

Dr vs Kiran Kumar vs National Medical Commission(Nmc)

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Court : Karnataka

Decided On : Apr-25-2026

Judge : E.S.Indiresh

Appeal No. : WP/37323/2025

Appellant : DR

Respondent : Kiran Kumar vs National Medical Commission(Nmc)

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF APRIL, 2026 BEFORE THE HON'BLE
MR. JUSTICE E.S.INDIRESH WRIT PETITION NO.37323 OF 2025
(EDN-RES) BETWEEN:

1. DR. V.S. KIRAN KUMAR S/O N VEERABHADHRACHARI, AGED
ABOUT 40 YEARS, R/AT INDIRA NAGARA, HUCHAVVANAHALLI,
DAVANAGERE - 577534. PETITIONER (BY SRI. SUMANA BALIGA M.,
ADVOCATE) AND:

1. NATIONAL MEDICAL COMMISSION(NMC)

REP. BY ITS SECRETARY, POCKET-14, SECTOR-8, DWARKA PHASE-I, Digitally signed by NEW DELHI-110077. CHAYA S A Location: HIGH COURT OF 2. RAJIV GANDHI UNIVERSITY OF KARNATAKA HEALTH SCIENCES (RGUHS) 4TH 'T' BLOCK, JAYANAGAR, BENGALURU - 560 041. REP. BY REGISTRAR (EVALUATION).

RESPONDENTS (BY SRI. SHOWRI H.R., ADVOCATE FOR R1; SMT. MAMATHA KULKARNI, ADVOCATE FOR R2) -2- THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DECLARE CLAUSE 8.4(B) OF THE 'CRITERIA FOR EVALUATION OF M.S./M.D./M.CH./DM COURSES' UNDER PGMER-2023 VIDE ANNEXURE-C TO THE EXTENT IT MANDATES ROUNDING-OFF OF MARKS AND FIXES 200/400 AS THE RIGID THRESHOLD FOR PASSING THEORY EXAMINATIONS, AS UNCONSTITUTIONAL, ARBITRARY, DISPROPORTIONATE, AND VIOLATIVE OF ARTICLES 14 AND 21 OF THE CONSTITUTION OF INDIA OR, IN THE ALTERNATIVE, DIRECT THE RESPONDENT NO.1 - NATIONAL MEDICAL COMMISSION TO ADOPT A FAIR AND REASONABLE METHOD OF COMPUTING FINAL THEORY MARKS, BY PERMITTING ROUNDING OF FINAL AGGREGATES WHEREVER THE CANDIDATE HAS SCORED 199 AND HAS OTHERWISE SATISFIED ALL ACADEMIC HEADS OF PASSING AND THEN DIRECT THE 2ND RESPONDENT TO ACCORDINGLY REVISE AND PUBLISH THE PETITIONER'S RESULT, ETC. THIS WRIT PETITION HAVING BEEN RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT THIS DAY, E.S. INDIRESH J., MADE THE FOLLOWING: -3- CORAM: HON'BLE MR. JUSTICE E.S.INDIRESH

CAV ORDER

1. In this writ petition, petitioner is assailing the Clause

8.4(b) of the Criteria for Evaluation of M.S/M.D/M.Ch./DM courses of PGMER-2023 (Annexure-C) to the extent mandating the rounding off of marks and fixing marks at 200 marks out of total 400 marks as the rigid threshold for passing theory

examinations, as unconstitutional and violative of Article 14 and 21 of the Constitution of India. The petitioner has also sought for alternative relief seeking a direction to respondent No.1 - National Medical Commission to adopt fair method of computing final theory marks by permitting rounding off of final aggregate marks wherever the candidate has scored 199 marks and otherwise has satisfied all academic heads of passing and thereby direct respondent No.2 to declare the result of the petitioner as 'pass' in the examinations.

2. The relevant facts for adjudication of this Writ Petition are

that the petitioner claims to be admitted to the Post Graduate Degree Course in M.S. Orthopaedics at Bangalore Medical -4- College and Research Institute (BMCRI) on 01.02.2022 and has completed his academic requirements prescribed under the PG Medical Education Regulations. Thereafter the petitioner was admitted to Post Graduate Course in the respondent No.2- University. It is stated that petitioner had appeared for the M.S. Orthopaedics examination held in September, 2025. The respondent No.2-University has declared the result of the petitioner, as 'fail'. It is the grievance of the petitioner that petitioner has secured 199 marks out of 400 marks i.e., falling short by 1 mark and therefore, the petitioner has presented this Writ Petition.

3. Heard Smt. Sumana Bailga M., learned counsel for the petitioner and Sri. Showri H.R., learned counsel for the respondent No.1.

4. It is argued by the learned counsel for the petitioner by

referring to the provision contained under Clause 8.4 of the Notification dated 29.12.2023 of the National Medical Commission and contended that, the criteria for valuation adopted by the respondent - University based on the aforementioned Notification is contrary to Article 14 of the -5- Constitution of India. By referring to the marks obtained by the petitioner herein, it is argued by the learned counsel for the petitioner that though the petitioner has secured 199 out of 400 marks, however the petitioner - student is declared as 'fail' on account of the fact that the minimum passing marks for theory is 200 out of 400 marks and therefore, it is contended by the learned counsel for the petitioner that, there is an error in

counting the marks of the petitioner and disputing the procedure adopted by the respondent-University and therefore, sought for interference of this Court, alleging that Clause 8.4(b) of the Notification at Annexure-C requires to be set aside by this Court.

5. Per contra, Sri. Showri H.R., learned counsel for

respondent No.1 contended that, the Division Bench of this Court in W.A.No.448/2025 and connected Appeals disposed of on 26.06.2025 had an occasion to consider Clause 8 of the Notification at Annexure-C and same was upheld by this Court and therefore, it is argued by the learned counsel for respondent No.1 that the petitioner cannot challenge the very same Notification based on other grounds and accordingly, sought for dismissal of the Writ Petition. Learned counsel for -6- the respondent submitted that the Writ Petition requires to be dismissed on the sole ground that the petitioner has not secured the minimum marks for passing in the theory examinations as the petitioner has not secured 200 marks out of 400 marks as required by the Criteria for valuation in respect of the examination conducted therein.

