

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2974 OF 2025

Maharashtra Public Service Commission .. Petitioner
Vs.
Yogesh Sahebrao Gawali & Anr. .. Respondents

Ms. Rohini Wagh (through VC) a/w. Mr. P. M. Sawant, Mr. Manoj Bachate,
Ms. Aishwarya Chandramore, Advocates for the Petitioner.
Mr. Praveen B. Kamble, Advocate for the Respondent No.1
Mrs. Ashwini A. Purav, Assistant Government Pleader for the Respondent
No.2.

**CORAM : A. S. CHANDURKAR &
M. M. SATHAYE, JJ.**

DATED : 22nd APRIL 2025

P.C.:

1. Heard Learned Counsel for the parties.
2. By this Petition under Articles 226 and 227 of the Constitution of India, the Petitioner ('MPSC' for short) is challenging the order dated 24/09/2024 passed by Maharashtra Administrative Tribunal, Mumbai in Original Application No. 974 of 2024. By the impugned order, the Petitioner is directed to accept the answer paper of the Respondent No. 1 student of the subject General Studies-II (032) as answer paper written against Code 'D' and not Code 'B'. Further direction is given to assess the said answer paper against Question Booklet Series Code-D and to re-evaluate the said answer paper. It is further directed that, then if Respondent No. 1 is found meritorious, then he be called for an interview.

3. Learned Counsel for the Petitioner submitted that the student had committed mistake in writing Question Booklet Series Code. It is submitted that instead of 'D', he has written 'B' and the corresponding circle to be blackened was also done for Circle 'B' and not Circle 'D'. Relying on instruction nos. 8 and 9 of 'special instructions' to the students about writing answer book paper, it is submitted that students are specifically instructed to write question booklet series code properly and if the same is written incorrectly, the student is to be held responsible. Relying on Rule No. 11(2) of the Maharashtra Public Service Commission Rules of Procedure 2014, it is contended that since re-valuation of answer books is not permitted and therefore it cannot be directed. She has relied on the following judgments in support of her case.

(a) Pramod Kumar Srivastava vs Chairman, Bihar Public Service Commission, Patna and Ors [(2004) SUPP 3 S.C.R, 374]

(b) H. P. Public Service Commission vs Mukesh Thakur & Anr [AIR 2010 SC 2620]

(c) Ran Vijay Singh vs. State of U.P [2018 (2) SCC 357]

4. On the other hand, learned Counsel for the Respondent No. 1, by referring to the affidavit-in-reply, filed by Respondent No. 1 dated 21/04/2025, has submitted that though admittedly the student has made a mistake of writing incorrect question booklet series code, the correct code was written by the invigilator. He submitted that in similar circumstances, when there was mistake by the students, orders have been passed against the same Petitioner by the Tribunal directing the Petitioner to allow the

students to write correct question booklet series code. It is submitted that some orders of such nature are not challenged by the Petitioner, however, in Petitioner's case, same kind of order is challenged. It is submitted that there is no basis for such discrimination. It is submitted that Respondent No. 1 is a meritorious student and writ jurisdiction may not be exercised against him.

5. We have considered the rival submissions and perused the record with the assistance of the learned Counsel for the parties.

6. Perusal of impugned order shows that the Tribunal has considered that possibilities of committing types of errors are not exhaustively contemplated under directions issued on 29/07/2022 by the Petitioner. Therefore it is held that when any student writes wrong question booklet code and also darkens incorrect circle, but answers are given for question paper of other code, then obviously answer key will not match under computerized system. The Tribunal has considered Clause No. 2.7.8 of the applicable rules, specifying the duty of the invigilator that he should sign the answer sheet after ascertaining information given on answer sheet such as correctness of name, sheet number, etc. The Tribunal has further considered in the present case, that invigilator has mentioned correct question booklet code number 'D' and has correctly darkened the circle 'D' by personally verifying the same. On this material on record, the Tribunal has passed the impugned order granting the Respondent No. 1 student an opportunity.

7. We have perused the answer sheet in question, which indeed indicates that the invigilator has correctly stated the question booklet series code. We have also perused two orders viz. order passed in O.A. No. 473 of 2024 by the Tribunal in the case of Smt Komal Sanjay Bhopale vs. MPSC and Order

dated 22/05/2024 in O.A No. 354 of 2024 in the case of S. D. Nagargoje vs. State of Maharashtra, passed by the Tribunal, which are produced alongwith affidavit-in-reply. In both these orders, the Tribunal has permitted the students to correct the mistake, by inserting proper code of the question booklet series. Undisputedly, these orders are not challenged by the Petitioner – MPSC, thereby accepting orders similar to impugned order.

8. So far as the judgments relied upon by the Petitioner are concerned, since the facts of the present case are peculiar and since in almost same set of facts, we are shown two orders of the Tribunal, which are accepted by the Petitioner, the judgments relied will not advance the case of the Petitioner.

9. In the peculiar facts and circumstances narrated above, we are of the opinion that when the Tribunal has exercised discretion granting opportunity to Respondent No. 1-Student, there is no reason to interfere. The impugned order is based on material available on record and a probable view is taken. There is neither perversity nor jurisdictional error in the impugned order. Hence, we do not see any reason to interfere in the writ jurisdiction.

10. The Petition is accordingly dismissed. No order as to costs.

11. All concerned to act on duly authenticated or digitally signed copy of this order.

(M. M. SATHAYE, J.)

(A. S. CHANDURKAR, J)