



2026:CGHC:13315

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPS No. 5769 of 2018**

Aakhilesh S/o Late Samal Ekka Aged About 31 Years Working As Peon At Middle School Girjapur , Tahsil And Police Station Shankargarh District - Balrampur- Ramanujganj, Chhattisgarh., District : Balrampur, Chhattisgarh
--- Petitioner

versus

1 - State Of Chhattisgarh Through Secretary , Tribal Welfare, Department , Mahanadi , Bhawan, Mantralaya, Capital Complex, Naya Raipur, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

2 - State Of Chhattiasgarh Through Assistant Commissioner , Department Of Tribal Welfare, Balrampur, District Balrampur- Ramanujganj, Chhattisgarh., District : Balrampur, Chhattisgarh

3 - The Commissioner Surguja Division , Ambikapur, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

4 - The Collector Balrampur District - Balrampur- Ramanujganj, Chhattisgarh., District : Balrampur, Chhattisgarh

--- Respondent(s)**WPS No. 1074 of 2019**

1 - Nirmala Minj D/o Dharmun Ram Aged About 35 Years Assistant Grad Iii At The Office Of Block Education Officer Kusmi ,tahsil And Police Station Kusmi

District Balrampur Ramanujganj Chhattisgarh., District : Balrampur,
Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through Secretary Tribal Welfare Department
Mahanadi Bhawan Mantralaya Capital Complex Naya Raipur District Raipur
Chhattisgarh., District : Raipur, Chhattisgarh

2 - State Of Chhattisgarh Through Assistant Commissioner Department Of
Tribal Welfare Balrampur ,district Balrampur Ramanujganj Chhattisgarh.,
District : Balrampur, Chhattisgarh

3 - The Commissioner Surguja Division Ambikapur Chhattisgarh ., District :
Surguja (Ambikapur), Chhattisgarh

4 - The Collector Balrampur District Balrampur Ramanujganj Chhattisgarh.,
District : Balrampur, Chhattisgarh

--- **Respondent(s)**

WPS No. 1091 of 2019

1 - Prasanti D/o Dhaneshwar Aged About 26 Years Assistant Grade - Iii At
High School Salwahi Tahsil - Ramchandrapur, District - Balrampur -
Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through Secretary, Tribal Welfare Department,
Mahanadi Bhawan Mantralaya Capital Complex Naya Raipur, District - Raipur
Chhattisgarh., District : Raipur, Chhattisgarh

2 - State Of Chhattisgarh Through Assistant Commissioner, Department Of
Tribal Welfare, Balrampur, District - Balrampur - Ramanujganj Chhattisgarh.,
District : Balrampur, Chhattisgarh

3 - The Commissioner Surguja Division, Ambikapur Chhattisgarh., District :
Surguja (Ambikapur), Chhattisgarh

4 - The Collector Balrampur, District - Balrampur - Ramanujganj
Chhattisgarh., District : Balrampur, Chhattisgarh

--- **Respondent(s)**

WPS No. 705 of 2019

1 - Balmukund Ram S/o Digambar Ram Aged About 24 Years Assistant Grade
Iii At High School Durgapur, Tahsil And P.S. Shankargarh District-Balrampur-
Ramanujganj Chhattisgarh, District : Balrampur, Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through Secretary, Tribal Welfare, Department,
Mahanadi Bhawan, Mantralaya, Capital Complex, Atal Nagar, District Raipur
Chhattisgarh, District : Raipur, Chhattisgarh

2 - State Of Chhattisgarh Through Assistant Commissioner, Department Of Tribal Welfare, Balrampur, District-Balrampur-Ramanujganj Chhattisgarh,
District : Balrampur, Chhattisgarh

3 - The Commissioner Surguja Division, Ambikapur Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

4 - The Collector Balrampur District-Balrampur-Ramanujganj Chhattisgarh,
District : Balrampur, Chhattisgarh

