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**(2025) 02 BOM CK 0791**  
**In the Bombay High Court**  
**Case No : Writ Petition No. 2445 Of 2025**

Ajay Shankar Rathod

APPELLANT

Vs

Zilla Parishad Satara And Ors

RESPONDENT

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**Date of Decision :** 26-02-2025

**Acts Referred:**

**Citation :** (2025) 02 BOM CK 0791

**Hon'ble Judges :** Ravindra V. Ghuge, J; Ashwin D. Bhobe, J

**Bench :** Division Bench

**Advocate :** Atharva Dandekar, Onkar Wable, Prasad Nagargoje, Hitendra V. Parab, P. P. Kakade, P. N. Diwan, Pankaj Deokar

**Final Decision :** Allowed

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## Judgement

Ravindra V. Ghuge, J

1. A short issue is raised for our consideration, as under:-Whether a Candidate/ Student can be said to have indulged in unfair examination practices or adopted unfair means in the examination, though there is no evidence of malpractice or allegation against him.

2. The facts emerging from this petition are quite interested. Only on the basis of the CCTV footage, which indicates that he did not use a rough sheet for calculation while answering the question paper, it is alleged that the Petitioner may have played some trick.

3. The Petitioner had responded to an advertisement dated 5th August, 2023 bearing Advertisement No.1 of 2023, vide which, 21 vacancies were declared, including the post of 'Junior Assistant' in direct service under group 'C'. Two posts were reserved for candidates belonging to the VJ-A category. One post was reserved for a female candidate.

4. The examination was held 19th December, 2023. The Petitioner appeared for the said exam at the designated examination centre namely, Swami Vivekanand

Institute of Polytechnics. The examination was conducted by the Institute of Banking Personnel Selection (IBPS), which is a central recruitment agency functioning under the Ministry of Finance, Government of India. The examination was conducted online through a remote proctored on the designated examination centre. The examination had a duration of two hours and each student was expected to answer 100 questions carrying two marks per question (200 marks).

5. On 21st February, 2024 Respondent No.1 published the list of qualified candidates in the order of merit for the post of 'Junior Assistant', on its official website. The Petitioner secured 170 marks out of 200 and was placed at Sr. No.21 in the merit list. In all 4930 candidates have appeared for the said examination.

6. On 20th June 2024, Respondent No.2 declared the interim selection and the provisional list for the post of 'Junior Assistant'. The Petitioner was selected under the VJ-A category. Two more candidates namely, Satish Harisingh Kakarwal and Lahu Laxman Deokar, were placed in the waiting list under the same category. The Petitioner was called for document verification and all his documents were duly verified.

7. The Respondent No.2 prepared and published a final selection list dated 23rd August, 2024 on its official website. However, though the Petitioner completed the document verification process, the final selection list for VJ-A (General) category was kept reserved. The Petitioner submitted representations dated 2nd September, 2024 and 23rd September, 2024 to Respondent No.2, for seeking redressal. However, neither the representations have been dealt with, nor any response or clarification has been received from the concerned Respondent.

8. The reason for the Petitioner to approach this Court is that his selection, which was awaiting an appointment, has been kept in cold storage and during the pendency of this petition, he has received a notice dated 11th February, 2025 directing him to appear for a "Mock examination" to reassess his competency for the post of 'Junior Assistant'.

9. The learned Advocate representing the Zilla Parishad submits that the CEO Zilla Parishad has received a communication from Professor Ayesha Martin, Divisional Head (Client Relations II) Institute of Banking Personnel Selection, dated 20th December, 2024. This document is taken on record and marked as 'X-1' for identification.

10. It appears from the document 'X-1' that the CEO had addressed the IBPS raising a query as regard to the present petition. 'X-1' is the narration of the impressions of IBPS on the basis of the CCTV footage. The impressions set out in 'X-1', are reproduced verbatim here under:-

"The candidate appeared at the venue Swami Vivekanand Institute Of Polytechnic, Latur.

(i) The image of the candidate captured at various stages of the process are

given in Annexure I. The images at each stage, prima facie appear to be of the same individual.

(ii) We have checked the audit logs of the candidate and have the following observations:

(i) From 16:35:13 till 16:38:29, the candidate navigated through all 100 questions. However, the average time spent on each question was 5 seconds or less.

