

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

WRIT PETITION NO. 11058 OF 2025

**BASAVRAJ
GURAPPA
PATIL**

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Date: 2025.12.25
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Kartiki Awantika
V/s.

.. Petitioner

The State of Maharashtra & Ors.

.. Respondents.

AND

WRIT PETITION NO. 11059 OF 2025

Shruti Hemant Wade
V/s.

.. Petitioner.

The State of Maharashtra & Ors.

.. Respondents.

AND

WRIT PETITION NO. 11198 OF 2025

Patil Naresh Dongar
V/s.

...Petitioner.

The State of Maharashtra & Ors.

...Respondents.

AND

WRIT PETITION NO. 11753 OF 2025

Amit Arun Londhe
V/s.

... Petitioner.

The State of Maharashtra & Ors.

... Respondents.

Mr. Abhijeet Desai a/w Ms. Mohini A. Rehpade, Mr. Vijay Singh, Smt. Daksha Punghera & Mr. Karan Gajra i/b Desai Legal LLP, Advocates for the petitioner in all the above writ petitions.

Mr.O.A.Chandurkar, Addl. Government Pleader a/w Mrs. Pooja Patil, AGP for the Respondent No.1-State in Writ Petition Nos. 11058 of 2025 and Writ Petition No.11198 of 2025.

Mrs. Pooja Patil, AGP for the Respondent No.1-State in Writ Petition No.11059 of 2025.

Mrs. M. P. Thakur, AGP for the Respondent No.1-State in Writ Petition No.11753 of 2025.

Mr.Ashutosh M. Kulkarni a/w Mr.Sarthak Diwan & Ms.Meghana Chavan, Advocates for the Respondent No.2-MPSC in all the above

writ petitions.

Dr.Milind Sathe, Senior Advocate a/w Mr.Rahul Nerlekar & Ms.Amruta Nerlekar, Advocates for the Respondent No.3-Bombay High Court in all the above writ petitions.

**CORAM : SHREE CHANDRASHEKHAR, CJ &
GAUTAM A. ANKHAD, J.**

**RESERVED ON : 18th SEPTEMBER 2025
PRONOUNCED ON : 24th DECEMBER 2025**

PER, SHREE CHANDRASHEKHAR, CJ.:

Four writ petitions with similar prayers, except an additional prayer in Writ Petition No. 11753 of 2025, seeking re-evaluation and re-calculation of the merit list as per Clause 6.5.1 of the Maharashtra Public Service Commission Rules have been filed by the candidates who appeared in the preliminary examination for the post of Civil Judge (Junior Division) and Judicial Magistrate (First Class).

2. The prayers in Writ Petition No. 11753 of 2025 are reproduced below:-

- “(a) *Issue a Writ of Mandamus or any other appropriate writ, order, or direction in the nature thereof directing Respondents to furnish to the Petitioner the copies of his evaluated answer sheets pertaining to the Civil Judge (Junior Division) Judicial Magistrate (First Class) Competitive Main Examination-2022;*
- (b) *Declare that the action of Respondents in unilaterally disposing of his RTI Application for providing the evaluated answer sheets to the Petitioner as illegal, arbitrary, unconstitutional, and violative of the Petitioner’s fundamental rights under Articles 14, 19(1)(a), and 21 of the Constitution of India.*
- (c) *Issue a Writ of Mandamus or any other appropriate writ, order or direction in the nature thereof, directing the Respondents to Moderate/re-evaluate the answer sheet of the Petitioner for the Civil Judge (Junior Division) Judicial Magistrate (First Class) Competitive Main Examination-2022 and accordingly correct the marks awarded, in the interest of justice and fairness.*
- (d) *This Hon’ble Court may be pleased to issue a Writ of Mandamus or any other appropriate writ, order or direction*

commanding Respondent No.2 to re-evaluate and recalculate the merit list by correctly applying the Priority Order criteria under clause 6.5.1, particularly considering the Petitioner's MBA degree dated 2015 instead of LL.M. degree dated 2020 for determining his priority ranking, and to place the Petitioner at his correct and rightful position in the merit list and declare him selected for the post of Civil Judge (Junior Division) Judicial Magistrate (First Class).

