

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (Civil) No.298/2015

Tanvi Sarwal

....Petitioner

Vs.

Central Board of Secondary Education and Ors.Respondents

WITH [W.P.(C)Nos.299/2015, 305/2015 and W.P.(C)No.325/2015]

J U D G M E N T

AMITAVA ROY, J.

All these Writ Petitions, analogously heard, register a challenge to the All India Pre-Medical and Pre-Dental Entrance Test, 2015 (hereinafter referred to as Test/Examination) held on 03.5.2015 under the aegis of the Central Board of Secondary Education, New Delhi (for short hereinafter referred to as “CBSE/Board”) having been perceived by the petitioners to have been irreversibly vitiated by the use of unfair means and malpractices through electronic gadgets and devices facilitating the

illegal and unfair access to 90 answer keys during the examination conducted on 03.5.2015 to the beneficiary candidates of such corrupt design at the behest of a syndicate for unlawful gain. Whereas the petitioner in W.P.(Civil) No. 325/2015 has introduced himself to be a social activist and a reformer claiming to espouse a public cause, the others registering the impugment, are the candidates who have taken the examination and apprehend that not only they but also others who are similarly situated and have put in sincere and hard labour would therefore be unfairly outperformed by those availing the advantage of the pilfered answer keys provided by a group of operators by misusing the information technology.

2. We have heard the learned counsel for the parties.

3. The skeletal facts outlining the factual conspectus would be briefly narrated so as to better comprehend the issues seeking adjudication.

4. The CBSE had issued an admission notice in the month of November 2014 intimating that the All India Pre-Medical/Pre-Dental Entrance Test for the Academic Session 2015-16 would

be held on 03.5.2015. The examination was to consist of one paper of 180 objective type questions from Physics, Chemistry and Biology (Botany & Zoology) and of duration of three hours from 10.00 a.m. to 1.00 p.m. As a matter of record, the test/examination was to be conducted for 15% All India Quota Seats and was to be governed by the Rules and Regulations in that regard framed by the Ministry of Health and Family Welfare, Govt. of India from time to time. The CBSE has been conducting such examination and declaring the results thereof and thereafter providing the merit list to the Director General of Health Services and the participating States/Universities/Institutions in order to facilitate their counseling/admissions. Some States/Universities/Institutions have also been voluntarily participating in the examination for using the merit list prepared for admission in the Medical/Dental Colleges against seats under their control. Admittedly, the counseling of the successful candidates under 15% quota seats is conducted by the Director General of Health Services (for short also hereafter referred to DGHS) and the counseling for admission to seats for the other participating States/Universities/Institutions is conducted by their respective authorities.

5. As scheduled, the examination was held on 03.5.2015 between 10.00 a.m. to 1.00 p.m. and more than six lakh candidates did take part therein. The examination was held in 1050 centers all over the country. Immediately thereafter on 04.5.2015, news reports started surfacing in many dailies disclosing that 90 answer keys had been transmitted to the candidates during the examination, in consideration of Rs.15 to 20 lakhs and that Rohtak Police had meanwhile arrested 7 persons including 2 doctors and one MBBS student for conspiring to effectuate the said plot. Reference was also made to the disclosures in the investigation, to the effect that the arrested individuals in collusion with others had arranged for supplying vests fitted with SIM card etc. apart from Bluetooth device to facilitate transmission of answer keys through such appliances to the users thereof. It was mentioned, that the same gang had been involved in the leakage of AIIMS Medical Examination in the year 2012 by applying the same modus operandi. Contending that the revelations in the investigation underway, did demonstrate the use of such unfair and illicit means thus vitiating the examination as a whole, denuding it of its credibility and sanctity, the petitioners have sought to invoke the

jurisdiction of the Court under Article 32 of the Constitution of India to annul the examination. The necessity of holding a fresh examination has been emphasized, stating that in terms of the time schedule fixed by this Court, the results in the examination were to be declared by 5.5.2015 to be followed by the first counseling of All India quota seats, to be completed by 30.6.2015 and second counseling by 8.8.2015. That the academic session as per the time schedule was to commence on 1.8.2015 and that no student could be admitted to the course after 30.9.2015 was underlined as well.

6. Having regard to the gravity of the imputations made and the prime facie materials furnished with the petition in W.P.(Civil) No. 298/2015, this Court issued notice on 18.5.2015 directing dasti service on all the respondents. The other Writ Petitions gradually got tagged having regard to the identicalness of the issues involved. On 21.5.2015, after hearing the learned counsel for the parties and on a consideration of the status report dated 20.5.2015 submitted by the Superintendent of Police, Rohtak, Haryana with regard to the progress of the investigation in the matter, this Court, feeling the urgency, required the police to complete the investigation at the

earliest and directed submission of the next status report by 26.5.2015. On a perusal of the next status report dated 26.5.2015, this Court by its order of the same date, directed the investigation to proceed and ordered that the cases be listed on 3.6.2015. The police was required to file further status report by then and try to complete the investigation meanwhile. On 3.6.2015, on a consideration of the status report dated 2.6.2015 filed by the S.P., Rohtak, Haryana and noticing the progress made and the materials collected in support of the allegations and being of the view that all the beneficiaries of the stratagem were yet to be identified, on balancing the equities, this Court directed that further steps in examination process be kept in abeyance till the next date i.e. 10.6.2015. On the prayer made on behalf of the CBSE so as to enable it to file its affidavit, the hearing of the petitions was postponed till 12.6.2015. The interim restraint was extended.

7. Apt it would be, before adverting to the pleaded assertions on behalf of the CBSE to extract the relevant excerpts of the status reports dated 20.5.2015, 25.5.2015, 2.6.2015 and 11.6.2015 submitted by the investigating agency so as to mark the progress in

the inquisition, facts unearthed, arrests made and also the extent of identification of the beneficiaries arrested by the police till date.

