

Prakash And Ors Vs Union Of India And Ors

Court: Bombay High Court (Aurangabad Bench)

Date of Decision: May 3, 2019

Acts Referred: Code Of Criminal Procedure, 1973 – Section 161

Central Civil Services (Classification, Control & Appeal) Rules, 1965 – Rule 55B

Punjab Civil Services (Punishment And Appeal) Rules, 1970 – Rule 17(a)(iii)

Constitution Of India, 1950 – Article 14, 16, 136, 311, 311(2)

Hon'ble Judges: S. V. Gangapurwala, J; A. M. Dhavale, J

Bench: Division Bench

Advocate: P. M. Shah, Swapnil D. Tawshikar, Anil Singh, Bhushan Kulkarni, Swapnil D. Tawshikar, Shrihari Aney, Surendra Pardhy, Kuldeepsing K. Kamare, Shaikh Mazhar A. Jahagirdar, V. J. Dixit

Judgement

Particulars, Postman/ Mail Guard, M.T.S.,,,,,,,,,,,,,,

Total Applications received :575383,213552,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,

Total admit cards uploaded : 463949,173064,,,,,,,,,,,,,,,,,,,,,,,,,,,,,

Total No. of candidates appeared for examination :373979,119212,,,,,,,,,,,,,,,,,,,,,

Sr.

No.,"Allotted

Division", Committee,, Vigilance,,,,,,,,,,,,, Total,,,,,,,,,,,,,

„Sign

Variation

noticed by

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Vigilance

Section i.e.

Registration

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Invigilator", "Candidates
belonging to
Other State
(i.e. Other
than
Maharashtra
& Goa) as
per
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address
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the time of
Registration", "Those who
have not
studied Marathi
in Academic
but have
scored more
than 15 marks
(60% marks)
out of 25
marks in
Marathi exam
conducted by
the Department
(based on
candidates
attended for
preappointment
formalities", "Common
Mobile No.
given at the

time of

Registration", "Common

Email given

at the time

of

Registration", Sibling, "Common

Communication

Address

(Other than

siblings)", "Common

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Address

(Other

than

siblings)", "Poor

Academic

Background

(Less than

50% in SSC

exam", "Passed Both

Exam-102

candidates

have passed

both the

examinations

i.e. Postman

as well as

MTS which

were held

on two

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dates", "Passed Both

Exam but

have poor

academic

background-

102

candidates

have passed

both the

examinations

i.e. Postman

as well as

MTS which

were held

on two

different

dates

Passed Both

Exam" ,,,,,,,,,,,,,,,,,,,,,,

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have poor

academic

background" ,,,,,,,,,,,,,,,,,,,,,,

1,AHMEDNAGAR,0,0,1,4,0,,,1,1,0,2,0,3,3,3,1,0,19,,,,,,,,,,,,,,,,,,,,,

2,AKOLA,1,0,1,10,0,,,0,0,0,1,0,0,0,2,2,0,17,,,,,,,,,,,,,,,,,,,,,

3,AMRAVATI,5,1,1,15,1,,,1,3,1,11,0,2,3,6,1,0,51,,,,,,,,,,,,,,,,,,,,,

4,AURANGABAD,0,0,2,18,2,,,1,0,1,4,1,1,1,4,4,0,39,,,,,,,,,,,,,,,,,,,,,

5,BEED,0,0,0,7,2,,,2,1,0,1,0,0,0,4,1,1,19,,,,,,,,,,,,,,,,,,,,,

6,BHUSAWAL,0,0,0,7,3,,,2,2,0,0,0,0,0,1,1,0,16,,,,,,,,,,,,,,,,,,,,,

7,BULDHANA,1,0,1,12,0,,,0,0,1,0,0,0,3,3,0,21,,,,,,,,,,,,,,,,,,,,,

8,CHANDRAPUR,0,4,0,4,1,,,0,,1,4,1,1,1,3,5,2,27,,,,,,,,,,,,,,,,,,,,,

9,DHULE,1,0,0,5,1,,,3,2,0,2,0,0,5,0,0,19,,,,,,,,,,,,,
10,GOA,8,9,0,17,2,,,6,2,0,2,0,1,1,8,4,2,62,,,,,,,,,,,,,
11,JALGAON,2,0,1,9,1,,,0,1,0,2,0,0,2,1,0,19,,,,,,,,,,,,,
12,KOLHAPUR,1,2,1,6,2,,,0,,0,0,0,1,1,0,0,0,14,,,,,,,,,,,,,
13,MALEGAON,0,0,0,10,1,,,1,1,1,3,2,3,3,3,0,0,28,,,,,,,,,,,,,
14,MUMBAI EAST,1,2,2,17,1,,,5,15,0,6,0,0,0,13,1,0,83,,,,,,,,,,,,,
15,MUMBAI GPO,4,0,1,4,0,1,,10,8,0,4,0,0,0,2,3,1,38,,,,,,,,,,,,,
16,"MUMBAI
NORTH",26,21,0,31,1,,,15,8,1,10,1,3,4,5,4,2,132,,,,,,,,,,,,,
17,"MUMBAI
NORTH EAST",6,15,3,40,3,,,9,8,2,9,1,3,3,6,9,3,120,,,,,,,,,,,,,
18,"MUMBAI
NORTH WEST",56,29,4,64,8,,,45,34,10,38,4,14,14,25,10,1,356,,,,,,,,,,,,,
19,"MUMBAI
SOUTH",4,2,1,17,2,,,2,1,0,3,0,1,1,6,2,1,43,,,,,,,,,,,,,
20,MUMBAI WEST,6,2,0,25,3,,,5,5,0,3,0,0,0,4,3,0,56,,,,,,,,,,,,,
21,NAGPUR CITY,0,0,1,5,0,,,2,1,1,5,2,2,3,7,0,0,29,,,,,,,,,,,,,
22,"NAGPUR
MOFFISIL",0,0,0,3,2,,,0,,0,3,1,3,3,1,1,0,17,,,,,,,,,,,,,
23,NANDED,0,0,0,6,1,,,0,,0,0,0,0,0,3,1,0,11,,,,,,,,,,,,,
24,NASHIK,0,0,0,19,2,,1,3,3,0,2,1,1,1,2,2,0,37,,,,,,,,,,,,,
25,NAVI MUMBAI,6,1,1,24,6,,,9,5,1,4,2,2,2,6,6,1,76,,,,,,,,,,,,,
26,OSMANABAD,0,0,1,10,0,,,0,,0,0,0,0,0,0,3,0,14,,,,,,,,,,,,,
27,PANDHARPUR,0,0,0,2,0,,,0,,0,0,0,0,0,0,2,0,4,,,,,,,,,,,,,
28,PARBHANI,0,0,1,5,2,,,0,,1,1,1,1,1,0,1,0,14,,,,,,,,,,,,,
29,"PUNE CITY
EAST",0,0,0,12,1,,,3,3,1,3,0,2,2,4,4,0,35,,,,,,,,,,,,,
30,"PUNE CITY
WEST",1,0,1,19,0,,,0,,0,2,1,1,1,4,9,2,41,,,,,,,,,,,,,
413/1,PUNE MFL,0,0,0,6,0,,,3,2,0,0,0,0,0,1,1,0,13,,,,,,,,,,,,,