- (e) Pending the hearing and final disposal of this Petition, the Petitioner prays that this Hon'ble Court be pleased to direct the Respondent No.2 to keep one post vacant in the Civil Judge (Junior Division) and Judicial Magistrate (First Class) Competitive Main Examination-2022, until the final disposal of the present matter;*
- (f) Pending the hearing and final disposal of the present writ petition, this Hon'ble Court may be pleased to direct the Respondents to preserve the answer sheets of the Petitioner for the Civil Judge (Junior Division) and Judicial Magistrate (First Class) Competitive Main Examination-2022 and stay any further recruitment process based on the results of the said examination until the moderation/ reevaluation of the Petitioner's Answer sheets is completed, in the interest of justice and equity.*
- (g) Ad interim relief in terms of prayer clause (d), (e), and any other relief as this Hon'ble Court deems fit in the interest of Justice.*
- (h) Award costs of this Petition in favour of the Petitioner.*
- (i) Pass such other and further orders as may be deemed fit and proper in the facts and circumstances of the case."*

3. These petitioners who could not make to the select list of the qualified candidates published by the respondent no.2 are seeking a direction to the respondent-Authority to furnish them their answer-books. The petitioners have taken a plea that the decision of the respondent-Authority not to provide the answer-books through RTI is illegal, arbitrary and unconstitutional. The petitioners state that such decision of the respondent-Authority is violative of their fundamental rights under Articles 14, 19(1)(a) and 21 of the Constitution of India. Raising such grounds, Kartiki Awantika has laid a challenge to the orders dated 17th April 2025 and 21st April 2025 passed by the Nodal Officer, General Administration Department, Mantralaya, Mumbai and

the appellate order dated 21st July 2025 in Writ Petition No.11058 of 2025. Shruti Hemant Wade has challenged the order dated 30th July 2025 passed by Nodal Officer, General Administration Department, Mantralaya, Mumbai in Writ Petition No. 11059 of 2025. Patil Naresh Dongar seeks to challenge the order dated 17th June 2025 passed by the Public Information Officer and Additional Secretary, Maharashtra Public Service Commission, Navi Mumbai in Writ Petition No. 11198 of 2025. Similarly, Amit Arun Londhe has challenged the order dated 16th April 2025 passed by the Nodal Officer, General Administration Department, Mantralaya, Mumbai in Writ Petition No.11753 of 2025. These petitioners refer to the order passed in Writ Petition No.7439 of 2025 and seek a direction to the respondent-Authority to permit them to inspect his/her answer-books for the Civil Judge (Junior Division) and Judicial Magistrate (First Class) Competitive Mains Examination-2022.

4. The petitioners who participated in the written examination pursuant to Advertisement No.040 of 2024 for appointment to the post of Civil Judge (Junior Division) and Judicial Magistrate (First Class) were called for interview. They were included in the general merit list but were not selected because they could not reach the cut-off marks. According to the petitioners, the marking pattern by the examiners was quite irregular and arbitrary. The learned counsel for the petitioners referred to an order passed by this Court in Writ Petition No.7439 of 2025 wherein this Court made an observation that evaluation of the answer-book was done in a perfunctory manner and without any individualized assessment of the answer-books. The learned counsel for the petitioners referred to several paragraphs in the said case wherein this Court observed as under: -

“5.As regards moderation of answer-sheet, learned counsel for respondent No.2-MPSC submits that the same is permissible only for such students who have obtained marks in the range of 40 to 50. It is submitted that the petitioner got 51 marks in civil paper and 55 in criminal paper and therefore, this Court cannot direct moderation or re-evaluation of the petitioner’s answer-sheets.

6. We have perused the answer-sheets of the petitioner and find that in the civil answer-sheet, all the 12 questions carrying 4 marks are given 2 marks each and all the 4 questions carrying 8 marks are given 4 marks each. We thus find that such evaluation of civil answer-sheet is done in a perfunctory manner and without an individualised assessment of the petitioner’s answers. In the facts and circumstances of the present case, by way of interim order we therefore, direct respondent No.2-MPSC to conduct moderation of the civil answer-sheet of the petitioner within a period of two weeks from today. Respondent No.2 shall submit the result in a sealed envelope to this Court on the next date.

7. We will consider the submission of respondent No.2-MPSC on merit after the result of moderation of the civil answer-sheet is submitted to this Court.

8. List the petition on 31st July 2025.

9. The learned counsel for the respondent No.2-MPSC submits that to enable the respondent No.2 to challenge this order, it be stayed for a period of four weeks. However in the facts and circumstances of the case the request is rejected.”

5. The relevant rules under the Maharashtra Judicial Service Rules, 2008 are reproduced hereunder:-

“4. Appointing Authority – The Appointing Authority for the cadre of District Judges and Civil Judge, Junior Division shall be the Governor and for promotion to the cadre of Senior Civil Judges shall be the High Court.

