



2026:CGHC:17176

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**Order Reserved on : 11.03.2026****Order Delivered on : 15.04.2026****WPS No. 1363 of 2023**

Khushbu Devangan D/o Shri Ghanshyam Devangan Aged About 28
Years R/o Sadar Bazar, Near Durga Temple District Durg Chhattisgarh

--- Petitioner**Versus**

1 - Principal Judge, Family Court, Block G-3, Civil Lines, Durg District
Durg Chhattisgarh

2 - State of Chhattisgarh Through Its Secretary, Social Welfare
Department, Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh

--- Respondents**WPS No. 2468 of 2023**

Jitendra Kumar Sinha S/o Jailal Sinha Aged About 37 Years R/o
Chhattisgarh Disability Finance And Development Commission, Old
DRDA Building Raipur, District : Raipur, Chhattisgarh

---Petitioner**Versus**

1 - Principal Judge, Family Court Block G-3, Civil Lines, Durg, District :
Durg, Chhattisgarh

2 - State of Chhattisgarh Through Its Secretary, Social Welfare
Department, Atal Nagar, Nawa Raipur, District : Raipur, Chhattisgarh

--- Respondents

WPS No. 2505 of 2023

Pramod Manikpuri S/o Ratandas Manikpuri, Aged About 32 Years R/o
Dr. Sharma Street, Tata Line Kohka, Bhilai, District Durg Chhattisgarh

---**Petitioner**

Versus

1 - Principal Judge, Family Court Block - G-3, Civil Lines, Durg, District
Durg Chhattisgarh

2 - State of Chhattisgarh Through Its Secretary, Social Welfare
Department Atal Nagar Nawa Raipur, District Raipur Chhattisgarh

--- **Respondents**

(Cause-title taken from Case Information System)

For Petitioners	: Mr. Parth Kumar Jha, Advocate on behalf of Mr. Tarendra Kumar Jha, Advocate
For Respondent No.1 (In WPS No.1363/2023)	: Mr. Aniket Verma, Advocate on behalf of Mr. Jitendra Pali, Advocate
For Respondent No.1 (In WPS Nos.2468/2023 and 2505/2023)	: Mr. Anurag Dayal Shrivastava, Advocate
For State/Respondent No.2	: Mr. Arpit Agrawal, Panel Lawyer

Hon'ble Shri Amitendra Kishore Prasad, Judge

CAV Order

1. Heard Mr. Parth Kumar Jha, learned counsel holding brief of Mr. Tarendra Kumar Jha, learned counsel for the petitioners. Also heard Mr. Aniket Verma, holding brief of Mr. Jitendra Pali, learned counsel for respondent No.1 in WPS No.1363/2023, Mr. Anurag Dayal Shrivastava, learned counsel for respondent No.1 in WPS

Nos.2468/2023 and 2505/2023 as well as Mr. Arpit Agrawal, learned Panel Lawyer appearing for the State/respondent No.2.

2. Since common questions of fact and law are involved in these writ petitions and the challenge in all the petitions arises out of the same selection process initiated by respondent No.1, they were heard analogously with the consent of learned counsel appearing for the parties and are being disposed of by this common order for the sake of convenience and to avoid repetition of facts and issues.
3. By filing the present petitions, the common grievance of the petitioners is that the selection process initiated pursuant to the advertisement dated 16.06.2022 issued by respondent No.1, and the consequential selection list and waiting list declared on 14.03.2023, have not been conducted in accordance with the applicable statutory rules and governing legal principles. According to the petitioners, the entire process of recruitment suffers from various irregularities and illegalities, thereby rendering the selection process arbitrary and unsustainable in the eyes of law. On these grounds, the petitioners have prayed for quashing of the impugned advertisement as well as the resultant selection and waiting list, and have further sought a direction to the respondents to undertake a fresh selection process strictly in accordance with the prescribed rules and applicable law.
4. In WPS No.1363/2023, the petitioner has sought for following

relief(s) :-

“10.1 That, the Hon'ble High Court may kindly be please to quash/set aside the advertisement dated 16-06-2022 (Annexure P-1) issued by the respondent No.1 along with the result declared and the whole selection process.

10.2 That, the Hon'ble High Court may kindly be please to issue a fresh advertisement by following the rules and laws prescribed.

10.3 Any other relief, which this Hon'ble Court may deem fit and proper, may also be passed in favor of the petitioner together with cost of the petition.”

5. In WPS No.2468/2023, the petitioner has sought for following relief(s) :-

“10.1 That, the Hon'ble High Court may kindly be please to quash/set aside the selection and waiting list dated 14.03.2023 (Annexure P-1) issued by the respondent No.1.

10.2 That, the Hon'ble High Court may kindly be please to issue a fresh advertisement by following the rules and laws prescribed.

10.3 Any other relief, which this Hon'ble Court may deem fit and proper, may also be passed in favor of the petitioner together with cost of the petition.”

6. In WPS No.2505/2023, the petitioner has sought for following relief(s) :-

“10.1 That, the Hon'ble High Court may kindly be please to quash/set aside the selection and waiting list dated 14.03.2023 (Annexure P-1) issued by the respondent No.1.

10.2 That, the Hon'ble High Court may kindly be please to issue a fresh advertisement by following the rules and laws prescribed.

10.3 Any other relief, which this Hon'ble Court may deem fit and proper, may also be passed in favor of the petitioner together with cost of the petition.”