32 PUNE 0 0 0 4 0 1 0 0 0 0 0 0 0 5

MOFFUSIL

33 RAIGAD 1 0 0 8 0 1 1 1 0 0 0 0 2 0 0 14

34 RATNAGIRI 1 2 0 5 0 1 0 0 0 0 0 0 2 0 11

35 RMS BM 0 0 0 0 0 0 0 1 0 0 0 0 0 0 1

DIVISION

MIRAJ

36 RMS F 0 0 0 0 1 0 0 0 1 1 1 0 0 0 4

DIVISION

NAGPUR

37 RMS L 0 0 0 0 0 0 0 1 0 0 0 0 0 0 1

DIVISION

BHUSAVAL

38 SANGLI 1 1 0 3 0 1 1 1 2 1 1 1 2 1 0 16

39 SATARA 0 0 0 8 0 0 0 0 0 0 0 1 2 0 11

40 SINDHUDURG 0 0 1 4 0 0 0 0 0 0 0 1 2 1 9

41 SOLAPUR 0 0 1 12 1 0 0 0 0 0 0 1 1 0 16

42 SRIRAMPUR 0 0 0 5 1 0 0 0 0 0 0 1 0 0 7

43 THANE 14 3 2 27 3 2 1 0 3 2 3 3 4 4 1 72

CENTRAL

44 THANE WEST 5 1 1 10 0 1 1 0 1 0 0 0 4 2 0 26

45 WARDHA 0 0 3 9 1 0 0 1 0 1 1 6 1 0 23

46 YEOTMAL 0 0 0 6 0 0 1 2 0 0 0 2 2 0 13

TOTAL 151 95 32 534 55 1 1 155 110 24 137 22 51 54 157 102 18 1699

Sr. Allotted Committee Vigilance Total

No. Division

Sign Variation Photo Variation Variation in Attendance Selected Attendance Candidates Those who have Common
Common Sibling Common Common Poor 102 candidates

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Committee Committee noticed by Found found without Other State Marathi in given at the at the time Address
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members at the Members at the Vigilance Absent on signature of (i.e. Other Academic but time of of (Other than (Other
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time of time of Section i.e. Attendance candidates than have scored Registration (Registration siblings) than 50% in SSC as MTS which

preappointment preappointment Registration Sheet mentioned Maharashtra more than 15 siblings) exam were held on two

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with OMR without per marks) out of 25

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1 AIRMAIL 5 2 1 6 2 2 0 0 0 0 4 11 3 36

SORTING

DIVISION

2 AKOLA 1 0 0 4 0 0 1 1 1 1 1 0 0 0 10

3 AMRAVATI 1 0 0 1 0 0 0 0 1 1 0 0 0 4

4 BULDHANA 0 0 0 2 0 0 0 2 1 2 2 0 1 0 10

5 CENTRAL 0 0 0 0 0 0 1 2 2 4 4 0 8 1 22

SORTING

DIVISION

6 CHANDRAPUR 0 1 0 6 0 0 0 0 0 0 3 0 0 10

7 DAP NAGPUR 0 0 0 0 1 0 1 0 1 1 2 2 0 2 10

8 DHULE 0 0 0 0 0 0 1 1 1 1 0 1 0 5

9 FOREIGN 6 3 1 0 1 1 1 2 3 3 3 6 7 0 37

POST MUMBAI

10 GOA 0 0 0 7 0 0 0 0 0 0 0 1 0 8

11JALGAON 0 0 0 0 0 0 1 1 1 1 0 0 0 4

12KOLHAPUR 0 0 0 0 0 0 0 0 0 1 0 0 1

13MMS MUMBAI 0 0 0 2 0 0 0 0 0 0 1 0 3

14MMS NAGPUR 1 1 0 2 0 0 0 2 1 1 2 1 1 12

15MUMBAI CO 0 0 1 3 1 1 0 0 0 0 0 1 0 7",32,"PUNE

MOFFUSIL " ,0,0,0,4,0,,,,,1,,,0,0,0,0,0,0,0,0,5

,33,,RAIGAD,,1,0,0,8,0,,,,,1,1,1,0,0,0,0,2,0,0,14

,34,,RATNAGIRI,,1,2,0,5,0,,,,,1,,,0,0,0,0,0,0,2,0,11

,35,,,"RMS BM

DIVISION

MIRAJ" ,0,0,0,0,0,,,,,0,,,0,1,0,0,0,0,0,0,1

,36,,,"RMS F

DIVISION

NAGPUR" ,0,0,0,0,1,,,,,0,,,0,1,1,1,0,0,0,4

,37,,,"RMS L

DIVISION

BHUSAVAL" ,0,0,0,0,0,,,,,0,,,0,1,0,0,0,0,0,0,1

,38,,SANGLI,,1,1,0,3,0,,,,,1,1,1,2,1,1,1,2,1,0,16

,39,,SATARA,,0,0,0,8,0,,,,,0,,,0,0,0,0,0,1,2,0,11

,40,,SINDHUDURG,,0,0,1,4,0,,,,,0,,,0,0,0,0,0,1,2,1,9

,41,,SOLAPUR,,0,0,1,12,1,,,,,0,,,0,0,0,0,0,1,1,0,16

,42,,SRIRAMPUR,,0,0,0,5,1,,,,,0,,,0,0,0,0,0,1,0,0,7

,43,,,"THANE

CENTRAL " ,14,3,2,27,3,,,,,2,1,0,3,2,3,3,4,4,1,72

,44,,THANE WEST,,5,1,1,10,0,,,,,1,1,0,1,0,0,0,4,2,0,26

,45,,WARDHA,,0,0,3,9,1,,,,,0,,,0,1,0,1,1,6,1,0,23

,46,,YEOTMAL,,0,0,0,6,0,,,,,0,,,1,2,0,0,0,2,2,0,13

,,,TOTAL,,151,95,,32,,534,,55,1,,1,,155,,110,,24,,137,,22,,51,,54,,157,,102,,18,1699

, "Sr.

