



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

WRIT PETITION NO. 1082 OF 2024

MAYUR DIGAMBAR VISPUTE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

....

Mr. M. R. Sonawane, Advocate for Petitioner

Mr. S. K. Tambe, AGP for Respondent – State

Mr. A. B. Kadethankar, Advocate for Respondent - MHADA

....

**CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.**

DATE : 30.01.2024

PER COURT :-

1. The Petitioner has put forth prayer clause [B] as under:-

“[B] To issue Writ of Mandamus or any other writ or direction in the like nature, the respondents may kindly be directed to include the name of petitioner in the final Select list prepared for the candidates for appointment to the post of Junior clerk cum Typist Assistance on establishment of the respondent no.2 in pursuance to the Advertisement dated 17.09.2021 by deciding the representations dated 02.02.2023 and 02.12.2023, in view of the decision of this Hon’ble court dated 7.11.2023 in writ petition no. 10055/2022 and for that purpose issue necessary directions.”

2. The learned Advocate Shri Kadethankar has vehemently opposed this Petition.

3. In a similar group of cases, we have delivered a detailed judgment running into 14 pages, on 07.11.2023 in Writ Petition No. 10055 of 2022 (Yogesh Suppadsing Bamhnavat Vs. The State of Maharashtra and others) and connected Writ Petitions. This Petitioner is one of those Petitioners, who appeared for the examination, held as a part of the selection process by Respondent No.2/MHADA, for filling up of the posts of Junior Clerk-cum-Typist. It is undisputed that the Petitioner, as like those Petitioners, is in the merit list. Issuance of appointment orders for the said posts, has already commenced.

4. The ground raised by the Maharashtra Housing and Area Development Authority (MHADA) is that, the present Petitioner, along with 60 examinees, purportedly indulged in unfair exam practices and the first information report dated 07.12.2022 bearing No.1015/2022 is registered against them at Police Station Kherwadi, District Brihan Mumbai City.

5. It is undisputed that the Petitioner had gone to the washroom, well before entering the examination hall. After the examination commenced, he did not leave the examination hall even

to drink a drop of water. He did not visit the washroom. He was in the examination hall in his chair for the entire 120 minutes duration of the examination. It is undisputed that he has himself answered the questions and there is no allegation of a proxy candidate.

6. In view of our conclusions in our order dated 07.11.2023, in the case of Yogesh (supra), the conclusions in paragraph 18 and 20 of the said order would squarely apply to the case of the present Petitioner.

7. In view of the above, **this Petition filed by Mayur Digambar Vispute is partly allowed.** We direct Respondent No.2 MHADA, to consider the candidature of the present Petitioner in their recruitment process and based on his rank in the order of merit and the availability of posts, he may be considered by following the due procedure applicable to the said recruitment process, in the event there is no other legal impediment in the path of the Petitioner.

[Y. G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]

SMS