7. For the sake of convenience, WPS No.1363/2023 is taken as the lead case and the facts necessary for adjudication of the present batch of writ petitions are being referred to from the said petition. The pleadings and documents available in the said petition are treated as the basis for consideration of the controversy involved in all the connected matters.
8. The facts projected by the petitioners are that respondent No.1 issued Advertisement No.193/2-11-1/2022 dated 16.06.2022 inviting applications for recruitment to the posts of Stenographer (Hindi) and Assistant Grade-III (Deposition Writer/Process Writer/Saleameen), wherein a total of 14 posts were notified. Pursuant to the said advertisement, the petitioners, being eligible, submitted their applications and participated in the selection process along with other candidates. After submission of the application forms, admit cards were issued to the candidates

including the petitioners for appearing in the examination. It is further averred that prior to conducting the first phase of the examination, no scrutiny of the application forms was undertaken to verify the eligibility or ineligibility of the candidates. Initially, the Principal Judge, Family Court, Durg constituted a Selection Committee comprising the Second Additional Principal Judge (Shri Rizwan Khan) as President, the Third Additional Principal Judge (Smt. Shradha Shukla) as Member and the Administrative Officer of the Family Court, Durg as Member. As per the advertisement, the selection process was to be conducted in two phases, namely, the written examination and the skill test.

- 9.** According to the petitioners, the written examination, which constituted the first phase of the selection process, was conducted on 15.01.2023. However, just two days prior to the examination, i.e., on 12.01.2023, the Principal Judge, who is respondent No.1 herein, reconstituted the Selection Committee and assumed the position of President of the Committee, while the Second and Third Additional Principal Judges were made members and the Administrative Officer was appointed as Secretary of the Committee.
- 10.** The petitioner have further averred that as per the terms of the advertisement dated 16.06.2022, the written examination was to consist of 50 questions carrying a total of 100 marks. However, during the examination held on 15.01.2023, only 25 questions

were asked, which, according to the petitioners, was contrary to the conditions stipulated in the advertisement and the prescribed rules governing the examination. The petitioners submit that an application was moved seeking a copy of the question paper, but the same has not been supplied till date.

- 11.** It is also the case of the petitioners that neither before nor after the written examination were objections invited from the candidates regarding the question paper or the conduct of the examination. Subsequently, the result of the written examination was declared on 25.01.2023 and the same was uploaded on the official website of the District Court, Durg. Being aggrieved by the declaration of the result as well as the manner in which the entire selection process was conducted, the petitioners have challenged the said result and the entire selection process in the present batch of writ petitions.
- 12.** Mr. Parth Kumar Jha, learned counsel appearing on behalf of Mr. Tarendra Kumar Jha learned counsel appearing for the petitioners, submits that the impugned advertisement dated 16.06.2022 (Annexure P-1) issued by respondent No.1 is itself contrary to the constitutional and statutory provisions governing public employment and, therefore, the entire selection process initiated pursuant thereto is liable to be set aside. He would submit that the advertisement has been issued without indicating the percentage of reservation applicable to various categories, which

is in clear violation of the constitutional mandate relating to reservation in public employment and the settled principles governing recruitment to public posts.

- 13.** Mr. Jha further submits that after receipt of the applications from the candidates, no scrutiny was conducted by the respondents to segregate eligible and ineligible candidates prior to the commencement of the examination process. According to him, such omission on the part of the respondents has vitiated the entire selection process, as candidates who may not have fulfilled the eligibility criteria were also permitted to participate in the examination, thereby defeating the very object of a fair and transparent recruitment process.
- 14.** It is contended by Mr. Jha that merely two days prior to the written examination, i.e., on 12.01.2023, the Selection Committee was abruptly reconstituted by respondent No.1. By virtue of the said reconstitution, the earlier President of the Committee, namely the Second Additional Principal Judge, was replaced and respondent No.1 himself assumed the position of President of the Selection Committee. It is submitted that respondent No.1, being the appointing authority, could not have acted as the President of the Selection Committee, as such action is contrary to the principles of fairness and transparency and violates the well-established principles of natural justice. Mr. Jha further argues that the manner in which the examination was conducted also demonstrates

serious irregularities. He submits that as per the terms and conditions of the advertisement, the written examination was to consist of 50 questions carrying a total of 100 marks; however, during the examination only 25 questions were asked, which is in clear deviation from the stipulations contained in the advertisement. According to him, once the recruitment process had commenced, the respondents could not have altered the scheme of the examination, as it is a well-settled principle of law that the rules of the game cannot be changed in the midway. It is also submitted that prior to declaration of the result neither any model answer key was published nor were objections invited from the candidates, which is contrary to the fair procedure ordinarily followed in competitive examinations.

- 15.** Lastly, it is submitted by Mr. Jha that even the result declared by the respondents suffers from serious infirmities, inasmuch as the categories of the candidates with respect to their caste have not been mentioned in the result sheet. According to learned counsel, such omission is contrary to the reservation policy and adversely affects the constitutional rights of candidates belonging to reserved categories. On these grounds, learned counsel submits that the impugned advertisement, the selection process conducted pursuant thereto, and the resultant selection list are arbitrary, illegal and liable to be quashed by this Court. In support of his submissions, learned counsel for the petitioners has placed reliance upon the judgment of the Hon'ble Supreme Court in **Tej**

Prakash Pathak and others v. Rajasthan High Court and others passed in Civil Appeal No.2634/2013 decided on 07.11.2024 as well as the decision rendered in ***Anil Kishore Pandit v. The State of Bihar and others passed in Civil Appeal No.1566/2024 decided on 02.02.2024.***

16. Reliance has also been placed upon the order passed by this Court in ***Radhika Netam and another v. State of Chhattisgarh and others passed in WPS No.3787/2022 decided on 10.08.2023*** as well as the judgment rendered by the High Court of Madhya Pradesh in ***Dr. Arti v. M.P. Public Service Commission and others, 2026 : MPHC-IND-2473***, to buttress his submissions.
17. Mr. Aniket Verma, learned counsel appearing on behalf of Mr. Jitendra Pali, learned counsel for respondent No.1 in WPS No.1363/2023, on the other hand, opposes the submissions advanced by learned counsel for the petitioners and submits that the present writ petition has been filed on the basis of self-serving and misconceived averments, and therefore the same does not warrant any interference by this Court. He would submit that the entire selection process has been conducted strictly in accordance with the terms and conditions stipulated in the advertisement dated 16.06.2022 and the relevant rules governing the field. It is further submitted that the petitioners, having participated in the selection process with full knowledge of the terms of the advertisement and having failed to secure the requisite merit,

cannot now be permitted to challenge the same merely because they were unsuccessful in the examination.

