

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

WRIT PETITION NO. 7612 OF 2019

1. Prathamesh S/o Sanjiv Patil,
Age: 18 Years, Occu.- Student,
R/o. Ghonse Classes,
Sona Nagar, Chowk, Savedi,
Ahmednagar, Dist. Ahmednagar.

2. Khushi Prakash Desarda,
Age: 17 Years, Occu.- Student,
Through her legal guardian
Prakash Madanlal Desarda,
Age: 55 Years, Occu.- Business.

Bothe R/o. at post Loni kd,
Talegaon Road, Behind Anuradha Agro,
Taluka Rahata, District Ahmednagar.

3. Suraj S/o Kishor Rajbhoj,
Age: 17 Years, Occu.- Student,
Through his legal guardian
Kishor Changdeo Rajbhoj,
Age: 49 Years, Occu.- Farmer.

Both R/o. At post Kolhar (Bk),
Shivaji Nagar, Kolhar,
Taluka- Rahata, District Ahmednagar.

4. Tejas Laxman Kakade,
Age: 17 Years, Occu.- Student,
Through his legal guardian
Laxman Murlidhar Kakade,
Age: 45 Years, Occu. - Service.

Both residents of :- C-4,
Sahyadri Garden Apartment,
Vendant Nagar,
Railway Station Road,
Taluka and District – Aurangabad.

5. Akash Vaijinath Nachan,
Age: 17 years, Occu.- Student,
Through his legal guardian
Vaijinatyh Vithalrao Nachan,
Age 44 years, Occu. Service.

Both R/o. C/o. Neeta Babasaheb Athare,
“Shantikaushlya”. Baijabai Society,
Behind Sagar Hotel, Saved,
Ahmednagar.

... **Petitioners**

Versus

1. State of Maharashtra,
Through Its Secretary,
Higher and Technical Education Department,
Mantralaya,
Mumbai – 400 032.
2. Maharashtra State CET Test Cell,
Through its Commissioner,
Head Office, 8th Floor,
New Excelsior Building,
A.K. Naik Marg, Fort,
MUMBAI 400 001.

... **Respondents**

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Mr. Anil S. Bajaj, Advocate for the Petitioners.
Mr. S.G. Karlekar, Advocate for Respondent No.2.
Mr. V.M. Kagne, A.G.P. for Respondent No.1-State.

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with

WRIT PETITION NO. 7678 OF 2019

1. Avdhoot S/o Balasaheb Hapse,
Age: 18 Years, Occu.- Education,
Through its legal guardian
Balasaheb S/o Ramrao Hapse,
R/o. 53 Dakshta Nagar,
Near Lekha Nagar,
Pipe line Savedi, Ahmednagar,
Tq. & Dist. Ahmednagar.

2. Sanket S/o Tejerao Deshmukh,
Age: 18, Occu.- Education,
Through its legal guardian
Tejrao S/o Kashirao Deshmukh,
Age: 47 Years, Occu.- Service
At/p. C/o K.R. Dhawale,
Shivaji Nagar, Aurangabad.

... **Petitioners**

Versus

1. State of Maharashtra,
Through Its Principal Secretary,
Higher & Technical Education Department,
Mantralaya, Mumbai – 400 032.
2. The Commissioner of State CET (Cell)
8th Floor, New Axcelsior Building,
A.K. Naik Marg, Fort, Mumbai 400 001.
(M.S.), Govt of Maharashtra
Mumbai.

... **Respondents**

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Mr. Ajay S. Deshpande h/f. S.K. Mathpati, Advocate for the Petitioners.
Mr. S.G. Karlekar, Advocate for Respondent No.2.
Mr. V.M. Kagne, A.G.P. for Respondent No.1-State.

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

**DATE OF RESERVING THE JUDGMENT : 04.07.2019
DATE OF PRONOUNCING THE JUDGMENT : 05.07.2019**

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JUDGMENT :- (Per: Mangesh S. Patil, J.)