No. " , "Allotted

Division" , ,Committee,,,,,Vigilance,,,,,,,,,,,,,,,,,,,,,Total

,,, "Sign Variation

noticed by the

Committee

members at the

time of

preappointment

formalities" ,,, "Photo Variation

noticed by the

Committee

Members at the

time of

preappointment

formalities" ,,"Variation in

Signature

noticed by

Vigilance

Section i.e.

Registration

Signature

with OMR

Signature" ,,"OMR" ,,"Attendance

Sheet Not

Found" ,,"Selected

Candidate

found

Absent on

Attendance

Sheet" ,,"Attendance

Sheet found

without

signature of

candidates

mentioned

on it and
without
signature of
the
Invigilator",,"Candidates
belonging to
Other State
(i.e. Other
than
Maharashtra
& Goa) as
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address
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the time of
Registration",,"Those who have
not studied
Marathi in
Academic but
have scored
more than 15
marks (60%
marks) out of 25
marks in Marathi
exam conducted
by the
Department
(based on
candidates
attended for
preappointment

formalities",,"Common

Mobile No.

given at the

time of

Registration",,"Common

Email given

at the time

of

Registration",,"Sibling",,"Common

Communication

Address

(Other than

siblings)",,"Common

permanent

Address

(Other

than

siblings)",,"Poor

Academic

Background

(Less than

50% in SSC

exam",,"102 candidates

have passed both

the examinations

i.e. Postman as well

as MTS which

were held on two

different dates",,

,,,,,,,,,,,,,,,,,,,,,,,,,,,,,"Passed

Both

Exam",,"Passed

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but have

poor

academic

background",

,1,"AIRMAIL

SORTING

DIVISION" ,5,,2,1,6,,,,,,2,,2,0,0,,,0,0,4,,11,3,36

,2,AKOLA,,1,,,0,0,4,,,,,,0,0,1,,1,1,1,1,0,0,0,10

,3,AMRAVATI,,1,,,0,0,1,,,,,,0,0,0,0,,,1,1,0,0,0,4

,4,BULDHANA,,0,,0,0,2,,,,,,0,0,0,2,1,2,2,0,1,0,10

,5,"CENTRAL

SORTING

DIVISION" ,0,,0,0,0,,,,,,0,0,1,,2,2,4,4,,0,8,1,22

,6,CHANDRAPUR,,0,,1,0,6,,,,,,0,0,0,0,,,0,0,3,,0,0,10

,7,DAP NAGPUR,,0,,0,0,0,1,,,,,,0,1,0,1,1,2,2,0,2,0,10

,8,DHULE,,0,,0,0,0,,,,,,0,0,1,1,,,1,1,0,1,0,5

,9,"FOREIGN

POST MUMBAI" ,6,,3,1,0,,,,,,1,1,1,2,3,3,3,6,7,0,37

,10,GOA,,0,,0,0,7,,,,,,0,0,0,0,0,0,0,0,1,0,8

,11,JALGAON,,0,,0,0,0,,,,,,0,0,0,1,1,1,1,0,0,0,4

,12,KOLHAPUR,,0,,0,0,0,,,,,,0,0,0,0,0,0,0,1,0,0,1

,13,MMS MUMBAI,,0,,0,0,2,,,,,,0,0,0,0,0,0,0,0,1,0,3

,14,MMS NAGPUR,,1,,1,0,2,,,,,,0,0,0,2,,,1,1,2,,1,1,12

,15,MUMBAI CO,,0,,0,1,3,,,,,,1,1,0,0,,,0,0,0,1,0,7

16,MUMBAI EAST,0,0,0,2,,,0,0,2,1,1,2,2,1,0,0,11,,,,,,,,,,,,,

17,MUMBAI GPO,2,0,0,0,,,4,2,2,6,,1,1,14,6,1,39,,,,,,,,,,,,,

18,"MUMBAI

NORTH" ,5,3,0,13,,,4,3,0,0,1,1,1,1,4,1,37,,,,,,,,,,,,,

19,"MUMBAI

NORTH EAST" ,1,2,2,1,,,4,3,0,1,,0,0,1,4,0,19,,,,,,,,,,,,,

20,"MUMBAI

NORTH WEST",5,2,0,2,,,,,1,1,0,3,,2,2,0,1,0,19,,,,,,,,,,,,,

21,"MUMBAI

SORTING

DIVISION",0,0,2,4,,,,,3,1,0,5,,2,2,4,7,2,32,,,,,,,,,,,,,

22,"MUMBAI

SOUTH",1,0,1,15,,,,,3,2,1,2,1,1,1,3,6,3,40,,,,,,,,,,,,,

23,"MUMBAI

WEST",2,0,2,0,,,,,1,1,1,1,,1,1,0,4,1,15,,,,,,,,,,,,,

24,NAGPUR CITY,0,0,0,7,,,,,0,0,0,0,,0,0,1,0,0,8,,,,,,,,,,,,,

25,NAVI MUMBAI,0,0,0,0,,,,,0,0,0,1,1,1,1,0,1,0,5,,,,,,,,,,,,,

26,PANDHARPUR,0,0,0,1,,,,,0,0,0,0,,0,0,0,0,0,1,,,,,,,,,,,,,

27,PARBHANI,0,0,0,1,,,,,0,0,0,0,,0,0,0,0,0,1,,,,,,,,,,,,,

28,"PSD

KOLHAPUR",0,3,1,1,,,,,0,0,0,1,,1,1,2,2,1,13,,,,,,,,,,,,,

29,PSD MUMBAI,0,0,0,1,,,,,0,0,1,1,,1,1,0,0,0,5,,,,,,,,,,,,,

30,PSD NASHIK,0,0,0,3,,,,,0,0,0,0,,0,0,1,1,0,5,,,,,,,,,,,,,

31,PSD NASIK,0,0,0,1,,,,,0,0,0,0,,0,0,0,0,0,1,,,,,,,,,,,,,

32,"PUNE CITY

EAST",0,0,0,0,,,,,0,0,2,1,2,2,2,0,0,0,9,,,,,,,,,,,,,

33,"PUNE CITY

WEST",0,0,0,1,,,,,0,0,0,0,,0,0,1,2,0,4,,,,,,,,,,,,,

34,PUNE MFL,0,0,0,2,,,,,0,0,2,1,1,2,2,1,0,0,11,,,,,,,,,,,,,

35,RAIGAD,1,0,0,1,,,,,0,0,0,0,,0,0,0,1,0,3,,,,,,,,,,,,,

36,RATNAGIRI,2,0,0,4,,,,,0,0,0,0,,0,0,0,0,0,+,,,,,,,,,,,,,,

37,"RMS B

DIVISION

PUNE",0,0,0,0,,,,,1,0,2,4,3,6,6,2,12,2,38,,,,,,,,,,,,,

38,"RMS BM

DIVISION

MIRAJ",0,1,0,4,,,,,1,0,0,1,,1,1,0,2,1,12,,,,,,,,,,,,,

39,"RMS F

DIVISION

NAGPUR",1,0,3,1,,,,,1,0,2,6,2,3,3,9,2,0,33,,,,,,,,,,,,,

40,"RMS L.

DIVISION

BHUSAVAL",1,0,2,13,,,,,0,0,1,3,,0,0,4,3,0,27,,,,,,,,,,,,,

41,RO GOA,0,0,0,8,,,,,0,0,0,0,,0,0,0,1,0,9,,,,,,,,,,,,,

42,RO MUMBAI,0,0,0,0,,,,,0,0,0,0,,0,0,0,2,0,2,,,,,,,,,,,,,

43,RO NAGPUR,0,0,0,0,,,,,0,0,0,4,,1,1,2,0,0,8,,,,,,,,,,,,,

44,RO PUNE,0,0,1,1,,,,,0,0,0,0,,0,0,0,1,0,3,,,,,,,,,,,,,

45,SANGLI,0,0,0,0,,,,,0,0,0,0,,0,0,0,1,0,1,,,,,,,,,,,,,

46,SATARA,0,0,0,0,,,,,0,0,1,1,1,1,1,1,0,7,,,,,,,,,,,,,

47,SHRIRAMPUR,0,0,0,1,,,,,0,0,0,0,,0,0,0,1,0,2,,,,,,,,,,,,,

