

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

WRIT PETITION NO. 759 OF 2020

Prashant Kaushik

...Petitioner

Versus

Staff Selection Commission (WR) & Anr. ...Respondents

Mr. Prashant Trivedi i/b. Mr. Irfan Khan for the Petitioner.
Mr. Aniruddha A. Garge for Respondent Nos. 1 and 2.

**CORAM: DIPANKAR DATTA, CJ &
V.G.BISHT, J.**

DATE: May 05, 2022

PC:-

1. This writ petition is directed against an order dated 5th November, 2019, at page 18A of the writ petition, issued by the Regional Director, Staff Selection Commission (WR).
2. By the said order, the Commission returned findings that the petitioner while participating in a preliminary examination connected with a process of selection for recruitment had resorted to malpractice. As a result of certain report received by the Commission from the Central Science Forensic Laboratory, it was concluded that the petitioner had indulged "into malpractice by procuring impersonation to qualify the examination". This was followed by cancellation of the petitioner's participation in

the preliminary examination and he was debarred from appearing in any of the examinations conducted by the Commission for a period of seven years.

3. It has been contended in paragraph 14 of the writ petition that the petitioner was not given a fair chance to raise defence and was not given any opportunity of hearing by the Commission. Paragraph 14 of the writ petition has been dealt with by the Commission in paragraph 12 of its reply. The averment that the petitioner was not granted opportunity of hearing has not been denied.

4. We may observe that any administrative action which visits any citizen with civil consequences is required to be preceded by compliance with natural justice principles. The law in this behalf has been laid down by the Supreme Court in **State of Orissa vs. Dr. (Miss.) Binapani Dei and Ors.**, reported in AIR 1967 SC 1269, more than 50 (fifty) years back.

5. In such view of the matter, we uphold the contention of the learned counsel for the petitioner that the petitioner was condemned unheard by the Commission. On this short ground alone, this writ petition deserves to be and is allowed. We set aside the impugned order and direct the Commission to provide an opportunity of hearing to the petitioner and, thereafter, to arrive at a final decision.

6. We would remind the Commission to bear in mind the well-accepted principle of law laid down in **Binapani Dei** (supra) while proceeding against other candidates in future for alleged malpractice.

7. All contentions are left open for the petitioner to urge before the Commission before a fresh decision is given in terms of this order.

8. No costs.

(V.G. BISHT, J.)

(CHIEF JUSTICE)

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