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Date: 24/08/2025

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 â€" Section 161

Central Civil Services (Classification, Control & Appeal) Rules, 1965 â€" Rule 55B Punjab Civil Services (Punishment And Appeal) Rules, 1970 â€" Rule 17(a)(iii)

Constitution Of India, 1950 â€" Article 14, 16, 136, 311, 311(2)

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

Bench: Division Bench

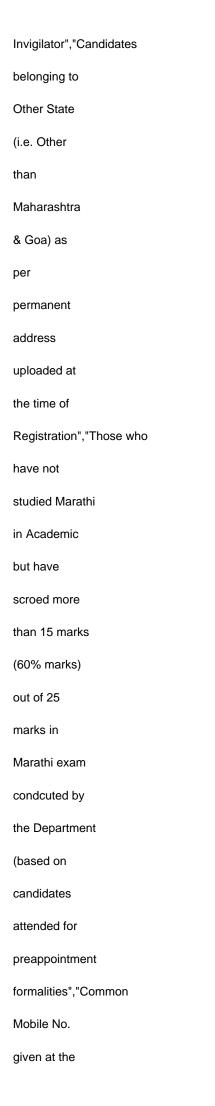
Advocate: P. M. Shah, Swapnil D. Tawshikar, Anil Singh, Bhushan Kulkarni, Swapnil D. Tawshikar, Shrihari Aney,

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 |
| the |
| Committee |
| members |
| at the time |
| of |
| preappoint |
| ment |
| formalities", "Photo Variation |

| noticed by the |
|----------------------------|
| Committeee |
| 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 |



| 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","Passed Both |
| Exam-102 |
| candidates |
| have passed |
| both the |
| examinations |
| i.e. Postman |
| as well as |
| MTS which |
| were held |
| on two |
| different |
| dates","Passed Both |

time of

| 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",,,,,,,,,,, |
| ,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| Exam", "Passed Both |
| Exam but |
| 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,,,2,2,0,0,0,0,1,1,0,16,,,,,,,,,,,, |
| 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,,,3,2,0,2,0,0,0,5,0,0,19,,,,,,, |
|---|
| 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,,,0,1,0,2,0,0,0,2,1,0,19,,,,,,,,,, |
| 12,KOLHAPUR,1,2,1,6,2,,,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,,,,,,, |
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| 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,,1,1,1,1,0,1,0,14,,,,,,,,,,,, |
| 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,,,0,2,1,1,1,4,9,2,41,,,,,,,,,,, |
| 413/1,PUNE MFL,0,0,0,6,0,,,3,2,0,0,0,0,1,1,0,13,,,,,,,,,,,, |
| .,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |

 $32\, \mathsf{PUNE}\, 0\, 0\, 0\, 4\, 0\, 1\, 0\, 0\, 0\, 0\, 0\, 0\, 0\, 5\, \\$

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

 $39\;\mathsf{SATARA}\;0\;0\;0\;8\;0\;0\;0\;0\;0\;0\;1\;2\;0\;11$

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 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 VariationPhoto VariationVariation in Attendance Selected Attendance Candidates Those who have Common Common Sibling Common Common Poor 102 candidates

noticed by the noticed by the Signature Sheet Not CandidateSheet foundbelonging to not studied Mobile No. Email given Communicationpermanent Academic have passed both

Committee Committeee noticed by Found found without Other State Marathi in given at the at the time Address Address Background the examinations

members at the Members at the Vigilance Absent onsignature of (i.e. Other Academic but time of of (Other than (Other (Less thani.e. Postman as well

time of time of Section i.e. Attendancecandidates than have scored RegistrationRegistration siblings) than 50% in SSC as MTS which

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

formalities formalities Signature on it and & Goa) as marks (60% different dates

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

 $2\;\mathsf{AKOLA}\;1\;0\;0\;4\;0\;0\;1\;1\;1\;1\;1\;0\;0\;0\;10$

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 0 10

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

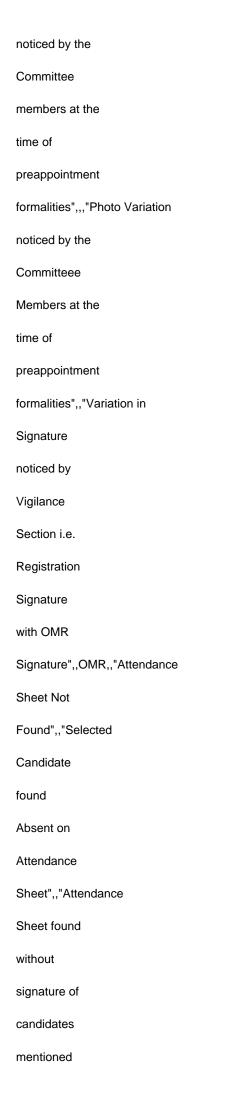
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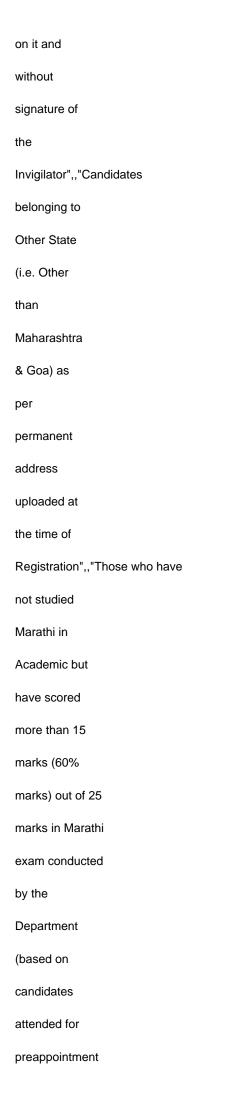
POST MUMBAI