6. In the light of the submissions made by the learned

counsel appearing for the parties, the petitioner herein has challenged Clause 8.4(b) of the Notification dated 28.12.2023 at Annexure-C by the National Medical Commission produced at Annexure-C to the Writ Petition. It is relevant to extract Clause 8.4(b) of the Notification at Annexure-C which reads as under: "8.4 Valuation a. XXX

b. All the answer scripts shall be subjected for two valuations by the concerned University. The average of the total marks awarded by the two valuers for the paper, which is rounded off to the nearest integer (whole number), shall be considered for computation of the results. All the answer scripts, where the difference between two valuation is 15% and more of the total marks prescribed for the paper, shall be -7-

subjected to third valuation. The average of the best two total marks, awarded by the three evaluators for the paper, rounded off to the nearest integer (whole number), shall be considered for final computation of the results."

7. Perusal of the aforementioned Notification, particularly

Chapter VIII of the Notification provides for conducting examination by the University. Clause 8.2 provides for the examiners of the Post Graduate Examination in the Board and Super Specilization of the Post Graduate Courses. Clause 8.3 provides for the methodology adopted for valuation in so far as theory and practical papers by the students. Clause 8.4(b) of the Notification at Annexure-C provides for the valuation of the answer scripts of the candidates who had appeared pursuant to the issuance of the Notification as per Clause 8 of the Notification at Annexure-C. The perusal of the Clause 8.4(a) would indicate that, all the teachers of the University and other Universities are eligible to evaluate the answer scripts of the PG students. Clause 8.4(b) of the Notification at Annexure-C stipulates that there shall be a minimum two valutors by the University in respect of the valuation of answer scripts of the students and the average of the total marks awarded by two -8- valutors shall be considered for computation of the result and the round off has to be made to the nearest integer (whole number).

8. It is also to be noted that, in the event of any difference

between two valutors/valuation is 15% between two valutors, then such papers shall be subjected to three valuation. After the conclusion of the third valuation, the average of the best two out of three valuations shall be considered for awarding marks to the candidate and in the event if there is any decimal, same shall be rounded off to the nearest number. After the conclusion of the marks, declaration of result shall be made as per Clause 8.4(c) of the Notification at Annexure-C. It is also to be noted that in the Notification at Annexure-C, the criteria for valuation is provided. It is not in dispute that there are four theory papers for students of Post Graduation and in so far as the petitioner is concerned, same is reflected at para 3 of the writ petition. Each theory paper is consisting for 100 marks. The student has to secure minimum passing marks of 200 out of 400 marks in so far as four theory papers as stated in the criteria for valuation of the courses specified therein. -9-

9. It is also to be noted that in the criteria for valuation that

the student shall secure minimum 40% marks in each of the four theory papers that means, in the event if the candidate secure less than 40 marks in either of the theory papers mentioned herein, then such student shall be declared as fail. In that view of the matter, taking into consideration the fact that there is no arbitrariness in the criteria for valuation of the answer scripts and the courses specified in Clause 8.4(b) of the Notification at Annexure-C, I am of the view, that the writ petition cannot be accepted. It is pertinent to mention here that, all the students are required to secure more than 40 marks in all the subjects, in addition to securing 200 marks out of 400 total marks.

10. It is also to be noted that it is a well established principle

in law that judicial review cannot be extended in so far as the awarding of marks or the stipulation of marks by the Universities which is purely academic in nature and same is within the domain of the academic experts of the respective fields in the discipline. - 10 -

11. It is also to be noted that Clause 8.4(b) of the Notification

at Annexure-C was considered by this Court in W.A.No.448/2025 and connected Appeals disposed of on 26.06.2025. This Court, after considering the entire material on record has arrived at the conclusion that there is no infirmity in Clause 8.4(b) of the Notification at Annexure-C is concerned. At this stage, it is relevant to extract the relevant paragraphs of the Judgment of the Division Bench of this Court in W.A.No.448/2025, wherein paragraphs 13 to 17 read as under:

"13. Similarly, the Regulations of 2023 issued by NMC on 29.12.2023 are also reproduced, more specifically Regulation 8.4, which refers to valuation: 8.4 Valuation: . All the teachers of the other colleges of the concerned University or other Universities, who are eligible to be post-graduate examiners, can perform the valuation of the answerscripts. b. All the answer scripts shall be subjected for two valuations by the concerned University. The average of the total marks awarded by the two

valuators for the paper, which is rounded off to the nearest integer (whole number), shall be considered for computation of the results. All the answer scripts, where the difference between two valuations is 15% and more of the total marks prescribed for the paper, shall be subjected to third valuation. The average of the best two total marks, awarded by the three evaluators for the paper, rounded off to the nearest integer (whole number), shall be considered for final computation of the results. c. After the computation and declaration of the results, under no - 11 -

circumstances, revaluation is permitted. d. All the Health Universities/Institutions imparting post-graduate courses shall implement digital valuation. CRITERIA FOR EVALUATION OF M.S./M.D./M.Ch./DM COURSES S. Description M.S./M.D./M.Ch No ./DM Courses . 1 THEORY No. of Theory Papers 4

Marks for each Theory Paper 100 Total marks for Theory Paper 400 Passing Minimum for Theory 200/400 (40% minimum in each paper) 2 PRACTICAL/CLINICAL 300 3 VIVA VOCE 100 Passing minimum for Practical/Clinical including 200/400 Viva voce The candidate shall secure not less than 50% marks in each head of passing which shall include (1)Theory aggregate 50% (In addition, in each Theory paper a candidate has to secure minimum 40%)

(2) Practical/Clinical and Viva voce - aggregate 50%

(3) If any candidate fails even under one head, he/she has to re- appear for both Theory and Practical/Clinical and Viva voce examination.

(4) Five per cent of mark of total marks of Clinical/Practical and

Viva Voce marks (20 marks) will be of dissertation/thesis and it will be part of clinical/practical examination marks External examiner outside the state will evaluate dissertation/thesis and take viva voce on it and marks will be given on quality of dissertation/thesis - 12 - and performance on its viva voce.

