

**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY**

**Wednesday, the 3rd day of August 2022 / 12th Sravana, 1944
WP(C) NO. 24410 OF 2022(S)**

PETITIONER:

**MR.ASIF AZAD, AGED 30 YEARS, SON OF MR.AZAD,
RESIDING AT DARUSSALAM, PARAYATHUKONAM P.O,
KIZHUVILAM, THIRUVANANTHAPURAM, KERALA - 695 104.**

RESPONDENTS:

- 1. UNION OF INDIA, REPRESENTED BY SECRETARY, MINISTRY OF EDUCATION,
SHASTRI BHAWAN, NEW DELHI, INDIA, PIN - 110 001.**
- 2. NATIONAL HUMAN RIGHTS COMMISSION (NHRC), REPRESENTED BY DIRECTOR
GENERAL, FARIDKOT HOUSE, COPERNICUS MARG, NEW DELHI, INDIA, PIN -
110 001.**
- 3. NATIONAL TESTING AGENCY, REPRESENTED BY DIRECTOR GENERAL, FIRST
FLOOR, NSIC-MDBP BUILDING, OKHLA INDUSTRIAL ESTATE, NEW DELHI,
INDIA, PIN - 110 020.**
- 4. DIRECTOR GENERAL OF POLICE, POLICE HEADQUARTERS, VELLAYAMBALAM,
CITY- THIRUVANANTHAPURAM, KERALA, PIN - 695 010.**

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to issue any order in favour of the victims by directing respondent No.3 to re-conduct the NEET exam within two weeks to restore Article 21 of Constitution of India prior to the release of the NEET results, because girls who were forced to complete the exam without innerwear experienced psychological trauma along with severe pain.

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of SRI.ASIF AZAD (Party-In-Person) for the petitioner, SRI.S. NIRMAL, STANDING COUNSEL for R3 and of SRI.K.P. HARISH, SENIOR GOVERNMENT PLEADER for R4, the court passed the following:

P.T.O.

**S. MANIKUMAR, CJ
&
SHAJI P. CHALY, J**

W.P(C). No. 24410 of 2022 (S)

Dated this the 3rd day of August, 2022

ORDER

S. Manikumar, CJ.

Claiming himself to be public interest litigant, a mechanical Engineer has sought for the following reliefs:

"1. To issue any order for the facts, reasons and circumstances stated in the accompanying petitions which is duly supported by an affidavit, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to pass an order or direction in the nature of Mandamus there by directing the respondent no.1 to publish a common protocol to conduct examinations across India.

2. The facts, reasons and circumstances stated in the accompanying petitions this Hon'ble Court may graciously be pleased to direct respondent no.2 to give victims a free counselling who experienced mental rape while taking the NEET exam.

3. To issue any order or direction to respondent no. 1 to pay a compensation for ruining the Life, Mental and Physical Agony, Stress, Depression of the girls for violating Article 21 of Stress, Constitution of India."

2. Short facts leading to filing of the writ petition, as averred, are as under:

"2.1. The NEET exam, at an examination center in India (Kerala) were administered in a fashion that required the removal of the girls inner wear, leaving them semi-naked while taking exams. There were two rooms where 2.1. The NEET exam, at an

examination center in India (Kerala) were administered in a fashion that required the removal of the girls inner wear, leaving them semi-naked while taking exams. There were two rooms where undergarments of young women and girls were stacked on top of each other in violation of COVID-19 protocols.

2.2. In a similar complaint in 2017, four teachers of a school in Kerala were suspended for asking a girl to remove her inner wear before entering a NEET center in Kannur.

2.3. This is not a first-time incident happening in INDIA in the name of exams. Due to the lack of common protocol system to conduct examination these atrocities are happening. And now it is the time by to end all these human rights violations guaranteed by the Constitution of India.

2.4. This is a public interest litigation filed against teaching staff and invigilators who target youngsters they dislike (partiality) and touch their body parts, especially their private parts, damaging their confidence and mental health at schools, colleges, universities, examination centers.

2.5. "Whether you want to write the examination, show me if you have any paper or anything else (for malpractice) hidden in your private parts, otherwise you will not be

permitted to write the exam," the person who is screening the youngsters will threaten like this. This is a massive issue that our nation's future is dealing with, and petitioner is hoping that the public interest litigation will offer a comprehensive remedy as well as a standard protocol for conducting examinations."

3. By inviting attention of this court to various paragraphs in the statement of facts filed along with the writ petition, Mr. S. Nirmal, learned Standing Counsel, who has taken notice on behalf of the National Testing Agency submitted that petitioner has made inappropriate averments against the agency, which has conducted NEET examination for nearly three Lakhs students across the country. He further submitted that with regard to the alleged incident, a crime has been registered.

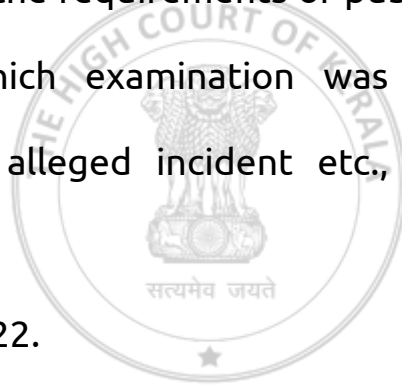
4. At this juncture, Mr.K.P. Harish, learned Senior Government Pleader, who has taken notice on behalf of the Director General of Police, respondent No.4 acknowledges the factum of registration of crime and further steps taken.

5. Apart from the above, Mr. S. Nirmal, learned Standing for National Testing Agency, respondent No.3 submitted that the

writ petition does not satisfy the requirements of a public interest litigation and in this context, also referred to the prayers sought for, regarding free counselling to the alleged victims and payment of compensation.

6. We have taken note of the submissions advanced. However, we are of the view that a detailed statement be filed on the averments made/objections raised regarding credibility and satisfaction of the requirements of public interest litigation, the manner in which examination was conducted, enquiry conducted on the alleged incident etc., with all supporting documents.

Post on 5.8.2022.



Sd/-
S. Manikumar,
Chief Justice

Sd/-
Shaji P. Chaly,
Judge

sou.