- 18.** Mr. Verma further submits that the petition suffers from the defect of non-joinder of necessary parties. It is contended that the written examination was conducted on 15.01.2023 and the result thereof was declared on 25.01.2023, pursuant to which 192 candidates were shortlisted to participate in the next phase of the selection process, i.e., the skill test. According to him, rights have already accrued in favour of those candidates who were declared successful in the written examination and subsequently participated in the skill test. Therefore, in the absence of those candidates being impleaded as party respondents, the writ petition itself is not maintainable and is liable to be dismissed on this ground alone.
- 19.** It is submitted by Mr. Verma that the allegation regarding improper constitution of the Selection Committee is wholly misconceived. Learned counsel submits that the Selection Committee was constituted in strict compliance with the directions issued by the High Court of Madhya Pradesh vide memo dated 04.01.1995, which specifically provides that for recruitment to Class-III and Class-IV posts, the Selection Committee shall consist of the Principal Judge as President along with two senior judicial officers as members. In accordance with the said directions, the Selection Committee was reconstituted on 12.01.2023 with the Principal

Judge as President and two Additional Principal Judges as members, and therefore no illegality or violation of principles of natural justice can be attributed to the said action.

- 20.** Mr. Verma further submits that the decision to reduce the number of questions in the written examination from 50 to 25 was taken by the duly constituted Selection Committee in a meeting held on 13.01.2023 in view of the large number of candidates who had applied for the posts. It is submitted that the marks allotted for each question were proportionately increased so that the total marks of the examination remained unchanged. According to him, the said decision was taken to facilitate smooth and transparent conduct of the examination and falls within the administrative discretion of the Selection Committee, particularly in view of Clause 6 of the advertisement which clearly provides that the decision of the Principal Judge with respect to the selection procedure shall be final.
- 21.** Lastly, it is submitted by Mr. Verma that the written examination was merely a preliminary screening test intended to shortlist candidates for the skill test, and therefore there was no requirement to publish a model answer key or to invite objections from the candidates at that stage. It is further submitted that the written examination was only for the purpose of shortlisting candidates and not for determining the final merit, and therefore there was also no necessity to declare the category-wise result at

that stage. On these grounds, learned counsel submits that the selection process has been conducted fairly and strictly in accordance with law, and as such the petitioners have failed to make out any case for interference by this Court and the writ petition deserves to be dismissed.

- 22.** Mr. Anurag Dayal Shrivastava, learned counsel appearing for respondent No.1 in WPS Nos.2468/2023 and 2505/2023, while opposing the submissions of learned counsel for the petitioners, submits that the challenge raised in the present writ petitions is wholly misconceived and deserves to be rejected at the threshold. He would submit that the petitioners had applied for the post pursuant to the advertisement dated 16.06.2022 and had voluntarily participated in the entire selection process without raising any objection at the relevant stage. However, after having remained unsuccessful in the selection process, the petitioners have now chosen to challenge the very procedure in which they had participated. According to learned counsel, it is a settled principle of law that a candidate who has participated in a selection process without protest cannot subsequently turn around and challenge the same merely because the outcome has gone against him.
- 23.** Mr. Shrivastava further submits that the allegations made by the petitioners with regard to lack of scrutiny of the applications are factually incorrect. It is submitted that upon receipt of the

applications, proper scrutiny was undertaken by the authorities and out of the total applications received, nine applications were found to be incomplete or defective and were accordingly rejected. The remaining candidates were issued admit cards and permitted to participate in the written examination. He further submits that due to the large number of applications received, which were approximately 3775, the written examination had to be conducted in three shifts, and therefore certain administrative decisions were taken by the Selection Committee to ensure smooth and efficient conduct of the examination.

- 24.** It is contended by Mr. Shrivastava that the reconstitution of the Selection Committee was carried out strictly in accordance with the directions issued by the High Court vide memo dated 04.01.1995, which provides that the Selection Committee for recruitment to the concerned posts shall consist of the Principal Judge as Chairman along with two senior judicial officers as members. Accordingly, the Selection Committee was reconstituted under the chairmanship of the Principal Judge, Family Court, along with the Second and Third Additional Principal Judges as members. He submits that the said reconstitution was purely an administrative decision taken in compliance with the directions of the High Court and has not caused any prejudice whatsoever to the petitioners. Mr. Shrivastava further submits that although the number of questions in the written examination was reduced from 50 to 25, the total marks for the examination remained unchanged

at 100 marks, and therefore each question carried proportionately higher marks. According to him, the said modification was necessitated in view of the large number of candidates and the logistical difficulties involved in conducting the examination. He submits that the said change was applied uniformly to all candidates and therefore no prejudice was caused to any participant, including the petitioners. He further submits that Clause 6 of the advertisement clearly empowers the Principal Judge, Family Court to take necessary decisions regarding the procedure of selection.