5. Method of Recruitment, Qualification and Age Limit- In respect of each category of posts specified in column (2) of the TABLE `C’ below, the method of recruitment and minimum qualification, age limit, etc., shall be as specified in the corresponding entries in columns (3) and (4), thereof, namely:-

S.N. (1)	Cadre (2)	Method of Recruitment (3)	Qualifications, age limit, etc. (4)
1	District Judge	(a) 65% of the posts by promotion from the cadre of Senior Civil Judges on the basis of the principal of merit-cum-seniority and passing a suitability test. (b) 10% of the posts by	Must have been in the cadre of Senior Civil Judges after successful completion of officiating period. Must have been officiating as a Senior Civil Judge for at least five years.

	<i>promotion strictly on the basis of merit through limited competitive examination from amongst the Senior Civil Judges.</i> <i>Provided that if any of the posts could not be filled up from this 10% quota for want of eligible Judicial Officers, the same shall be filled up by regular promotion.</i> <i>(c) 25% of the posts shall be filled by nomination from amongst the eligible persons practising as Advocates on the basis of a written and viva-voce test conducted by the High Court.</i>	<i>(a) Educational qualification- Must hold a degree in Law.</i> <i>(b) Experience – Must be practising as an Advocate in the High Court or Courts subordinate thereto for not less than 7 years on the date of publication of the advertisement and while computing the period for practising as an Advocate, the period during which he has held the post of Public Prosecutor or Government Advocate or Judicial Officer shall be included;</i> <i>OR</i> <i>Must be working or must have worked as Public Prosecutor or Government Advocate for not less than 7 years in the post or posts on the date of publication of the advertisement and while computing the period of 7 years, the period during which the candidate has practised as an Advocate shall be included:</i> <i>(Deleted)</i>
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6. Recruitment by Nomination

(3)(a) The Recruiting Authority, on the basis of cumulative marks secured by a candidate, shall prepare in the order of merit, a list of candidates eligible for appointment. The number of candidates to be included in the list shall be equal to the number of vacancies as on the date of examination.

(b) Besides the above list, the Recruiting Authority shall prepare wait list, equal to ten percent of the number of vacancies notified for recruitment or one, whichever is higher.”

6. The method of recruitment, qualification and age limit for the District Judges and Civil Judge (Junior Division) are provided under Rule 5 of the Maharashtra Judicial Service Rule, 2008. Rule 6(3)(a) provides that a list of candidates eligible for the appointment shall be prepared in the order of merit on the basis of the cumulative marks secured by the candidates. It further provides that the select list shall include the name of the candidates equal to the number of vacancies

as on the date of the examination. Rule 6(3)(b) provides that there shall be wait list of the candidates equal in number to 10% of the number of vacancies notified for recruitment subject to a minimum of one candidate in the waiting list. The learned counsel for the petitioners contended that there is no restriction under the Maharashtra Judicial Services Rules, 2008 to make available the answer sheet to a candidate and the High Court may direct a fresh evaluation of answer sheet in appropriate cases. The learned counsel for the petitioners also referred to “*Tirtha Sarathi Mukherjee*”¹ to contend that the writ Court may permit a candidate to see the answer-book to avoid grave injustice which may occasion if there is a calculation error. In “*Tirtha Sarathi Mukherjee*”, the Hon’ble Supreme Court held as under: -

“19. We have noticed the decisions of this Court. Undoubtedly, a three-Judge Bench has laid down that there is no legal right to claim or ask for re-valuation in the absence of any provision for re-valuation. Undoubtedly, there is no provision. In fact, the High Court in the impugned judgment [Tirtha Sarathi Mukherjee v. High Court of Gauhati, 2018 SCC OnLine Gau 2060] has also proceeded on the said basis. The first question which we would have to answer is whether despite the absence of any provision, are the courts completely denuded of power in the exercise of the jurisdiction under Article 226 of the Constitution to direct re-valuation? It is true that the right to seek a writ of mandamus is based on the existence of a legal right and the corresponding duty with the answering respondent to carry out the public duty. Thus, as of right, it is clear that the first respondent could not maintain either writ petition or the review petition demanding holding of re-valuation.