(5) No grace mark is permitted in post-graduate examination either for theory or for practical. CRITERIA FOR EVALUATION OF P.G. DIPLOMA COURSES S.No Description P.G. Diploma Courses

1. THEORY No. of Theory Papers 3 Marks for each Theory Paper 100 Total Marks for Theory Paper 300 Passing Minimum for Theory 150/300 (40% Minimum in each paper)

2. Practical / Clinical 200

3. Viva Voce 100

14. It may be stated at the outset that, what was considered by

this Court in the judgments referred to by the learned Single Judge is the notification issued on 12.11.2020 by the University. In other words, it was the decision of the syndicate vide resolution/notification dated 12.11.2020, which contemplated implementation of the order of this Court in Dr. Guruprasad (supra) as a one time measure. It is also seen that, the decision of the University was to render the benefit of the order in the case of Dr. Guruprasad (supra) because of COVID-19 situation. In any case it is the submission of Sri. Reddy and other counsel for the respondents that, in the case of Dr. Guruprasad (supra), the benefit of rounding off was not because of COVID reasons, but as arithmetically the petitioner therein had secured 49.75%, the directions were given to round off to the next whole i.e., 50%. - 13 -

In support of his submission, Sri. Reddy has relied upon paragraph No.3(b) of the order of the learned Single Judge in Dr. Guruprasad (supra). What is important is, the judgment of the Division Bench of this Court in the case of Dr. Neelesh Mehta

(supra), wherein the Division Bench has, in paragraph No.8, held

as under: 8. This Court has carefully gone through the aforesaid

judgment also. It was a case of awarding of grace marks

to a student undergoing Post Graduate course. No such contingency as involved in the present case was involved in the case decided by Division

Bench. This Court is not deciding the present case under normal circumstances. This Court is dealing with a situation where almost the entire country is under lockdown and even the students who are doing under Post Graduate Courses are the frontline workers and are practically doing COVID duties round the clock. Large number of Doctors have lost their lives and inspite of the aforesaid we have not come across a single case where a Doctor has denied treatment to a patient suffering from COVID, atleast to this Bench no such case has been brought to the notice. Probably, the University syndicate keeping in view various factors, the plight of Doctors, their sacrifice to save mankind, has taken a policy decision to round off the percentage by its decision dated 12.11.2020, and therefore, in the considered opinion of this Court when once the syndicate of the University under the provisions of The Rajiv Gandhi University Act, 2006 has taken a decision to round off the marks, the learned Single Judge has rightly passed an order granting the benefit to respondents No.1 and 2, not only this the University - 14 -

cannot implement a judgment of the syndicate in a selective manner. All examinations were held during COVID time in respect of Post Graduate Courses and granting benefit by the University to one individual and denying the same to another individual is certainly violative of Article 14 and 16 of the Constitution of India, and therefore, this Court does not find any reason to interfere with the order passed by the learned Single Judge. Resultantly, admission is declined. No order as to costs.

So, the judgment of the Division Bench of this Court is very clear that, the benefit of rounding off was given because of the COVID reasons and the same being a justifiable reason, the individuals/candidates were certainly entitled to the benefit thereof.

15. Sri. Reddy had also heavily relied upon the judgment in the

case of Dr. Haroon Adoni (supra), more specifically paragraph No.6 thereof to contend that, when the law continues to be in the statute books, till repealed by the competent body, the benefit of ordinance and relief thereof to the deserving candidates cannot be denied by placing interpretation of the kind, the University wants this Court to place on the clause in question. We are not impressed by this submission of Sri. Reddy. What is important is, the valuation of the answer sheet in the case in hand is under the Regulations of 2023 issued by the NMC. So, the issue need to be decided keeping in view the said Regulations of 2023 and not the ordinance/ resolution of the University which was the basis of all the decisions referred to by the learned Single Judge in the impugned order. Though the submission of Sri. Reddy and Smt. Baliga and Sri. Malipatil is that, Regulations of 2023 are *pari materia* to the ordinance issued by the University which was - 15 -

the subject matter in the judgments referred to by the learned Single Judge and as such, the interpretation given by the Division Bench would hold good in these cases as well, we are unable to agree with the said submission. We have already reproduced the resolution passed by the University in the year 2020 and the Regulations of 2023. The Regulations of 2023 more specifically Regulation 8.4 which we have reproduced above is very clear that, the benefit of rounding off is contemplated only at the time of valuation by the two valuers when the average of the total marks are awarded by them which need to be rounded off to the nearest integer and the rounding off shall be considered for computation of the result. In other words, the computation of the result must be on the basis of rounding off, of the marks based on the valuation made by two valuers and not thereafter. There is no stipulation in the regulation, which contemplates rounding off of the percentage of marks. In the present case, the respondent-students have, on the basis of the valuation made by the valuers, on the average of the total marks awarded by them, secured 49.25%, 49.50% and 49.75%.

This percentage is the reflection of marks pursuant to the valuation by the two valuers.

16. Sri. Chinnappa is justified in his submission that the above

percentage is the reflection of the marks which they have secured. In fact we find that, stipulation 5 states that, there is no grace marks permitted in PG examination either for theory or practical. The relief which has been sought by the respondent and granted by the learned Single Judge is to round off the percentage to 50%, which in effect mean that the same shall have the effect of granting grace marks for the candidates to reach 50%, which is impermissible. In fact, the Sl.No.1 under Regulation 8.4 clearly stipulates the minimum passing marks for - 16 -

theory is 200 out of 400. Concedingly, none of the respondent- students have secured 200/400 as their percentage was 49.25%, 49.50% and 49.75%. So it must follow that, the Regulations issued by the NMC govern the valuation in the manner prescribed and nothing more can be read into the same otherwise it would amount to re-writing the Regulations by the Court, which is clearly impermissible in law. Sri. Chinnappa is also justified in relying upon the judgment of the Honble Supreme Court in the case of Taniya Malik (supra) wherein the Supreme Court has, in paragraphs No.22 to 24, held as under:

22. With regard to question as to rounding off of the marks, in our opinion, when a particular aggregate is prescribed for eligibility, a person must meet the criteria without relaxation. It is not permissible to enhance the marks by rounding off method to make up the minimum aggregate.