- 25.** Lastly, Mr. Shrivastava submits that the written examination was merely a preliminary screening test intended to shortlist candidates for the next phase, namely the skill test, and therefore the declaration of category-wise results or inviting objections at that stage was not required. It is submitted that candidates up to fifteen times the number of advertised posts were declared eligible on the basis of the written examination to participate in the skill test. He also submits that the reservation policy was duly followed while issuing the advertisement as well as while declaring the results. On these grounds, learned counsel submits that the petitions are devoid of merit and deserve to be dismissed.
- 26.** Mr. Arpit Agrawal, learned Panel Lawyer appearing for the State/respondent No.2, submits that on a plain reading of the reliefs sought in the writ petitions, it is evident that the grievance of

the petitioners is essentially directed against the actions of respondent No.1 and no specific relief has been claimed against the State. He would submit that the allegations and grounds raised by the petitioners pertain to the manner in which the selection process was conducted by respondent No.1, and therefore the State has no direct role to play in the controversy involved in the present petitions. He further submits that respondent No.2 has been arrayed merely as a formal party in the present proceedings and the dispute projected by the petitioners does not involve any specific action or decision attributable to the State Government. In such circumstances, it is submitted that no substantive relief can be granted against the State and the petitions, insofar as they relate to respondent No.2, deserve to be dismissed.

- 27.** I have heard learned counsel for the petitioner as well as learned counsel appearing for the respondents and have perused the pleadings and documents placed on record.
- 28.** From a perusal of the record, it appears that in the advertisement it was specifically stipulated that in the first stage, i.e., the written examination, a total of 50 multiple-choice questions of various subjects such as General Knowledge, Computer/Internet and Chhattisgarh Current Affairs were to be asked carrying an aggregate of 100 marks, and two marks were to be allotted for each question. The duration of the examination was fixed as one hour. It was further provided that the written examination was to be

conducted only for the purpose of screening/shortlisting the candidates, and on the basis of the marks obtained therein a merit list would be prepared. Thereafter, candidates up to 15 times the number of advertised vacant posts, on the basis of merit, were to be declared eligible and invited to participate in the skill test. It was also provided that in case multiple candidates secured equal marks at the last position in the merit list of the written examination, all such candidates would be called to appear in the skill test. Thus, the written examination was not the final stage of selection but merely a preliminary screening mechanism intended to shortlist candidates for the next stage of the recruitment process, namely the skill test, which was the determinative stage for assessment of comparative merit of the candidates.

- 29.** It is not in dispute that during the conduct of the written examination the number of questions was reduced from 50 to 25, however the total marks of the examination remained unchanged at 100 marks, meaning thereby that the marks assigned to each question were proportionately increased. The material placed on record further indicates that such modification was adopted by the Selection Committee in view of the large number of candidates, approximately 3775 applications, received pursuant to the advertisement. The written examination had to be conducted in multiple shifts and, therefore, the Selection Committee, in its administrative wisdom, took a decision to modify the number of questions while maintaining the total marks of the examination.

The said modification was applied uniformly to all candidates who participated in the examination and the petitioners have not been able to demonstrate that the change resulted in any hostile discrimination or arbitrariness affecting them individually.

30. The law is well settled that every irregularity in a recruitment process does not necessarily vitiate the entire selection unless it is shown that such irregularity has caused real prejudice to the candidates. In the present case, the petitioners have not been able to establish that the reduction of questions from 50 to 25 has caused any specific prejudice to them. On the contrary, the total marks remained the same and the modified scheme of examination was uniformly applied to all candidates. In such circumstances, the contention raised by the petitioners that the entire selection process deserves to be set aside merely on account of modification in the pattern of the written examination cannot be accepted.
31. At this stage, it would be apposite to note that the Hon'ble Supreme Court has repeatedly held that courts should not ordinarily interfere with recruitment processes on mere technicalities unless it is shown that the action complained of has materially affected the fairness of the selection.
32. In ***Union of India and others v. S. Vinodh Kumar and others, (2007) 8 SCC 100***, the Hon'ble Supreme Court held that in matters relating to recruitment and selection, minor deviations or

procedural variations which do not cause prejudice to the candidates cannot be made a ground for setting aside the entire selection process. The Court emphasized that the primary consideration must always be whether the process has been conducted in a fair and transparent manner.

33. Similarly, in ***Madan Mohan Sharma and others v. State of Rajasthan and others, (2008) 3 SCC 724***, the Hon'ble Supreme Court observed that unless the candidates are able to demonstrate that the alleged irregularity has resulted in actual prejudice, the entire selection process should not be annulled merely on speculative grounds.
34. In the present case, the written examination was merely a screening test intended to shortlist candidates for the skill test. The final determination of merit was to be made on the basis of the skill test and other criteria prescribed in the advertisement. The petitioners have not demonstrated that the modification in the number of questions had any direct bearing on the ultimate selection of candidates or that it has deprived them of an opportunity to compete fairly in the recruitment process.
35. Furthermore, another important aspect which cannot be lost sight of is that the petitioners had participated in the entire selection process without raising any objection at the relevant stage. Only after being unsuccessful in the written examination have they chosen to challenge the process. It is a well-settled principle of law

that a candidate who has participated in the selection process with full knowledge of the procedure cannot subsequently turn around and challenge the same merely because the result is not favourable to him.

36. In this regard, reference may be made to the judgment of the Hon'ble Supreme Court in ***Madan Lal and others v. State of Jammu and Kashmir and others, (1995) 3 SCC 486***, wherein it has been held that a candidate who takes part in the selection process without protest cannot subsequently challenge the procedure of selection after having failed to secure selection. The Supreme Court held that such a challenge would be hit by the principle of estoppel.
37. The same principle has been reiterated in ***Ashok Kumar and another v. State of Bihar and others, (2017) 4 SCC 357***, wherein the Hon'ble Supreme Court observed that once a candidate participates in the selection process with knowledge of the selection criteria, he cannot be permitted to challenge the process merely because the outcome is not favourable to him.
38. Another significant factor which weighs with this Court is that the petitioners have challenged the entire selection process culminating in the final selection list dated 14.03.2023, however the selected candidates have not been impleaded as party respondents in the present writ petitions. Once a recruitment process has culminated and candidates have been selected and

appointed, any challenge to such selection necessarily requires that the selected candidates be impleaded as parties to the proceedings, since their rights are directly affected.