20. The question however arises whether even if there is no legal right to demand re-valuation as of right could there arise circumstances which leave the Court in any doubt at all. A grave injustice may be occasioned to a writ applicant in certain circumstances. The case may arise where even though there is no provision for re-valuation it turns out that despite giving the correct answer no marks are awarded. No doubt this must be confined to a case where there is no dispute about the correctness of the answer. Further, if there is any doubt, the doubt should be resolved in

1. *High Court of Tripura Through the Registrar General v. Tirtha Sarathi Mukherjee & Ors.* (2019) 16 SCC 663

favour of the examining body rather than in favour of the candidate. The wide power under Article 226 may continue to be available even though there is no provision for re-valuation in a situation where a candidate despite having giving correct answer and about which there cannot be even the slightest manner of doubt, he is treated as having given the wrong answer and consequently the candidate is found disentitled to any marks.”

7. The learned counsel for the petitioners further referred to “*Aditya Bandopadhyay*”² and contended that it would not breach confidentiality, privacy, secrecy or trust if the petitioners are permitted to see their answer-book. In “*Aditya Bandopadhyay*”, the Hon’ble Supreme Court held as under: -

“47. When an examinee is permitted to examine an answer book or obtain a certified copy, the examining body is not really giving him some information which is held by it in trust or confidence, but is only giving him an opportunity to read what he had written at the time of examination or to have a copy of his answers. Therefore, in furnishing the copy of an answer book, there is no question of breach of confidentiality, privacy, secrecy or trust. The real issue, therefore, is not in regard to the answer book but in regard to the marks awarded on the evaluation of the answer book. Even here the total marks given to the examinee in regard to his answer book are already declared and known to the examinee. What the examinee actually wants to know is the break-up of marks given to him, that is, how many marks were given by the examiner to each of his answers so that he can assess how his performance has been evaluated and whether the evaluation is proper as per his hopes and expectations. Therefore, the test for finding out whether the information is exempted or not, is not in regard to the answer book but in regard to the evaluation by the examiner.”

8. In “*Islamic Academy of Education*”³, the Hon’ble Supreme Court observed that the *ratio decidendi* of the judgment has to be found out only on a reading of entire judgment and that can be ascertained only with the context in mind of what was set out in the judgment. The Hon’ble Supreme Court further observed that one cannot find the *ratio decidendi* of the judgment just by reading here and there

2. *Central Board of Secondary Education & Anr. v. Aditya Bandopadhyay & Ors.* (2011) 8 SCC 497

3. *Islamic Academy of Education & Anr. v. State of Karnataka & Ors.* (2003) 6 SCC 697

from the judgment. A decision is required to be read and understood in the context of the facts and statutory provisions therein and not like a statute of the Parliament. In “*Goan Real Estate and Construction Limited & Anr.*”⁴, the Hon’ble Supreme Court held as under: -

“31. It is well settled that an order of a court must be construed having regard to the text and context in which the same was passed. For the said purpose, the judgment of this Court is required to be read in its entirety. A judgment, it is well settled, cannot be read as a statute. Construction of a judgment should be made in the light of the factual matrix involved therein. What is more important is to see the issues involved therein and the context wherein the observations were made. Observation made in a judgment, it is trite, should not be read in isolation and out of context. On perusal of para 10 of the judgment, it is abundantly clear that even under the 1991 Notification which is the main notification, it was stipulated that all development and activities within CRZ will be valid and will not violate the provisions of the 1991 Notification till the management plans are approved. Thus, the intention of legislature while issuing the Notification of 1991 was to protect the past actions/transactions which came into existence before the approval of the 1991 Notification.”

9. In “*Ambica Quarry Works & Anr.*”⁵, the Hon’ble Supreme Court observed that a decision has to be understood in the background of the facts of that case. The Hon’ble Supreme Court has observed as under: -

*“18. The aforesaid observations have been set out in detail in order to understand the true ratio of the said decision in the background of the facts of that case. It is true that this Court held that if the permission had been granted before the coming into operation of the 1980 Act and the forest land has been broken up or cleared, clause (ii) of Section 2 of 1980 Act would not apply in such a case. But that decision was rendered in the background of the facts of that case. The ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what it actually decides, and not what logically follows from it. (See Lord Halsbury in *Quinn v. Leathem*).”*

10. Quite clearly, the *ratio decidendi* in a case is ascertained by an

4. “*Goan Real Estate and Construction Limited & Anr. v. Union of India & Ors.*” (2010) 5 SCC 388