RELEVANT EXTRACTS FROM THE STATUS REPORTS DATED
20.5.2015, 25.5.2015, 02.6.2015 AND 11.6.2015

20.5.2015:

“1. That on 03.5.2015, a secret information was received from an informer that some persons namely Bhupender S/o Sh. Satpal R/o Gudhana, District Bhiwani, Haryana, Rajesh S/o Sh. Umed Singh R/o Gaddhi Kheri, District Rohtak, Haryana, Sanjeet S/o Sh. Ramkishan R/o Basant Vihar, District Rohtak, Haryana and Ravi S/o Sh. Gorakh Singh R/o Greater Noida, Uttar Pradesh are involved in leakage of answer key or question paper of AIPMT Exam and its circulation to candidates in lieu of monetary gain and who are moving around in Swift Car No. HR-12R-5552 in Rohtak. After receiving the information, raids were conducted by the police near examination centres. During checking a car bearing No. HR-12R-5552 came from the Delhi bypass to Jhajjar Road, Rohtak and on checking the car, four persons were found sitting in the car. During verification, the person who was driving the Swift Car No. HR-12R-5552 disclosed his identity as Dr. Bhupender Singh (BDS) S/O Sh. Satpal R/o Gudhana, District Bhiwani, Haryana and his mobile NO. 9992472959 was checked and answer key of code ‘G’ of AIPMT question paper i.e. 23331* 11431* 23432* 33214* 24214* 44233* 12131*33142*34133*34432*34234*41124*31234*31313 *44444*24001*31222*42121*1365E*222*142*9342341*2 3222*32341*43244*43114*21224 was found in his mobile and the message of said key was also forwarded at 12.51 PM on 03.5.2015 to mobile number 7409770216

and at 12.56 PM to mobile number 8397804478. Similarly as per record, answer key of cod 'F' of AIPMT exam 2015 was also transmitted from mobile number 9996668824 (used & recovered from accused Dr. Sanjeet) to mobile number 9899089958 (used by Mr. Gautam student of MBBS from Ujjain, Madhya Pradesh) at 12.33 PM through Whatsapp. It is pertinent to mention here that timing of transmitting of answer key to other candidates of different states can only be ascertained after the arrest of main accused i.e. Roop Singh Dangi. Further after his arrest the exact point of leakage of AIPMT exam question paper could be ascertained. During verification of the other three persons sitting on rear seat of Swift car, their identity was known as Rajesh (MA, MEd qualified person) S/o Sh. Umed Singh R/o Gaddhi Kheri District Rohtak, Haryana, Sanjeet (BDS Doctor) S/o Sh. Ramkishan R/o Basant Vihar, District Rohtak, Haryana and Ravi (Student of MBBS from PGIMS, Rohtak) S/o Sh. Gorakh Singh R/o Greater Noida, Uttar Pradesh. During checking of Ravi (Student of MBBS) a carton containing three vests of gents (two black colour and one grey colour) and three lady vest (white colour) were found. All the above said vests were tagged with micro SIM devices, five Bluetooth devices were also recovered from the possession of Ravi (Student of MBBS from PGIMS, Rohtak), five data cables were recovered from the possession of Sanjeet (BDS Doctor) and one wrist watch consisting spy camera including data cable was recovered from the possession of Rajesh (MA, Med qualified person). The entire recovered articles were taken in possession by the Police officer through recovery memo. On finding that answer key had already been leaked and transmitted to different mobile numbers prior to end of the exam, the Police Officer sent a written report to the Station House Officer sent a written report to the Station House Officer, Police Station PGIMS, Rohtak and consequently a case FIR No. 110 dated 04.5.2015 U/s 420/120B IPC & 66 IT Act was registered

in Police Station PGIMS, Rohtak, Haryana against Bhupender, Rajesh, Ravi and Sanjeet.

2. That during investigation, the accused suffered disclosure statements on which basis police proceeded with investigation. Inspector Vijay Singh, Incharge CIA – 2 unit, investigating officer of the case produced the four arrested accused before the Id. Area Magistrate at Rohtak. On the application of the investigating officer, the court of learned area magistrate granted four days police custody.

3. That during interrogation, the accused suffered the disclosure statement on 05.5.2015 that about 15/16 days back, a meeting was organized by Roop Singh Dangi S/o Ramphal R/o Village Madina, District Rohtak, Haryana at his house in OMAX City Rohtak with co-accused namely Sonu @ Dhan Singh S/o Dalel R/o Village Gadhhi Kheri, District Rohtak, Haryana, Sunny Dahiya S/o Ranbir Singh R/o Kripal Nagar Rohtak, District Rohtak, Haryana and Rakesh Guliya. As per disclosure statement of Dr. Bhupender, Rajesh, etc. in the meeting it was decided that for qualifying AIPMT exam Rs. 20 lakhs will be taken from the candidates and the person who ropes in such candidates will be given one third of the amount. It was also disclosed by the above accused that Roop Singh Dangi will leak the AIPMIT question paper from Behror (Distt. Alwar, Rajasthan) and after arranging the answer key, provide it to Dr. Bhupender, Ravi (Student of MBBS), Dr. Sanjeet and Rajesh through mobile phone. It was also disclosed by Dr. Bhupender and co-accused (Rajesh, Ravi & Dr. Sanjeet arrested accused) that they contacted one Subhash Shrivastav, who runs an electronic gadgets shop in Patel Nagar, New Delhi in the name of “SPY SHOP” and told him about the whole plan and requested him to supply them undergarments of gents and ladies in which they can fix the SIM devices, etc. On this, Subhash Shrivastav, owner of the shop stated that this is illegal work, so he will take four times the cost of the garments.

On this, Rs. 60,000/- for six garments were paid to Subhash Shrivastav.

