



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

CRIMINAL PUBLIC INTEREST LITIGATION NO.11 OF 2021

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...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through the Chief Secretary
To the Govt. of Maharashtra,
Mantralaya, Mumbai-400 023,
- 2) The Additional Chief Secretary,
Revenue and Forest Department,
Government of Maharashtra,
Mantralaya, Mumbai-400 023,
- 3) The Additional Chief Secretary,
Home Department,
Government of Maharashtra,
Mantralaya, Mumbai-400 023.

...RESPONDENTS

...
Mr. Mohnish V. Thorat Advocate for Petitioner.
Mr. S.D. Ghayal, Additional P.P. for Respondents.
...

**CORAM: SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATE : 14th DECEMBER, 2023

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Criminal Public Interest Litigation as per Rule 4(e) of the Bombay High Court Public Interest Litigation Rules, 2010 has been filed by the petitioner, who is not politically connected to any political party, for following prayers:-

“(a.) This Hon’ble Court be pleased to appoint Special Investigation Team to be monitored by this Hon’ble Court and further be pleased to direct the said SIT to investigate into the scam into recruitment process across the State of Maharashtra, as evidence from Report dated 22.5.2020 as well as The Wire Reports annexed to the petition and to submit the report to this Hon’ble Court.

(b.) This Hon’ble Court be pleased to quash and set aside the entire recruitment process which is the subject matter of the aforesaid scam and further be pleased to direct the Respondents to take action in accordance with law against those found involved in the scam.”

2. Petitioner contends that he came across with the Investigative News Report dated 25th October 2020 reported by ‘The Wire’ reporting a well-oiled scam in the recruitment process

of Class-3 and Class-4 posts in various departments in 2019. The report showed the manner in which Vyapam like scam has been committed in 34 Districts of Maharashtra as it was stated that the correspondent of the said news agency had interviewed several candidates who had made complaints. The report pointed out that the Collector, Ahmednagar meticulously went through the documents submitted by the aspiring candidates and cross-checked the evidence, reluctantly made available after much persuasion by the officials handling the 'Mahapariksha Portal'. Collector, Ahmednagar had addressed a report dated 22nd May 2020 to the Additional Chief Secretary, Revenue Department, seeking action. The petitioner once again came across another news item on 28th October 2020 in the same newspaper stating that Collectors of six more Districts have similar notings and had informed it to Revenue as well as Maha-IT Departments. It was revealed that as many as 563 complaints have been received. Thereafter the petitioner has obtained various documents including the report submitted by the Collector, Ahmednagar, dated 22nd May 2020, the contents of which has been reproduced by the petitioner in the Petition. For the sake of brevity, we do not want to reproduce the same. The petitioner further says that

55 protests were organized across the State in the year 2018. It was then revealed from the material that dummy candidates have appeared in the examination, so also the signatures have been forged with the help of spy cameras. Microphones have been used in the examination hall. The petitioner had then lodged detailed complaint / representation on 9th November 2020 to the respondents requesting to take legal action. By applying under the Right to Information Act, he sought further information but thereafter the same news agency published another investigative news on 11th November 2020 reporting that the audit, a private audit firm had found that 'UST Global' and Indian Company 'Arceus Infotech Private Limited', who had bagged the contract to carry out examinations for Maha-IT's Maha-Pariksha portal, had failed on almost all counts during the process and technical review. Both the companies were found to be technically incompetent and they had compromised on the processes making the examinations a complete sham.

3. The petitioner, therefore, says that such scams give rise to corruption. He has relied on the observations by the Hon'ble Apex Court in various decisions in respect of, how corruption affects human life as well as the fundamental rights of the

innocent citizens and therefore, the petitioner prays that Special Investigation Team (SIT) be established, as aforesaid and to punish those persons who would be found to have committed offence.

4. After the notice was issued, the detailed affidavit has been filed by Sanjay Raghunath Bankar, Joint Secretary in the office of the Additional Chief Secretary (Revenue), Revenue and Forest Department, Mantralaya, Mumbai on behalf of respondent Nos.1 and 2. His affidavit is divided into two parts, firstly dealing with the recruitment process for the post of Talathi for the year 2019 and another part is regarding recruitment process for Talathi for the year 2023. It has been stated that the recruitment process for Talathi cadre (group 'C') in the year 2019 was advertised through out the State through concerned Collector office and simultaneously on Maha-Pariksha portal on 28th February 2019 for 1809 vacant posts. Examination for the recruitment on the post of Talathi was conducted online through out the State through Maha-Pariksha portal from 2nd July 2019 to 26th July 2019 i.e. for 18 days in 2 shifts per day. In all 5,64,477 applications were received for the said post, out of which 5,56,841 candidates were found to be eligible to appear. In fact

only 3,61,435 candidates appeared for the examination. An agreement i.e. business requirement document was also executed between Revenue and Forest Department and Maha-IT on 8th January 2019, which enlists the responsibilities of Revenue and Forest Department and Maha-IT for the conduct of the recruitment process. He informs that 14 offences were registered in the Districts of Ahmednagar, Sangli, Dhule and Jalgaon. He has given status of those offences. The issues raised by the Collector were also taken note of and the clarifications were called and issued. As regards Ahmednagar District is concerned, he states that advertisement was for 84 posts. 8 doubtful candidates were found, out of which 3 doubtful candidates were shortlisted for the waiting list and the selection of those candidates has been kept reserved till the decision of further legal proceedings. He has then given details of those 11 cases.

