

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

WRIT PETITION NO. 10856 OF 2018

Akram Khan s/o Anwar Khan

...Petitioner

Versus

Maharashtra State Board of Secondary
and Higher Secondary Education & anr.

...Respondents

Mr. A.M. Gholap, Advocate for Petitioner

Ms. Surekha Mahajan, Advocate for Respondent No.1

Mr. K.B. Jadhavar, Assistant Government Pleader
for Respondent No. 2

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

DATE: 7th JANUARY, 2019

PER COURT

1. Mr. Gholap, the learned Counsel for the petitioner submits that the performance of the petitioner for the whole examination of March-April, 2018 has been cancelled. The learned Counsel submits that the material found near the bench of the petitioner was not of the petitioner, but it may be brought by someone else. This aspect has not been considered. Thereafter, another answer sheet was given, the same was also attempted, but the same does not seem to have been assessed. The learned Counsel submits that

the proper enquiry has also not been conducted and the principles of natural justice are not followed. The learned Counsel further submits that for the alleged act of mal-practice in one paper, the whole examination has been cancelled. The same is also unreasonable. In case of many other candidates, who are caught in mal-practice, the performance of only said subject is cancelled and not performance of all the subjects.

2. Ms. Mahajan, the learned Counsel for the respondent submits that petitioner has committed mal-practice and same has been proved in the enquiry. Invigilator's statement is also recorded and the bunch of the chits is also found and same is on record.

3. We have considered the submissions. The petitioner has been issued notice in the enquiry. The statement of the Investigating Officer is recorded and the record is produced before us. The chits found near the table are also part of the record.

4. This Court would not sit as an appellate authority over the enquiry conducted. The performance of the

petitioner has been cancelled on account of mal-practice which is proved in the enquiry. The petitioner cannot claim parity in illegal acts.

5. Considering the above, no case for interference. Writ Petition is disposed of. No costs.

(A.M. DHAVAL, J.) (S.V. GANGAPURWALA, J.)

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