4. That during investigation it is found that on 02.5.2015, Roop Singh Dangi and co-accused Sunny S/o Ranbir Singh booked four rooms on the ID of Sunny in Shakti Resort, Behror, District Alwar, Rajasthan. That CCTV camera footage and relevant documentary evidence were collected and prima facie it was proved that accused Roop Singh Dangi was present at Shakti Resort, Behror, District Alwar, Rajasthan on 03.5.2015 along with master solvers. It is pertinent to mention here that besides private cars, three buses were used by the accused Roop Singh Dangi to transport the master solvers/beneficiaries from various places to Behror. The statement of Manager of the Shakti Resort, Behror, District Alwar, Rajasthan, and another hotel in which accused Roop Singh Dangi and other exam solvers/beneficiaries stayed has been recorded u/s 161 Cr. P.C. by the investigating officer.

That during investigation, till date, it has come on file that accused Roop Singh and co-accused namely Krishan, Sunny Dahiya etc. have telephoned several people in different cities of Bihar, Jharkhand, Uttar Pradesh, Rajasthan, Delhi, Maharashtra, Odisha and Haryana from several SIM cards from Behror. It is pertinent to mention here that Investigating Officer of the case invoked section 467/468/471 of the IPC in the case no. 07.5.2015.

During investigation, it was revealed that out of 123 'solved' answers of code "G" found in the mobile set of arrested accused Dr. Bhupender, 102 answers were found correct while comparing with the answer key provided by the CBSE on their official website <http://aipmt.nic.in> Similarly 42 answers were found

correct out of 50 of solved answer key delivered of Code “F” by the accused.

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9. That during investigation it came to notice that arrested accused Ravi (MBBS Student) was found involved in case FIR No. 06 dated 08.1.2012 Under Section 420/1208 IPC Police Station Crime Branch District Daryaganj, Delhi regarding leakage of All India P.G. Medical Entrance Examination -2012. Further another case FIR No. 178 dated 27.5.2012 Under Section 419/420/468/471/1208 IPC was registered in Police Station Shabad Diary, District Outer Delhi has been found against accused Ravi for the offence of leakage of State Bank of India competition exam. It is pertinent to mention here that in these two cases, accused Ravi had leaked the respective exam by similarly using electronic gadgets and devices.

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10. That during the course of investigation, on 19.5.2015 accused Subhash Shrivastav (owner of spy shop) supplier of under garments affixed with electronic gadgets which were instrumental in leakage of AIPMT exam 2015 has been arrested from Delhi and has been produced before Id. Area magistrate, which has granted 2 days police custody. During preliminary interrogation, he has admitted that he sold around 300 such vests to others just before the exam.”

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25.5.2015:

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“4. That it is suspected that 358 mobile numbers were used for receiving answer keys of unfairly solved question papers of AIPMT-2015 to various mobile phones across the country while the exam was being conducted

at various centres in the country from Behror, District Alwar, Rajasthan, where the question papers were solved by the accused persons. Out of these 358 mobile numbers, 260 mobile numbers were of other states and remaining 98 mobile numbers belong to the State of Haryana and the verification of these 98 SIM card holders is still under process.

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6. That on 25.5.2015, information was received from Central Board of Secondary Education (CBSE) regarding alleged malpractices in the AIPMT-2015. The list of unfair means cases which comprises of a total of 29 cases has been received and out of these, in 21 cases the modus operandi is similar in nature i.e. use of electronic devices with concealed wiring in the undergarments and in one such case, an FIR No. 105 dt. 03.5.2015 U/s 420/511/120-B IPC & Section 66 of IT Act, Police Station Bistupur, District Jamshedpur, Jharkhand has been found to be registered against three aspirants namely Md. Shabbir Zeya Roll No. 51700365, Shashi Shekar Azad Roll No. 51700543 and Dhananjay Kumar Yadav Roll No. 51700222. All the three students were caught with vests fitted with electronic communication devices. It is pertinent to mention here that as per information received from CBSE, 15 candidates of one examination centre namely Siliguri Model High School Sr. Sec. Gurung Basti, P.O. Pradhan Nagar, Siliguri Distt. Darjeeling, West Bengal (Centre 55207) were caught with vests fitted with electronic devices. It is further submitted that in five cases it was found that the candidates were found in possession of other electronic devices for receiving messages. Similarly, another case FIR No. 208/15 has also been registered against student Annu Lal Roll No. 54835467 by Lucknow Police, Uttar Pradesh as he was also caught with an electronic device tied on his left hand with speaker in the ear. All the above aspirants need to be joined investigation in the instant case as well.“

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02.6.2015:

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“3. That after sincere efforts, accused Nanha Kumar S/o Sh. Meena Parsad, resident of Kushi Nagar, Uttar Pradesh, who appeared in AIPMT -2015 was arrested on 29.5.2015. During interrogation, he disclosed the name of Sujit S/o. Sh. Dud Nath, who also appeared in AIPMT -2015 and there upon he was also arrested by the SIT. Two vests of gents tagged with micro SIM devices, ear devices, charger and two mobile phones of dual SIMs were also recovered from the possession of both the accused Nanha and Sujit. During interrogation, they further disclosed that all these items were provided to them by one Vijay Yadav, who is a student of MBBS 1st Year in Banaras Hindu University, Uttar Pradesh.