(ii) From 16:39:29 till 16:52:01, the candidate visited 12 questions and marked the answers to 4 questions. From 16:55:04 to 17:02:10, the candidate navigated through 11 questions without answering any questions. At 17:02:10, the candidate attempted 1 question.

(iii) For approximately 54 minutes between '17:02:10' and '17:56:40', candidate did not answer any question. The candidate only navigated between 19 questions.

(iv) From 17:56:47 to 18:32:15, candidate spent 35 minutes on answering all the question. However, the average time spent answering questions was 11 seconds. For some questions, less than 5 seconds was taken and for some questions approximately 1 to 2 minutes was taken to answer.

(iii) We have checked the rough sheet of the candidate provided by your office and have found that the candidate did not undertake any rough work during the examination. He has merely noted down instructions, questions or options which do not require to be noted down etc. but there is no apparent solving of items of reasoning or numerical ability in the rough sheet provided. It is not possible to solve all questions of Reasoning without any rough work.

(iv) The CCTV surveillance data shows that the originally allotted system of the candidate was changed to a buffer machine due to technical difficulties prior to the start of the examination. This was done after discussing the situation with Venue Incharge. System Manager & Observer. There were no adverse observations from the ground team or venue officials deputed by ZP."

11. The learned Advocate for the Zilla Parishad submits on instructions that besides the above noted impressions, there was nothing unusual about the Petitioner, in as much as, it cannot be said that he has indulged in unfair examination or unfair means.

12. In Clause (iv) reproduced above, the last sentence indicates that "there was no adverse observations" from the ground team or venue officials deputed by the Zilla Parishad, with reference to the change in the originally allotted system of the candidate, to a buffer system, due to technical difficulties prior to the start of the exam.

13. This Court [Coram: Ravindra V. Ghuge and Y. G. Khobragade, JJ] at the Aurangabad Bench has delivered an order on 7th November 2023 in Writ Petition No.10055 of 2022 and group of cases (Yogesh Suppadsing Bamhnavat and Ors.

Vs. the State of Maharashtra and Ors.), wherein an almost similar situation was dealt with.

The MHADA officials had referred to the CCTV footage and had contended in their affidavit-in-reply that any candidate undergoing police investigation would be disqualified unless he is found to be innocent. MHADA had lodged the FIR against the Petitioners, alleging grave suspicion about the manner in which the students had answered in the examination.

This Court concluded that no person would be treated as being guilty during the trial and the law of the land is that a person would be innocent until proven guilty. This Court had referred to the judgment delivered by the Hon'ble Supreme Court in Rajasthan Rajya Vidyut Prasaran Nigam Limited and Anr. Vs. Anil Kanwariya, (2021) 10 SCC 136 and Commissioner of Police and Anr. Vs. Umesh Kumar (2020) 10 SCC 448. It was concluded that merely because the candidates answered fewer questions in the first hour and attempted a large number of questions in the next hour, would not mean that the candidate has indulged in unfair examination practice. The Petitioner had not left the examination hall and had not visited the washroom during the entire exam.

The order of this Court dated 7th November 2023 in Yogesh (supra), was assailed by MHADA before the Hon'ble Supreme Court in Special Leave Petition (Civil) Diary No.54038 of 2023. By order dated 17th May 2024, the Special Leave petition was dismissed. Delay was condoned.

14. In the present case, merely because the Petitioner attempted 12 questions in 13 minutes, and answered only 4 questions and then navigated through 11 questions in 7 minutes and answered one question, followed by not answering a single question in 54 minutes, and then answering all the questions in 35 minutes, would not mean that the Petitioner has indulged in an examination malpractices.

15. The fact remains that, without leaving the examination hall, without indulging in any unfair examination practice, without there being any allegation of taking assistance of a cellphone or an electronic gadget and without leaving the examination hall to visit the washroom, he has scored 170 marks out of 200. Baseless suspicion cannot be a foundation for canceling the examination performance of a student when the CCTV footage discloses no offence.

16. In view of the above, this Writ Petition is partly allowed. The direction to the Petitioner to appear for the "Mock examination" is quashed and set aside.

17. The Petitioner's score of 170 marks shall be the basis of his selection and appointment as a 'Junior Assistant' under the VJ-A (General) category. If the appointment orders have been issued to the candidates up to the serial number of the Petitioner, and if he is next in line or if anybody below him has been issued with an appointment order, we direct the Zilla Parishad to issue the appointment order within 5 days, without waiting for this order to be uploaded.