23. This Court, in *Rajiv Gandhi University of Health Sciences v.*

G. Hemlatha [*Rajiv Gandhi University of Health Sciences v. G. Hemlatha*, (2012) 8 SCC 568 : (2012) 2 SCC (L&S) 650 : 4 SCEC 664], held as impermissible the rounding-off of eligibility criteria in relation to qualifying

examination for admission to the PG course in MSc (Nursing). Relying upon the decision rendered in Orissa Public Service Commission v. Rupashree Chowdhary [Orissa Public Service Commission v. Rupashree Chowdhary,

(2011) 8 SCC 108 : (2011) 2 SCC (L&S) 353] , this Court

observed: (G. Hemlatha case [Rajiv Gandhi University of Health Sciences v. G. Hemlatha, (2012) 8 SCC 568 : (2012) 2 SCC (L&S) 650 : 4 SCEC 664] , SCC pp. 570-71, paras 8-12) 8. In Orissa Public Service Commission v. Rupashree howdhary [Orissa Public Service Commission v. Rupashree Chowdhary, (2011) 8 SCC 108 : (2011) 2 - 17 -

SCC (L&S) 353] this Court in somewhat similar fact situation considered whether the eligibility criteria could be relaxed by the method of rounding-off. The Orissa Public Service Commission published an advertisement inviting applications from suitable candidates for the Orissa Judicial Service Examination, 2009 for direct recruitment to fill up 77 posts of Civil Judges (JD). Pursuant to the advertisement, the first respondent therein applied for the said post. She took the preliminary written examination. She was successful in the said examination. She, then, took the main written examination. The list of successful candidates, who were eligible for interview, was published in which the first respondent's name was not there. She received the marksheet. She realised that she had secured 337 marks out of 750 i.e. 44.93% of marks in the aggregate and more than 33% of marks in each subject.

9. As per Rule 24 of the Orissa Superior Judicial Service

and Orissa Judicial Service Rules, 2007 (for short the Orissa Rules), the candidates who have secured not less than 45% of the marks in the aggregate and not less than a minimum of 33% of marks in each paper in the written examination should be called for viva voce test. Since the first respondent therein had secured 44.93% marks in aggregate she

was not called for interview/viva voce. The first respondent approached the Orissa High Court. The High Court allowed [Rupashree Chowdhury v. State of Orissa, 2009 SCC OnLine Ori 361 : (2010) 109

CLT 466] the writ petition. The appeal from the said order

was carried to this Court. - 18 -

10. After considering the Orissa Rules, this Court in Rupashree Chowdhary case [Orissa Public Service Commission v. Rupashree Chowdhary, (2011) 8 SCC 108 : (2011) 2 SCC (L&S) 353] held that Rule 24 thereof

made it clear that: (SCC p. 111, para 10) 10. in order

to qualify in the written examination a candidate has to obtain a minimum of 33% marks in each of the papers and not less than 45% of marks in the aggregate in all the written papers in the main examination. This Court observed that when emphasis is given in the rule itself to the minimum marks to be obtained, there can be no relaxation or rounding-off. It was observed that no power was provided in the statute/Rules permitting any such roundingoff or giving grace marks. It was clarified that: (SCC p. 112, para 10) 10. The [Orissa] Rules are statutory in nature and no dilution or amendment to such Rules is permissible or possible by adding some words to the said statutory Rules for giving the benefit of rounding- off or relaxation.

11. In our opinion, the ratio of this judgment is clearly

applicable to the facts of this case. The judgment of the Division Bench of the Allahabad High Court in Vani Pati Tripathi v. DG, Medical Education and Training [Vani Pati Tripathi v. DG, Medical Education and Training, 2002 SCC OnLine All 1005 : AIR 2003 All 164] and the

judgment of the Full Bench of the Punjab and Haryana

High Court in *Kuldip Singh v. State of Punjab* [*Kuldip Singh v. State of Punjab*, 1997 SCC OnLine P&H 649 : PLR (1997) 117 P&H 1] were cited before us because they take the same view. However, in view of the authoritative pronouncement of this Court in *Orissa - 19 - Public Service Commission* [*Orissa Public Service Commission v. Rupashree Chowdhary*, (2011) 8 SCC 108 : (2011) 2 SCC (L&S) 353], it is not necessary for us to discuss the said decisions.

12. No provision of any statute or any rules framed

thereunder have been shown to us, which permits rounding-off of eligibility criteria prescribed for the qualifying examination for admission to the PG course in MSc (Nursing). When the eligibility criteria is prescribed in a qualifying examination, it must be strictly adhered to. Any dilution or tampering with it will work injustice on other candidates. The Division Bench [*Rajiv Gandhi University of Health Sciences v. G. Hemalatha*, 2010 SCC OnLine Kar 5108] of the High Court erred in holding that the learned Single Judge [*G. Hemalatha v. Registrar*, 2010 SCC OnLine Kar 5189 : (2011) 4 Kant LJ 286] was right in rounding-off of 54.71% to 55% so as to make Respondent 1 eligible for admission to the PG course. Such rounding-off is impermissible. (emphasis supplied)

24. Thus the principle of rounding off method could not be applied in view of the requirement to obtain minimum aggregate marks to be called for interview in the instant case.

17. Insofar as the submission of Sri. Malipatil on the applicability

of old Regulations of 2000 for the examination is concerned, the same is not appealing for more than one reason. Firstly, such a plea as stated by Sri. Malipatil though pleaded, but was not advanced. Rather, the respondents for whom he appears got the benefit of the earlier judgment by the learned Single Judge in *Dr. K. Sree Laxmi -Vs.- Rajiv Gandhi University of Health Sciences* - 20 -

and Another [WP No.3438/2025 and connected petitions, decided on 24.02.2025]. He concedes to the fact the judgment of which benefit has been given to the appellants for whom he represents was by interpreting Regulation 8.4 of the Regulations of 2023 and the respondents have not filed any appeal on the ground it should be Regulations of 2000 which should hold the field. Secondly, the NMC has, vide its communication dated 28.11.2024, clarified that the examination in question has to be governed by the Regulations of 2023. The said communication has not been challenged by the respondents for whom Sri. Malipatil appears."