4. That during investigation, both the arrested candidates disclosed that they had jointly prepared for AIPMT -2014 with the said Vijay Yadav and one Rahul Verma. They further stated that Vijay Yadav and Rahul Verma were able to successfully qualify AIPMT -2014 by using the same modus operandi, i.e. use of electronic devices with concealed wiring in the under garments. As a result of it, they could secure admission in prestigious Medical Colleges i.e. King George Medical College, Lucknow, Uttar Pradesh and Banaras Hindu University, Uttar Pradesh respectively. Influenced by their success in the 2014 examination, the two arrested candidates admitted to having met Vijay Yadav and Rahul Verma regarding AIPMT – 2015 and it was decided that for qualifying AIPMT – 2015 Rs. 17 lakhs each will be paid by both of them to Vijay Yadav and Rahul Verma. They further disclosed that on 30.4.2015 they paid token money i.e. Rs. 50,000/- to Vijay Yadav, who provided the vests fitted with electronic devices and promised to deliver the answer key on the day of examination. They

further stated that they received answer keys during the examination hours through electronic devices, which were supplied by Vijay Yadav and with the help of answer key they solved the question paper of AIPMT – 2015. On 30.5.2015, they were produced before the Id. Area Magistrate, Rohtak, which granted six days police remand.

5. That it is pertinent to mention here that during investigation, the accused Nanha and Sujit disclosed that even in UPPMT – 2015 state examination held on 25.5.2015, they received answer keys from Vijay Yadav by using the same modus operandi, i.e. use of electronic devices with concealed wiring in the under garments.

6. That on 01.6.2015, during the course of investigation, accused Vijay Yadav S/o Sh. Satnarain Yadav (student of MBBS from BHU) has been arrested from Village Padroma, District Kushi Nagar, Uttar Pradesh. During interrogation, on 02.6.2015, he suffered a disclosure statement in which he stated that he used to prepare for AIPMT entrance exam along with Rahul Verma. He further stated that he along with Rahul Verma were able to qualify AIPMT – 2014 by using the same modus operandi, i.e. use of electronic devices with concealed wiring in the under garments. He further disclosed that answer keys were supplied to them by one Veer Bahadur (friend of Rahul Verma) and he along with Rahul Verma got admission in prestigious Medical Colleges. He further stated that this year he along with Rahul Verma again contacted Veer Bahadur regarding AIPMT – 2015 and it was decided that for qualifying the AIPMT exam, Rs. 17 lakhs each will be taken from the interested candidates and they managed to prepare four candidates for the same. They collected original marksheets of all four candidates as surety. He further admitted that on 30.4.2015, he provided vests fitted with electronic devices to candidates namely Nanah, Sujit, Vinod and Sneh and received token money of Rs.

50,000/- each from Nanah and Suit and Rs. 30,000/- each from Vinod and Sneh.

7. That accused Vijay Yadav further disclosed that on 02/3.5.2015, he went to Shakti Resort at Behror, Rajasthan by private bus (which was arranged by main accused Roop Singh Dangi). He also admitted that he met the said Veer Bahadur at Shakti Resort, Behror, Rajasthan where Roop Singh Dangi was already present who provided them new mobile phones and SIM cards. He further disclosed that Roop Singh Dangi had leaked the AIPMT question papers and supplied the answer keys with the help of master solvers. He further stated that the solved answer keys were supplied to the candidates namely Vinod, Sneh, Nanah and Sujit during the examination hours through mobile phone from Behror, Rajasthan. He was produced before the Id. Area Magistrate, Rohtak on 02.6.2015, which granted three days police remand. Further interrogation is going on.

It is further submitted that, in reference to the DO letters written by the answering respondent to the SPs concerned regarding verification of 260 suspected mobile numbers, report of 50 mobile numbers/SIM cards have been received till date. Out of these 50 mobile numbers, 22 mobile numbers/SIM cards were found to be registered on fake identities.”

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11.06.2015:

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“4. That till date, 44 candidates have been found to be confirmed beneficiaries who were supplied answer keys during the examination by the gang through special vests fitted with electronic gadgets. The detail of 44 beneficiaries’ candidates is annexed as ANNEXURE R -1. It is pertinent to mention here that out of 44 candidates, FIRs, have already been registered against three

candidates in districts Jamshedpur, Jharkhand. Out of the remaining 41 candidates, 21 candidates were joined investigation by the SIT who admitted to having received answer keys through vests fitted with electronic devices during the examination hours. Notices to join investigation have been served upon the remaining 20 candidates who have yet to do so. The above mentioned 44 beneficiaries appeared in the examination at various centres spread across the country. Out of these, 15 candidates appeared at Siligudi, District Darjeeling, West Bengal; 11 appeared at Rohtak, Haryana; four appeared at Ajmer, Rajasthan; three appeared at Delhi; three appeared at Jamshedpur, Jharkhand, and one each at Shimla, Himachal Pradesh; Dehradun, Uttarakhand; Patna, Bihar; Gurgaon, Haryana; Chandigarh; Bhubaneswar, Odisha; Bagdogra, District Darjeeling, West Bengal and Nagpur, Maharashtra and all them were able to secure answer keys through vests fitted with electronic devices.

6. That from the investigation conducted so far, it has been revealed beyond doubt that the network of this organized gang was spread across different parts of the country. Beneficiaries Sanjit and Naneh and the gang's intermediary/handler Vijay Yadav (MBBS student from BHU) were already arrested from Kushi Nagar, Uttar Pradesh. It is further submitted that on 07.6.2015, during the course of investigation, one Parimal Koth Paliwal S/o Sh. Chander Shekhar Paliwal resident of House No. 389 Gajesh Nagar, Nagpur, Maharashtra, who owns a consultancy firm in Nagpur, Maharashtra was also arrested and during interrogation, he suffered the disclosure statement in which he admitted that he and his accomplice Abid Ali (2nd year MBBS student in Basant Dada Pawar Medical College, Nasik, Maharashtra) were able to successfully deliver answer key to a candidate namely Sahil S/o Sh. Bhand Kishore Gaddam resident of Bodh Colony, Azad Chowk, District Gondia, Maharashtra

through the same *modus operandi*. The notices were served upon both the accused to join the investigation.

