

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

988 WRIT PETITION NO.6799 OF 2019

**TEJAS SANJAY PATIL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

**Advocate for Petitioner : Gore Ravindra Vitthal
AGP for Respondents: K.B.Jadhavar
Adv.Miss.Surekha Mahajan for R.2.**

**CORAM : S.V.GANGAPURWALA &
MANGESH S. PATIL, JJ.**

DATE : 26/06/2019

PER COURT :

The petitioner is assailing the decision of the Board barring the petitioner upto July 2019 and further cancelling result of the petitioner of the 12th standard examination held in February 2019.

2] Mr.Gore, learned advocate for the petitioner submits that the petitioner is not guilty of any malpractice in the examination. According to the learned counsel though the statement is made by the petitioner that the chit is found on the table of the petitioner, however, he does not know as to how that chit was found on the table. The petitioner was searched twice, no chit was found. The decision taken is arbitrary.

3] Miss Mahajan, learned counsel for the respondent no.2 submits

that the chit was found on the table of the petitioner. Petitioner's case is that somebody must have thrown that chit from outside. If that is so the chit ought to have been in crumbled form, however same is not the fact. Statement is recorded. Petitioner has not denied that the chit is found on his table.

4] We have considered submissions. This Court would be loath in interfering with the decision taken by the Board. In such matters, this Court may not sit as an appellate authority over the decision taken by the Board.

5] This Court would certainly consider the preponderance and the factual matrix. The statement of invigilator is recorded by the Board. The statement is made by the Supervisor that the petitioner was thoroughly searched but no chit was found from his person. The Deputy Director of the center has also given statement that before the start of the examination at the gate, the petitioner was searched. He also does not say that any chit was found with the petitioner. The petitioner has denied that he had brought the chit. The answer sheet seized by the Supervisor shows that no answer has been copied, in fact whole answer sheet is blank except at page no.8 question no.17 is said to be attempted.

6] Certainly the whole answer sheet is blank. So it cannot be said that the petitioner has copied the answer.

7] The case will have to be decided on the preponderance. The statement of the Supervisor and the Deputy Director of the center does not implicate the petitioner, in fact said statement favours the petitioner. So also considering the circumstances, it cannot be

concluded that the petitioner is guilty of malpractice.

8] In light of the above, the impugned order debarring the petitioner upto July 2019 and cancelling result of the petitioner's 12th standard examination held in February 2019 is set aside.

9] Writ Petition is accordingly disposed of. No costs.

(MANGESH S. PATIL,J.)

(S.V.GANGAPURWALA,J.)

umg/