5. *Ambica Quarry Works & Anr. v. State of Gujarat & Ors.* (1987) 1 SCC 213

analysis of the facts of the case. The process of reasoning involves measuring premises, a pre-existing rule of law and the material facts of the case. Strictly speaking, the decisions in Writ Petition No. 1685 of 2023 titled "*Nitish s/o Anil Sharma v. State of Maharashtra & Anr.*" and Writ Petition No.7439 of 2025 titled "*Shraddha Mahesh Rathod v. The State of Maharashtra & Anr.*" do not constitute the precedents and were rendered in the facts and circumstances of the case. These decisions do not lay down a law that the writ Court must exercise its powers and direct the examination body to permit the aggrieved candidate to see his answer-book. The orders passed in these decisions do not say that *dehors* the extant Rules a writ of mandamus shall be issued even where the Rules do not permit re-evaluation or re-calculation of the marks in the answer-book. This is quite basic in law that a mandamus shall not lie if a person does not have an enforceable right flowing from the Statute, Rules or Government Notification/Circular. Etymologically, the expression "mandamus" means a direction which the writ Court may issue to the respondent-Authority where a person has a legal right in law and a corresponding duty is cast on the respondent-Authority. In "*Smt. A. Lakshmikutty*",⁶ the Hon'ble Supreme Court held as under: -

"34. We must refer to the case of Mani Subrat Jain v. State of Haryana [(1977) 1 SCC 486 : 1977 SCC (L&S) 166 : AIR 1977 SC 276 : (1977) 2 SCR 361] which was relied upon by learned counsel for the State Government. It is well settled that a writ of mandamus is not a writ of course or a writ of right, but is, as a rule, discretionary. There must be a judicially enforceable right for the enforcement of which a mandamus will lie. The legal right to enforce the performance of a duty must be in the applicant himself. In general, therefore, the court will only enforce the performance of statutory duties by public bodies on application of a person who can show that he has himself a legal right to insist on such performance. Applying the principles stated in Halsbury's Laws of England, 4th Edn., Vol. 1, paragraph 122, this Court observed that a person

6. *State of Kerala v. Smt. A. Lakshmikutty & Ors.* (1986) 4 SCC 632

whose name had been recommended for appointment as a District Judge by the High Court under Article 233(1) had no legal right to the post, nor was the Governor bound to act on the advice of the High Court and therefore he could not ask for a mandamus. It was observed: (SCC pp. 488-89, paras 9, 10 and 13)

“It is elementary though it is to be restated that no one can ask for a mandamus without a legal right.

The initial appointment of District Judges under Article 233 is within the exclusive jurisdiction of the Government after consultation with the High Court. The Governor is not bound to act on the advice of the High Court. The High Court recommends the names of persons for appointment. If the names are recommended by the High Court it is not obligatory on the Governor to accept the recommendation.

The consultation of the Governor with the High Court does not mean that the Governor must accept whatever advice or recommendation is given by the High Court. Article 233 requires that the Governor should obtain from the High Court its views on the merits and demerits of persons selected for promotion and direct recruitment.”

11. The writ Court may exercise its jurisdiction under Article 226 of the Constitution of India in a case where it is *prima-facie* demonstrable that it would occasion a failure of justice if the Court does not grant indulgence in the matter. In a competitive examination where thousands of candidates participate, it poses a serious challenge before the writ Court how to exercise its writ jurisdiction when a candidate, who missed the cut-off marks just by a whisker, contends that there may be error in evaluation of his answer-book. The sanctity of the competitive examination is to be maintained and a writ cannot be issued to satisfy every doubt of the aggrieved candidate. There is no doubt that a writ is an extraordinary remedy and the writ Court exercises plenary jurisdiction. This is also well settled that the writ Court is not bound by the technicalities and shall provide relief to the aggrieved person in appropriate cases. In “*Tirtha Sarthi Mukherjee*”, the Hon’ble Supreme Court takes note to a situation where no marks are awarded for the correct answer. There may also be a situation where a correct answer is treated as a wrong

answer. Observing that if there is no dispute about the correctness of the answer, the writ court may exercise its jurisdiction under Article 226 of the Constitution of India to avoid grave injustice to a candidate. However, the Hon'ble Supreme Court indicated further rider that any doubt should be resolved in favour of the examining body. Therefore, having regard to the judicial discipline and propriety which has a universal application for maintaining uniformity in the judicial system, we shall permit the petitioners to peruse their answer-books only for the purpose as indicated in "*Tirtha Sarathi Mukherjee*".

12. Writ Petitions Nos.11058 of 2025, 11059 of 2025, 11198 of 2025 and 11753 of 2025 are disposed of in the aforesaid terms.

[GAUTAM A. ANKHAD, J.]

[CHIEF JUSTICE]