7. It is further submitted that in reference to the DO letters written by the answering respondent to various district SsP regarding verification of 358 suspected mobile numbers of beneficiaries, verification reports of 210 mobile numbers have been received till date, the details of which are as under:

44 mobile numbers were found to be registered on fake identities. 166 mobile numbers were found to be registered on genuine addresses and as per the verification reports, relatives/wards of 37 out of these 166 mobile number users appeared in AIPMT – 2015. Out of these 37 mobile number users, incriminating evidence has been found against 17 candidates / SIM cards holders (confirmed beneficiaries). The remaining 20 users need to be joined investigation. The verification of remaining 148 mobile numbers is still under process.

10. During interrogation, accused Vijay Yadav stated that he knew two persons namely Vikas and Sumit both residents of Prem Market, Gohana, District Sonapat, Haryana who are master solvers and who solved the question paper on 03.5.2015 from Shakti Resort, Behror, Rajasthan. Thereafter, on 06.6.2015 accused Vikas S/o Sh. Rishiraj and Sumit S/o Sh. Suresh both residents of Ward No. 13, Prem Market, Rohtak Gate, Gohana District Sonapat, Haryana were arrested. During preliminary interrogation, they disclosed that one Guddu of Rohtak, Haryana contacted them before the examination and discussed about leakage of question paper of AIPMT -2015 and it was also decided that they will be paid Rs. 50,000/- each for solving the question paper and they further admitted to having received Rs. 10,000/- each as advance money. They also disclosed that on 02.5.2015, the reached Shakti Resort, Behror, Rajasthan and in the

evening they met the main accused Roop Singh Dangi who told them that the question paper will be supplied to them about one hour prior to the start of the examination. They further disclosed that main accused Roop Singh Dangi provided them question paper of AIPMT – 2015 at about 10.30 AM and after receiving the question paper they solved it from Shakti Resort, Behror, Rajasthan and the answer keys were circulated to candidates across the country.”

8. The CBSE in essence, while contending that there had been no omission or lapse on its part, in taking the necessary precautions for making foolproof arrangements, for smooth and fair conduct of the examination, has asserted that in view of the time schedule fixed by this Court in *Mridul Dhar Vs. Union of India* (2005) 2 SCC 65 and *Priya Gupta vs. State of Chhatisgarh* (2012) 7 SCC 433, the prayer for holding a fresh examination would evidently upset the same and would result in formidable delay in all the following stages and adversely impact upon the academic session as well as the prospects of the candidates involved. While iterating that, it having prepared the answer key of 11.5.2015 there was no scope for the same being leaked prior to or on 3.5.2015 from its hold, the CBSE has stated, that in addition, it had provided various

checks and balances, whereby every candidate in one examination room had been furnished with different sets of question papers where not only the sequence of the questions was different but even the order of choices of the answers did vary. It has stated as well that, in order to ensure smooth and secured conduct of the examination, all necessary authorities including the Director General of Police/S.P. of Police of all the States and Union Territories had been requested to take the necessary steps. That in response to a request, made by the investigating agency, it had furnished the requisite information, with regard to the question key 1 to 90, has been stated. The CBSE has claimed, that the answer keys of four sets of questions papers have been displayed on its web site from 18.5.2015 to 20.5.2015 and the individual OMR images of each candidate have also been provided from 21.5.2015 to 23.5.2015. Accordingly, an opportunity to challenge the answer key had been provided to the candidates and their objections as received have been finalized by the subject experts. It, however, admitted to have been reported of 29 cases from certain examination centers in the country where

unfair means were allegedly used in the examination and out of those, in 21 cases, candidates have been reported to have used electronic devices concealed in their vests/undergarments. According to the Board, it did forward the details of 29 candidates to the investigating agency. While pleading that in such a situation, pending the completion of the investigation, and identification of the beneficiaries of such malpractice, necessary action may be permitted to be taken against those already identified only and that the examination as a whole ought not to be scrapped in the interest of other students, the Board has indicated as well that having regard to the magnitude of the exercise to be undertaken, it would require at least 120 days to hold a fresh examination and that the whole process thereby would be delayed by four to seven months thus dislocating the time schedule therefor as fixed by this Court.

9. In this pleaded background, the learned counsels for the petitioners led by Mr. Jaideep Gupta, Sr. Advocate have assertively argued that it being evident from the findings in the investigation till this stage, that a countrywide network with a

preplanned design by a group of unscrupulous persons has successfully made, inroads in the examination process and has been able to illegally communicate the answer keys to a substantial number of candidates through electronic devices, the entire process stands defiled beyond repair and thus it ought to be nullified forthwith. According to them, with the progress of the investigation, the modus operandi has become apparent and the arrest of some of the perpetrators of the offence involved and the beneficiaries thereof, warrant immediate cancellation of the besieged examination in order to sustain the faith of all and sundry in the existing system of examination to judge the inter se merit of the participating candidates. The learned counsels have insisted, that having regard to the strategy applied and the electronic appliances used, non-identification of all the beneficiaries cannot be a defence to save the examination afflicted by an incurable infirmity and thus a fresh examination is the only alternative in the attendant facts and circumstances. Having regard to the expected sanctity of an examination process, and the nature and extent of vitiation by the diabolic and deplorable outrages

disclosed in the investigation till this stage, the beneficiaries of the plot even if they remain unidentified, cannot be permitted to score a march over their counterparts who are not party to the fraud and cannot be made to suffer for no fault of theirs, they maintained.