--- **Respondent(s)**

WPS No. 703 of 2019

1 - Kalindar Ram S/o Jageram Aged About 38 Years Assistant Grade- Ill At High School Dolangi, Tahsil Ramchandrapur District Balrampur-Ramanujganj, Chhattisgarh., District : Balrampur, Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through Secretary, Tribal Welfare Department Mahanadi Bhawan, Mantralaya, Capital Complex, Atal Nagar District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

2 - State Of Chhattisgarh Through Assistant Commissioner, Department Of Tribal Welfare, Balrampur, District Balrampur- Ramanujganj, Chhattisgarh., District : Balrampur, Chhattisgarh

3 - The Commissioner Surguja, Division, Ambikapur, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

4 - The Collector Balrampur District Balrampur Ramanujganj, Chhattisgarh.,
District : Balrampur, Chhattisgarh

--- **Respondent(s)**

WPS No. 553 of 2019

1 - Samima Tigga W/o Rajesh Kumar Tigga Aged About 30 Years Address
Girls Ahsram Ranhat ,district Balrampur Ramanujganj Chhattisgarh., District :
Balrampur, Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through The Secretary Tribal Welfare Department
Atal Nagar Mantraya New Raipur Chhattisgarh., District : Raipur,
Chhattisgarh

2 - The Commissioner Surguja Division (Ambikapur) District Surguja
Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

3 - The Assistant Commissioner Tribal Welfare Department Balrampur District
Balrampur Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh

4 - The Collector Balrampur District Balrampur Ramanujganj Chhattisgarh.,
District : Balrampur, Chhattisgarh

--- **Respondent(s)**

WPS No. 6079 of 2018

1 - Pratibha Yadav D/o Shivshankar Yadav Aged About 30 Years Working As Assistant Grad Iii At Girl High School Bartikala, Tahsil And P.S. Wadrafnagar, District- Balrampur-Ramanujganj, Chhattisgarh., District : Balrampur, Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through Secretary, Tribal Welfare, Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

2 - State Of Chhattisgarh Assistant Commissioner, Department Of Tribal Welfare, Balrampur, District- Balrampur- Ramanujganj, Chhattisgarh., District : Balrampur, Chhattisgarh

3 - The Commissioner Surguja Division, Ambikapur, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

4 - The Collector Balrampur District- Balrampur-Ramanujganj, Chhattisgarh., District : Balrampur, Chhattisgarh

--- **Respondent(s)**

WPS No. 5764 of 2018

1 - Anjna Kujur D/o Manohar Kujur Aged About 33 Years Working As Peon At Higher Secondary School Dhandhapur, Tahsil And Police Station Rajpur District Balrampur Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through Secretary, Tribal Welfare Department
Mahanadi Bhawan Mantralaya Capital Complex Naya Raipur District Raipur
Chhattisgarh., District : Raipur, Chhattisgarh

2 - The Commissioner, Surguja Division, Ambikapur Chhattisgarh., District :
Surguja (Ambikapur), Chhattisgarh

3 - The Commissioner, Surguja Division Ambikapur Chhattisgarh., District :
Surguja (Ambikapur), Chhattisgarh

4 - The Collector, Balrampur District Balrampur Ramanujganj Chhattisgarh.,
District : Balrampur, Chhattisgarh

--- **Respondent(s)**

WPS No. 5765 of 2018

1 - Babita Paikra D/o Akhilesh Paikra Aged About 28 Years Working As Peon
At Middle School Ghughrikhurd, Shankargarh, Tahsil And P.S. Shankargarh,
District Balrampur Ramanujganj Chhattisgarh., District : Balrampur,
Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through Secretary, Tribal Welfare, Department,
Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, District Raipur
Chhattisgarh., District : Raipur, Chhattisgarh

2 - State Of Chhattisgarh Through Assistant Commissioner, Department Of Tribal Welfare, Balrampur, District Balrampur Ramanujganj Chhattisgarh.,
District : Balrampur, Chhattisgarh

