the exam and set aside the judgment of the High Court.

94. That case, too, is distinct from the one before us. In Sachin Kumar (supra), the material before the Court was sufficient to lead to the conclusion that there was mass malpractice, which attacked the integrity of the exam at a systemic level. This is indicated by the fact that a large number of candidates in the zone of selection were from the same concentrated geographical region and that 50 | Page PART F candidates from the same family were sitting in consecutive spots during the exam. There was also impersonation and the coordinated dilution of security protocols in that case. There was an abundance of material before the Court in that case. The same cannot be said to be true in the instant case. Hence, the ruling in that case cannot influence the outcome in this case. Moreover, in cases such as these, courts must take a holistic view of the facts before them and reach an independent conclusion. Different courses of action are appropriate in different circumstances. F. The conduct of NTA: Cause for concern 95. While the various issues discussed until now do not lead to the conclusion that the integrity of the NEET was vitiated at a systemic level, the manner in which NTA has organised the exam this year gives rise to serious concerns. The Court is cognizant of the fact that national-level exams with participation from tens of lakhs of students require immense resources, coordination, and planning. But that is precisely the reason for the existence of a body such as NTA. It is no excuse to say that the exam is conducted in myriad centres or that a large number of aspirants appear for the exam. NTA has sufficient resources at its disposal. It has adequate funding, time, and opportunities to organise exams such as the NEET without lapses of the kind that occurred this year.

96. Multiple occurrences in the conduct of the exam prompt the Court to make these observations. The paper was leaked in Patna and Hazaribagh. In one of the centres, the rear door of the strongroom was opened and unauthorised persons were permitted to access the question papers. This indicates that there is a serious lapse in security and that security measures which are stringent and 51 | Page PART F effective must be implemented by NTA. Further, it came to light that the question papers were sometimes transported in e-rickshaws and that the services of private courier companies were availed of. Mr. Hooda, learned senior counsel for the petitioners, also rightly pointed out that NTA did not specify a time by which the OMR sheets were required to be sealed after the conclusion of the exam. In the absence of a stipulation in this regard, dishonest persons may tamper with the OMR sheets even after the candidates have submitted them and exited the exam hall. Another point of concern is that NTA relies on persons over whom it does not exercise direct oversight to be the invigilators for the exam. There are various methods which may be adopted to ensure appropriate oversight over invigilators and decrease the likelihood of the use of unfair means. All of these issues indicate that the security protocols must be tightened to decrease the possibility of malpractice and fraud and to lessen access by private persons to the question papers.

97. In at least twelve centres, the question paper stored in Canara Bank was wrongly distributed to candidates. The question paper which should have been distributed was the one stored in SBI. In many centres, aspirants completed the incorrect question paper and were ultimately evaluated while in others, the relevant authorities realised the mistake and then distributed the correct question paper. This either indicates that the city coordinators were irresponsible and not fit for duty or that the information as to which question paper was to be distributed to candidates was not properly communicated to them. Certainly, neither Canara Bank nor SBI appear to have been notified as to whether the papers in their custody were to be released. As long as the city coordinators furnished proof of authorisation, the papers were released without question. The custodian banks 52 | Page PART F have to be informed as to whether they should release the question papers in their possession. Had the custodian banks been informed whether or not to release the papers in their possession, the city coordinators would have been unable to collect the incorrect set of question papers, even if they made an honest mistake. NTA must consider the various possibilities and plan the protocol to be followed after careful consideration.

98. The use of mobile applications to communicate with the relevant parties would permit real-time communication and allow NTA to inform the banks even a few minutes before the time at which the city coordinator was authorised to collect the papers. This would ensure that no unscrupulous persons from the custodian banks can take advantage of the information made available to them. NTA already uses a mobile

application to communicate with the city coordinators and others so it would not be difficult to communicate with the custodian banks. Other modes of communication may be explored and adopted, as long as the custodian banks are informed whether to release the papers they have stored for safekeeping.

99. The highest scoring candidates in a competitive exam usually have the option of gaining admission into the best institutions. It is consequential in more ways than one to be a candidate who obtains a perfect score. When the results were released, it appeared that sixty-seven aspirants had scored a perfect score of 720 / 720. After the removal of the compensatory marks and the conduct of the re-test for 1563 candidates, the number of persons who had a perfect score dropped to sixty-one. Subsequently, in the course of the hearing, we were informed that forty-four of the sixty-one top scorers had marked the incorrect 53 | Page PART F option to the question in controversy. By its judgment dated 23 July 2024, this Court directed NTA to treat only one of the options as the correct answer and recompute the marks and ranks on the basis of this revision to the answer key. The necessary consequence of these directions is that the scores of the same forty-four aspirants will no longer be 720 / 720. The number of scorers with 720/720 marks then drops to seventeen. It is a matter of serious concern that this number fell from sixty-seven to seventeen during the course of the hearing. The intervention of the Court, reports by the media, and representations by candidates ensured that these changes were made in the interests of fairness and justice. However, the system adopted by NTA should be such that just outcomes are reached even when these external catalysts are not present. The system must be such as to inspire public confidence.

