



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

135 WRIT PETITION NO. 5251 OF 2024

M. Najam M. Azam

VERSUS

The State of Maharashtra and another

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Advocate for the Petitioner : Mr. Pravin N Kalani

AGP for Respondent No.1: Mrs. V.N. Patil-Jadhav

Advocate for Respondent No.2 : Mr. Sachin S. Deshmukh

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**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.**

DATED : 21 OCTOBER 2024.

PER COURT :-

The petitioner is an unsuccessful candidate from All India Bar Examination – XVIII and is seeking a declaration about having passed the same.

2. We have heard both the sides.

3. Learned advocate for the petitioner vehemently submits that out of 100 questions, of which scores were to be assessed, the Council has abruptly dropped 7 questions and has assigned the marks proportionately in respect of remainder 93 questions without any logic. Out of those 7 questions, in fact 5 questions were framed correctly but could be answered by multiple options. There was no

reason for the Council to omit at least those 5 questions. Since the petitioner could have cleared the examination, had those 5 questions being not deleted, he is seeking a declaration about he having passed the examination. The decision to drop 7 questions was an arbitrary and capricious one.

4. Learned advocate for the respondent - Council tenders across the bar an affidavit in reply. He would submit that the decision is preceded by the advice of the monitoring committee which in turn was based on the conclusions and recommendations by a sub-committee headed by the legal luminaries. Since 7 questions which were subsequently dropped, were either wrong or were having multiple correct options, a decision was taken to delete those 7 questions. The decision was not motivated and even if the petitioner is at a loss, writ jurisdiction cannot be exercised.

5. We have considered the rival submissions and perused the papers.

6. Though several submissions have been advanced and some pleadings are there, the relief being claimed by the petitioner, is merely seeking a declaration about having passed the examination.

7. When the decision to delete 7 questions out of 100 questions has been taken consciously by the Council, on the advice of the monitoring committee which in turn was guided by a detailed enquiry and the report of the sub committee of three legal luminaries, in absence of any specific and precise allegation attributing malafides, this Court in exercise of powers under Article 226 of the Constitution of India, would have inherent limitations.

8. We are merely concerned with the decision making process and going by what we have mentioned herein-above, it cannot be said that no process was followed and the decision was taken abruptly and arbitrarily, even if the petitioner has to suffer. Till the time, the petitioner is unable to demonstrate objectively that the decision was prompted by some motive that too, of keeping him aside, this Court cannot grant any relief.

9. The petition is dismissed.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL , J.)

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