

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10358 OF 2018

Mangesh Rajratan Datar and others .. **Petitioners**
Versus

The State of Maharashtra and others.. **Respondents**

Miss. Preeti R. Wankhede, Advocate for the
Petitioners.

Mrs. M. A. Deshpande, A.G.P. for Respondent /
State.

CORAM: S. V. GANGAPURWALA &
S. M. GAVHANE, JJ.

DATE: 12th September, 2018

PER COURT :

1. Miss Wankhede, the learned Advocate for the petitioners submits that the tribunal failed to consider the aspect of normalization in its correct perspective. The examinations were held on six days. There were wrong set of questions in examinations held on 18, 20, 21, 23 and 20th May, 2018. For the wrong questions the respondents gave full marks to all the candidates irrespective of the fact whether they attempted it or not. According to the learned counsel, same would not stand to the test of normalization. The learned counsel refers to the following judgments-

I] Mahinder Kumar and others Vs. High Court of Madhya Pradesh through Registrar General and others reported in 2013 (9) SCALE 163.

II] Francisco D. Luis Vs. State of Maharashtra and others reported in 2008 (5) Bom.C.R. 569.

III] Disha Panchal and others Vs. Union of India and other reported in 2018 (4) Mh. L. J. 481.

2. According to the learned counsel, some of the questions which were in the paper of 18th May, 2018 were repeated in the questions of subsequent tests giving undue benefit to those candidates. The same also needs to be considered while adhering to the rule of normalization. The learned counsel submits that the petitioner no. 3 had appeared on 19th May, 2018. There was no wrong questions, as such, there was no additional marks allotted to the candidates. Whereas on 23rd May, 2018 there were six wrong questions discarded and six marks were allotted to all the candidates who appeared on the said date irrespective of the fact whether they attempted the said questions or not thereby

giving undue benefit to them. The learned counsel submits that the petitioners may be allowed to appear for final examination. The respondents have restricted the candidates from S.C. category for the final examination in the ratio of 1:12 for the said post said restriction is not observed in other categories.

3. The learned Additional Government Pleader submits that the ratio on 1:12 is maintained. In respect of other categories, the candidates who were found eligible after the preliminary examination were less than the ratio required. There were more than 12 eligible candidates for one post, as such, benchmark of 59 marks was fixed. The petitioners have secured less than 59 marks.

4. The learned Additional Government Pleader further submits that the principle of normalization has been properly applied. All questions were required to be attempted by the candidate, as there were wrong questions the said

questions were discarded and marks were given to all the candidates. No discrimination has been made in that regard.

5. It is submitted that the final examination is scheduled on 15th September, 2018. The tribunal has considered *prima facie* case. Considering the reasons given by the tribunal and the submissions made it would not be possible to accede to the request of the petitioners to allow the petitioner to appear for final examination.

6. The tribunal has kept the matter on 26.09.2018 for hearing. We direct that the final examination that would be held would be subject to the decision of the tribunal in the pending Original Application. In case the petitioner succeeds before the tribunal, then the consequences would follow. With these observations the writ petition is disposed of. No costs.

[S. M. GAVHANE, J.]

[S. V. GANGAPURWALA, J.]

marathe