Heard. Rule. Rule is made returnable forthwith. Learned A.G.P.
Mr. Karlekar waives service for the respondent no.2. At the request of both
the sides these matters are heard finally at the stage of admission.

2. The petitioners are raising a common issue questioning legality and propriety of the method of evaluation of performance of the students who have appeared for MHT-CET-2019 conducted by the respondents.

3. The learned advocates for the petitioners vehemently submitted that the methodology / formula of normalization adopted by the respondents suffers from inherent limitation. They have blindly followed and adopted the method which is being adopted at the JEE examination in spite of there being several distinguishing factors in the examination being conducted by the MHT-CET-2019 and the JEE examination. The whole thrust of the arguments of the learned advocates for the petitioners is to the effect that the JEE examination is conducted only in respect of one stream for which the subjects are common for all the students. As against this, the MHT-CET is conducted for three different groups namely Physics, Chemistry, and Mathematics (PCM), Physics, Chemistry and Biology (PCB) and Physics, Chemistry Mathematics and Biology (PCMB). Since for the current year the examination was conducted on-line as well as off-line, it was conducted across several sessions. Since the method of normalization and percentile is being blindly followed, which is pregnant with inherent defects it has led to illogical results.

4. To justify their arguments they have also placed before us objective material in the form of the marks of few students in a tabular form

as under:

Sr. No.	Name		Physics	Chemi.	Maths	Total	State General Merit No.2019	State General Merit No. 2018 as per marks
1	Prathamesh PCM	Marks	34	35	80	149	3273	2349
		Percentile	98.99	96.62	98.46	98.45		
2	Khushi PCM	Marks	31	34	78	143	4484	2386
		Percentile	96.22	97.99	97.65	97.91		
3	Tejas PCM	Marks	35	29	56	120	11753	8755
		Percentile	98.41	94.08	86.08	94.47		
4	Akash PCM	Marks	31	29	68	128	9449	6443
		Percentile	97.09	84.98	95.7	95.59		
5	Rutuja PCMB	Marks	21	23	46	90	11182	24108
		Percentile	95.45	92.25	93.7	94.76		
6	Kaustabh PCMB	Marks	22	16	52	90	11591	24103
		Percentile	94.38	77.81	95.94	94.55		

5. From such analysis the learned advocates for the petitioners tried to demonstrate as to how student Tejas who has appeared for PCM has scored aggregate marks of 120 but his percentile has been calculated as 94.47, whereas Rutuja who had appeared for PCMB has scored total of 90 marks still her percentile works out to be 94.76 i.e. more than that of Tejas. According to them, it defeats logic to the naked eye and one cannot comprehend any justification or logical reason behind it. According to them, it is for want of sufficient data that they have not been able to demonstrate several such instances and the whole exercise is likely to defect the cause of meritorious student who have scored more marks but because of such normalization

method adopted by the respondents they stand to lose an opportunity for admission to better institutes or any admission at all.

6. According to the learned advocates for the petitioners this anomaly occurs since the students appearing for PCMB usually tend to score less marks in Mathematics as they do not pay adequate attention to that subject and if normalization and percentile method qua the students appearing for the PCMB group is adopted, obviously a student from that group derives an unfair advantage over the student appearing for PCM group. According to the learned advocates, the respondents have abruptly decided to resort to such method of evaluation without undertaking sufficient exercise to study the pros and cons which has resulted in the above anomaly depriving the petitioners and several such students an opportunity to take admission to the professional course. The classification adopted to differentiate is unconstitutional. The respondents ought to have taken into consideration only the raw marks scored by each student to prepare the merit list.

7. Lastly, the learned advocate for the petitioners submitted that some of the students had approached the respondent no.2 with a written representation on 10.06.2019 raising all these objections but they have not been communicated any decision.