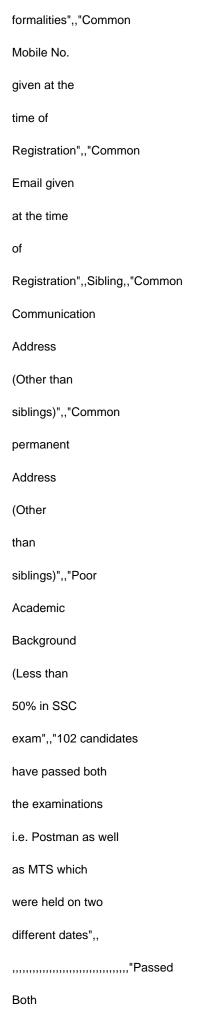
10GOA 0 0 0 7 0 0 0 0 0 0 0 1 0 8

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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
,36,,"RMS F
DIVISION
,37,,"RMS L
DIVISION
,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
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,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,,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
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11JALGAON 0 0 0 0 0 0 1 1 1 1 0 0 0 4





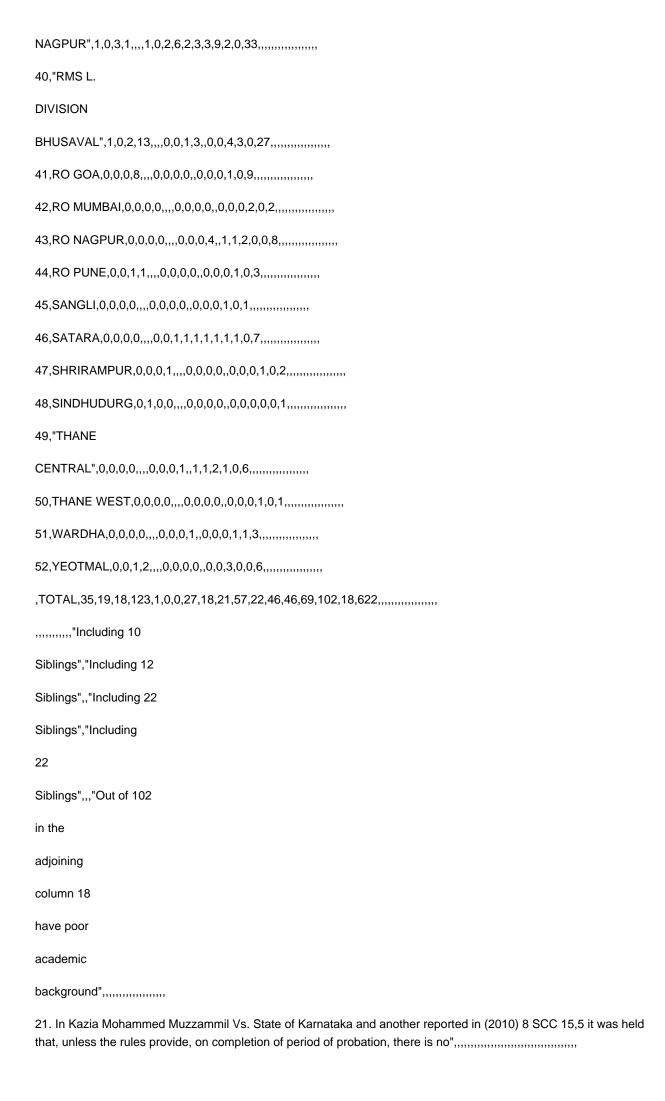


Exam", "Passed

| 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,,1,,0,,0,0,10 |
| ,3,AMRAVATI,,1,,,0,,0,,1,,,,,,0,,0,,0,,,1,,1,,1,,0,,0 |
| ,4,BULDHANA,,0,,,0,,0,,2,,,,,,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,,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,,7,,,,,,0,,0,,0,,0,,0,,0,,0,,1,0,8 |
| ,11,JALGAON,,0,,,0,,0,,0,,,,,,,0,,0,,1,,1,,1,,1,,0,,0 |
| ,12,KOLHAPUR,,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,,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 |

Both Exam

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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,,,,,,,,,,,,,,,
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WEST",2,0,2,0,,,,1,1,1,1,1,1,1,0,4,1,15,,,,,,,,,,,
28,"PSD
32,"PUNE CITY
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35,RAIGAD,1,0,0,1,,,0,0,0,0,0,0,0,1,0,3,,,,,,,,,
37."RMS B
DIVISION
PUNE",0,0,0,0,,,,1,0,2,4,3,6,6,2,12,2,38,,,,,,,,,,,,,,,,
38,"RMS BM
DIVISION
39,"RMS F
DIVISION
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| Apex Court decided not to exercise powers u/s Article 136 (Para 55).,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
|---|
| 22. The respondents placed reliance on;,,,,,,,,,,,,,,,,,,,,,, |
| Inderpreet 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. 5680Ã,â€⋅83 of 2017, decided on 28th April, 2017), wherein it is observed thus:",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 27. It is nobodyââ,¬â,¢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 Omkarââ,¬â,,¢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;,,,,,,,,,,,,,,,,, |
| \tilde{A} ¢â,¬Å"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",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| ââ,¬Å"proportionalityââ,¬â€⊆and is a primary reviewing authority.,,,,,,,,,,,,,,,,,,,,,,,,, |
| 67. But where an administrative action is challenged as ââ,¬Å"arbitraryââ,¬ 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",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |

deemed confirmation. A specific order in writing is necessary for confirming the employee. In the facts of the case the

| disciplinary cases are challenged), the question will be whether the administrative order is $\tilde{A}\phi\hat{a},\neg\hat{A}$ "rational $\tilde{A}\phi\hat{a},\neg$ or $\tilde{A}\phi\hat{a},\neg\hat{A}$ " reasonable $\tilde{A}\phi\hat{a},\neg$ and the test then is the Wednesbury test. The courts would then be",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
|--|
| confined only to a secondary role and will only have to see whether the administrator has done well in his primary role, whether he has acted illegally or has omitted relevant factors from",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| consideration or has taken irrelevant factors into consideration or whether his view is one which no reasonable person could have taken. If his action does not satisfy these rules, it is to be treated",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| as arbitrary. In G.B. Mahajan v. Jalgaon Municipal Council, (1991) 3 SCC 9,1 Venkatachaliah, J. (as he then was) pointed out that $\tilde{A}\phi\hat{a},\neg\hat{A}$ "reasonableness $\tilde{A}\phi\hat{a},\neg$ of the administrator under Article 14 in",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| the context of administrative law has to be judged from the stand point of Wednesbury rules. In Tata Cellular v. Union of India, (1994) 6 SCC 651, Indian Express Newspapers Bombay (P) Ltd.",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| v. Union of India, (1985) 1 SCC 641, Supreme Court Employeesââ,¬â,¢ Welfare Assn. v. Union of India, (1989) 4 SCC 187, and U.P. Financial Corpn. V. Gem Cap (India) (P) Ltd., (1993) 2 SCC",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 299, while judging whether the administrative action is ââ,¬Å"arbitraryââ,¬â€ under Article 14 (i.e. otherwise then being discriminatory), this Court has confined itself to a Wednesbury review always.",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 68. Thus, when administrative action is attacked as discriminatory under Article 14, the principle of primary review is for the courts by applying proportionality. However, where administrative",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| action is questioned as ââ,¬Å"arbitraryââ,¬â€≀ under Article 14, the principle of secondary review based on Wednesbury principles applies.ââ,¬â€≀",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| . Further reliance was placed on para 34 of the judgment in Inderjeet Kahlon's case (supra).,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 34. Yet again in Onkar Lal Bajaj and Others v. Union of India and anotherr [(2003) 2 SCC 673,] this Court while dealing with a case of en masse cancellation of the licences granted to the LPG",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| Distributors as a result whereof unequals were said to have been clubbed by reason of arbitrary exercise of executive power, the same was held to be impermissible stating:",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| The solution by resorting to cancellation of all was worse than the problem. Cure was worse than the disease. Equal treatment to unequals is nothing but inequality. To put both the categories",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| tainted and the rest on a par is wholly unjustified, arbitrary, unconstitutional being violative of Article 14 of the Constitution"".",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| |
| |
| The role model for governance and decision taken thereof should manifest equity, fair play and justice. The cardinal principle of governance in a civilized society based on rule of law not only has",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| to base on transparency but must create an impression that the decisionÃ, making was motivated on the consideration of probity. The Government has to rise above the nexus of vested interests,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| and nepotism and eschew window dressing. The act of governance has to withstand the test of judiciousness and impartiality and avoid arbitrary or capricious actions. Therefore, the principle of ",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| governance has to be tested on the touchstone of justice, equity and fair play and if the decision is not based on justice, equity and fair play and has taken into consideration other matters, though",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 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.",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |

| Rajnikant Ojha vs. Union of India reported in (2014) 4 PLJR 511, wherein Patna High Court held in para 36 thus:",,,,,,,,,,,,,,,,, |
|--|
| 36. This court is mindful of the fact that in a populous country like India, where job opportunities are few and sparse, public employment is much coveted for the youth. Denial of opportunity to",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| compete for such posts and to be considered for appointment without any valid, justifiable reason is bound to generate a sense of discontentment among them. An arbitrary and whimsical decision",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| by respondents to cancel a selection process held at a particular centre succeeded by denial to hold a fresh selection process in violation of their own promise made by them through public notice,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| can be genesis of reasonable suspicion in minds of youth over the bone fide of administrative action/inaction. The men entrusted with the task of recruitment/selection for public employment are,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| not only called upon to ensure that best persons are selected most suited for requirement of the post. Equally important is their duty to be sensitive to the legitimate expectation of the aspirants,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| vying for such posts on the basis of their merit through open competition/selection process, that they are treated fairly. Such fairness in action should not only be practised but it should be manifest",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| from their conduct.,,,,,,,,,,,,,,,,, |
| 24. In the light of these rulings, we hold that, the petitions are maintainable and the petitioners can succeed only if they can show that the Government has exercised their discretion arbitrarily or",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| unfairly or unreasonably and have treated them at par with tainted candidates and the decision cannot not stand in the face of doctrine of unreasonableness and proportionality.,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 25. Principles of Natural Justice: The petitioners argued that, before cancellation of the exams, they should have been provided with the vigilance report and should have been given opportunity of ",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| hearing and the reasons should have been disclosed in the order itself. If the reasons are not given, those cannot be supplanted laterÃ, on. In this regard, they placed reliance on Harbhajan Singh",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| and others Vs. Nawanshahar Central CoÃ,†operative Bank Ltd. & Ors. reported in (2004) SCC (L&S) 1031.,,,,,,,,,,,,,,,,,,,,, |
| 7. The Bank should have conducted a proper enquiry to find out the irregularities, if any, committed in the process of selection of candidates and based on that report alone the candidates who",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| were already appointed could have been removed from service. The candidates should have been given reasonable opportunity of being heard before their removal from service. The appellants,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| removal from service is without following proper procedure and it amounted to violation of the principles of natural justice.,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 26. In Chandra Prakash Shahi Vs. State of U.P. and others reported in 2000 SCC (L&S) 61,3 In this case the petitioner/constable was terminated after three years of service without notice and ",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| opportunity of hearing. It is held in para 27 & 33 as follows:,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 27. The whole case law is thus based on the peculiar facts of each individual case and it is wrong to say that decisions have been swinging like a pendulam; right, the order is valid; left, the order",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| is punitive. It was urged before this Court, more than once including in Ram Chandra Trivedi's case (supra) that there was a conflict of decisions on the question of order being a simple",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| termination order or a punitive order, but every time the Court rejected the contention and held that the apparent conflic 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.",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
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| 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 probationerÃ,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, 6wherein 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]ave a new dimension to the legal principles. That case also related to a probationer but was",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| governed by Rule 55Ã,â€⋅B 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 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:",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
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| 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 nonÃ,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 nonÃ,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 nonÃ, 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 $\tilde{A}\phi\hat{a},\neg\hat{E}$ celarge scale $\tilde{A}\phi\hat{a},\neg\hat{a},\phi$, 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",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| Sapre 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:,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |

| 128. This Court has laid down in these cases that the applicability of rules of natural justice is not static but it has different facets and, therefore, its applicability vary from case to case. I find that",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
|--|
| none of these cases has dealt with the cases of $\tilde{A}\phi\hat{a},\neg\hat{A}$ "copying $\tilde{A}\phi\hat{a},\neg$ or $\tilde{A}\phi\hat{a},\neg\hat{A}$ "mass copying $\tilde{A}\phi\hat{a},\neg$. In my view, when the question as regard the applicability of rules of natural justice has already been",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| decided by this Court in several cases relating to $\tilde{A}\phi\hat{a},\neg\hat{A}$ "copying $\tilde{A}\phi\hat{a},\neg$ and $\tilde{A}\phi\hat{a},\neg\hat{A}$ "mass copying $\tilde{A}\phi\hat{a},\neg$ then the law laid down in such cases must be applied to the cases at hand and not the one which lays,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| down the law which explains the principle in general. $\tilde{A}\phi\hat{a}, \neg\hat{A}!.,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,$ |
| (f) In K. Shyam Kumar's case (supra), in para 44 it is held that, absence of reasons in the order is not a ground to quash the order and in such matters the subsequent material collected can be",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| also considered.,,,,,,,,,,,,,,,,, |
| 29. In the light of these facts, we find that it is very material to consider the ground of cancellation of the entire examination. If the cancellation of entire examination is justified on the ground of",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| mass copying, leakage of papers or tampering of the recruitment process itself, then neither the selected candidates nor appointed candidates are entitled for any protection. However, if the rules",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| provide for opportunity of hearing then in that case the persons appointed must be given an opportunity of hearing and thereafter their services can be terminated. However, if the cancellation of",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| the entire examination is not justified and there is a scope for segregating the tainted candidates from the untainted candidates, an opportunity of hearing should be given to tainted candidates",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| whether selected or appointed and thereafter the decision should be taken. In the present case, all the candidates before us are untainted candidates and therefore the material issue is, whether",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| the segregation of tainted candidates from untainted candidate is possible or not? If it is possible then termination of two petitioners from Writ Petition No. 9910 of 2017 without opportunity of,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| hearing is not justified and if the segregation is not possible their termination cannot be challenged on the ground of not following the principles of natural justice.,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| Segregation of tainted and untainted candidates:Ã,â€<,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 30. This is the main issue for consideration. It has following three facets.,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| (i) Whether the order passed by the respondents is subject to judicial review and what is the scope thereof?,,,,,,,,,,,,,,,,, |
| (ii) Whether the order suffers from unreasonableness or disÃ,†proportionality?,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| (iii) Whether on facts it was a prima facie case of mass tampering or mass leakage of question paper or the whole recruitment process was tampered and the intermixing was such that there was,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| no scope for segregation of tainted candidates with untainted candidates?,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 31. The scope of judicial review is well settled.,,,,,,,,,,,, |
| (a) In K. Shyam Kumar (supra), it is held that,",,,,,,,,,,,,, |
| 22. Judicial review conventionally is concerned with the question of jurisdiction and natural justice and the Court is not much concerned with the merits of the decision but how the decision was,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 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:,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| \tilde{A} ¢â,¬Å"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 :Ã,â€⟨,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| (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",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
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| 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 GCHC 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:Ã,â€<,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| (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 decisionÃ,†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:,,,,,,,,,,,,,,,,,,,,,,,, |
| \tilde{A} ¢ \hat{a} , $\neg \hat{A}$ "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. ââ,¬Âl 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 $\tilde{A}\phi\hat{a},\neg A$ "so outrageous in its defiance of logic $\tilde{A}\phi\hat{a},\neg$ or $\tilde{A}\phi\hat{a},\neg A$ " moral standards $\tilde{A}\phi\hat{a},\neg$. Therefore, the 2nd submission of the",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| appellant is also required to be rejected.ââ,¬â€⟨,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 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 AprilÃ,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.",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |

| 43. We are also of the view that the High Court was in error in holding that the materials available relating to leakage of question papers was limited and had no reasonable nexus to the alleged,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
|--|
| large scale irregularity. Even a minute leakage of question paper would be sufficient to besmirch the written test and to go for a reÃ,â€≀test so as to achieve the ultimate object of fair selection.,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| [b] In Union of India and others Vs. O. Chakradhar reported in (2002) 3 SCC 146, Railway Board held examination on 28.06.1996. The persons were appointed and were serving for more than",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| three years. Thereafter showÃ,cause notice was issued to them in April 1999 and on 18.08.1999, their appointments were cancelled on the ground that no typing test was held. In these facts it",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| was held:,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 8. In our view the nature and the extent of illegalities and irregularities committed in conducting a selection will have to be scrutinized in each case so as to come to a conclusion about future,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| course of action to be adopted in the matter. If the mischief played is so widespread and all pervasive, affecting the result, so as to make it difficult to pick out the persons who have been",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| unlawfully benefited or wrongfully deprived of their selection, in such cases it will neither be possible nor necessary to issue individual show cause notices to each selectee. The only way out",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| would be to cancel the whole selection. Motive behind the irregularities committed also has its relevance.,,,,,,,,,,,,,,,,, |
| 12. As per the report of the CBI whole selection smacks of mala fide and arbitrariness. All norms are said to have been violated with impunity at each stage viz. right from the stage of,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| entertaining applications, with answer \tilde{A} , sheets while in the custody of Chairman, in holding typing test, in interview and in the end while preparing final result. In such circumstances it may not be",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| possible to pick out or choose any few persons in respect of whom alone the selection could be cancelled and their services in pursuance thereof could be terminated. The illegality and irregularity,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| are so interÃ,mixed with the whole process of the selection that it becomes impossible to sort out right from the wrong or vice versa. The result of such a selection cannot be relied or acted upon.,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| It is not a case where a question of misconduct on the part of a candidate is to be gone into but a case where those who conducted the selection have rendered it wholly unacceptable. Guilt of,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| those who have been selected is not the question under consideration but the question is could such selection be acted upon in the matter of public employment? We are therefore of the view that,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| it is not one of those cases where it may have been possible to issue any individual notice of misconduct to each selectee and seek his explanation in regard to the large scale widespread and all,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| pervasive illegalities and irregularities committed by those who conducted the selection which may of course possibly be for the benefit of those who have been selected but there may be a few,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| who may have deserved selection otherwise but it is difficult to separate the cases of some of the candidates from the rest even if there may be some. The decision in the case of Krishna Yadav,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| (supra) applies to the facts of the present case. The Railway Board's decision to cancel the selection cannot be faulted with. The appeal therefore deserve to be allowed.,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| [c] In Nidhi Kaim Vs. State of Madhya Pradesh and others (supra), at the time of medical entrance examination in JulyÃ,†2013, some malpractices and irregularities were noticed immediately.",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| FIR was lodged. There was arrest of students and employees of the Board. The crime was registered. The illegalities were noticed for a period of five years. The Board came to the conclusion,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |

| 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.",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
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| 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:,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| \tilde{A} ¢â,¬Å"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 $\tilde{A}\phi\hat{a}$, $\neg \mathring{A}$ "mass copying $\tilde{A}\phi\hat{a}$, \neg 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 $\tilde{A}\phi\hat{a},\neg\hat{A}$ "copying $\tilde{A}\phi\hat{a},\neg$ 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 ââ,¬Å"copyingââ,¬ or/and ââ,¬Å"mass copyingââ,¬, i.e., copying done on a",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |

