

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

WRIT PETITION NO.185 OF 2020

Kiran Vinod Padse,
through his father
Vinod s/o Kashinath Padse

..Petitioner

Versus

The State of Maharashtra and ors.

..Respondents

Mr V.B. Madan, Advocate for petitioner
Mr V.S. Badakh, A.G.P. for respondent no.1
Ms Surekha Mahajan, Advocate for respondents no.2 and 3

**CORAM : S.V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 3.2.2020

ORAL ORDER :

1. The petitioner is debarred on the ground of malpractice for 1+1 examination.
2. The petitioner was appearing for Xth Standard examination. In the answer sheet of mathematics paper, page numbers 19 and 20 were torn. The notice was issued to the petitioner/guardian. The enquiry was conducted. Re-enquiry was also conducted and the impugned punishment was imposed.
3. Mr Patil, learned Counsel for petitioner submits that no malpractice has been committed by the petitioner. The petitioner had not torn the paper. The petitioner has obtained good marks in all the other subjects. In IXth standard also the petitioner obtained 'A' grade. The petitioner has not committed any malpractice. The punishment has been imposed debarring the petitioner for two examinations.

4. The learned Counsel for petitioner in the alternate submits that the performance of the petitioner for all the papers has been cancelled. That should have been limited to mathematics paper.

5. The learned Counsel for respondents submits that answer sheet of the petitioner (Page 19 and 20) were torn and on the remaining part also, some figures were legible which shows that the petitioner had written something on page 19 and 20 and thereafter had torn it. Even, answer to question number 6 has been attempted twice.

6. Attempting the question twice would not be a malpractice. There is no malpractice on that count. However, we have gone through the original paper of Mathematics subject written by the petitioner. Pages 19 and 20 appear to have been torn. On the part left out after tearing the pages, figure '8' is visible. That means something was written on pages 19 and 20 and subsequently, it has been torn. An opportunity was given to the petitioner. The petitioner has already undergone the punishment. This Court would not sit as an appellant authority over the enquiry conducted by the respondents.

7 The petitioner can now appear for March-April 2020 examination.

8. In light of the above, Writ Petition stands disposed of. No costs.

(SHRIKANT D. KULKARNI, J.)

(S.V. GANGAPURWALA, J.)