100. Another aspect which is most unfortunate is the lack of responsible decision-making with respect to the 1563 candidates who were initially awarded compensatory marks. As noticed above, a committee constituted by NTA first recommended that the compensatory marks be awarded. However, as the controversy surrounding the award of these marks became more prominent, a second committee was constituted. This committee recommended the cancellation of compensatory marks and the conduct of a re-exam in their place for those students. A body such as NTA which is entrusted with immense responsibility in relation to highly important competitive exams cannot afford to misstep, take an incorrect decision, and amend it at a later stage. All decisions must be well-considered, with due regard to the importance of the decision. Flip-flops are an anathema to fairness. 54 | Page PART G101 Intense competition amongst the aspirants coupled with the commercialisation of education has led to a few towns or cities becoming hubs for classes which train candidates for competitive exams. While these towns or cities may have a higher rate of success than some others, instances of malpractice at such centres should be treated on par with any other instance. All instances of the use of unfair means must be dealt with firmly.

102. NTA is directed to ensure that all the concerns highlighted by the Court in this judgment are addressed. The committee constituted by the Union Government is also requested to keep these issues in mind while formulating its recommendations. G. Issues in the conduct of the examination and the remit of the committee constituted by the Union Government 103. During the hearing, the petitioners urged that there were systemic flaws in the conduct of the examination and that a more thorough procedure needs to be put in place to ensure that malpractice is avoided. Given the crucial role of the examination in shaping the careers of future medical professionals responsible for public health, any compromise in the merit-based selection process jeopardizes the quality of healthcare as well as the careers of aspirants. The fairness and reliability of the examination system cannot be such that public confidence is lost.

104. The formation of a committee is essential to thoroughly investigate and address the structural issues. A dedicated committee with suitably qualified experts can ensure a comprehensive review of the security measures, candidate verification 55 | Page PART G processes, and the overall management of the examination. By identifying and rectifying vulnerabilities, such a committee will help restore trust in the examination system and implement robust safeguards to prevent future malpractice.

105. The Court has been apprised of the fact that the Union Government has constituted a seven-member expert committee, chaired by Dr K Radhakrishnan, former Chairman, ISRO, consisting of the following

members: (i) Dr Randeep Guleria, Member (ii) Prof B J Rao, Member (iii) Prof Ramamurthy K, Member (iv) Shri Pankaj Bansal, Member (v) Prof Aditya Mittal, Member (vi) Shri Govind Jaiswal, Member Secretary

106. The remit of the Committee, in addition to the tasks that it has been entrusted with by the Union government and the NTA, shall encompass the following: a. Examination Security and Administration i. Evaluate and recommend reforms in the mechanism of administration of the exam. This includes ensuring rigorous checks and balances at every stage, from setting the question papers to declaring the final results; ii. Formulate standard operating procedures¹⁷ which set out the timelines for registration, changes to preferred cities, the sealing of OMR sheets once 17 SOP 56 | Page PART G candidates submit them to the invigilator, and other processes related to the conduct of the exam. Once adopted by NTA, the SOP must be adhered to, to maintain the integrity of the exam; iii. Review the process by which exam centres are currently allotted to candidates and recommend any changes which may be required in the interests of fairness and transparency. The preferences of candidates may continue to be accounted for; iv. Recommend stricter procedures for verifying candidate identities, if required, with a view to preventing impersonation and ensuring that only registered and authorized candidates are allowed to take the exams. Such processes may include, but are not limited to, enhanced identity checks at various stages of the exam (such as registration, entry to the exam centre, and before the commencement of the exam) and technological innovations to prevent impersonation. All procedures should comply with laws on privacy; v. Consider the viability of comprehensive CCTV surveillance systems at all examination centers, including real-time monitoring and recording of all activities. The aim is to deter and detect any malpractice or unauthorized activities and to provide evidence in case of incidents; vi. Review and suggest enhancements for the processes for the setting, printing, transportation, storage, and handling of question papers. This may include tamper-evident packaging and using secure logistics providers to prevent unauthorized access and leaks during critical phases. The viability 57 | Page PART G of utilizing closed vehicles with locks and real-time tracking systems rather than e-rickshaws may be considered; vii. Consider the viability of conducting regular audits and surprise inspections of examination centres. This is to ensure compliance with established security protocols, identify and address potential vulnerabilities or lapses in the system, and ensure that all centres adhere to the highest standards of examination security; and viii. Recommend the development of a robust grievance redressal mechanism. This should allow candidates to report any irregularities or issues promptly; b. Data Security and Technological Enhancements i. Research and suggest advanced data security protocols, including encryption and secure data transmission methods. These measures should protect examination materials from unauthorized access and potential leaks, ensuring that all sensitive information remains secure; ii. Recommend systems to monitor and track digital footprints related to the examination materials. This might include digital watermarking and tracking technologies to trace the origin of leaked documents and identify potential breaches in the electronic dissemination process; iii. Consider how regularly cybersecurity audits and vulnerability assessments must be conducted to identify and address potential weaknesses in the electronic dissemination and storage systems. These audits should evaluate the effectiveness of current security measures and recommend improvements based on the latest cybersecurity trends; and 58 | Page PART G iv. Explore technological innovations to enhance examination security and efficiency. This could include advancements in digital authentication, secure online platforms, and other emerging technologies that can safeguard against potential threats; c. Policy and Stakeholder Engagement i. Review and recommend updates to the policies and SOPs of NTA to align with best practices, ensuring that the agency is equipped to handle evolving challenges in examination security; ii. Establish a transparent communication strategy to keep all stakeholders, including candidates, educational institutions, and the public, informed about the measures being taken to ensure the integrity and fairness of the examination process as well as of the response of NTA to any malpractice which is identified; iii. Recommend the implementation of a comprehensive communication strategy to keep all stakeholders involved in the process including banks, examination centres, and logistical partners well-informed. This strategy should detail the protocols for secure transportation, storage, and handling of examination materials, and ensure regular updates on any issues or changes; and iv. Recommend measures to address and mitigate any socioeconomic disparities that may affect candidates' ability to participate in or benefit from the examination process. This

