

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 1681 OF 2015

Ms. Ruchashree Sangole & Ors. .. Petitioners

Versus

Director, Medical Education &
Research (DMER), & Anr. .. Respondents

Mr. L. M. Acharya i/b Kunal Bhanage, Advocate for the petitioners
Mr. H. S. Venegaonkar, AGP for the respondents.

CORAM:- ANOOP V. MOHTA &
V. L. ACHLIYA, JJ.

DATED : -12/06/2015

ORAL JUDGMENT (Per Anoop V. Mohta, J.)

Rule. Rule is made returnable forthwith. Heard finally by consent of parties.

2 On 11/06/2015 after hearing the learned counsel appearing for the parties, we have passed the following order :

“Leave to amendment is granted to the petitioners. Amendment be carried out by tomorrow i.e. 12/06/2015.

2. The petitioners herein have challenged the notification dt. 5th June, 2015 to the limited extent of decision taken by the competent authority, Director of Medical Education and Research, Mumbai, whereby the said authority has taken decision to modify / correct the key answer to question No. 178 (Version 11) from answer given in key as option "B" to be treated as corrected as key option "C" for the purpose of evaluation of answer-sheet of common entrance test for Health Science Degree Course (MH-CET 2015) conducted on 7th May, 2015. They have also notified the provisional result of said examination on the basis of decision taken and notified by order dt. 5th June, 2015, which includes the modification of answer given in the key to question No. 178 i.e. option "B" to be treated as option "C".

3. The petitioners have filed the present petition with specific contention that the answer given in the key as option "C" in the original key answer published by the respondents is in fact correct answer. According to the petitioners, there was no reason or any basis for respondents to have modified the answer to question No. 178 as option "B" instead of option "C". It is the say of the petitioners that, the answer given by the petitioners and other students to said question who have appeared for the competitive examination is based upon a Book for subject "Biology" published by the State Government.

4. Pursuant to urgency involved in the matter, today the matter is taken up for urgent hearing. In view of the controversy involved and contention raised by the learned Counsel for the petitioners that the petitioners were not given any opportunity of hearing before modifying the answer

to question No. 178 by the respondents. We had directed the respondents to appear before the authority of the respondents and to produce their written submissions along with documents including representation dt. 8th June, 2015, which they have already filed with the respondents. Accordingly, the petitioners appeared before the competent authority and submitted their written submissions along with supporting material. After considering the material placed by the respondents, the authority concerned applied its mind and submitted a report signed by Dr. Sanjay Joshi. The said report reads as under :

“Post Provisional Result representations regarding query about change in key as per the notification dated 05.06.2015”

Subject experts opinion regarding query in the subject BIOLOGY, Question No.178 in Version 11

“Question :

Plasma Cells are derived from:

- | | |
|-----------------------|--------------|
| A) Cytotoxic T- Cells | B) Helper T- |
| C) Memory B- Cells | D) Memory T- |

Objection raised :

The answer to this question was changed from 'C' to 'B' in the modified key. However, 'C' should be correct answer.”

Resolution :

The correct answer is 'B' as per the modified key.

Explanation for the answer is as under:-

(As per Biology Textbook Std. XII – Maharashtra State Board of Secondary and High Secondary Education)

. B – lymphocytes upon maturation produce Plasma

Cells and Memory B Cells.

. *However, for this, the B lymphocytes must be stimulated/activated.*

. *This stimulus is provided by Helper T Cells.*

. *This means that unless Helper T Cells activate B lymphocytes, the B lymphocytes can not produce Plasma Cells.*

. *Considering these facts and the opinions given, option 'B' stands as the correct answer."*

5. Learned Counsel for the petitioners assailed decision of the respondents as well as the report produced before the Court with contention that the same is contrary to the Book prescribed for subject Biology by the State government. The learned Counsel submits that the question No. 178 refers to source from where the plasma cells are derived and it has nothing to do with the process of mechanism i.e. the process of stimulation and activation. It is therefore contended that the view expressed by the subject expert of the respondents is incorrect.

6. On the other hand, the learned Asst. Govt. Pleader has supported the decision of the respondents as well as the report of the expert committee by relying upon the relevant text on which the learned Counsel for the petitioners has also relied. The relevant text on which learned AGP as well as learned Counsel for the petitioners relied upon from page No. 159 of said Book, reads as under :

a) ***Lymphocytes :***

These are the chief cells of specific immune system of the body. A healthy human being possesses a trillion lymphocytes. They are of two types : T-

lymphocytes(T-cells) and B-lymphocytes(B-cells). Both the types of lymphocytes are produced from stem cells in bone marrow by a process called haematopoiesis. While differentiating from stem cells, some immature lymphocytes, destined to become thymocytes, migrate via the blood to the thymus, where they mature as T-lymphocytes. On the other hand B-lymphocytes divide and mature in the bone marrow itself. The mature lymphocytes circulate in the body fluids and many of them reside in lymphoid organs such as the lymph nodes, spleen etc. On being sensitized both types of lymphocytes undergo division. A sensitized T-lymphocyte produces a clone of T-cells having different functions. B-lymphocytes produce specific plasma cells which produce antibodies. T-lymphocytes are responsible for cell-mediated or cellular immunity while B-lymphocytes generate antibody-mediated or humoral immunity.