48,SINDHUDURG,0,1,0,0,,,,,0,0,0,0,,0,0,0,0,0,1,,,,,,,,,,,,,

49,"THANE

CENTRAL",0,0,0,0,,,,,0,0,0,1,,1,1,2,1,0,6,,,,,,,,,,,,,

50,THANE WEST,0,0,0,0,,,,,0,0,0,0,,0,0,0,1,0,1,,,,,,,,,,,,,

51,WARDHA,0,0,0,0,,,,,0,0,0,1,,0,0,0,1,1,3,,,,,,,,,,,,,

52,YEOTMAL,0,0,1,2,,,,,0,0,0,0,,0,0,3,0,0,6,,,,,,,,,,,,,

,TOTAL,35,19,18,123,1,0,0,27,18,21,57,22,46,46,69,102,18,622,,,,,,,,,,,,,

,,,,,,,,, "Including 10

Siblings", "Including 12

Siblings", "Including 22

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22

Siblings",,, "Out of 102

in the

adjoining

column 18

have poor

academic

background",,,,,,,,,,,,,

21. In Kazia Mohammed Muzzammil Vs. State of Karnataka and another reported in (2010) 8 SCC 15,5 it was held that, unless the rules provide, on completion of period of probation, there is no",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,

deemed confirmation. A specific order in writing is necessary for confirming the employee. In the facts of the case the Apex Court decided not to exercise powers u/s Article 136 (Para 55).....

22. The respondents placed reliance on;.....

Interpreet Singh Kahlon and others Vs. State of Punjab and others reported in (2007) 1 SCC (L&S) 444.....

57. It is one thing to say that having regard to the nature of selection process, no person is appointed from the select list as no person has right to be appointed only because his name".....

appears in the select list, but, in our opinion, a different standard must be adopted for terminating the services of the officers who had completed about three years of service. Some of them, as".....

noticed hereinbefore, passed departmental tests. Some have been given higher responsibilities. They had completed the period of probation and some were nearing the completion thereof. They".....

presumably had been working to the satisfaction of the authorities concerned.....

. In the facts and circumstances, impugned orders of the Government were set aside.".....

23. In the present case, two appointed petitioners were probationers and were removed within short time after their joining. Whereas; most of the others are selected candidates. Their termination".....

is on the ground of cancellation of examination and not on the ground of personal misconduct. In such situation, the petitioners can challenge their termination or cancellation of the examination on".....

the ground of arbitrariness or unequality on treating them at par with tainted candidates which is unreasonable, violative of Article 14 of the Constitution of India. In this regard, reliance can be".....

placed on Gohil Vishvaraj Hanubhai & others Versus State of Gujarat & Others (Civil Appeal Nos. 5680-5683 of 2017, decided on 28th April, 2017), wherein it is observed thus:".....

27. It is nobody's case before us that the impugned action is violative of any of the fundamental freedoms of the appellants. We are called upon to examine the proportionality of the,.....

administrative action only on the ground of violation of Article 14. It is therefore necessary to examine the principles laid down by this Court in this regard.....

This Court posed the question in Omkar's Case;.....

61. When does the court apply, under Article 14, the proportionality test as a primary reviewing authority and when does the court apply the Wednesbury rule as a secondary reviewing authority?".....

From the earlier review of basic principles, the answer becomes simple. In fact, we have further guidance in this behalf. "

and concluded;.....

66. It is clear from the above discussion that in India where administrative action is challenged under Article 14 as being discriminatory, equals are treated unequally or unequals are treated".....

equally, the question is for the Constitutional Courts as primary reviewing courts to consider correctness of the level of discrimination applied and whether it is excessive and whether it has a ".....

nexus with the objective intended to be achieved by the administrator. Here the court deals with the merits of the balancing action of the administrator and is, in essence, applying".....

"proportionality" and is a primary reviewing authority.....

67. But where an administrative action is challenged as "arbitrary" under Article 14 on the basis of E.P. Royappa v. State of T.N., (1974) 4 SCC 3, (as in cases where punishments in".....

on the face of it, the decision may look legitimate but as a matter of fact, the reasons are not based on values but to achieve popular accolade, that decision cannot be allowed to operate.".....