10. Per contra, Mr. Ranjit Kumar appearing for the Union of India as well as the CBSE has asserted, that the Board having taken all precautions to hold the examination fairly and in accordance with the law, it cannot in any view of the matter be held liable for any lapse. He has urged that, even assuming that some beneficiaries of the alleged deceitful operation had been identified in course of the investigation, these being only 44 in number, the whole process cannot be construed to have been invalidated thereby. He has argued that in such an eventuality, having regard to the time schedule fixed by this Court and in the interest of other six lakh students, at best, the results of these identified beneficiaries can be kept withheld and the process be allowed to proceed to its logical end. He reiterated, abiding by the pleaded stand of the Board, that cancellation of the examination is not called for and that

in case it is done, it would require at least four months for the same to be held again having regard to the infrastructural and other imperatives.

11. We have extended our anxious consideration to the averments, the documents laid and the contentious arguments advanced. Admittedly, the examination under the scanner had been conducted by the CBSE on 03.05.2015. The duration of the examination, the type of questions, total marks and the mode of assessment of performance, have been referred to hereinabove. 180 objective type questions were to be attempted by the students in the examination. While the test was on, as it appears from the status reports submitted before this Court by the Superintendent of Police, Rohtak, Haryana, a secret information was received that some persons namely Bhupender S/o Shri Satpal, Rajesh S/o Shri Umed Singh, Sanjeet S/o Shri Ramkishan and Ravi S/o Shri Gorakh Singh, were involved in the leakage of answer key of the question paper of the said examination and the circulation thereof to the candidates, in lieu of monetary gain and that they were moving around in a Swift Car No. HR-12R-5552 in

Rohtak. In course of the raids conducted by the police near examination centers, they intercepted a car with the above registration number on Delhi Bypass Road to Jhajjar Road, Rohtak in which four persons were travelling. On interrogation, it appeared that the car was being driven by Dr. Bhupender Singh S/o Shri Satpal and on checking his mobile number 9992472959, several answer keys were found stored therein and further message of such key had been forwarded at 12.51 PM on the same date i.e. 03.05.2015 to two mobile numbers. As per the status report dated 20.05.2015, the answer key of the same examination was found to be transmitted from the mobile number of Dr. Sanjeet, who was also travelling in the car to the mobile number of one Mr. Gautam, student of MBBS from Ujjain, Madhya Pradesh at 12.33 PM through Whatsapp. Investigation followed thereafter and is continuing as on date as adverted to hereinabove from time to time, the investigating agency has submitted status reports on 20.05.2015, 25.05.2015, 02.06.2015 and 11.06.2015, the relevant extracts wherefrom have already

been quoted. A bare perusal of the said excerpts yields the following salient features:

- (a) On verification of the identity of the other occupants of the car those were disclosed to be Rajesh S/o Shri Umed Singh and Ravi S/o Shri Gorakh Singh, a student of MBBS from PGI, Rohtak.
- (b) On frisking Ravi, a carton containing three vests of gents and three vests of ladies were found to be tagged with micro SIM.
- (c) Similarly five Bluetooth devices were discovered from the possession of Sanjeet, a doctor.
- (d) One wrist watch consisting spy camera including data cables was recovered from the possession of Rajesh.
- (e) The arrested accused persons made disclosures indicating that a meeting was organized by one Roop Singh Dangi S/o Ram Pal at his house at Omax City, Rohtak in which it was decided that Rs.20 lakh each would be taken from the candidates to help them for qualifying in the examination and that the person who would be able to bring such candidates would be awarded 1/3 of the amount collected.

(f) It was disclosed as well that Roop Singh Dangi had leaked the question paper from Behror (Dist. Alwar, Rajasthan) and after arranging the answer key provided it to Dr. Bhupender, Ravi, Sanjeet and Rajesh at their mobile phones, to be transmitted to the beneficiaries in course of the examination.

(g) It was further disclosed that to actuate this plan one Shri Subhash Shrivastav, who runs an electronic gadgets shop in Patel Nagar, New Delhi in the name of "SPY SHOP", was contacted and after revealing to him the plan he was requested to supply undergarments of gents and ladies in which SIM devices etc. can be fixed to, which the shop owner agreed, at four times the normal price of the garments.

(h) On 02.05.2015, Roop Singh Dangi and the co-accused Sunny S/o Ranbir Singh booked four rooms on the ID of Sunny in Shakti Resort, Behror, District Alwar, Rajasthan where, Roop Singh Dangi was present along with master solvers. Private cars and buses were used by Roop Singh Dangi to transport the master solvers/beneficiaries from various places to Behror.

(i) Roop Singh Dangi and co-accused namely Krishan, Sunny Dahiya etc. had telephoned several people in the cities of Bihar, Jharkhand, Uttar Pradesh, Rajasthan, Delhi, Maharashtra, Orissa and Haryana from several SIM cards from Behror.

(j) Out of 123 solved answers of code “G” found in the mobile set of the arrested accused Dr. Bhupender, 102 answers were correct when compared with the answer key provided by the CBSE on their official website. Similarly, 42 answers were found correct out of 50 solved answer key of Code ‘F’ delivered by the accused.

(k) Ravi was found involved in a similar malpractice pertaining to All India PG Medical Entrance Examination, 2012 and also relating to State Bank of India Competition Examination by using electronic gadgets/devices.

(l) About 358 mobile numbers have been used, for receiving answer keys of unfairly solved question papers of the examination to be transmitted to various mobile phones across the country where the examination was underway.

(m) Information was received from CBSE with regard to 29 candidates involved in malpractices in the examination out of whom 21 had been found to be using the electronic devices concealed in their undergarments.

(n) 18 such candidates whose names had been disclosed in the status report were caught in course of the examination with electronic devices in their vests.

(o) Two arrested candidates namely Nanha Kumar S/o Shri Meena Parsad and Sujit S/o Shri Dud Nath who had also taken the examination and from whom vests fixed with micro SIM devices together with ear devices, charger and two mobile phones of dual SIMs were recovered, disclosed that all these have been provided to them by one Vijay Yadav, student of MBBS of 1st year in Banaras Hindu University, Uttar Pradesh.