39. The Hon'ble Supreme Court in ***Prabodh Verma and others v. State of Uttar Pradesh and others, (1984) 4 SCC 251***, has categorically held that when the selection of candidates is under challenge, the selected candidates are necessary parties, and in their absence the petition is liable to be dismissed for non-joinder of necessary parties. The Court observed that no order adversely affecting the rights of selected candidates can be passed behind their back.
40. The same view has been reiterated by the Hon'ble Supreme Court in ***Ranjan Kumar and others v. State of Bihar and others, (2014) 16 SCC 187***, wherein it was held that in the absence of selected candidates being impleaded as parties, a challenge to the recruitment process cannot be entertained and observed as follows :-

"6. In Indu Shekhar Singh and others v. State of U.P. and others, (2006) 8 SCC 129 it has been held thus: -

"56. There is another aspect of the matter. The appellants herein were not joined as parties in the writ petition filed by the respondents. In their absence, the High Court could not have determined the question of inter se seniority."

7. In *Km. Rashmi Mishra v. M.P. Public Service Commission and others* (2006) 12 SCC 724, after referring to *Prabodh Verma (supra)* and *Indu Shekhar Singh (supra)*, the Court took note of the fact that when no steps had been taken in terms of Order 1 Rule 8 of the Code of Civil Procedure or the principles analogous thereto all the seventeen selected candidates were necessary parties in the writ petition. It was further observed that the number of selected candidates was not many and there was no difficulty for the appellant to implead them as parties in the proceeding. Ultimately, the Court held that when all the selected candidates were not impleaded as parties to the writ petition, no relief could be granted to the appellant therein.

8. In *Tridip Kumar Dingal and others v. State of West Bengal and others*, (2009) 1 SCC 768, this Court approved the view expressed by the tribunal which had opined that for absence of selected and appointed candidates and without affording an opportunity of hearing to them, the selection could not be set aside.

9. In *Public Service Commission, Uttaranchal v. Mamta Bisht and others*, (2010) 12 SCC 204 this Court, while dealing with the concept of necessary parties and the effect of non-implementation of such a party in the matter when the selection process is assailed, observed thus: -

"9....in *Udit Narain Singh Malpaharia v. Board*

of Revenue, wherein the Court has explained the distinction between necessary party, proper party and pro forma party and further held that if a person who is likely to suffer from the order of the court and has not been impleaded as a party has a right to ignore the said order as it has been passed in violation of the principles of natural justice. More so, proviso to Order 1 Rule 9 of the Code of Civil Procedure, 1908 (hereinafter called 'Code of Civil Procedure') provides that non-joinder of necessary party be fatal. Undoubtedly, provisions of Code of Civil Procedure are not applicable in writ jurisdiction by virtue of the provision of Section 141 Code of Civil Procedure but the principles enshrined therein are applicable. (Vide Gulabchand Chhotalal Parikh v. State of Gujarat, Babubhai Muljibhai Patel v. Nandlal (2009) 1 SCC 768 (2010) 12 SCC 204 AIR 1963 SC 786 AIR 1965 SC 1153 Khodidas Barot and Sarguja Transport Service v. STAT)"

10. *In J.S. Yadav v. State of Uttar Pradesh and another, (2011) 6 SCC 570, it has been held that:*

"31. No order can be passed behind the back of a person adversely affecting him and such an order, if passed, is liable to be ignored being not binding on such a party as the same has been passed in violation of the principles of natural justice."

It was further held that:

“31.The litigant has to ensure that the necessary party is before the Court, be it a plaintiff or a defendant, otherwise the proceedings will have to fail. In service jurisprudence if an unsuccessful candidate challenges the selection process, he is bound to implead at least some of the successful candidates in representative capacity.”

11. In *Vijay Kumar Kaul and Ors. v. Union of India and Ors.*, (2012) 7 SCC 610 it has been ruled thus:

"36. Another aspect needs to be highlighted. Neither before the Tribunal nor before the High Court, Parveen Kumar and others were arrayed as parties. There is no dispute over the factum that they are senior to the Appellants and have been conferred the benefit of promotion to the higher posts. In their absence, if any direction is issued for fixation of seniority, that is likely to jeopardise their interest. When they have not been impleaded as parties such a relief is difficult to grant."

12. Recently in *State of Rajasthan v. Ucchab Lal Chhanwal*, (2014) 1 SCC 144, it has been opined that: -

"14.Despite the indefatigable effort, we are not persuaded to accept the aforesaid preponement, for once the Respondents are promoted, the juniors who have been

promoted earlier would become juniors in the promotional cadre, and they being not arrayed as parties in the lis, an adverse order cannot be passed against them as that would go against the basic tenet of the principles of natural justice."

13. In view of the aforesaid enunciation of law, we are disposed to think that in such a case when all the appointees were not impleaded, the writ petition was defective and hence, no relief could have been granted to the writ petitioners."