8. The learned advocate for respondent no.2 Mr. Karlekar referring

to the affidavit in reply filed by the Examination coordinator appointed by the respondent no.2 submitted that the examination was conducted in 19 shifts with total of 3,92,354 candidates, four shifts for PCM, seven shifts for PCB and eight shifts for PCMB. The raw scores secured by the students were normalized subject wise across all shifts and not as per the combination of subjects as is sought to be argued on behalf of the petitioners, thereby ruling out any discrimination on the ground of difficulty level of the examination paper in each shift. He denied that the students who have appeared for PCMB were at an advantageous position as compared to the students opting for PCM. He submitted that the difficulty level of question paper in particular shift as compared to the over-all average and its standard deviation impacts the normalized score. Therefore average and standard deviation of raw score of each shift and each subject as compared to overall average and standard deviation of that subject would impact the normalization score and percentile of a student for that subject. He submitted that this is an universally accepted method of evaluation when the examinations are conducted over several shifts and no wrong or illegality is committed by the respondents in adopting such a method.

9. The learned advocate further submitted that the evaluation method has not been adopted blindly. As many as three experts having sufficient experience in Statistics were involved and consulted to finalize the

process of normalization of marks. They have vast experience on the subject and in the absence of any contrary report based on some research, the method being adopted by the respondents cannot be faulted with.

10. The learned advocate further submitted that about 100 students had raised a similar grievance with the respondent no.2, some of whom were present in its office on 11.06.2019. Two members out of the three Statistical experts involved in the process of normalization of score were also present at the meeting. Three other experts in Statistics were also invited and they all explained the procedure of normalization of marks and percentile calculation. The three independent Statistical experts have also submitted a report opining that the methodology adopted by the respondent no.2 for MHT-CET 2019 is logical and appropriate.

11. Lastly, the Mr. Karlekar submitted that it is too late in the day to ponder upon and examine the methodology adopted by the respondents since pursuant to the directions of the Supreme Court in the case of **Parshavnath Charitable Trust**, they have to meet the dead line for completion of the admission process which is already underway. Therefore this Court may not at this juncture step in to stall the admission process when there is not sufficient and justifiable ground.

12. We are not experts in Statistics. The method being adopted by

the respondent no.2 consists of formulae which apparently take into consideration several factors and not being expert in the field we are not able to examine it scientifically. The petitioners are merely coming out with some Statistics in respect of few students out of 3,92,000 to substantiate their arguments. At the first blush it does appear to be objectionable to say that in spite of securing more marks a student stands on lower rank than a student who has secured less marks. However as is tried to be demonstrated by the learned A.G.P based on the affidavit in reply and the formulae being adopted to normalize the scores, we do not have any contrary scientific analysis to counter this method being adopted by the respondents. It appears to be illusory to demonstrate simply on the basis of raw scores of only 5 to 10 students which do not take in to account the normalization method. In the absence of any such scientific analysis to counter the arguments of the respondents, we are of the considered view that one cannot take a frog's leap in the realm of conclusions. The petitioners having not come out without any such analysis based on some scientific research to question the method being adopted by the respondent no.2, we see no sufficient and cogent reason to interfere in the admission process which is being finalized right now.

13. It is important to note that the respondent no.2 came out with this method of evaluation after consulting a group of three Statisticians and it is only thereafter that the method is being followed. Pertinently, three other

experts also had an opportunity to examine the grievance and the apprehension being expressed by the petitioners and some similarly situated students in the meeting held on 11.06.2019. Thus when the method which has been evolved by three experts and has been examined again by three different experts, we do not find any sufficient, cogent and scientific reason to take any other view but to subscribe to the opinion of these experts.

14. We do not intend to turn a blind eye to the grievance being put forth by the petitioners. However for want of sufficient material and obviously due to the fact that final merit list is being published today, the exercise cannot be undertaken at this juncture. Therefore keeping open the dispute, we dispose of these petitions with a hope and expectation that the respondent no.2 would extend an opportunity to the students to put forth their grievance before it and considers it objectively so that the process of admission can be demonstrated to be fair, impartial and transparent which is a legitimate right of every student. The respondent no.2 shall undertake such exercise at the earliest.

15. The writ petitions are disposed of. The rule is discharged. Parties to act upon authenticated copy.

[MANGESH S. PATIL, J.]

[S.V. GANGAPURWALA, J.]