(p) These candidates further disclosed that Vijay Yadav and Rahul Verma have been able to qualify AIPMT, 2014 examination by using the same modus operandi.

(q) These candidates admitted to have received the answer key during the examination through the three electronic devices which were supplied by Vijay Yadav and that with the help of the answer key they had solved the question paper.

(r) Vijay Yadav on his arrest did disclose, that he used to prepare for AIPMT examination along with Rahul Verma and that they were able to successfully qualify in AIPMT-2014 by using the same modus operandi.

He admitted that he along with Rahul Verma did contact Veer Bahadur for AIPMT, 2015 and planned to charge Rs.17 lakhs from each candidate to enable them to qualify in the examination. He admitted further to have provided vests fitted with electronic devices to the candidates Nanha Kumar, Surjit and others.

He also admitted to have visited Shakti Resort, Behror, Rajasthan on 02/03.05.2015 and had participated in the meeting where Roop Singh Dangi and Veer Bahadur were present who provided new mobile phones and SIM cards to the persons concerned with the understanding that Roop Singh would leak the AIPMT question paper and supply the answer key with the help of master solvers.

(s) Till date 44 candidates have been found to be confirmed beneficiaries in the scheme who have been supplied with answer keys during the examination through electronic devices installed in their vests.

(t) Out of 358 suspected mobile numbers of the beneficiaries, 44 have been found to be registered on fake identities, 166 are registered on genuine basis and verification with regard to the remaining 148 mobile numbers is under process.

The names and details of these 45 beneficiaries have been furnished in the status report dated 01.06.2015

12. The investigating agency in its report has stated in clear terms that from the disclosures recorded, it is beyond doubt that the strategy of providing answer key has been executed by an organized gang with a network spreading over different parts of the country. The Inspector General of Police, Haryana who was present with his team, having been granted the leave, submitted that the investigation in full swing is in progress and that undoubtedly many more beneficiaries of the plot would be identified at the earliest. He however could not, provide a deadline of time by which

it could be done and the ongoing investigation could be completed. He frankly admitted as well, that in the process it might not be possible to identify each and every beneficiary of the malpractice perpetrated.

13. On a consideration of the revelations in course of the investigation, we are of the view that the examination indeed have been exposed to a deep rooted conspiracy of a gang of persons who with the aid of electronic devices have been able to access the beneficiary candidates with the answer keys during the test so as to enable them to solve the question paper. This, as the investigation discloses was on the basis of a premeditated design and the benefit has been extended on monetary consideration. These, we hasten to add, are gathered from the status reports submitted before this Court from time to time, the authenticity whereof has not been questioned. The disclosures, to state the least, are startling and alarming as well. The status reports disclose involvement of persons who had been similarly involved in such a strategy and are the beneficiaries thereof. We have noted that the investigation in the cases registered has progressed well and having regard to the

magnitude of the exercise involved, we accept that some more time would be necessary to complete the same in all respects.

14. Situated thus, with the time schedule fixed by this Court for completion of the admission process for the 1st MBBS/BDS courses as per the pronouncements made in *Mridul Dhar vs. Union of India*, (2005) 2 SCC 65 and *Priya Gupta vs. State of Chattisgarh*, (2012) 7 SCC 433, there are presently two alternative courses, either to segregate the 44 already identified beneficiary candidates, direct their results to be withheld and permit CBSE to proceed with process underway or direct a fresh examination by cancelling the ongoing exercise.

15. As has been noticed hereinabove, the disclosures in the investigation suggest that the benefit of answer key has been availed by several candidates taking the examination, by illegal means. Though as on date, 44 such candidates have been identified, having regard to the modus operandi put in place, the numbers of cell phones and other devices used, it is not unlikely that many more candidates have availed such undue advantage, being a part of the overall design and in the process have been

unduly benefited qua the other students who had made sincere and genuine endeavours to solve the answer paper on the basis of their devoted preparation and hard labour. In view of the widespread network, that has operated, as the status reports disclose and the admission of the persons arrested including some beneficiary candidates, we are of the opinion, in view of the strong possibilities of identification of other candidates as well involved in such mal practices, that the examination has become a suspect. As it is, the system of examination pursued over the decades, has been accepted by all who are rationale, responsible and sensible, to be an accredited one, for comparative evaluation of the merit and worth of candidates vying for higher academic pursuits. It is thus necessary, for all the role players in the process, to secure and sustain the confidence of the public in general and the student fraternity in particular in the system by its unquestionable trustworthiness. Such a system is endorsed because of its credibility informed with guarantee of fairness, transparency authenticity and sanctity. There cannot be any compromise with these imperatives at any cost.

16. Segregation only of the already 44 identified candidates stated to be the beneficiaries of the unprincipled manoeuvre by withholding their results for the time being, in our comprehension cannot be the solution to the problem that confronts all of us. Not only thereby, if the process is allowed to advance, it would be pushed to a vortex of litigation pertaining thereto in the foreseeable future, the prospects of the candidates would not only remain uncertain and tentative, they would also remain plagued with the prolonged anguish and anxiety if involved in the ordeal of court cases. Acting on this option, would in our estimate, amount to driving knowingly the students, who are not at fault, to an uncertain future with their academic career in jeopardy on many counts. Further, there would also be a lurking possibility of unidentified beneficiary candidates stealing a march over them, on the basis of the advantages availed by them through the underhand dealings as revealed. Having regard to the fact, that the course involved with time would yield the future generations of doctors of the country, who would be in charge of public health, their inherent merit to qualify for taking the course can by no means be compromised.