Mechanism of action of T-lymphocytes to antigens: On coming in contact with an antigen a T-lymphocyte forms a clone of T-cells which are similar but they perform different functions. The clone has four types of T-lymphocytes : I) T-Helper T-cells ii) Killer T-cells iii) Suppressor T-cells iv) Memory T-cells.

i) **Helper T-cells:** Sensitized helper T-cells produce lymphocytes for performing several types of functions like proliferation of other T-cells, stimulation of B-lymphocytes, attraction of macrophages etc.

ii) **Killer T-cells or Cytotoxic T-cells:** They directly attack and destroy invading microbes, infected body cells and cancer cells. Killer T-cells

bind to infected cell and secrete perforins. Then perforins produce a hole in infected cell. It also releases cell killing substances, hence the name cytotoxic T-cells.

iii) **Suppressor T-cells:** *these cells suppress entire immune system to attack on the own body cells.*

iv) **Memory T-cells:** *These cells were previously sensitized and retain the sensitization for future.*

Mechanism of action of B-lymphocytes to antigens:

B-lymphocytes are sensitized both directly by antigens as well as by helper T-cells. Activated B-lymphocyte multiplies very fast to produce clone of plasma cells and memory B-cells. The plasma cells produce specialized glycoproteins called antibodies which are passed through body fluids (humor) like blood and lymph. The antibody molecules may bind to a cell membrane or they may remain free. The free antibodies have three main functions: Agglutination of particulate matter, including bacteria and viruses. The immobilized mass is then engulfed by phagocytes. Opsonisation or coating of bacteria to facilitate their subsequent phagocytosis by macrophages and neutralization of toxins released by bacteria e.g., tetanus toxin. Each antibody is specific for a particular antigen.

7. We have heard the learned Counsel for the petitioners as well as the AGP and also perused the report of the expert in the light of the relevant text as referred above. Since the controversy involved adversely affect the thousands of students, who have

appeared for the MH-CET examination and further looking to competition for admission amongst the students in the field of medical science, it is desirable that the matter be referred to some independent expert in the field to resolve the controversy. We are, therefore, inclined to pass the following order.

ORDER

(1) We request Dr. T. P. Lahane, Dean, Director of Medical Education and Research, Mumbai, to immediately appoint a Committee headed by himself, which will consist of three expert members who according to him expert in field and assist him to examine the controversy referred above.

(2) The committee shall consider the question No. 178 (Version 11) with four optional answers provided to in question paper (as referred in para 4) in the light of the text book for the subject "Biology" provided for 12th year Science course by the State Government and other references related to subject and then to submit its report on th following questions :

(a) Whether the answer provided to question No. 178 as per key answer notified as option "C" was required any modification?

(b) Whether the action of the respondents to modify the answer to question No. 178 from option No. "C" to option No. "B" is correct and justified?

(c) Which is the correct answer out of four options i.e. A, B, C and D, provided to question No. 178?

(d) Whether none of the options provided as answer to question No. 178 is correct?

(3) The Chairman of the Committee is requested to hold shall hold meeting of the Committee and immediately submit a report in sealed cover so as to directly produce before Court at 3.00 PM on 12th June, 2015, in view of the extreme urgency involved in the matter so as to avoid to disturb the time schedule notified by the respondents for conducting further process in the matter.

(4) It is made clear that both the parties to provide all the relevant material, which are available in support of their respective case.

(5) As there is no objection to this mechanism, for want of authenticated copy, the proceedings should not be delayed. All the parties to act immediately to avoid further delay in the matter and for also other complications.

(6) Parties to act upon authenticated copy.

Stand over to **12th June, 2015**, at 3.00 PM.”

3 Pursuant to above order, the Respondents took all the necessary efforts in the interest of students and constituted the Committee so directed headed by Dr. T. P. Lahane, Dean, Director of Medical Education and Research, Mumbai.

4 The Committee's report dated 12.06.2015 which is produced in a sealed cover is taken on record and marked “X”. The Committee has submitted the report signed by all Members as

under:

“As per your order, the committee was formulated as follows:

1	Dr. T. P. Lahane	:	Dean, Grant Govt. Medical College & Sir J. J. Group of Hospitals, Mumbai.
2	Shri Nirmal Kumar Kurve	:	Professor of Biology, V.G. Vaze College, Mumbai.
3	Smt. Indira Kiran Mangaonkar	:	Professor of Biology, Ruia College of Science, Mumbai
4	Dr. Pradip S. Deshmukh	:	Asstt. Professor, Dept of Zoology, Govt. Art & Science, Aurangabad.

