

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11108 OF 2022

DEEPAK ASHOK CHAURE
VERSUS
THE GOVERNMENT OF INDIA THROUGH DIRECTOR AND OTHERS

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Advocate for Petitioner : Mr. S. S. Thombre
Advocate for Respondent Nos.1 to 3: Mr. B. B. Kulkarni
AGP for Respondent Nos.4: Mr. S. K. Tambe
Advocate for Respondent No.5: Mr. M. D. Narwadkar

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CORAM : RAVINDRA V. GHUGE &
SANJAY A. DESHMUKH, JJ.

DATE : 29th November, 2022

PER COURT :

1. After hearing the learned advocates for the respective sides, we had passed the following order on 22.11.2022:

“1. We have heard the strenuous and vehement submissions of the learned advocate for the petitioner and with his assistance, have gone through the petition paper book. We have perused the affidavit-in-reply filed by respondent no.2 and the colour photostat copy of the ‘OMR sheet’, which is an answer sheet. We have also perused the rejoinder affidavit filed by the petitioner.

2. Having considered the entire material in the light of the order of the Hon’ble Supreme Court dated 10th January, 2022 delivered in Writ Petition (Civil) No.1286/2021 filed by Prabhnoor Singh & Others V/s National Testing Agency & Others and the earlier orders passed by this Court in Writ Petition Nos.10636/2022, 10048/2022 and 9724/2022, we do not find that we could draw a conclusion that the screen shot of the ‘OMR sheet’ produced by the petitioner in the rejoinder affidavit, could be relied upon as against the photostat copy of the original ‘OMR sheet’ placed before us by the respondent no.2.

3. However, the petitioner desires to see the original 'OMR sheet' from which the colour photostat copy at Page No.48 has been derived by the National Testing Agency. Since the original copy has not been brought before the Court, we are listing this petition on 29th November, 2022 in the 'passing orders category'."

2. Today, the learned standing counsel for Union of India representing the authority which has conducted the examination i.e. the National Testing Agency, respondent no.2 has placed before us a sealed envelope, that he has received containing the original copy of the answer sheet. The said envelope was opened in our presence by the Court Master and the original answer sheet was shown to us.

3. After perusing it, we closely compared it with Page-48, which is a colour scanned copy of the original answer sheet that was produced by the authority before us on the last date. The matter was posted today since the petitioner desired to see the original answer sheet. As such, we handed over the original answer sheet to the learned advocate for the petitioner who has shown the said answer sheet to the petitioner, who is present in the Court.

4. We find that the comparison of the two documents is not a difficult task for a reason that in every box, wherein the options of the answer and question numbers are set out, there are serial numbers. As such, comparing the original with the scanned colour copy, indicates that the answer sheet matches, the roll number matches, the answer sheet number matches, the test booklet code matches, the test

booklet number matches and the handwriting of the petitioner setting out his mother's name, father's name, his own name and signature as well as the signatures of the two invigilators and the candidate's left hand thumb impression.

5. The learned advocate for the petitioner submits, on instructions, that the petitioner admits that original answer sheet and the scanned copy of the answer sheet produced by the authority along with its affidavit-in-reply, are matching. The only grievance of the petitioner is that the screen shot that he has taken as was visible on his desktop, which is placed before the Court at Page No.76, does not match only to the extent of dark circles mentioned under Section-A. In Section-B, which have questions and answers, all the portions of the answer sheet i.e. the left and right side of the vertical perforation also matches in all respects.

6. The learned advocate for respondent no.2 prays that the present petition be treated as a complaint of the petitioner and the same would be forwarded to the Cyber Cell by respondent no.2

7. We, therefore, find that it is only the right side i.e. Section (II) below which Section-A and Section-B are the questions and responses, that alone are altered on the desktop of the petitioner as visible from Page No.76.

8. Be that as it may, we do not wish to draw any conclusion as to whether there has been any hacking of the website of respondent no.2 or whether it is only the right portion of OMR original copy, that is found to be altered on the desktop of the petitioner. We find it appropriate to follow the course which we had followed when we decided the earlier petitions vide order dated 12.10.2022 passed in Writ Petition No.10048/2022 and Writ Petition No.9724/2022 and the order dated 20.10.2022 passed in Writ Petition No.10636/2022.

9. Considering the above and the order passed by the Hon'ble Supreme Court dated 10.01.2022, this petition is disposed off with a direction to respondent no.2 as follows;

(a) The entire set of this petition paper book (Page Nos.1 to 76) be treated by respondent no.2 as a complaint of the petitioner and forward this entire petition paper book to the Cyber Crime Cell for investigation.

(b) If the Cyber Crime Cell, with the use of it's technology and expertise, identifies any foul play on the part of any person known or unknown, shall lodge a first information report with the competent police station so as to set the criminal investigation into motion.

(c) If need be, the petitioner would render co-operation to respondent no.2/authority or the Cyber Crime Cell or the Police Station, as the case may be, in the matter of investigation.

(d) The original 'OMR sheet' is returned to the learned advocate representing respondent no.2

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)

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