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thus:",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,
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public employment is much coveted for the youth. Denial of opportunity to"

a sense of discontentment among them. An arbitrary and whimsical decision" ,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,

process in violation of their own promise made by them through public notice,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,

entrusted with the task of recruitment/selection for public employment are,,,

is their duty to be sensitive to the legitimate expectation of the aspirants,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,

Such fairness in action should not only be practised but it should be manifest"

from their conduct.,,

can show that the Government has exercised their discretion arbitrarily or"

face of doctrine of unreasonableness and proportionality.....

provided with the vigilance report and should have been given opportunity of"

supplanted laterA, on. In this regard, they placed reliance on Harbhajan Singh" ,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,

1031.....

selection of candidates and based on that report alone the candidates who"

opportunity of being heard before their removal from service. The appellants,,,

justice.,,,,,,,,,,,,,,

petitioner/constable was terminated after three years of service without notice and"

opportunity of hearing. It is held in para 27 & 33 as follows:,,,

have been swinging like a pendulum; right, the order is valid; left, the order"

was a conflict of decisions on the question of order being a simple"

was on account of different facts of different cases requiring the"

principles already laid down by this Court in various decisions to be applied to a different situation. But the concept of "motive" and "foundation" was always kept in view."

33. Where, therefore, the services of a probationer are proposed to be terminated and a particular procedure is prescribed by the Regulations for that purpose, then the termination has to be

brought about in that manner. The probationer's constable has to be informed of the grounds on which his services are proposed to be terminated and he is required to explain his position. The

reply is to be considered by the Superintendent of Police so that if the reply is found to be convincing, he may not be deprived of his services."

27. Per contra, learned advocate for the respondents relied on number of rulings wherein consistent view is taken that, where the entire recruitment has been tampered and no individual is

charged with adoption of unfair practice, the principles of natural justice are not required to be followed. The reliance was placed on the following judgments."

(a) Chairman, All India Railway Recruitment Board and another Vs. K. Shyam Kumar and others 2010(6) SCC 614"

46. We also find it difficult to accept the reasoning of the High Court that the copy of the Vigilance report should have been made available to the candidates at least when the matters came up

for hearing. Copy of the report, if at all to be served, need be served only if any action is proposed against the individual candidates in connection with the malpractices alleged. Question here lies"

on a larger canvas as to whether the written test conducted was vitiated by serious irregularities like mass copying, impersonation and leakage of question paper, etc not against the conduct of a

few candidates.

(b) Om Prakash Mann Vs. Director of Education (Basic) & Ors. reported in AIR 2006 SC 309, 6 wherein it is held that, there is no necessity to supply the vigilance report in such matters."

Besides, if the report is not submitted, the petitioner should show the prejudice for not furnishing the vigilance report."

(c) In Radhey Shyam Gupta Vs. U. P. State Agro Industrial Corporation Ltd. & Anr. reported in 1999 SCC (L&S) 439, in para 20 it is held thus:"

20. However Shah, J. (as he then was) in State of Orissa vs. Ram Narayan Das [1961 (1) SCR 606 g] gave a new dimension to the legal principles. That case also related to a probationer but was

governed by Rule 55A of the Civil Services (Classification, Control and Appeal) Rules which was a special provision and which stated :"

where it is proposed to terminate the employment of a probationer, whether during or at the end of the period of probation, for any specific fault or on account of his unsuitability for the service,"

the probationer shall be apprised of the grounds of such proposal and given an opportunity for show cause against it, before orders are passed by the authority competent to terminate the

employment. ""

If the test of 'inquiry' laid down by Sinha, CJ was to be applied, every termination of a probationer made by following the rule and conducting an inquiry would become punitive. The 'inquiry test'

(as pointed out by Krishna Iyer, J. in Samsher Singh's case broken down. A new test had to be invented. Therefore Shah, J. (as he then was) laid down a new test which required that one should"

look into "object or purpose or the inquiry" and not merely held the termination to be punitive merely because of an antecedent inquiry. J.C. Shah, J (as he then was) said:"

Whether it amounts to an order of dismissal depends upon the nature of the inquiry, if any, the proceedings taken therein and the substance of the final orders passed on such inquiry.

(d) In Om Prakash Mann's case (supra), it is observed in para 9 which reads thus:"

9. By now it is well settled principle of law that doctrines of principle of natural justice are not embodied Rule. It cannot be applied in the straight jacket formula. To sustain the complaint of,

violation of the principle of natural justice one must establish that he has been prejudiced by non-observance of principle of natural justice. As held by the High Court the appellant has not been,

able to show as to how he has been prejudiced by non-furnishing of the copy of the enquiry report. The appellant has filed a detail appeal before Appellate Authority which was dismissed as,

noticed above. It is not his case that he has been deprived of making effective appeal for non-furnishing of copy of enquiry report. He has participated in the enquiry proceedings without any,

demur. It is undisputed that the appellant has been afforded enough opportunity and he has participated throughout the enquiry proceedings, he has been heard and allowed to make submission",

before the enquiry Committee.

(e) In Nidhi Kaim Vs. State of Madhya Pradesh and others reported in (2016) 7 SCC 615, there was prima facie material of mass copying and mass leakage of paper and handing over and taking"

money for favouritism in the entrance examination of the Medical College. Some officers of the Board were also involved and were arrested along with the students and others. Such,

malpractices were noticed for a period of more than five years. The Apex Court relied on judgment in The Bihar School Examination vs. Subhas Chandra Sinha reported in (1970) 1 SCC 648,

wherein it is held:

26. This Court in Sinha case laid down the principle that the rule of audi alteram partem need not be complied with in connection with the cancellation of examinations where it would be,

impracticable to apply the said principle. Adoption of unfair means on a large scale is one of them. This Court did not go by the percentage of the students who were alleged to have had resorted,

to the practice of unfair means. When this Court characterized the situation as practice of unfair means on a large scale, it used the expression only to distinguish the situation from cases"

of practice of unfair means by one or two students. This Court has also held that there are other circumstances justifying the departure from complying with the audi alteram partem rule. They,

are leakage of question papers and destruction of a large number of answer papers. In my opinion, the examples given therein are not exhaustive of all the categories constituting exceptions to the"

application of the rule of audi alteram partem.