41. Recently, the Hon'ble Supreme Court in ***State of Uttar Pradesh v. Karunesh Kumar and others, 2022 SCC OnLine SC 1706***, has reiterated that a candidate who has participated in the selection process cannot subsequently challenge the procedure after being unsuccessful. Further, in ***Tajvir Singh Sodhi and others v. State of Jammu and Kashmir and others, (2023) 17 SCC 147***, the Supreme Court held that candidates who voluntarily participate in the selection process cannot challenge the procedure after being declared unsuccessful, as the doctrine of waiver and acquiescence would apply, while observing as follows :-

***"Selection Process for Public Employment:
Interference by Courts:***

31. Before proceeding further, it is necessary to preface our judgment with the view that Courts in India generally avoid interfering in the

selection process of public employment, recognising the importance of maintaining the autonomy and integrity of the selection process. The Courts recognise that the process of selection involves a high degree of expertise and discretion and that it is not appropriate for Courts to substitute their judgment for that of a selection committee. It would be indeed, treading on thin ice for us if we were to venture into reviewing the decision of experts who form a part of a selection board. The law on the scope and extent of judicial review of a selection process and results thereof, may be understood on consideration of the following case law:

32. In Dalpat Abasaheb Solunke vs. Dr. B.S. Mahajan, AIR 1990 SC 434, this Court clarified the scope of judicial review of a selection process, in the following words:

"12...It is needless to emphasise that it is not the function of the court to hear appeals over the decisions of the selection committees and to scrutinise the relative merits of the candidates. Whether the candidate is fit for a particular post or not has to be decided by the duly constituted selection committee which has the expertise on the subject. The court has no such expertise. The decision of the selection committee can be interfered with only on limited grounds, such as illegality or patent material irregularity in the

constitution of the committee or its procedure vitiating the selection, or proved malafides affecting the selection etc.....”

33. *In a similar vein, in Secy. (Health) Deptt. Of Health & F.W. vs. Dr. Anita Puri, (1996) 6 SCC 282, this Court observed as under as regards the sanctity of a selection process and the grounds on which the results thereof may be interfered with:*

“9. ... It is too well settled that when a selection is made by an expert body like the Public Service Commission which is also advised by experts having technical experience and high academic qualification in the field for which the selection is to be made, the courts should be slow to interfere with the opinion expressed by experts unless allegations of mala fide are made and established. It would be prudent and safe for the courts to leave the decisions on such matters to the experts who are more familiar with the problems they face than the courts. If the expert body considers suitability of a candidate for a specified post after giving due consideration to all the relevant factors, then the court should not ordinarily interfere with such selection and evaluation.....”

34. *This position was reiterated by this Court in M. V. Thimmaiah vs. Union Public Service Commission, (2008) 2 SCC 119, in the following words:*

“21. Now, comes the question with regard to the selection of the candidates. Normally, the recommendations of the Selection Committee cannot be challenged except on the ground of mala fides or serious violation of the statutory rules. The courts cannot sit as an Appellate Authority to examine the recommendations of the Selection Committee like the court of appeal. This discretion has been given to the Selection Committee only and courts rarely sit as a court of appeal to examine the selection of the candidates nor is the business of the court to examine each candidate and record its opinion...”

xxx

30. We fail to understand how the Tribunal can sit as an Appellate Authority to call for the personal records and constitute Selection Committee to undertake this exercise. This power is not given to the Tribunal and it should be clearly understood that the assessment of the Selection Committee is not subject to appeal either before the Tribunal or by the courts. One has to give credit to the Selection Committee for making their assessment and it is not subject to appeal. Taking the overall view of ACRs of the candidates, one may be held to be very good and another may be held to be good. If this type of interference is permitted then it would virtually amount that the Tribunals and

the High Courts have started sitting as Selection Committee or act as an Appellate Authority over the selection. It is not their domain, it should be clearly understood, as has been clearly held by this Court in a number of decisions.....”

35. *Om Prakash Poplai and Rajesh Kumar Maheshwari vs. Delhi Stock Exchange Association Ltd., (1994) 2 SCC 117, was a case where an appeal was filed before this Court challenging the selection of members to the Delhi Stock Exchange on the ground that the Selection Committee formed for the aforesaid purpose, arbitrarily favoured some candidates and was thus, against Article 14. This Court rejected the allegation of favouritism and bias by holding as under:*

“5. ...the selection of members by the Expert Committee had to be done on the basis of an objective criteria taking into consideration experience, professional qualifications and similar related factors. In the present cases, we find that certain percentage of marks were allocated for each of these factors, namely, educational qualifications, experience, financial background and knowledge of the relevant laws and procedures pertaining to public issues etc. Of the total marks allocated only 20 per cent were reserved for interviews. Therefore, the process of selection by the Expert Committee was not left entirely to the sweet-

will of the members of the Committee. The area of play was limited to 20 per cent and having regard to the fact that the members of the Expert Committee comprised of two members nominated by the Central Government it is difficult to accept the contention that they acted in an unreasonable or arbitrary fashion.....”

36. Thus, the inexorable conclusion that can be drawn is that it is not within the domain of the Courts, exercising the power of judicial review, to enter into the merits of a selection process, a task which is the prerogative of and is within the expert domain of a Selection Committee, subject of course to a caveat that if there are proven allegations of malfeasance or violations of statutory rules, only in such cases of inherent arbitrariness, can the Courts intervene.

37. Thus, Courts while exercising the power of judicial review cannot step into the shoes of the Selection Committee or assume an appellate role to examine whether the marks awarded by the Selection Committee in the viva-voce are excessive and not corresponding to their performance in such test. The assessment and evaluation of the performance of candidates appearing before the Selection Committee/Interview Board should be best left to the members of the committee. In light of the position that a Court cannot sit in appeal against the decision taken pursuant to a

reasonably sound selection process, the following grounds raised by the writ petitioners, which are based on an attack of subjective criteria employed by the selection board/interview panel in assessing the suitability of candidates, namely, (i) that the candidates who had done their post-graduation had been awarded 10 marks and in the viva-voce, such PG candidates had been granted either 18 marks or 20 marks out of 20. (ii) that although the writ petitioners had performed exceptionally well in the interview, the authorities had acted in an arbitrary manner while carrying out the selection process, would not hold any water.