| large scale by vast majority of candidates and more so when the Expert Committee has found the candidate guilty of resorting to unfair means;,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
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| 111.8 Eighth, the Court should be slow to interfere in the decision taken by the Expert Committee in such cases;",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 111.9 Ninth, if wrong answers of two candidates sitting in close proximity tallies with each other then it would be a strong circumstance of copying done by these two candidates;",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 111.10 Tenth, this Court has consistently maintained a distinction between a case of ââ,¬Å"copyingââ,¬ and ââ,¬Å"mass copyingââ,¬, i.e. copying done on a large scale by vast majority of candidates for",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| applying the rules of natural justice to the case. In the case of former, rules of natural justice would be applicable and hence show cause notice to individual candidate who is accused of doing",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| copying will have to be given to such candidate whereas in the case of later, the rules of natural justice are not applicable and hence it is not necessary to give any show cause notice to any",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| candidate involved in mass copying;,,,,,,,,,,,,,,,, |
| 111.11 And Eleventh, the use of unfair means by any candidate is a serious matter because it affects the credibility of 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.",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 112. When I examine the facts of the case at hand in the light of ratio laid down in the aforementioned cases, then I find that the facts of the case at hand are identical partly to the facts of the",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| case of Bihar School Examination Board (supra) and partly to the facts of Bagleshwar Prasad and Prem Prakash (supra). This I say for the following reasons.,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 112.1 First, this is a case where large number of candidates (more than two hundred) in the examinations held from 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.,,,,,,,,,,,,,,,,,,,,,,, |
| 112.2 Second, there was uniform pattern adopted by the candidates for doing copy in the examinations. This circumstance lends support to the fact that $\tilde{A}\phi\hat{a},\neg\hat{A}$ mass copying $\tilde{A}\phi\hat{a},\neg$ was done by the ",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| candidates in a planned manner;,,,,,,,,,,,,,,,, |
| 112.3 Third, candidates who managed to sit in pair in close proximity (described as ""scorer" and ""beneficiary""), their wrong answers consistently matched with each other. This circumstance was",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| relied on in the cases of Bagleshwar Prasad and Prem Prakash Kalunia (supra) for forming an opinion that both the candidates copied from each other;,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 112.4 Fourth, the material seized in investigation prima facie established that $\tilde{A}\phi\hat{a},\neg\hat{A}$ "mass copying $\tilde{A}\phi\hat{a},\neg$ was done in a planned manner by the several candidates (appellants herein) to enable them to ",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| answer the questions;,,,,,,,,,,,,,,,,, |
| 112.5 Fifth, interpolations were found in sitting plan originally made by Vyapam for some years to accommodate the candidates (appellants) and others like the appellants to sit in a particular",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| examination center in close proximity with each other so that they are able to copy from each other;,,,,,,,,,,,,,,,,,,,,,,,,, |
| 112.6 Sixth, many candidates despite clearing the examination did not take admission in any medical college.",,,,,,,,,,,,,,,,,,,,, |

| There was no satisfactory answer given by them barring very few;,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
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| 112.7 Seventh, material seized in investigation was found sufficient by the Expert Committee to form an opinion that it was a case of \tilde{A} ¢ \hat{a} ,¬ \hat{A} "mass copying \tilde{A} ¢ \hat{a} ,¬. In addition it was also established on",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| probabilities and circumstantial evidence that the candidates in large scale which included the appellants did mass copying;,,,,,,,,,,,,,,,,,, |
| 112.8 Eighth, the Expert Committee examined the issues from all angles and analyzed the material seized for coming to a conclusion that it was a case of ââ,¬Å"mass copyingââ,¬ done by the",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| candidates in large scale as a part of a planned strategy and that they used unfair means;,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 112.9 Ninth, allegations of mala fides were not alleged in the writ petitions by any candidate against any member of Expert Committee or/and officials of the State/Vyapam;",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 112.10 Tenth, the writ court rightly did not act as an appellate court to reverse the decision of Expert Committee;",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 112.11 Eleventh, the formula evolved by the Expert Committee was usually applied in such type of cases by various institutions and no perversity or/and arbitrariness was shown by the appellants",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| in the formula except to contend that it was not a proper formula;,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 112.12 And lastly, the expression ""mass copying"" not being defined in any Act/Regulation/Rules, its meaning in ordinary parlance can be summed up as ""sizable or large number of candidates",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| found copying or discovered to have copied while answering their question paper by using unfair means in examination"". In my view, this fully applies to the facts of the case at hand.",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| . In Gohil Vishvaraj's case (supra), it is held;",,,,,,,,,,,,,,, |
| Identifying all the candidates who are guilty of malpractice either by criminal prosecution or even by an administrative enquiry is certainly a time consuming process. If it were to be the,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| requirement of law that such identification of the wrong doers is a must and only the identified wrongdoers be eliminated from the selection process, and until such identification is completed the",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| process cannot be carried on, it would not only result in a great inconvenience to the administration, but also result in a loss of time even to the innocent candidates.",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| In following cases, cancellation of examination was held not justified:",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| (i) Union of India and others vs. Rajesh P.U., Puthuvalnikathu and another (2003) 7 SCC 255. In this case, CBI had held examination for 134 posts of constables in April 2000. The petitioner was",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| selected and appointed and was asked to undergo medical examination. The unsuccessful candidates made complaint challenging the selections alleging favouritism and nepotism. Though the,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| allegations were found baseless, it was noticed that, incorrect answers were awarded marks in certain cases and correct answers were assessed to be wrong and denied marks. A Committee",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| was constituted which meticulously and thoroughly identified all such cases individually. In this context, the Apex Court held that, cancellation of entire examination was not justified. It was held:",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 4 It appears that the stand on behalf of CBI before the High Court was that though the allegations of nepotism and favouritism were found to be baseless, in some cases of evaluation of ",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 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",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |

| more of the answers seem to have been not evaluated for awarding marks and overlooked, while excess marks than allowed seemed to have been awarded in certain cases for one or other",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
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| questions |
| 6 In the light of the above and in the absence of any specific or categorical finding supported by any concrete and relevant material that widespread infirmities of all pervasive nature, which",,,,,,,,,,,,,,,,,, |
| 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,",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| there was hardly any justification in law to deny appointment to the other selected candidates whose selections were not found to be, in any manner, vitiated for any one or other reasons.",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 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",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| be found with reference to others, is nothing but total disregard of relevancies and allowing to be carried away by irrelevancies, giving a complete go bye to contextual considerations throwing to",,,,,,,,,,,,,,,,,,,,,,, |
| 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",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| such an extreme and unreasonable decision of canceling the entire selections, wholly unwarranted and unnecessary even on the factual situation found too, and totally in excess of the nature and",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| gravity of what was at stake, thereby virtually rendering such decision to be irrational.",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| [ii] In Vikas Pratap Singh and others vs. State of Chhattisgarh and others reported in (2013) 14 SCC 494, it is held:",,,,,,,,,,,,,,,,,, |
| 25. Admittedly, in the instant case the error committed by the respondentÃ,Board in the matter of evaluation of the answer sheets could not be attributed to the appellants as they have neither",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| been found to have committed any fraud or misrepresentation in being appointed qua the first merit list nor has the preparation of the erroneous model answer key or the specious result,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| contributed to them. Had the contrary been the case, it would have justified their ouster upon reÃ,evaluation and deprived them of any sympathy from this Court irrespective of their length of",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| service.,,,,,,,, |
| 26. In our considered view, the appellants have successfully undergone training and are efficiently serving the respondentÃ,State for more than three years and undoubtedly their termination",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| would not only impinge upon the economic security of the appellants and their dependants but also adversely affect their careers. This would be highly unjust and grossly unfair to the appellants,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 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",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| prejudice to the candidates selected qua the revised merit list.,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| [iii] Joginder Pal and others etc. Vs. State of Punjab and others reported in (2014) 6 SCC 644.,,,,,,,,,,,,,,, |
| During regime of Mr. Sidhu as a Chairman of Punjab Public Service Commission in 1996 to 2002, several appointments of ClassÃ,I posts were made including of Judicial Officers. On receiving",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 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 1998Ã,2002. The report was accepted by Full Court.,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
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| Consequently the service of judicial officers was cancelled. It was held:,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| \tilde{A} ¢â,¬Å"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 nonÃ,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 nonÃ,†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 confident 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)",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |

| (iii) of the Punjab Civil Services (Punishment and Appeal) Rules, 1970, and no breach of the aid Rule had been pointed out. The Committee which interviewed these judicial officers included a",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
|---|
| Judge of the High Court as well. The Court categorically observed that there may be some cases where marks had been given for extraneous considerations, but only because there was such a",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| possibility, the same by itself, without analysing more, may not be a ground for arriving at a conclusion that the entire selection process was vitiated. The direction was, accordingly, given to",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| consider the entire matter afresh.,,,,,,,,,,,,,,, |
| [v] In Onkar Lal Bajaj and others Vs. Union of India and another reported in AIR 2003 SC 2562.,,,,,,,,,,,,,,,,, |
| 56. In our view, the Government should not have exercised the power in a manner so as to enable it to escape the scrutiny of allotments exposed by the media. No arbitrary exercise of power",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| should intervene to prevent the attainment of justice. Instead of passing the impugned order, in the context of the facts of the present case, the Government should have ordered an independent",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| probe of alleged tainted allotments. The impugned order had the twin effect of (1) scuttling the probe and (2) depriving a large number of others of their livelihood that had been ensured for them,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| after their due selections pursuant to a welfare policy of the Government as contained in the guidelines dated 9th October, 2000. The public in general has a right to know the circumstances under",,,,,,,,,,,,,,,,,,,,,,,, |
| which their elected representatives got the outlets and/or dealerships/distributorships.,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 34. In the light of these guiding principles, we proceed to consider the facts of the present case.",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| (a) The first defect argued is that, though the contract was given to Manipal Technology and though the subÃ,delegation was not permissible, Manipal Technology assigned the work to Chanakya",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| Softwares. Chanakya Softwares had participated in the tender process & was LÃ,2. The Vigilance is silent about subcontract to Chanakya and its participation. There are specific contentions of,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| the petitioners that, at the time of examination the officers of the respondents were monitoring and supervising the recruitment process. There was video recording and CCTV footage. There is ",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| no denial to this fact. In the light of these facts, we find that, the respondents must be certainly aware that the outsourcing agency Manipal Technology had given subÃ,contract to Chanakya",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| Softwares. No objection was raised in this regard. In fact, the outsourcing agency submitted results in JanuaryÃ,2016 when the examinations were held in March and MayÃ,2015. There was",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| further scrutiny and some suggestions were made by the respondents on the basis of reevaluation and thereafter in MarchÃ,â€∢16, the result was declared. It is therefore certain that, the participation",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| by Chanakya Softwares with the consent of Manipal Technology was never objected nor taken as a serious discrepancy or irregularity. The Vigilance Report does not disclose how the,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| participation by Chanakya Softwares affected recruitment process. We find that the respondents had even declared the results and appointed 395 persons (the department admits appointments of,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 356) on the basis of the results submitted by Manipal Technology. Therefore, participation by Chanakya Softwares was not treated as a serious irregularity so as to vitiate the entire examination.",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| (b) Another defect noticed was that, the answer sheets provided were having eight boxes for recording the serial number of the candidate whereas' many candidates were given registration",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 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,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |

| have accepted the change and manual intervention was a certainty. Minute and deep inquiry by vigilance of the papers has not disclosed that it resulted into any favoritism or giving of more marks,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
|---|
| or less marks to the candidates. It can be assumed that each candidate must have recorded the answers at the time of examination, and thereafter, in multiple choice questions where the answers",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| are to be recorded by darkening the bubbles, there was no scope for subsequent intervention and change in the answers. It is to be noted that this defect must have been discovered at the time of",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| examinations in March and MayÃ,2015. After the complaints from Amravati and Bombay, the Vigilance Team has closely scrutinized all the answer sheets of the successful candidates. There is ",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| no report of Vigilance Team that the marks allotted to successful candidates were not as per the answers given by them. It is not the case of the respondents that the discrepancy in the boxes,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| meant for writing the number or manual intervention has affected the results and the results were not as per the answers given by the candidates. This discrepancy or irregularity was not found,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| by the respondents very serious and in spite of these discrepancies, the results were declared after due deliberation. The results were declared in May 2016 almost one year after the examination.",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| Even the appointments orders were issued to 395 candidates. The stand taken by the respondents that these discrepancies and defects vitiate the entire examination is clearly afterthought. If no,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| complaint would have been received, the respondents were ready to rely on the recruitment process and to ignore the irregularities pointed herein above. It is not shown how these discrepancies",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| tampered the recruitment process.,,,,,,,,, |
| (c) It is rightly argued by the learned counsel for the petitioners that, if the outsourcing agency has left irregularity in the answer sheet, the candidates had no option but to add one box to record",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| their nine digit number. This cannot be treated as making marks for identification. There was no fault on the part of the candidates. Learned counsel for the respondents failed to point out how,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| Sr. |
| No.",Station,"Sign |
| difference", "Photo |
| difference","Vigilance noted |
| variations","No Attendance Sheet |
| Problem", "Suspicious marks in |
| Marathi", "Successful candidates poor in |
| Academic", "Passed in both the exams with poor in |
| Std. X",,,,,,,,,,,,,,, |
| 1,Aurangabad,0,0,2,2,0,4,1,,,,,,,,,,,,,,, |
| 2,Beed,0,0,0,2,1,0,1,,,,,,,,,,, |
| 3,Parbhani,0,0,1,2,0,3,0,,,,,,,,,,,,,,,,,,,, |
| 4,Osmanabad,0,0,1,0,0,4,0,,,,,,,,,,,,,,,,,,,, |
| 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,2,0,1,1,1,0,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 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 answerÃ,†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 |

| 60. We feel that, the highest authorities of the department should call question papers from three or five paperÃ, setters just one or two hours before examination and ask the paper setters to set",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
|---|
| the paper just hour before the exam. The highest authority may choose anyone of them or may set up his own paper by taking the questions from all the papers. This will prevent leakage of paper,,, |
| from the paper setters.,,,, |
| 61. We feel that, if the printing of the paper is avoided and the paper set up is forwarded to the concerned centres just one hour before the examination by hackÃ,free email, the leakage of papers",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| during the printing process can be avoided. A care can be taken that the superior officers of the department should receive the emails and take out the necessary numbers of copies and,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| personally provide the papers at the centres in sealed envelope.,,,,, |
| 62. Before finalizing the paper set up, care should be taken to see that there are no defects in the questions like question out of syllabus, repetition of the same questions, the question having more",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| than one answers or a vague question.,,,,,,,,,,,,,,,, |
| 63. There should be strict vigilance to avoid identification problem. The admission cards should be issued on the basis of reliable documents of identity and photographs, signatures and if",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| necessary by taking thumb impression. The care should be taken to see that the person applying is the person appearing for the examination. There should be prohibition from carrying mobiles or,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| any other electronic devices at the exam and there should be frisking so that no copying material or electronic devices are carried by the candidates. Besides, there should be video recording,",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| CCTV and mobile jammers at the time of examination.,,,,, |
| 64. We feel that when the candidates are busy in writing the first paper, another paper should be set up in the above referred manner and the candidate should appear for the same with a break of",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| half an hour. Meanwhile they should not be allowed to go outside and there shall not be permission to use the mobiles. This will ensure that the candidates do not get any access to the second,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| paper.,,,,,,,,,,,,,,,,,,,,,,, |
| 65. The department may take the help of outsourcing agency but there should be thorough inquiry about the integrity and competency of the outsourcing agency.,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 66. The department should employ their officers along with the representatives of the outsourcing agency at every level to prevent impersonation, mass copying or leakage of papers or alterations",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| in the answerÃ,†sheets and at no stage representatives of outsourcing agency should be given free hand.,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 67. A system should be evolved to examine the papers immediately after the exams are over and as early as possible. It should be ensured that the candidates will not have any scope to approach,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| the paper examiners. Top secrecy should be maintained about the names of examiner.,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 68. The department should simultaneously maintain a computerized record of the marks obtained by the candidates at SSC and graduation levels and also in the screening test and in both the,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| exams. If anything suspicious is found, the answerÃ,†sheets of those suspicious candidates should be immediately checked before declaration of the results.",,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, |
| 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.",,,,,,,,,,,,,,,,,,,,,,, |
| |