

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (LODG.) NO. 1035 OF 2018

Karansingh Kesharsing Jonwal & Ors. .. Petitioners
Vs.
Reserve Bank of India & Anr. .. Respondents

**WITH
WRIT PETITION (LODG.) NO. 2111 OF 2018**

Ragini Ravindra Joshi .. Petitioner
Vs.
Reserve Bank of India & Anr. .. Respondents

**WITH
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5450 OF 2018

Neha Rakesh Meshram-Gulmohar
& Ors. .. Petitioners
Vs.
Reserve Bank of India & Anr. .. Respondents

Mr.M.M. Vashi, Senior Advocate a/w. Ms.Panthi Desai I/b M/s. M.P. Vashi
& Associates for petitioner in WPL/1035/2018 & WPL/2111/2018.

Dr.Milind Sathe, Senior Advocate a/w. Mr.Prasad Shenoy, Ms. Aditi
Pathak, I/b M/s. Udwadia & Co. for respondent Nos.1 and 2 in
WPL/1035/2018 & WPL/2111/2018.

Mr.Sachin Dere a/w. Mr.A. Hire for respondent Nos.4 to 41 in
WPL/1035/2018.

Mr.Atul S. Singh, for respondent No.3 in WPL/1035/2018 &
WPL/2111/2018.

**CORAM : B.R. GAVAI &
N.J. JAMADAR, JJ.**

DATE : 6TH MARCH 2019

P.C.

1. At the outset, with the consent of the counsels of parties, Writ Petition No. 5420 of 2018, which is not listed today, is taken up for hearing.
2. The petitioners have basically approached this Court contending that the evaluation of the answer sheets of their performance in Marathi Language Proficiency Test by the experts professors/lecturers in Marathi language was done in arbitrary manner.
3. The Division Bench of this Court, vide order dated 26th April 2018, *prima-facie* found that the rejection of the petitioner's candidature on the basis, that they failed in Marathi Language Proficiency Test, could not be sustained as undisputedly, though answer sheets have been examined but no marks were earmarked for the questions and consequently the same were not awarded to the answers. The Division Bench, therefore, expressed its *prima facie* opinion that it may have led to arbitrariness in declaration of the results.
4. When the matter was listed before us on 10th January 2019, the learned counsel for the respondent-Reserve Bank of India (RBI) has placed on record the evaluation sheets for our perusal. Upon perusal of the

evaluation sheets, we found that that one person who was the Director of Language of State of Maharashtra had done the evaluation and only remarked as “qualified” or “not qualified”. We have, therefore, observed as under :-

“10 Merely because unguided and uncanalized discretion is bestowed upon the high authority, cannot be a ground to sustain such a power if there is a possibility of the power being exercised in arbitrary manner. The perusal of the answer sheets therefore reveal that there are 8 questions and it would have been quite possible for RBI to have earmarked marks for each of the questions and thereafter evaluate the answers for each of the questions. If the evaluation would have been done in such a manner, at least the possibility of the exercise of arbitrary power could have been avoided. We are further of the prima facie view that if passing of LPT was an essential requirement for making appointment, it would have been better that this exercise was done prior to main examination, rather than doing it after main examination.

11 However, we do not propose to issue any direction in that regard to the Respondent-RBI, since Dr.Milind Sathe, the learned Senior Counsel for the Respondent-RBI has assured that in future selection processes an adequate precaution would be taken to avoid such contingencies.

12 In so far as the present selection process is concerned, Dr. Milind Sathe submits that if the same is set aside by this Court, the entire selection process, through out the country would be adversely affected. He fairly states that there may not be a serious objection to get the evaluation of the answer sheets from the professors in Marathi, on the basis of marks assigned to each of the questions.

13 We appreciate the fairness shown by Dr. Milind Sathe, in agreeing to get the evaluation on the objective manner.

14 Since there are around 666 answer sheets to be examined, the Registrar of Mumbai University is directed to nominate three professors/lecturers in Marathi language to carry out the work of evaluation of answer sheets.

15 The Respondent-RBI shall make a formal request to Mumbai University within a period of one week from today. The Registrar of Mumbai University is directed to nominate a panel of three experts within a period of one week thereafter.

16 We direct that the LPT shall carry 100 marks.

17 The committee so nominated shall immediately meet and decide as to how many marks are to be allotted to each of the questions, since some are objective and some of descriptive.

18 After assigning the marks for each of the questions, the committee shall do the evaluation of the answer sheets as far as possible on objective basis.

19 The Respondent-RBI while submitting the proposal to the said committee shall conceal the names of the candidates, so that evaluators are not aware of the names of the candidates.

20 The committee so nominated shall distribute equal number of answer sheets amongst themselves.”

5. Undisputedly, in accordance with the aforesaid order, the evaluation has been done by the three independent experts in Marathi subject as nominated by the Mumbai University. We find that the procedure adopted for the said evaluation was totally fair, transparent and reasonable. Inasmuch as the experts/examiners even had not known the names of the candidate whose answer-sheets they evaluated.

6. Now the grievance that is raised by the petitioner is that the respondent Nos. 1 to 3 had made two different cut offs for clearing the said

examination. In so far as the candidates belonging to the General Category are concerned, the cut off was '50', whereas for the candidates of the reserved category (SC/ST), the cut off was '40' and in so far as OBC, the cut off was '45'. The counsel submitted that this would lead to arbitrariness. The different cut offs for different classes is the reasonable classification and has a nexus with the object of providing a beneficial treatment to the candidates belonging to the SC, ST and OBC categories. Apart from that, this is in tune with the prescription under Article 14 and 16(4) of the Constitution of India. In that view of the matter, we find that there is no substance in the grievance raised in that regard.

7. We, therefore, dismiss the petitions.

Needless to state that the interim orders shall stand vacated and the respondents would proceed to complete the Selection Process.

8. We appreciate the stand of Reserve Bank of India in accepting their mistake and coming out with a proposal of afresh evaluation of answer sheets in a transparent and fair manner. We also find that the said procedure was conducted in a fair and transparent manner. We do hope that the RBI will not leave scope for any litigation in future.

[N.J. JAMADAR, J.]

[B.R. GAVAI, J.]