38. The next aspect of the matter which requires consideration is the contention of the writ petitioners to the effect that the entire selection process was vitiated as the eligibility criteria enshrined in the Advertisement Notice dated 5th May, 2008 was recast vide a corrigendum dated 12th June, 2009, without any justifiable reason. In order to consider this contention, regard may be had to the following case law:

38.1 Manish Kumar Shahi vs. State of Bihar, (2010) 12 SCC 576, this Court authoritatively declared that having participated in a selection process without any protest, it would not be open to an unsuccessful candidate to challenge the selection criteria subsequently.

38.2 In Ramesh Chandra Shah vs. Anil Joshi,

(2013) 11 SCC 309, an advertisement was issued inviting applications for appointment for the post of physiotherapist. Candidates who failed to clear the written test presented a writ petition and prayed for quashing the advertisement and the process of selection. They pleaded that the advertisement and the test were ultra vires the provisions of the Uttar Pradesh Medical Health and Family Welfare Department Physiotherapist and Occupational Therapist Service Rules, 1998. After referring to a catena of judgments on the principle of waiver and estoppel, this Court did not entertain the challenge for the reason that the same would not be maintainable after participation in the selection process. The pertinent observations of this Court are as under:

“24. In view of the propositions laid down in the above noted judgments, it must be held that by having taken part in the process of selection with full knowledge that the recruitment was being made under the General Rules, the respondents had waived their right to question the advertisement or the methodology adopted by the Board for making selection and the learned Single Judge and the Division Bench of the High Court committed grave error by entertaining the grievance made by the respondents.”

38.3 Similarly, in Ashok Kumar vs. State of Bihar, (2017) 4 SCC 357, a process was

initiated for promotion to Class-III posts from amongst Class-IV employees of a civil court. In the said case, the selection was to be made on the basis of a written test and interview, for which 85% and 15% marks were earmarked respectively as per norms. Out of 27 (twenty-seven) candidates who appeared in the written examination, 14 (fourteen) qualified. They were interviewed. The committee selected candidates on the basis of merit and prepared a list. The High Court declined to approve the Select List on the ground that the ratio of full marks for the written examination and the interview ought to have been 90:10 and 45 ought to be the qualifying marks in the written examination. A fresh process followed comprising of a written examination (full marks - 90 and qualifying marks - 45) and an interview (carrying 10 marks). On the basis of the performance of the candidates, results were declared and 6 (six) persons were appointed on Class-III posts. It was thereafter that the appellants along with 4 (four) other unsuccessful candidates filed a writ petition before the High Court challenging the order of the High Court on the administrative side declining to approve the initial Select List. The primary ground was that the appointment process was vitiated, since under the relevant rules, the written test was required to carry 85 marks and the interview 15 marks. This Court dismissed the appeals on the grounds that the appellants were clearly put on notice when the

fresh selection process took place that the written examination would carry 90 marks and the interview 10 marks. The Court was of the view that the appellants having participated in the selection process without objection and subsequently found to be not successful, a challenge to the process at their instance was precluded. The relevant observations are as under:

"13. The law on the subject has been crystalized in several decisions of this Court. In Chandra Prakash Tiwari v. Shakuntala Shukla, this Court laid down the principle that when a candidate appears at an examination without objection and is subsequently found to be not successful, a challenge to the process is precluded. The question of entertaining a petition challenging an examination would not arise where a candidate has appeared and participated. He or she cannot subsequently turn around and contend that the process was unfair or that there was a lacuna therein, merely because the result is not palatable. In Union of India v. S. Vinodh Kumar (2007) 8 SCC 100, this Court held that:

"18. It is also well settled that those candidates who had taken part in the selection process knowing fully well the procedure laid down therein were not entitled to question the same (See also Munindra Kumar v. Rajiv Govil (1991) 3

SCC 368 and Rashmi Mishra v. M.P. Public Service Commission (2006) 12 SCC 724)".

39. *It is therefore trite that candidates, having taken part in the selection process without any demur or protest, cannot challenge the same after having been declared unsuccessful. The candidates cannot approbate and reprobate at the same time. In other words, simply because the result of the selection process is not palatable to a candidate, he cannot allege that the process of interview was unfair or that there was some lacuna in the process. Therefore, we find that the writ petitioners in these cases, could not have questioned before a Court of law, the rationale behind recasting the selection criteria, as they willingly took part in the selection process even after the criteria had been so recast. Their candidature was not withdrawn in light of the amended criteria. A challenge was thrown against the same only after they had been declared unsuccessful in the selection process, at which stage, the challenge ought not to have been entertained in light of the principle of waiver and acquiescence.*

40. *This Court in Sadananda Halo has noted that the only exception to the rule of waiver is the existence of mala fides on the part of the Selection Board. In the present case, we are unable to find any mala fide or arbitrariness in the selection process and therefore the said*

exception cannot be invoked.”

- 42.** Reverting to the facts of the present case in the light of the aforementioned judicial precedents, it becomes quite vivid that the challenge raised by the petitioners does not satisfy the well-settled parameters governing judicial review in matters of recruitment and selection. As discussed hereinabove, the Hon'ble Supreme Court in a catena of decisions has consistently held that interference with a completed selection process can be justified only when the process is shown to suffer from patent illegality, violation of statutory rules, demonstrable mala fides or such irregularities which materially affect the fairness of the selection. Mere procedural deviations or administrative adjustments, which do not cause real prejudice to the candidates, cannot be made the basis for annulling the entire recruitment exercise. In the present case, despite making various allegations regarding the conduct of the examination and the procedure adopted by the Selection Committee, the petitioners have failed to place any material on record to establish that the alleged irregularities resulted in any tangible prejudice to them or that the selection process was vitiated by arbitrariness or mala fide exercise of power.
- 43.** The record further reveals that the written examination conducted pursuant to the advertisement dated 16.06.2022 was only a preliminary screening test intended to shortlist candidates for participation in the skill test, which was the decisive stage for assessment of merit. The modification in the number of questions

from 50 to 25 was an administrative decision taken by the duly constituted Selection Committee in view of the large number of applications received and the logistical requirements of conducting the examination in multiple shifts. Significantly, the total marks allotted for the written examination remained unchanged and the modification was applied uniformly to all candidates who appeared in the examination. In such circumstances, it cannot be said that the said change resulted in any hostile discrimination or unequal treatment so as to render the process arbitrary or violative of Article 14 of the Constitution.