12. It is also to be noted that the appellant in the

aforementioned Writ Appeal was the respondent-University and the interpretation of Clause 8.4(b) of the Regulations-2023 has been considered and clarified by this Court. It is also relevant to cite the Judgment of the Division Bench of this Court in W.A.No.2050/2025 and connected appeals disposed of on 05.03.2026, wherein identical issue was considered by Division

Bench of this Court. The relevant paragraphs in the Judgment

dated 05.03.2026 in W.A.No.2050/2025 and connected appeals at para Nos.2 to 28 read as under: "2. The criteria for passing the examination are to secure more than 200 marks out of 400 in the theory examination, which comprises four papers of 100 marks each, and a minimum of 40 marks in each of the four papers. The writ petitioners secured an - 21 - aggregate of 200 or more marks, but failed to secure the minimum 40 marks in all papers. Thus, they were declared to have failed the examinations. In the aforesaid circumstances, they filed the said writ petitions, essentially, seeking re- evaluation of their answer scripts.

3. Under Regulation 8.4 of the Post-Graduate Medical Education

Regulations, 2023 [The Regulations], each answer script was evaluated by two evaluators, and the average of the marks awarded by the two evaluators was accepted as the final result.

4. The learned Single Judge allowed the writ petitions and

directed the University to refer the answer scripts of the subjects in question to a third evaluator with a further direction to take the average of the best of the two total marks awarded by the three evaluators, rounded off to the nearest integer (whole number) for the purpose of final computation of the results.

5. At the outset, it is material to note that there was no

demonstrable error in the evaluation of the answer scripts. The only ground on which the writ petitions were allowed was that the aggregate marks secured by the writ petitioners were 200 or more, which was sufficient for them to pass the examination. However, they had been declared failed for failing to obtain the minimum threshold of 40 marks in one of the papers. The Court reasoned that the said fact warranted reference of the answer scripts to a third evaluator to "do substantial justice and on the grounds of equity".

6. The material facts regarding the marks secured by students in

each of the writ petitions differ, and so do the results. The examinations and the course being undertaken by them vary; however, the question involved in the writ petition is common. The operative part of the impugned orders and reasoning of the - 22 - learned Single Judge in allowing the respective writ petitions are similar. In this view, we consider it apposite to dispose of the present appeals by a common judgment.

7. A tabular statement setting out the writ petition number, name

of the writ petitioner, the course, the aggregate marks as obtained and the examination paper wherein the marks awarded are less than 40, the marks awarded by the two evaluators and the average marks in the said paper are set out in the table below. W.P.No Name of Course Aggregate Paper Marks ./ W.A. the Undertaken marks in Awarded by

st NOS. Writ by the secured which the 1st Petitioner/s petitioner/s marks evaluator/ 2 Awarde evaluator/average of the less two than 40 evaluators WP Dr. Sahana G. MD (General 201 Theory 40 38 39 No.34041/ Shatagar Medicine) Paper 2025 No.3 (WA No.2050/2 025 & WA No.706/ WP Dr. Likhitha V. MS (ENT) 207 Theory 41 31 36 No.34928/ Paper 2025 No.1 (WA No.2049 /2025& WA No.720/ WP Dr.G. MD 200 Theory 43 35 39 No.34487/ POOJITHA (Paediatrics) Paper 2025 REDDY No.1 (WA No.2073/2 025 & WA No.701/ WP Sri Vallabh MS 202 Theory 35 42 39 No.34621/ Uday Patel (Obstetrics & Paper 2025 Gynaecology) No.3 (WA No.4/2026 & WA No.709/20 - 23 -

. 8. For the purposes of anchoring the present decision on a factual matrix, we consider it apposite to treat W.A.No.2050/2025 (EDN-RES) as the lead matter.

9. The writ petitioner (respondent No.1) is a student undergoing

the course of M.D. (General Medicine) in the University. She appeared in an examination conducted in September 2025, and secured an aggregate of 201 marks out of a maximum of 400 marks in the four theory papers. Whereas the marks obtained by her in theory papers I, II, and IV were above 40 out of 100, the marks obtained by her in paper III were 39. This was because one of the evaluators awarded 38 marks, while the other evaluator awarded 40 marks for the answer script. The average of the marks awarded by the two evaluators is taken for the final result. Thus, the writ petitioners marks in paper III were determined as 39 marks for the purposes of determining her final result. Since the said marks were below the minimum required to clear the examination, the writ petitioner was declared as failed. In the aforesaid circumstances, she filed the writ petition being W.P.No.34041/2025 (EDN-RES), inter alia, praying as under: "i. Issue a Writ of Mandamus or any other appropriate writ, order, or direction directing the Respondent-University to conduct an additional evaluation of the Petitioner's Answer Paper III of the subject M.D. General Medicine of the P.G Medical Examination of September

2025, by appointing two new examiners other than those who evaluated earlier, in accordance with its regulations and to declare the result based on the additional evaluation; and ii. Direct the Respondent-University to publish the revised result of the Petitioner expeditiously, within a time frame fixed by this Hon'ble Court, in the interests of justice and equity; and iii. Declare that the Registrar (Evaluation), being a statutory authority under the RGUHS Act, possesses the - 24 -

power and is under a duty to exercise such discretion in cases involving apparent evaluation errors or exceptional hardship, and that his refusal to do so in the present case amounts to non-exercise of jurisdiction and arbitrary inaction; and iv. To direct the Registrar (Evaluation), RGUHS, to exercise the discretion vested in him to order re-evaluation or additional evaluation in exceptional cases of manifest error, including that of the Petitioner herein, in accordance with the principles of fairness, equity, and uniformity; and v. Grant such other reliefs as this Hon'ble Court may deem fit in the circumstances of the case."

10. The said petition was allowed by an order dated 01.12.2025.

The operative part of the order reads as under: "ORDER i) The Writ Petition is hereby allowed. ii) Respondent No.1-Rajiv Gandhi University of Health Sciences, Jayanagar, Bengaluru is directed to refer Theory Paper No.3 written by the petitioner to a third Evaluator and announce the result, in terms of Regulation 8.4(b) of the Post Graduate Medical Education Regulations, 2023 within a period of three weeks from the date of receipt of a copy of this order."

