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

WRIT PETITION NO. 838 OF 2024

**YOGESH MADHAVRAO JANGLE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS**

....

Mr S. S. Thombre, Advocate for Petitioner;
Mr S. B. Narwade, A.G.P. for Respondent No.1
Mr A. B. Kadethankar, Advocate for Respondent No.2

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

DATE : 24th January, 2024

PER COURT:

1. The Petitioner has put forth prayer clauses (B) and (C)

which read as under :-

“(B) By issuing a writ of mandamus, orders, directions or any other appropriate writ in the like nature, direct the respondent No.2 to include name of the petitioner in the final Select List prepared for the candidates for appointment to the post of Junior Clerk-cum-Typist on the establishment of the respondent No.2 and for that purpose, issue necessary orders;

(C) Pending hearing and final disposal of this writ petition, the respondent No.2 may kindly be restrained from issuing any appointment orders in favour of those candidates, who scored less marks in the online examination than the petitioner from EWS category for appointment to the post of Junior Clerk-cum-Typist on the

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establishment of Respondent No.2 MHADA and for that purpose issue necessary orders.”

2. In a similar group of cases, we have delivered a detailed judgment running into 14 pages, on 07/11/2023. 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.

3. 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.

4. We have perused the allegation against the present Petitioner set out in the first information report, which reads as under :-

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“ योगेश माधवराव जंगले, रा. ठि. सारोळा, नाथनवेल, कन्नड, औरंगाबाद-431104,
मोबाईल क्र.7875461198
रोल न.60920856700423 कनिष्ठ लिपीक
आयओएन डिजीटल झोन, चिखलठाणा,
/50, सीटीआर मॅनिफॅक्चरिंग इंडस्ट्रीजच्या बाजुला, चिखलठाणा एम.आय.डी.सी.
पोलीस ठाण्याच्या समोर, एम.आय.डी.सी, औरंगाबाद-431006

दिनांक-09/02/22

सदर उमेदवाराचे लॉग डिटेल्स संशयास्पद असून त्याचा प्रत्येक प्रश्न सोडवण्याचा
अॅव्हरेज टाईम 07 सेकंद दिसून आला आहे. पहिल्या तासामध्ये नमुद उमेदवाराने
00 प्रश्न सोडवले असून दुस-या तासामध्ये 163 प्रश्न सोडवले आहेत.”

5. The learned A.G.P. has tried to convince us that the first information report is under investigation. We find from the aforesaid allegation to be investigated against the Petitioner, the only objection of the MHADA is that in MCQ/objective pattern of examination, the Petitioner spent average seven seconds for answering one question. This is in the backdrop of the fact that, neither the Petitioner left the examination hall even to drink a drop of water, nor he did go out of the examination hall to visit the washroom. For 120 minutes, he was in his chair in the examination hall and it is undisputed that, he himself has answered the questions.

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6. In view of the above, considering the conclusions drawn by us in our order dated 07/11/2023, **this Writ Petition, filed by Yogesh Madhavrao Jangale, is partly allowed.**

7. 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 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 this Petitioner.

(Y. G. KHOBRAGADE, J.)

(RAVINDRA V. GHUGE, J.)

sjk