28. This view is again summed up in para 39(4), 39(5) and 39(6) and it was held that, in para 42(1) and 42(2) that, principles of natural justice need not be followed. His Lordship Justice Abhay"

Supre writing separate judgment and differing on the point of reliefs took the same view with regard to non applicability of principles of natural justice. It is observed in para 128:

reached. In *Council of Civil Service Unions Vs. Minister of State for Civil Service* (1984) 3 All ER 935 the (GCHQ Case) the House of Lords rationalized the grounds of judicial review and ruled,

that the basis of judicial review could be highlighted under three principal heads, namely, illegality, procedural impropriety and irrationality. Illegality as a ground of judicial review means that the"

decision maker must understand correctly the law that regulates his decision making powers and must give effect to it. Grounds such as acting ultra vires, errors of law and/or fact, onerous"

conditions, improper purpose, relevant and irrelevant factors, acting in bad faith, fettering discretion, unauthorized delegation, failure to act etc., fall under the heading "illegality". Procedural"

impropriety may be due to the failure to comply with the mandatory procedures such as breach of natural justice, such as audi alteram partem, absence of bias, the duty to act fairly, legitimate",

expectations, failure to give reasons etc."

By 'irrationality' I mean what can by now be succinctly referred to as "Wednesbury's unreasonableness", It applies to a decision which is so outrageous in its defiance of logic or of"

accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it."

(b) In Nidhi Kaim (supra), it is held:"

42.4 The scope of judicial review of the decision of an examining body is very limited. If there is some reasonable material before the body to come to the conclusion that unfair means were,

adopted by the students on a large scale, neither such conclusion nor the evidence forming the basis thereof could be subjected to scrutiny on the principles governing the assessment of evidence"

in a criminal court.

106. Rajendra Babu, J. (as His Lordship then was) speaking for the Bench took note of the law laid down in the case of Bihar School Examination (supra) and while upholding the decision of"

cancellation of the result of the candidates held as under:,"

“8. Further, even if it was not a case of mass copying or leakage of question papers or such other circumstance, it is clear that in the conduct of the examination, a fair procedure has to be"

adopted. Fair procedure would mean that the candidates taking part in the examination must be capable of competing with each other by fair means. One cannot have an advantage either by,

copying or by having a foreknowledge of the question paper or otherwise. In such matters wide latitude should be shown to the Government and the courts should not unduly interfere with the,

action taken by the Government which is in possession of the necessary information and takes action upon the same. The courts ought not to take the action lightly and interfere with the same,

particularly when there was some material for the Government to act one way or the other."

(d) In Gohil Vishwaraj (supra), it is held that, this Court has on numerous occasions approved the action of the State or its instrumentalities to cancel examinations whenever such action is",

believed to be necessary on the basis of some reasonable material to indicate that the examination process is vitiated."

Wednesbury's principle of unreasonableness and doctrine of proportionality :,"

(a) Chairman, All India Railway Recruitment Board and another Vs. K. Shyam Kumar and others reported in 2010(6) SCC 61, 4there was prima facie material showing mass leakage of question"

paper, impersonation, malpractice and irregularities in the recruitment examination of Group 'D' posts in Railway Board, there were complaints even against the petitioners therein. Retest of only"

successful candidates was directed and thereafter the qualified persons were appointed and were serving. In this situation, the principles of wednesbury unreasonableness and doctrine of

proportionality are explained as follows:

23. The ground of irrationality takes in Wednesbury unreasonableness propounded in Associated Provincial Picture Houses Limited v. Wednesbury Corporation (1947)2 All ER 680, Lord Greene"

MR alluded to the grounds of attack which could be made against the decision, citing unreasonableness as an 'umbrella concept' which covers the major heads of review and pointed out that the

court can interfere with a decision if it is so absurd that no reasonable decision maker would in law come to it. In GCHQ Case (supra) Lord Diplock fashioned the principle of unreasonableness,

and preferred to use the term irrationality as follows:

By 'irrationality' I mean what can now be succinctly referred to as "Wednesbury's unreasonableness", It applies to a decision which is so outrageous in its defiance of logic or of accepted

moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it."

25. The House of Lords in R (Daly) v. Secretary of State for the Home Department (2001) 2 AC 532 demonstrated how the traditional test of Wednesbury unreasonableness has moved towards,

the doctrine of necessity and proportionality. Lord Steyn noted that the criteria of proportionality are more precise and more sophisticated than traditional grounds of review and went on to outline,

three concrete differences between the two:

(1) Proportionality may require the reviewing Court to assess the balance which the decision maker has struck, not merely whether it is within the range of rational or reasonable decisions."

(2) Proportionality test may go further than the traditional grounds of review in as much as it may require attention to be directed to the relative weight accorded to interests and considerations.

(3) Even the heightened scrutiny test is not necessarily appropriate to the protection of human rights. Lord Steyn also felt most cases would be decided in the same way whatever approach is

adopted, though conceded for human right cases proportionality is the appropriate test."

36. Wednesbury applies to a decision which is so reprehensible in its defiance of logic or of accepted moral or ethical standards that no sensible person who had applied his mind to the issue to be,

decided could have arrived at it. Proportionality as a legal test is capable of being more precise and fastidious than a reasonableness test as well as requiring a more intrusive review of a decision,

made by a public authority which requires the courts to 'assess the balance or equation' struck by the decision maker. Proportionality test in some jurisdictions is also described as the "least"

injurious means" or "minimal impairment" test so as to safeguard fundamental rights of citizens and to ensure a fair balance between individual rights and public interest. Suffice to say that there

has been an overlapping of all these tests in its content and structure, it is difficult to compartmentalize or lay down a straight jacket formula and to say that Wednesbury has met with its death"

knell is too tall a statement. Let us, however, recognize the fact that the current trend seems to favour proportionality test but Wednesbury has not met with its judicial burial and a state burial,"

with full honours is surely not to happen in the near future.

39. The courts have to develop an indefeasible and principled approach to proportionality till that is done there will always be an overlapping between the traditional grounds of review and the,,

principle of proportionality and the cases would continue to be decided in the same manner whichever principle is adopted. Proportionality as the word indicates has reference to variables or,,

comparison, it enables the Court to apply the principle with various degrees of intensity and offers a potentially deeper inquiry into the reasons, projected by the decision-maker." ,,,

32. In Gohil Vishvaraj Hanubhai's case (supra)," ,,,

In this case, the examination was conducted for 1800 posts of Talathi in Gujarat. On the earlier day the FIR was lodged, still the examination was held. There were several complaints of payment" ,,,

of money to the persons assuring selection in the process. There were special markings on OMR sheets. Initially merit list was declared by eliminating tainted marksheets but subsequently, the" ,,,

entire examination was cancelled. It was a case of large scale tampering. In these facts it was held:.,,,