11. Before proceeding further, it would be relevant to refer to the Regulations that govern the evaluation of the answer scripts. Regulation 8.4 of the Regulations is relevant, and the relevant extract is set out below. "8.4 Valuation:

a. All the teachers of the other colleges of the concerned University or other Universities, who are eligible to be post-graduate examiners, can perform the

b. All the answer scripts shall be subjected for two valuations by the concerned University. The average of the total marks awarded by the two valuers for the paper, which is rounded off to the nearest integer (whole number), shall be considered for computation of the results. All the answer scripts, where the difference between two valuations is 15% and more of the total marks prescribed for the paper shall be subjected to third valuation. The average of the best two total marks, awarded by the three evaluators for the paper, rounded off to the nearest integer (whole number), shall be considered for final computation of the results.

c. After the computation and declaration of the results, under no circumstances, revaluation is permitted. d. All the Health Universities/Institutions imparting post-graduate courses shall implement digital valuation.

CRITERIA FOR EVALUATION OF M.S./M.D./M.Ch./DM COURSES

S. Description	M.S./M.D./ No. M.Ch./DM Courses	1 THEORY	No. of Theory Papers	Marks for each Theory Paper	Total marks for Theory Paper	Passing Minimum for Theory
26	2	PRACTICAL/CLINICAL	300	3	VIVA VOCE	100
Passing minimum for Practical/Clinical including Viva voce The candidate shall secure not less than 50% marks in each head of passing which shall include (1)Theory aggregate 50% (In addition, in each Theory paper a candidate has to secure minimum 40%)						

(2) Practical/Clinical and Viva voce - aggregate 50%

(3) If any candidate fails even under one head, he/she has to re- appear for both Theory and Practical/Clinical and Viva voce examination.

(4) Five per cent of mark of total marks of Clinical/Practical and

Viva Voce marks (20 marks) will be of dissertation/thesis and it will be part of clinical/practical examination marks External examiner outside the state will evaluate dissertation/thesis and take viva voce on it and marks will be given on

quality of dissertation/thesis and performance on its viva voce.

(5) No grace mark is permitted in post-graduate examination either for theory or for practical.

12. Regulation 8.4(c) of the Regulations expressly prohibits

reevaluation of the answer scripts. Regulation 8.4(b) provides that the answer scripts shall be subjected to two evaluations, and the average of the total marks awarded by the two evaluators for the paper, rounded off to the nearest integer (whole number), would be considered for the computation of the results. There is no ambiguity in the method used to calculate the results.

13. The question of whether students/candidates are entitled to re-evaluation of answer scripts where the applicable rules and - 27 -

regulations prohibit the same is no longer *res integra*. In *Maharashtra State Board of Secondary and Higher Secondary Education and Another v. Paritosh Bhupeshkumar Sheth and Others* [(1984) 4 SCC 27], the Supreme Court considered an appeal from a High Court decision striking down a rule prohibiting the re-evaluation of answer books. The said rule had been challenged by certain students, *inter alia*, praying that they be allowed to inspect the answer sheets and the Board (Maharashtra State Board of Secondary and Higher Secondary Education) be directed to reevaluate the answer scripts. The Bombay High Court had partly allowed the writ petition. In the aforesaid context, the Supreme Court held as under:

"20. We consider that the above approach made by the High Court is totally fallacious and is vitiated by its failure to follow the well-established doctrine of interpretation that the provisions contained in a statutory enactment or in rules/regulations framed thereunder have to be so construed as to be in harmony with each other and that where under a

specific section or rule a particular subject has received special treatment, such special provision will exclude the applicability of any general provision which might otherwise cover the said topic. Regulation 102(2), if properly construed in the setting in which it occurs, only confers a suo motu power on the Divisional Board to amend the result of the examination in respect of any candidate or candidates on its being found that such result has been affected by error, malpractice, fraud, improper conduct, etc. The error referred to in the said provision has, in the context, to be understood as being limited to an error arising in consequence of malpractice, fraud, improper conduct or other similar matter of whatsoever nature. We are unable to understand this - 28 -

provision as conferring any right on an examinee to demand a disclosure, inspection or verification of his answer books or other related documents. All scope for doubt or speculation in relation to this matter has, however, been eliminated by the provision contained in Regulation 104 which specifically deals with the subject of verification of marks obtained by a candidate. Clause (1) of the said regulation states that any candidate who has appeared at the HSC examination may apply to Divisional Secretary for verification of marks, particularly in any subject, but such verification will be restricted to check whether all the answers have been examined and whether any mistake has been committed in totalling of marks in that subject or in transferring marks correctly on the first cover page of the answer book as well as whether the supplements attached to the answer books as mentioned by the candidates are intact. Clause (3) of the said regulation imposes the further limitation that no candidate shall claim or be entitled to revaluation of his answer book or disclosure or inspection of the answer book or further documents as these are to be treated by the Divisional Boards as most confidential. It is obvious that clauses (1) and

(3) have to be read together and not in isolation from each

other as has apparently been done by the High Court. The right of verification conferred by clause (1) is subject to the limitation contained in the same clause that no revaluation of the answer books or supplements shall be done and the further restriction imposed by clause (3), prohibiting disclosure or inspection of the answer books. The High Court seems to have construed the last portion of clause (3) as implying that the confidentiality of the answer books is to be declared by some order of the Divisional Board and it has proceeded to hold that since no such order was brought to - 29 -

the notice of the Court there was no basis for treating the answer books as confidential. In our opinion, this interpretation of the concluding words of clause (3) is incorrect. What is laid down therein is that the answer books and other documents are to be treated by the Divisional Boards as most confidential. In other words, this clause of the regulation contains a mandate to the Divisional Boards to treat the answer books and documents as confidential and lays down that no candidate shall be entitled to claim disclosure or inspection of the said confidential books and documents. We are also of the opinion that the High Court was in error in invoking the doctrine of implied power and obligation for the purpose of holding that because the right of verification has been conferred by clause (1) of Regulation 104, there is an implied power in the examinees to demand disclosure and inspection and a corresponding implied obligation on the part of the Board to accede to such a demand. There is no scope at all for invoking any such implied power or imputing to the regulation-making authority an intention to confer such power by implication when there is an express provision contained in the very same regulation [clause (3)] which clearly manifests the contrary intention and states in categorical terms that there shall be no claim or entitlement for disclosure or inspection of the answer books."

14. In a later decision in the case of Pramod Kumar Srivastava v.

Chairman, Bihar Public Service Commission, Patna and others³ , the Supreme Court referred to the decision in the case of Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupeshkumar Sheth (supra) and held as under: - 30 - "...in the absence of any provision for re-evaluation of answer- books in the relevant rules, no candidate in an examination has got any right whatsoever to claim or ask for re-evaluation of his marks..".

