

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

WRIT PETITION NO.8377 OF 2018

Manisha Ganesh Pawar .. Petitioner

Versus

State of Maharashtra and ors .. Respondents

Mr M.L. Muthal, Advocate for petitioner

Mr S.G. Karlekar, AGP for respondent no.1

Ms Surekha Mahajan, Advocate for respondent no.2

Mr A.D. Kakad Advocate for respondent no.4 & 5

**CORAM : S.V. GANGAPURWALA &
A.M. DHAVALA, JJ**

DATE : 9th January, 2019

PER COURT

1. Performance of the petitioner of S.S.C.examination held in March-April 2018 is cancelled.

2. Learned Counsel for petitioner submits that when the petitioner was giving Mathematics paper-II, the invigilator wrongly issued supplementary answer sheet of Mathematics paper - I to the petitioner. The same is not the fault of the petitioner. The petitioner accepted the same and solved answers on it. The petitioner inadvertently accepted the incorrect supplementary sheet and attempted different questions on the same.

3. The learned Counsel appearing on behalf of the invigilator and Officer submits that respondents no.4 and 5 had accepted their mistake in the enquiry conducted by them. Affidavit is also filed before this Court accepting their mistake. The same is illegal and also harsh.

4. Ms Mahajan, learned Counsel for respondent no.2 submits that supplementary answer sheet of Mathematic – II would not have been given while attempting Mathematics paper-I. Both the examinations were on different dates. Mathematics paper – I was on 10th March 2018 and Mathematic Paper – II was on 12th March 2018. On 11th March 2018 there was Sunday. As such, there is no question of mistake.

5. The performance of the petitioner for March-April examination has been cancelled on the ground that it is the case of malpractice. Malpractice appears to be on the ground that supplementary sheet of Mathematics-I was attached to the answer sheet of Mathematics paper-II.

6. We cannot dilate over the factual position. It is not a case of violation of principals of natural justice. It would not be possible for us to intervene in the matter considering the facts on record. We cannot sit as an appellate authority over its decision. The decision making process has been adhered to. Performance of the petitioner has been cancelled for March-April 2018. The petitioner is entitled to appear for March-April 2019 examination.

7. After going through the said paper, it appears that petitioner does not appear to have passed the same.

8. In the light of above, writ petition is disposed of. No costs.

(A.M. DHAVAL, J.)

(S.V. GANGAPURWALA, J.)

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