“23. Coming to the case on hand, there were allegations of large scale tampering with the examination process. Scrutiny of the answer sheets (OMR) revealed that there were glaring" ,,,

aberrations which provide prima facie proof of the occurrence of a large scale tampering of the examination process. Denying power to the State from taking appropriate remedial actions in such,,

circumstances on the ground that the State did not establish the truth of those allegations in accordance with the rules of evidence relevant for the proof of facts in a Court of law (either in a,,

criminal or a civil proceeding), would neither be consistent with the demands of larger public interest nor would be conducive to the efficiency of administration. No binding precedent is brought to" ,,,

our notice which compels us to hold otherwise. Therefore, the 1st submission is rejected." ,,,

24. Having regard to the nature of the allegations and the prima facie proof indicating the possibility of occurrence of large scale tampering with the examination process which led to the,,

impugned action, it cannot be said that the impugned action of the respondent is “so outrageous in its defiance of logic or moral standards. Therefore, the 2nd submission of the" ,,,

appellant is also required to be rejected." ,,,

33. As to the main issue of getting cancellation of examination in its entirety or against only tainted candidates, the parties have placed reliance on following judgments." ,,,

Cancellation of entire examination justified.,,,

[a] In K. Shyam Kumar's case (supra), the examination was held in April, 2003 by Railway Board for 2609 seats. It was a case of prima facie leakage of question paper, malpractices on large" ,,,

scale, the permission to retest was done and qualified persons were also appointed. In these facts it was held:" ,,,

37. We, therefore hold, applying the test of Wednesbury unreasonableness as well as the proportionality test, the decision taken by the Board in the facts and circumstances of this case was fair, " ,,,

reasonable, well balanced and harmonious. By accepting the third alternative, the High Court was perpetuating the illegality since there were serious allegations of leakage of question papers, " ,,,

large scale impersonation by candidates, mass copying in the first written test." ,,,

that, the entire examinations were to be cancelled. It was held that the conclusion is not inherently irrational or perverse and challenge to the same was futile. It was a case of mass copying."

However their Lordship of Division Bench differed in the matter of grant of reliefs.....

It was held:.....

106. Rajendra Babu, J. (as His Lordship then was) speaking for the Bench took note of the law laid down in the case of Bihar School Examination (supra) and while upholding the decision of"

cancellation of the result of the candidates held as under:.....

“8. Further, even if it was not a case of mass copying or leakage of question papers or such other circumstance, it is clear that in the conduct of the examination, a fair procedure has to be”.....

adopted. Fair procedure would mean that the candidates taking part in the examination must be capable of competing with each other by fair means. One cannot have an advantage either by.....

copying or by having a foreknowledge of the question paper or otherwise. In such matters wide latitude should be shown to the Government and the courts should not unduly interfere with the.....

action taken by the Government which is in possession of the necessary information and takes action upon the same. The courts ought not to take the action lightly and interfere with the same,.....

particularly when there was some material for the Government to act one way or the other.

111. After examining the facts and the law laid down in abovementioned seven cases, in my opinion, the ratio laid down in these cases can be summarized thus:"

111.1 First, in a case where several candidates are found involved in “mass copying” or in other words, where vast majority of candidates were found to have resorted to use of unfair means”.....

in any examination then it is not necessary for the concerned Institute to give any show cause notice to any individual candidate before cancellation of his result;.....

111.2 Second, when it is difficult to prove by direct evidence that the “copying” was done by the candidates then the same can be proved by drawing inference based on probabilities and”.....

circumstantial evidence;.....

111.3 Third, there are several ways in which unfair means can be resorted to by the candidates for doing copying individually or in the large scale by vast majority of candidates;”.....

111.4 Fourth, where few candidates are found involved in doing copying then it is necessary to give to individual candidate a show cause notice by following rules of natural justice before taking”.....

any action against him;.....

111.5 Fifth, there must be some material (whether direct or based on probabilities and circumstances) to prove that a candidate resorted to unfair means for doing copying in answering his”.....

question paper:.....

111.6 Sixth, if there is adequate material to prove that the copying was done by individual candidate or by the candidates on a large scale then even if no report was submitted by any invigilator of”.....

any such incident yet it would be of no significance;.....

111.7 Seventh, the Court should not act as an appellate Court over the decision of Expert Committee to examine the issue of “copying” or/and “mass copying”, i.e., copying done on a”.....

resorting to unfair means;,,,,,,,,,,,,,

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cases;,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,
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strong circumstance of copying done by these two candidates;" ,,

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for",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,
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hence show cause notice to individual candidate who is accused of doing"

applicable and hence it is not necessary to give any show cause notice to any"

candidate involved in mass copying,,,

the examination and, therefore, once such charge is held proved against any" ,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,

such candidate, the matter needs to be dealt with sternly in relation to erring candidates." ,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,

that the facts of the case at hand are identical partly to the facts of the"

(supra). This I say for the following reasons.....

2008 to 2012 were found involved in copying like what was noticed in the case"

of Bihar School Examination (supra) where 36 candidates were found involved in copying.....

circumstance lends support to the fact that "mass copying" was done by the"

candidates in a planned manner;,,,

wrong answers consistently matched with each other. This circumstance was"

candidates copied from each other:.....

a planned manner by the several candidates (appellants herein) to enable them to"

answer the questions:.....

candidates (appellants) and others like the appellants to sit in a particular"

other:.....

college."

answer sheets incorrect answers were found to have been awarded marks and in certain other cases even correct answers were assessed to be wrong and denied marks. In some cases, one or"

questions.....,,,

could be really said to have undermined the very process itself in its entirety or as a whole and it was impossible to weed out the beneficiaries of one or other of irregularities, or illegalities, if any,"

Applying an unilaterally rigid and arbitrary standard to cancel the entirety of the selections despite the firm and positive information that except 31 of such selected candidates, no infirmity could" ~~~~~

winds the principle of proportionality in going farther than what was strictly and reasonably required to meet the situation. In short, the Competent Authority completely misdirected itself in taking" %%%%%%%%%%%

gravity of what was at stake, thereby virtually rendering such decision to be irrational." ,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,

25. Admittedly, in the instant case the error committed by the respondent¹ Board in the matter of evaluation of the answer sheets could not be attributed to the appellants as they have neither"

contributed to them. Had the contrary been the case, it would have justified their ouster upon re-¹evaluation and deprived them of any sympathy from this Court irrespective of their length of"

26. In our considered view, the appellants have successfully undergone training and are efficiently serving the respondent's State for more than three years and undoubtedly their termination";

who are innocent appointees of an erroneous evaluation of the answer scripts. However, their continuation in service should neither give any unfair advantage to the appellants nor cause undue",,

[iii] Joginder Pal and others etc. Vs. State of Punjab and others reported in (2014) 6 SCC 644.....

information of Mr. Sidhu receiving bribe, raids were conducted and huge sum of Rs. 16.00 crores was recovered from him. This led to FIR and lodging of prosecution against him and other",.....

officers of Executive Branch and allied services. Some wards of Sitting Judges of the High Court were allegedly favoured during 1998-2002. The report was accepted by Full Court.

