



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.5640 OF 2017

Swapnil Nilkanth Mahalle, Village Dabhadi, Post Shegi, Tq. Mangrulpir, Dist. Washim

-vs-

State of Maharashtra, Thr. Secretary, Ministry of Home Dept. Mantralaya, Mumbai and ors.

Office notes, Office Memoranda of  
Coram, appearances, Court's orders  
or directions and the Registrar's orders.

Court's or Judge's Orders.

Ms Shaad Mirza, Advocate for petitioner.

Shri Nitin Autkar, Assistant Government Pleader for respondent Nos.1 and 2.

Shri J. B. Gandhi, Advocate for respondent No.3.

**CORAM : NTIN W. SAMBRE AND MRS VRUSHALI V. JOSHI, JJ.**

**DATE : January 09, 2025**

1. Heard.
2. The challenge is to the order dated 16/11/2016 passed by the Maharashtra Administrative Tribunal in O. A. Nos.217/2016 and 578/2015.
3. The counsel for the petitioner while questioning the impugned order would urge that the appointing authority has failed to consider the score of the petitioner in graduation which was above 60% while allocation of proportionate marks. It is further claimed that the respondent No.3 while answering question No.69 has overwritten the word 'Police' and has rewritten the answer. In such an eventuality the mark for that answer ought not to have been allotted by evaluating the same in view of the relevant Rules.
4. As against this, Shri J. B. Gandhi, learned counsel appearing for the selected candidate for the post of Police Patil so also Shri Autkar, learned Assistant Government Pleader would support the order of the Maharashtra Administrative Tribunal.
5. We have considered the rival submissions.

6. With the Assistance of the learned counsel for the parties, we have perused the evaluation of the answer-sheets of the respondent no.3 who was selected for the post of Police Patil. While answering Question No.69 which is in objective form the respondent no.3 in the middle of the answer had scratched a word and in continuation to the first word has written his answer. Merely because a word is scratched while answering a question, that by itself cannot be stretched to mean that the candidate has scratched the entire answer. The petitioner has rather answered the said question out of the choices provided and rightly so the Examining Authority has evaluated the answer to the said question. In this background, the contention raised by the counsel for the petitioner Ms Shad Mirza that the evaluation of Question No.69 of the respondent no.3 in the answer sheet is incorrect, cannot be accepted as the evaluation of the answer given to Question No.69 is in accordance with the Rules which prescribe the evaluation of the answer sheet.

7. The counsel for the petitioner has claimed that the allocation of marks to the petitioner under the head 'qualification' is incorrect. It is claimed that the petitioner has secured more than 60% marks in graduation and as such the petitioner should have been allotted two marks.

If we appreciate the said contention, it is brought to our notice by the respondents that such qualification of the petitioner was never brought to the notice of the Competent Authority when the application was moved or evaluation of the candidature was made. It is claimed that the petitioner holds graduate degree in two subjects and in two streams and what was brought to the notice of the Competent Authority was the marks in another stream and not the stream in which the petitioner has secured 60% of marks. As such while evaluating the marks under the head 'qualification' of the candidate, the respondents cannot be said to have committed any illegality so as to allot less marks to the petitioner. As such,

it is clear that such qualification of the petitioner was never brought to the notice of the respondents at an appropriate stage.

8. In that view of the matter, the order impugned cannot be faulted. The writ petition as such stands dismissed. No costs.

(Mrs Vrushali V. Joshi, J.)

(Nitin W. Sambre, J.)