15. The Supreme Court reiterated the said principle in Board of

Secondary Education v. Pravas Ranjan Panda and another [(2004) 13 SCC 383] ; Himachal Pradesh Public Service Commission v. Mukesh Thakur and another [(2010) 6 SCC 759] ; and Central Board of Secondary Education and others v. Khushboo Shrivastava and others [(2014) 14 SCC 523.] .

16. We may also refer to the observations of the Supreme Court

in Ran Vijay Singh and others v. State of Uttar Pradesh and others [(2018) 2 SCC 357] . In this case, the Supreme Court carved out an exception and held it as an exception to the general rule that a re-evaluation is not permitted if the relevant rules or regulations do not provide for the same. The Court observed as under:

"30.2 If a statute, Rule or Regulation governing an examination does not permit re-evaluation or scrutiny of an answer sheet (as distinct from prohibiting it) then the court may permit re- evaluation or scrutiny if it is demonstrated very clearly, without any "inferential process of reasoning or by a process of rationalization" and only in rare or exceptional cases that a material error has been committed;

** ** 30.5 In the event of a doubt, the benefit should go to the examination authority rather than to the candidate." - 31 -

17. It is relevant to note that in the present case there is no

allegation of any malpractice, non-evaluation of answers, procedural irregularity or lack of competence on the part of the examiners. However, the petitioners contended that the re- evaluation of the answer scripts is warranted in exceptional circumstances where they had secured an aggregate of 50% overall marks in the theory papers, but were declared failed on account of their marks in one paper falling short of the threshold of 40 marks. The writ petitioners contend that in these peculiar circumstances, grave injustice would be caused if their answer sheets are not re-assessed.

18. We find little merit in the aforesaid contention. The criteria for

clearing an examination are well defined. Regulation 8.4 clearly stipulates that the student must meet the twin conditions to pass the examination. First, the aggregate marks in all theory papers are required to be 200 out of 400 or above. And second, the student must secure at least 40 marks in each paper.

19. The fact that the students have secured more than 200 out of

400 marks in aggregate but have failed to clear one or more theory papers is not an exceptional circumstance that would warrant any interference by this Court under Article 226 of the Constitution of India.

20. The criteria that a student must secure a minimum 50%

aggregate mark in all papers and secure a minimum threshold pass mark in each paper are neither novel nor unusual. It would be impermissible for the Court to direct re-evaluation of answer scripts solely because a student has not secured the minimum marks required for clearing an examination. - 32 -

21. The learned single judge directed the re-evaluation of the

papers, as the court felt it was equitable and necessary for substantial justice. We are unable to concur with the said view. There is no allegation that the evaluation is biased or that the evaluators were

incompetent to assess the papers. In the circumstances, absent any manifest error in the evaluation of answer scripts or the evaluation process, there is no justification - either on the ground of equity or law - to interfere with the examination results. Furthermore, such a direction to refer the answer scripts for re-evaluation is expressly prohibited under Regulation 8.4(c) of the Regulations.

22. In *Dr. NTR University of Health Sciences v. Dr. Yerra Thrinadh and others* [(2022) 18 SCC 718], the Supreme Court referred to the decision in the case of *Ran Vijay Singh* (supra) and had observed that:

"As observed and held by this Court in *Ran Vijay Singh* that sympathy or compassion does not play any role in the matter of directing or not directing re-evaluation of an answer sheet".

23. There is yet another contention advanced on behalf of the writ petitioners, which requires consideration.

24. It was contented that Regulation 8.4(b) also contemplates

that the answer scripts be subjected to a third evaluation if the difference between the two evaluators is 15% or more of the total marks prescribed for the paper.

25. The learned counsel for the writ petitioners submitted that the

variation of 15% in the marks awarded by the two evaluators ought to be the difference in the marks awarded as a percentage of the average marks awarded by the two evaluators and not the maximum marks for the paper in question. - 33 -

26. It is apparent that the provision for referring the answer

scripts to a third evaluator when the difference in valuations is large is to mitigate any inherent bias or arbitrariness in the subjective evaluation. Thus, the University has set the minimum variation as 15% of the total marks prescribed to trigger a reference to the third evaluator. There is little doubt that the object of the regulation is to make a reference to a

third evaluator when variation in marks by the two evaluators is large. The said object would be better served if the measure of the difference between the two evaluations is the percentage of the marks awarded, rather than the percentage of the maximum prescribed marks. In cases where the marks awarded are relatively low, the minimum variation of 15% of the maximum marks prescribed would be satisfied only if the variation is significantly larger than in cases where the marks awarded by the evaluators are higher. Since the maximum marks prescribed for all theory papers is 100; 15% of the total marks prescribed for the paper would be 15. The reference to the third evaluator would be made only if the variation between evaluations exceeds 15 marks. This variation in absolute terms is significantly higher in percentage terms of the marks actually awarded, if the marks awarded are relatively low. Illustratively, if one examiner evaluates the answer script and awards 10 marks, while the other awards 24, the variation in the marks calculated in reference to the marks awarded is huge, it is 140% of the marks awarded by the evaluator awarding 10 marks and 58.3% of the marks awarded by the evaluator awarding 24 marks. Despite the said huge variation, where the marks awarded by the second evaluator is 240% of the marks awarded by the first evaluator, reference would not be made to a third evaluator. This variation of 15 marks, would progressively decrease in percentage terms where the marks awarded by the evaluators is - 34 -

higher. Illustratively, if the first evaluator awards 80 marks and the second evaluator awards 95 marks, the variation is merely 18.75% of the marks awarded by the first evaluator and 15.78% of the marks awarded by the second evaluator. This variation is significantly lower in percentage terms than in a case where the first evaluator has awarded 10 marks and the second evaluator has awarded 24 marks. Nonetheless, a reference would be made to the third evaluator in the case of 80 and 95 marks, and not in the case of 10 and 24 marks.

27. In our view, it would perhaps have served the object better if

the minimum variation had not been pegged to the total marks prescribed for the paper, but to the marks as awarded by the examiners. However, this is a matter for the authorities framing the regulations to consider.