Consequently the service of judicial officers was cancelled. It was held:

“43. Apart from inferences drawn on certain facts and in particular the circumstances enumerated by the High Court which have been repeated by the learned counsel for the State before us, ”

it is difficult to accept that it was demonstrated by the State that it was absolutely impossible for it to separate the innocent people from the tainted ones.

XX XX XX,

45. If fraud in the selection process was established, the State should not have offered to hold a reselection. Seniority of those who were reselected ordinarily could not have been restored in their”

favour. Such an offer was evidently made as the State was not sure about the involvement of a large number of employees.

46. A distinction moreover exists between a proven case of mass cheating for a board examination and an unproven imputed charge of corruption where the appointment of a civil servant is,

involved.

XX XX XX,

50. In those cases also tainted cases were separated from the non-tainted cases. Only, thus, in the event it is found to be impossible or highly improbable, could en masse orders of termination”

have been issued.

51. Both the State Government as also the High Court in that view of the matter should have made all endeavours to segregate the tainted from the non-tainted candidates.

30. In this case, Mr. Sidhu and his accomplices had taken money/bribes from some of the candidates or had given undue favour to some other candidates because of other influences. The”

material discussed is the allegations in various FIRs and statements of Mr. Jagman Singh, a confidant and tout of Mr. Sidhu (who had become approver in the criminal case), and others recorded”

under Section 161 of the Code of Criminal Procedure, 1973 and the cases in the criminal trial. However, even after noticing these very reasons, this Court had held that those who are innocent”

cannot be punished because of the misdeeds of Mr. Sidhu in showing favour to other tainted candidates.

31. There is yet another reason to hold that these persons who have come up clean, meaning thereby, who have entered the service by passing the examination on their own merits, should be”

allowed to continue in the Government service. We have already mentioned in the earlier part of the judgment, while discussing the case of Inderpreet Singh Kahlon (supra), that the Court had”

not approved the recommendation of the High Court, on the basis of which the Government had acted, in respect of the judicial officers whose services were also terminated. It is not necessary”

to state in detail the reasons given by the Court while condemning the action of terminating the services of the judicial officers, which was taken in undue haste. The Court had also remarked that”

all these judicial officers were subjected to viva voce/interview test as well, which was conducted as per Rule 17(a)”

number of nine digits. The candidates were required to add one more box to write down the entire number. The respondents claimed that this irregularity was such that the software could not.....

5,Nanded,0,0,0,1,0,2,0,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,

6,Nashik,0,0,0,2,3,1,0,,,

7,Malegaon,0,0,0,1,1,0,0,,,

8,Jalgaon,2,0,1,1,1,1,0,,,

9,Dhule,1,0,0,1,2,0,0,,,

10,Bhusawal,0,0,0,3,2,1,0,,,

,Total,3,0,5,15,10,16,2,,,

Sr. No.,Particulars,Postman,,MTS,,,

,,Selected,Similarity in wrong answers above 70%,Selected,Similarity in wrong answers above,,,

1,Similar mobile nos.,24,2,21,8,,,

2,Similar email Ids,137,15,57,16,,,

3,Selection of siblings,22,4,22,8,,,

4,Same communication address,51,10,46,16,,,

5,Same permanent address,54,10,46,16,,,

,Total,288,41,192,64,,,

Sr. No.,Centre,Postman,MTS,Total,,,

1,Akola,28,16,44,,,

2,Amravati,9,8,17,,,

3,Akola,7,13,20,,,

4,Beed,4,8,12,,,

5,Parbhani,9,2,11,,,

,Total,57,47,104,,,

58. We also feel that, the mass copying, leakage of paper are curse to the system of assessment of the competency and merits. The persons indulging in such activities, within short time, on the",,,

basis of acquired manipulated intelligence, take away the fruits from hardworking meritorious students. We feel that, malpractices and irregularities occur at following levels:" ,,,

(i) Leakage from the paper setter himself.,,,

(ii) Leakage when the paper is sent for printing.,,,

(iii) Lack of control over the examination process by supervisors and permitting the candidates to indulge in copying either by asking questions to other or by using copying material.,,,

(iv) Tampering of answer sheets while in custody of examiner or awarding higher marks for extraneous considerations.,,,

59. We feel that, when there is examination involving lakhs of candidates, there should be a first screening test to bring down the candidates to five times or ten times of the vacant posts." ,,,

Thereafter the departments can focus on short number of candidates in a better manner.,,,

69. These preventive measures may consume some more time and raise the expenses but considering the consequences of failure of the examination, it is necessary to improve the system. When".....

lakhs of candidates are appearing increase in exam fees can take care of additional expenses. The performance should be assessed of the candidates on the basis of marks obtained in both the,,

tests. With these suggestions, we proceed to pass the following order." ,,,

ORDER,,

1. All the Writ Petitions are allowed. The order of cancellation of the entire examination is set aside to the extent of the petitioners herein.,,,

2. The respondents are directed to verify again, whether there are any suspicious circumstances and irregularities in case of the petitioners herein and if no such suspicious circumstances," ,,,

irregularities or malpractices are found as discussed in the judgment, the selection of the petitioners be restored and further process shall be completed within a period of two months." ,,,

3. As far as the petitioners in Writ Petition No. 9910 of 2017 are concerned, the respondents shall verify their record as well and if no suspicions circumstances or malpractices as discussed in the" ,,,

judgment are noted in their individual cases, their appointments shall be restored within a period of two months with 50% backwages." ,,,

4. In the facts and circumstances, we do not want to take any cognizance of the contempt. Hence, the Contempt Petition No. 663 of 2017 is dismissed." ,,,

5. We anticipate the request for stay of this order. Since we are granting time of two months for verification and giving effect to this order, no separate time is required to be given for obtaining" ,,,

stay order from the superior Court.,,,

6. Rule is made absolute in the above terms with no order as to costs.,,,

7. Pending civil applications, if any, stand disposed of." ,,,