might include providing support and 59 | Page PART G resources to underprivileged candidates to ensure equal opportunities and reduce barriers to entry; d. Collaboration and International Cooperation i. Consider the viability of NTA engaging in international cooperation with examination bodies and educational authorities from other countries to share best practices, security measures, and innovative solutions; and ii. Suggest the creation of a management framework to identify, assess, and mitigate potential risks related to examination security. This framework should include protocols for assessing risks, contingency plans, and strategies for dealing with unforeseen challenges that may arise during the examination process; e. Support and Training i. Recommend plans or strategies for the development and implementation of mental health support programs for students, including counselling services and stress management workshops. These programs should address the psychological impact of exams and also ensure the well-being of all candidates throughout the examination process. Qualified experts from relevant fields must be consulted for this purpose; and ii. Consider the viability of NTA conducting comprehensive training programs for all staff involved in the examination process (including but not limited to question paper setters, invigilators, and administrative personnel). These programs should cover security protocols, ethical standards, and the latest 60 | Page PART H technology to ensure everyone involved is well-equipped to maintain the integrity of the examination.

107. While carrying out its mandate, the committee must bear in mind the facts and issues highlighted in Section F of this judgment.

108. The Ministry of Education constituted the committee by a notification dated 22 June 2024. The notification stated that the report of the committee shall be submitted within two months from the date of the issue of the notification. This would be 22 August 2024. However, in view of the expanded remit of the committee in terms of this judgment, additional time may be required for a holistic report on various aspects related to the conduct of the NEET. Therefore, the report of the committee shall be submitted to the Ministry of Education by 30 September 2024. The Ministry of Education shall take a decision on the recommendations made by the committee within a period of one month from receiving the report. It shall prepare and begin to implement a plan of action on this basis. The Ministry of Education shall report compliance with these directions within two weeks of taking the decision on the implementation of the recommendations. H. Parting remarks 109. The principal issue which the Court was concerned with in this case is whether the sanctity of the NEET was compromised this year and whether the process should be scrapped and a fresh test should be convened. Having answered the question in the above terms, it needs to be clarified that if any student, including in the present batch, has an individual grievance not bearing on the issues which 61 | Page PART H have been resolved by this judgment, it would be open to them to pursue their rights and remedies in accordance with law, including by moving the jurisdictional High Courts under Article 226 of the Constitution. However, before moving the High Court for the grant of relief, the petitioners would have to seek the withdrawal of their petitions before this Court, if any have been filed.

110. The transfer petitions at the instance of the NTA or any other party raising the issue as regards the validity of NEET in 2024 are allowed. The resulting transferred cases shall stand disposed of in terms of the above directions subject to the clarification that individual grievances, if any, that remain, may be addressed before the jurisdictional High Court. The interlocutory applications raising individual grievances are similarly permitted to be withdrawn with liberty reserved in the above terms.

111. Nothing in this judgment shall be construed as a finding of fact in relation to criminal proceedings arising from the leak of the question paper or from other forms of malpractice. However, the ruling of the Court will not be relied on to refrain from prosecuting individuals found to have indulged in malpractice in any centres, irrespective of whether such fraud has already been identified or is identified in the future. Stringent action in accordance with law shall be taken against every candidate who is detected or who may hereafter be detected to have been the beneficiary of any malpractice.

112. List before an appropriate Bench to verify compliance with the directions issued in this judgment. 62 |

Page PART H113 The Petitions shall stand disposed of in the above terms.CJI. [Dr Dhananjaya Y Chandrachud].].

[J B Pardiwala].].

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