5. The concerned affiant on behalf of respondent Nos.1 and 2 further submitted that as regards recruitment process for the post of Talathi for the year 2023 is concerned, as per the Government Resolution dated 4th May 2022 issued by the General Administration Department, the recruitment for the post of Talathi has been taken up. A memorandum of understanding

has been arrived at between the Government, and Tata Consultancy Services (TCS) and Institute of Banking Personnel Selection (IBPS) have been shortlisted for conducting online examination for the posts of Group C and D in the State. State Level Nodal Officer has been appointed. Toll free complaint mechanism has been provided. Help Desks are introduced in each Collector Office and for the smooth conduct of the examination, a State level Co-ordination Cell has been created. In all 10,41,713 candidates have applied. As per the memorandum of understanding with TCS Company, it is the responsibility of TCS Company to conduct the online examination and declare the results. Periodical meetings have been held under the chairmanship of State Level Nodal Officer. Center observers have been appointed and they have been conveyed with the duties they are expected to discharge. Instructions have been issued for deployment of adequate police force and to provide medical facility at the center. CCTV systems have been installed by TCS Company. Various measures have been taken for the smooth functioning of the conduct of the examination and all those steps taken have been enumerated in the affidavit. It is stated that all over Maharashtra, 151 centers have been

identified. He gives the list and circumstances / facts of the cases under which offences were registered in some of the Districts. He submits that all the precautions were taken for the smooth conduct of the examination and instructions are there to lodge the First Information Report in case of an offence. He has also filed many documents to support his affidavit.

6. Heard learned Advocate Mr. Thorat appearing for the petitioner and learned Additional PP appearing for respondents. In order to cut short, we would like to say that both of them have argued in support of their respective contentions. In addition, after it was asked to the petitioner that it will not suffice for him only to say that SIT should be established to investigate but also petitioner can also make suggestions, as to how malpractices at the time of examination can be avoided. Accordingly, the petitioner has filed the suggestions. In support of his submissions, learned Advocate for the petitioner has relied on the decisions in - **Ramchandra Ganpat Shinde and another vs. State of Maharashtra, AIR 1994 S.C. 1673, State of Maharashtra Through CBI vs. Balakrishna Dattatraya Kumbhar, 2012 (12) SCC 384** and **Dr. Ram Lakhan Singh vs. State Government of Uttar Pradesh**

Through Chief Secretary, 2015 AIR (SCW) 6323, which are mainly on the point of the observations of the Hon'ble Apex Court in respect of, how the corruption has become rampant and how it affects to human life.

7. At this stage, we would like to say that though when the Public Interest Litigation was filed initially before the Hon'ble Principal Seat, at that time also the recruitment process for the year 2019 was over and report was given by the Collector, Ahmednagar that 14 candidates have entered into malpractices. It appears that legal action has already been taken against them. The Collector was in fact well equipped to give directions for lodging of First Information Report if he had come to the conclusion that particular candidate had done the malpractices. Merely by writing a letter to the higher authorities will not be sufficient.

8. The petitioner has time and again relied on the investigative news published in a newspaper. However, before this Court there is no authentic document and the petitioner has not supported his Petition by getting affidavit of the reporter who has allegedly made the said investigation. Simply because some

person has made research and published the same, it cannot be a ground for the petitioner to ask for establishment of SIT. That right or option was available to the said reporter also who had investigated and filed / published the news items. It appears that there was no independent research made by the petitioner.

9. From the affidavit filed on behalf of respondent Nos.1 and 2, we are satisfied with the improvement that has been made by the State when the examinations for the recruitment process for the year 2023 have been conducted. To make an examination malpractice free would be the aim or goal of every Government agency / even the educational institutions, but there cannot be 100% success. Maximum efforts are required to identify the loopholes, if any, which might come to the notice and to have a smooth functioning of the examination. The online examinations have their own advantages and disadvantages like there used to be in written examinations. For online examinations, persons having special knowledge for conduct of such examinations are inevitable. It is stated that General Administration Department of the Government by Government Resolution dated 21st November 2022 has shortlisted two agencies / authorities for conduct of online examination for

Group C and D posts in the State of Maharashtra. State Level Nodal Officer has also been appointed. A detailed memorandum of understanding has been entered into. Help desks have been created, as well as State Level Co-ordination Cell has also been created. As on today the examination process for the said recruitment for the post of Talathi is over and it is stated that some offences have been registered. We are impressed to note that even the mobile jammers at the examination centers were installed and also the bio-metric information has been collected so that the possibility of dummy candidates giving examination can be minimized. Thus, the affidavit filed on behalf respondent Nos.1 and 2 together with the documents satisfies that the improvements have been made and therefore, we are of the opinion that there is absolutely no necessity to establish the SIT. Law will definitely take its course whenever violation is noticed.

10. At the same time, when we had called suggestions from the petitioner to avoid malpractices, fraud, cheating in the online recruitment examinations, he has given those suggestions. At the most, we can say that respondent Nos. 1 and 2 may consider those suggestions for the upcoming examinations.

11. For the aforesaid reasons, we are of the opinion that the Public Interest Litigation can be disposed of with following order:-

ORDER

(I) Prayer clause (a.) and (b.) stands rejected.

(II) However, respondent Nos.1 and 2 are requested to take into consideration the suggestions given by the petitioner by way of an affidavit dated 10th November 2023 and see whether any of those suggestions can be put to implementation.

(IV) Accordingly, the Public Interest Litigation stands disposed of.

[ABHAY S. WAGHWASE]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/DEC23