Question:

Plaxma Cells are derived from :

- A) Cytotoxic T-Cells
- B) Helper T-Cells
- C) Memory B-Cells
- D) Memory T-Cells.

a	Whether the answer provided to question No. 178 as per key answer notified as option “C” was required any modification	Lymphocyte B is the correct answer but it was not provided in the answer key and so Helper T-Cells stimulates B-lymphocyte and so modification can be partially justify.
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b	Whether the action of the respondents to modify the answer to question No. 178 from option No. "C" to option No. "B" is correct and justify	It was partially correct as helper T-Cell stimulates the B lymphocyte.
c	Which is the correct answer out of four options i.e. A, B, C and D, provided to question No. 178?	B – lymphocyte is the correct answer which is not provided in the answer key.
d	Whether none of the options provided as answer to question No. 178	As T helper cells stimulates B-lymphocyte for production of plasma cells but does not produce plasma cells so there is ambiguity in the options.

Committee Opinion:

B-Lymphocytes produces the plasma cells but this option is not there in the answer key. But memory B-cells simulate like B-lymphocyte and helper T-Cells stimulates B-Lymphocytes for the formation of plasma cells. So committee has opinion that benefit of doubt can be given to option B & Cl.

Sd/-

Dr.T. P. Lahane

Dean, Grant Govt. Medical College &
Sir J. J. Group of Hospitals, Mumbai.

5 The learned AGP appearing for the Respondents, on instructions of Dr. A.S. Vyas, O.S.D., DMER, and even after seeks telephonic instructions from the Competent Authority as contemplated under the Rules/Regulations, makes statement that the Respondents are willing to proceed on the basis of the opinion given by the Committee and based upon the same that they will take appropriate decision and further steps immediately. The statement is also made that they will publish final merit list as per the schedule so announced by giving appropriate marks to all who attempted this question and selected answer key "C" and "B".

6 Considering the circumstances so recored above, what is important is the Respondents volunteered to endeavour to publish the list as scheduled. However, even if there is six to eight hours delay, we see there is no reason to object the same. They are free to do so after taking effective steps to avoid further complication in the matter as early as possible.

7 The MH-CET for 2015 was conducted. Large number of students appeared in the test. There were 200 compulsory questions in the objective form. Four options were available. The students to opt for one correct answer from A to D. There is no point raised about the question being incorrect or wrong. The issue is about abrupt change of answer key from “C” to “B”, after examination was over. That resulted in to reduction without notice, of one mark from students marks who selected answer “C”. One mark added – who selected now corrected answer key B. Therefore, the petition and order as noted above. Even one mark is important for such students. One mark reduction in in such fashion is the issue, when the “C” and “B” both are probable answer keys. We are inclined to deal with the same to avoid multiplicity of proceeding for all similarly placed students, as this is in view of the schedule and the expert opinion so expressed. All are agreed to proceed accordingly.

8 This in the background that there is no issue that the Competent Authority is empowered to pass appropriate order and to take steps including allotting respective marks based upon the above

opinion to all candidates who have attempted to answer the question by selecting the answer key "C" or "B".

9 The next stage as per the schedule is downloading of mark sheets by the candidates/students which would commence from 13.06.2015. However, in view of the orders that we are passing today and as the Competent Authority is required to take further effective steps, based upon the opinion so expressed, further steps including preparation of mark lists subject to verification after final merit list so published, may take further twelve hours more. Therefore, here also we see no reason to disturb effective steps required to be taken after finalisation of final merit list of uploading of mark-list on website. The statement is made that they will endeavour to upload as early as possible, once the Competent Authority passed the order as recorded above.

10 We are inclined to observe that the Respondents and/or even such Authority should consider in case of such sudden/abrupt change of questions and/or answer keys to publish prior public

notice so that others or affected person can support or oppose such change/correction. Clause/stage may be incorporated so that students on other side get an opportunity to deal with such objections, if any and/or such sudden change the State/Respondents Authority. Some mechanism/procedure to be followed to avoid such complications and litigation.

11 We are inclined to appreciate the work and the endeavour and the timely efforts taken by the Respondents Officers including all the Hon'ble Committee Members.

12 In view of above, the present writ petition is disposed of with liberty as no other prayers are pressed.

13 Rule is disposed of in the above terms. No costs.

14 Parties to act on the basis of an authenticated copy of this order.

(V. L. ACHLIYA, J.)

(ANOOP V. MOHTA, J.)