28. Since there is no ambiguity in the plain language of Regulation

8.4(b) of the Regulations, we are unable to interpret the said regulation to require interference to a third evaluator where the variation in the marks awarded is less than 15. The expression "total marks prescribed for the paper" cannot be construed to mean anything other than the maximum marks for the paper; that is 100 marks."

13. Considering the Judgment of the Division Bench of

this Court in W.A.No.2050/2025 and connected appeals, particularly at para 28, wherein it is held that there is no ambiguity in the plain language employed at Regulation 8.4(b) of the Notification at Annexure-C, I am of the view, that the contentions raised by the learned counsel for the petitioner that - 35 - Clause 8.4(b) of the Notification at Annexure-C is violative of the Articles 14 and 21 of the Constitution of India cannot be accepted.

14. It is also to be noted from the Judgment of the

Hon'ble Supreme Court in the case of DELHI CLOTH AND GENERAL MILLS LTD Vs. SHAMBHU NATH MUKHERJEE AND OTHERS reported in AIR 1978 SC 8, wherein the provision under the Industrial Disputes Act, 1947, was questioned, the Hon'ble Supreme Court at paragraph Nos.9 to 14 therein, has held as follows:

"9. We have to state the above facts in some detail as the appellant on the second day of the argument submitted before us that since he was raising the vires of Section 2-A on the ground of legislative incompetency the appeal had to be heard by a Bench of seven Judges under Article 144-A which was introduced by the 42nd Amendment of the Constitution. Before this constitutional question could be raised it must be manifest on the records that the question arose on the facts disclosed. As we have

pointed out, there was no allegation by stating appropriate facts that the dispute of the workman had not been espoused by the union or by a substantial number of workmen. There is nothing to show on the face of the Reference that the Administration was considering the case on the basis of Section 2-A of the Act. Even though recital of Section 2-A was not there in the Reference, it was open to the management to raise the -
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issue before the Labour Court as to whether in fact it was a dispute which was referred by the Administration merely on the application of the workman. On the other hand, we find that the Reference was made by the Lieutenant Governor under Section 10(1)(c) read with Section 12(5) of the Act. There is nothing to show that even before the Conciliation Officer any objection was taken by the management that it was not an industrial dispute within the meaning of Section 2(k) of the Act. Nothing prevented the management from raising such an issue even before the Conciliation Officer. We are, therefore, clearly of opinion that this is not a case where litigation can be allowed to be dragged on by allowing the management to raise this question for the first time in this Court without any basis. We, therefore, decline to accede to the request that this is at all a fit appeal for reference to a Bench of seven Judges. There is no basis for considering the provision of Section 2-A in this appeal.

10. With regard to the objection on the score of Article 14 of

the Constitution, it is sufficient to state that the matter is concluded by the principle laid down by this Court in *Niemia Textile Finishing Mills Ltd. v. 2nd Punjab Industrial Tribunal* [AIR 1957 SC 329 : 1957 SCR 335 : 11 FJR 481 : (1957) 1 Lab LJ 460] . In that case a challenge was made, inter alia, to Section 10 of the Act as being invalid on the ground of violation of Article 14 of the Constitution. In an exhaustive judgment this Court repelled the contention.

11. It is submitted by Mr Dial that in that decision this Court

was only required to consider the objection raised on the score of Article 14 on a ground which is different from the one he would like to take before us. We are, however, unable to accept - 37 -

this submission. If this Court held Section 10 as intra vires and repelled the objection under Article 14 of the Constitution it would not be permissible to raise the question again by submitting that a new ground could be raised to sustain the objection. It is certainly easy to discover fresh grounds of attack to sustain the same objection, but that cannot be permitted once the law has been laid down by this Court holding that Section 10 of the Act does not violate Article 14 of the Constitution. The ratio decidendi of Niemla Textile Finishing Mills will apply while dealing with the objection under Article 14 of the Constitution in respect of the present reference under Section 10(1)(c) of the Act. The submission of the learned counsel is, therefore, devoid of substance.

12. The question then arises whether the High Court was

right in refusing to interfere with the award under Article 226 of the Constitution. There is no manifest error of law on the face of the award and none could be pointed out by the learned counsel. Neither is there any error of jurisdiction. The issue before the Labour Court was one of reinstatement of the workman and the Labour Court was entitled to go into the whole question which it did. We do not find any infirmity in the award.

13. On the face of it, the order striking off the name of the

workman from the rolls on August 24, 1965, is clearly erroneous. No order, even under Section 27(c) of the Standing Orders, could have been passed on that date. The clause in the Standing Orders reads as follows: If any workman absents for more than eight consecutive days his

services shall be terminated and shall be treated having left the service without notice. - 38 -

The workman last attended work on August 14, 1965. August 15 was a public holiday. He was, therefore, absent from work only from 16th of August. So even under the Standing Orders the workman was not absent for more than eight consecutive days on August 24, 1965. The order is, therefore, clearly untenable even on the basis of the Standing Orders. It is not necessary to express any opinion in this appeal whether eight consecutive days in the Standing Orders mean eight consecutive working days.

14. Striking off the name of the workman from the rolls by the

management is termination of his service. Such termination of service is retrenchment within the meaning of Section 2(o) of the Act. There is nothing to show that the provisions of Section 25-F(a) and (b) were complied with by the management in this case. The provisions of Section 25-F(a), the proviso apart, and

(b) are mandatory and any order of retrenchment, in violation of these two peremptory conditions precedent, is invalid."

15. Following the declaration of law made by the

Hon'ble Supreme Court in the above case, wherein the Division Bench of this Court in the aforementioned Writ Appeals has considered the validity of Clause 8.4(b) of the Notification at Annexure-C and same has been upheld on the ground that there is no ambiguity in the aforementioned Clause, I am of the view that, no interference is called for in this Writ Petition. Accordingly, this Writ Petition is dismissed. - 39 -

16. In view of dismissing the Writ Petition on merits

and holding that Clause 8.4(b) of the Notification at Annexure-C is in accordance with Article 14 of the Constitution of India, I am of the view, that the alternative

prayer sought for by the petitioner also cannot be accepted, and accordingly, same is rejected. Sd/- (E.S.INDIRESH) JUDGE sac List No.: 1 SI No.: 54

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