17. As would be available from the status reports, out of 123 solved answers of a particular code and retrieved from the mobile set of one of the persons arrested i.e. Dr. Bhupender, 102 answers were found correct on a comparison with the answer key provided by the CBSE. As referred to hereinabove, 358 mobile numbers had been pressed into service and at least 300 vests fitted with electronic devices have been used. Having regard to the uncompromising essentiality of a blemishless process of examination involving public participation, we have no alternative but to hold that the examination involved, suffers from an infraction of its expected requirement of authenticity and credence. We are conscious of the fact that every examination being conducted by a human agency is likely to suffer from some shortcomings, but deliberate inroads into its framework of the magnitude and the nature, as exhibited, in the present case, demonstrate a deep seated and pervasive impact, which ought not to be disregarded or glossed over, lest it may amount to travesty of a proclaimed mechanism to impartially judge the comparative merit of the candidates partaking therein. If such an examination is saved, merit would be a casualty generating a sense of frustration in the

genuine students, with aversion to the concept of examination. The possibility of leaning towards unfair means may also be the ultimate fall out. Even if, one undeserving candidate, a beneficiary of such illegal machination, though undetected is retained in the process it would be in denial of, the claim of more deserving candidates. At the present, the examination stands denuded of its sanctity as it is not possible to be cleansed of all the participating beneficiary candidates with certainty. We are thus, on an overall assessment of the materials on record, left unpersuaded to sustain the examination. We must observe that till this stage of the investigation, no conscious lapse or omission on the part of the Board, contributing to the otherwise appalling mischief has surfaced.

18. Conscious are we that, as a consequence, the All India Pre-Medical and Pre-Dental Test 2015 would have to be annulled, thereby disturbing the time schedule fixed by this court in *Mridul Dhar (supra)* and *Priya Gupta (supra)*. Though we respectfully subscribe to the calendar of dates fixed in these cases, more particularly in the textual context thereof, we perceive that in the

extraordinary fact situation that confronts us, where the examination involved is vitiated to the core by use of deceitful means and measures to benefit some, the consideration of departure from the said time schedule per se would not be a wholesome justification to sustain the otherwise tainted exercise. The time frame fixed by this court in the above cases, in our opinion, was not intended to be inflexibly adhered to in the situation of the kind with which we are seised of. The schedule of dates was fixed, so as to streamline and discipline the process of admission by its uniform application. In that view of the matter, we are of the understanding that the annulment of the examination and the consequences to follow, in the singular facts and circumstances of the cases, would not in any way be repugnant to the renderings of this court in *Mridul Dhar (supra)* and *Priya Gupta (supra)*. The course we proposed to embark upon, is the demand of the situation based on contemporaneous official records and that facts corroborated thereby. The pleadings of the Board, that its answer key had been prepared on 11.5.2015 and that the same for all the four sets of question paper, had been displayed on its website from 18.5.2015 to 20.5.2015, along with the individual

OMR images of each candidate between 21.5.2015 and 23.5.2015 whereafter the challenges from the candidates have been received and have been verified with the subject experts, in the teeth of the disclosures in the investigation lack in persuasion to save the examination.

19. We are aware, that the abrogation of the examination, would result in some inconvenience to all concerned and that same extra time would be consumed for holding a fresh examination with renewed efforts therefor. This however, according to us, is the price, the stakeholders would have to suffer in order to maintain the impeccable and irrefutable sanctity and credibility of a process of examination, to assess the innate worth and capability of the participating candidates for being assigned inter se merit positions commensurate to their performance based on genuine and sincere endeavours. It is a collective challenge that all the role-players would have to meet, by rising to the occasion and fulfill the task ahead at the earliest, so as to thwart and abort the deplorable design of a mindless few seeking to highjack the process for selfish gain along with the unscrupulous beneficiaries thereof. Though the

Board has taken a plea that having regard to the enormity of the exercise to be undertaken, the same cannot be redone before four months, we would emphasize that this is an occasion where it (the Board) ought to gear up in full all its resources in the right spirit, in coordination with all other institutions that may be involved so as to act in tandem and hold the examination afresh at the earliest. In the course of the arguments, this court was apprised that on previous occasions such type of examination had been held anew within a period of one month. We have no reason to doubt, that all other institutions would not lag behind to extend all possible assistance to the Board in its renewed endeavour. We are not unaware that in holding the present examination as well as in participating in the exercise, all genuinely concerned have put in tireless efforts. All these however have been rendered futile by a handful of elements seeking to reap undue financial gain by subjecting the process to their evil manoeuvres. We have thus no hesitation to order that the All India Pre-Medical and Pre-Dental Test stands cancelled. The CBSE would now have to hold a fresh examination at the earliest, by complying with all necessary and prescribed norms, being mindful of the exigency amongst others of

the commencement of the academic session which presently stands scheduled to be on and from 01.8.2015. We direct the Board, in the attendant of facts and circumstances to hold the examination within a period of four weeks from today. It would take the necessary follow up steps in the coordination with all other institutions involved in the admission process and space the intermediate phases in the same pattern (understandably with dates changed) of the time schedule as mandated by this court in *Mridul Dhar (supra)* *Priya Gupta (supra)*. Endeavours should be made to minimize the delay after the examination is held afresh as directed. We part with the expectation that the CBSE and the other stakeholder institutions would act in the right spirit in complying with this order for the paramountcy and trustworthiness of the system as well as the sustenance of the confidence that it enjoys. We all owe this, in the minimum, to the society in general and the student community in particular.

20. These petitions are thus allowed to the extent indicated herein above. The investigating agency would, in accordance with law, complete its drill with all alacrity and earnestness. We reiterate,

that the references to the status reports and the contents thereof so far relatable to the cases in hand have been only in the context of the adjudication of the issues involved herein and have to be construed accordingly.

21. No costs.

.....J.
(R. K. AGRAWAL)

.....J.
(AMITAVA ROY)

NEW DELHI
DATED: 15TH JUNE, 2015