44. Equally significant is the fact that the petitioners had voluntarily participated in the selection process with full knowledge of the terms and conditions stipulated in the advertisement and the procedure adopted by the respondents. At no stage prior to the declaration of the result did the petitioners raise any objection with regard to the constitution of the Selection Committee, the conduct of the examination or the modification in the number of questions. It is only after they were declared unsuccessful in the written examination that the present challenge has been mounted. Such conduct clearly attracts the doctrine of waiver, acquiescence and estoppel as repeatedly recognised by the Hon'ble Supreme Court in decisions such as ***Madan Lal*** (supra), ***Ashok Kumar*** (supra) and ***Tajvir Singh Sodhi*** (supra). Once a candidate participates in the selection process without protest and takes a calculated chance of success, he cannot subsequently question the

procedure merely because the result has gone against him.

- 45.** Apart from the above, another fundamental infirmity which goes to the very root of the maintainability of the present writ petitions is the failure on the part of the petitioners to implead the selected candidates as party respondents. The pleadings on record clearly indicate that the recruitment process has already culminated in the declaration of the final select list dated 14.03.2023 and appointments have been made pursuant thereto. Any order setting aside the impugned selection would inevitably and directly affect the rights and interests of those candidates who have been declared successful and have secured appointment. The law is well settled that no order prejudicially affecting the rights of a person can be passed behind his back. The Hon'ble Supreme Court in ***Prabodh Verma*** (supra) and ***Ranjan Kumar*** (supra) as also several subsequent decisions has categorically held that in cases where the selection process is challenged, the selected candidates are necessary parties and in their absence the writ petition is liable to fail on the ground of non-joinder of necessary parties.
- 46.** In the present batch of writ petitions, the petitioners have chosen to challenge the entire selection process culminating in the appointment of successful candidates, yet no effort has been made to implead even a representative set of selected candidates. The number of selected candidates is neither large nor

indeterminate so as to render such impleadment impracticable. In the absence of those candidates being before this Court, any adjudication on the validity of the selection process would result in serious prejudice to their vested rights without affording them an opportunity of hearing. Such a course would clearly offend the principles of natural justice and therefore cannot be countenanced in exercise of writ jurisdiction under Article 226 of the Constitution.

47. Thus, when the matter is viewed holistically, two crucial circumstances emerge. Firstly, the petitioners have failed to establish any illegality, mala fides or violation of statutory rules in the conduct of the recruitment process which would warrant judicial interference. Secondly, the petitions suffer from the fatal defect of non-joinder of necessary parties inasmuch as the selected candidates, whose rights would be directly affected, have not been impleaded. Both these factors, independently as well as cumulatively, disentitle the petitioners from seeking the extraordinary relief prayed for.

48. It is also pertinent to bear in mind that the scope of judicial review in matters relating to recruitment is inherently limited. Courts do not sit as appellate authorities over the decisions of duly constituted Selection Committees nor do they substitute their own views for that of experts entrusted with the task of assessing the suitability of candidates. Interference is warranted only when the decision-making process itself is shown to be vitiated by illegality

or arbitrariness of a substantial nature. In the absence of such circumstances, judicial restraint is not merely advisable but necessary to preserve the integrity and autonomy of the selection process.

- 49.** In the present batch of cases, the petitioners have not been able to demonstrate that the recruitment process suffered from any such fundamental infirmity. On the contrary, the material available on record indicates that the selection process was conducted in accordance with the applicable rules and administrative instructions, and the minor procedural modifications made during the course of the process were uniformly applied and did not prejudice the candidates in any manner.
- 50.** Consequently, upon a careful consideration of the pleadings, documents placed on record, and the submissions advanced by the learned counsel appearing for the respective parties, this Court is of the considered opinion that the petitioners have failed to establish any legal or factual infirmity in the impugned action of the respondents. The material placed on record does not disclose any violation of statutory provisions, principles of natural justice, or arbitrariness so as to warrant interference by this Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India. It is well settled that the scope of judicial review under Article 226 of the Constitution of India is limited to examining the decision-making process and not the merits of the decision itself

unless the action complained of is shown to be patently illegal, arbitrary, or without jurisdiction. In the present batch of cases, none of these contingencies are made out. The petitioners have not been able to demonstrate that the impugned action suffers from any perversity or illegality warranting interference by this Court.

51. Accordingly, all the writ petitions (WPS Nos.1363/2023, 2468/2023 and 2505/2023), being bereft of substance, are hereby **dismissed**. There shall be no order as to costs.

Sd/-
(Amitendra Kishore Prasad)
Judge

Yogesh

The date when the judgment is reserved	The date when the judgment is pronounced	The date when the judgment is uploaded on the website	
		Operative	Full
11.03.2026	15.04.2026	-----	15.04.2026

Head-Note

Mere procedural modification uniformly applied to all candidates does not vitiate the selection in the absence of demonstrated prejudice, and a challenge to the recruitment process after unsuccessful participation, without impleading the selected candidates, is not maintainable.