3 - The Commissioner, Surguja Division, Ambikapur Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

4 - The Collector, Balrampur District Balrampur Ramanujganj Chhattisgarh.,
District : Balrampur, Chhattisgarh

--- **Respondent(s)**

WPS No. 5775 of 2018

1 - Parasnath Singh S/o S/o Mangal Singh Aged About 34 Years Working As Peon At Middle School Parsawarkhurd, District Balrampur- Ramanujganj, Chhattisgarh., District : Balrampur, Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through Secretary, Tribal Welfare, Department, Mahanadi Bhawan Mantralaya, Capital Complex, Naya Raipur, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

2 - State Of Chhattisgarh Through Assistant Commissioner Department Of Tribal Welfare, Balrampur, District Balrampur- Ramanujganj, Chhattisgarh.,
District : Balrampur, Chhattisgarh

3 - The Commissioner Surguja, Division, Ambikapur, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

4 - The Collector Balrampur District Balrampur- Ramanujganj, Chhattisgarh., District : Balrampur, Chhattisgarh

--- **Respondent(s)**

WPS No. 5783 of 2018

1 - Silku Ram S/o Mahngu Ram Aged About 41 Years Working As Peon At Middle School Kasaibahra, Tahsil And Police Station Shankargarh, District Balrampur - Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through Secretary , Tribal Welfare Department Mahanadi Bhawan Mantralaya Capital Complex, Naya Raipur District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

2 - State Of Chhattisgarh, Through Assistant Commissioner, Department Of Tribal Welfare, Balrampur, District Balrampur Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh

3 - The Commissioner, Surguja Division, Ambikapur Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

4 - The Collector, Balrampur District Balrampur - Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh

--- **Respondent(s)**

WPS No. 5785 of 2018

1 - Ku. Susila Toppo D/o Navasay Aged About 25 Years Working As Peon At Middle School Kamari Tahsil And P.S. Shankargarh, District Balrampur - Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through Secretary, Tribal Welfare, Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

2 - State Of Chhattisgarh Through Assistant Commissioner, Department Of Tribal Welfare Balrampur, District - Balrampur-Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh

3 - The Commissioner Surguja, Division Ambikapur Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

4 - The Collector Balrampur District - Balrampur - Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh

--- **Respondent(s)**

WPS No. 5781 of 2018

1 - Bahal Ram S/o Lorgod Ram Aged About 37 Years Working As Peon At Higher Secondary School Sewari, Tahsil And Police Station Rajpur, District- Balrampur-Ramanujganj, Chhattisgrh., District : Balrampur, Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through Secretary, Tribal Welfare, Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

2 - State Of Chhattisgarh Through Assistant Commissioner, Department Of Tribal Welfare, Balrampur, District- Balrampur- Ramanujganj, Chhattisgarh., District : Balrampur, Chhattisgarh

3 - The Commissioner Surguja Division, Ambikapur, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

4 - The Collector Balrampur District- Balrampur-Ramanujganj, Chhattisgarh., District : Balrampur, Chhattisgarh

--- **Respondent(s)**

WPS No. 5903 of 2018

1 - Surendra Kumar S/o Amar Singh Aged About 31 Years Working As Peon At Middle School Jarhatoli, Tahsil And Police Station Wadraf Nagar District Balrampur - Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through Secretary, Tribal Welfare, Department Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

2 - State Of Chhattisgarh Through Assistant Commissioner, Department Of Tribal Welfare, Balrampur District Balrampur Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh

3 - The Commissioner, Surguja Division Ambikapur Chhattisgarh., Chhattisgarh

4 - The Collector, Balrampur District Balrampur - Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh

--- **Respondent(s)**

WPS No. 5773 of 2018

1 - Ku. Savita Suryawansi D/o D/o Ramotar Aged About 32 Years Working As Peon At Middle School Aaragahi, Tahsil And P. S. Ramchandrapur, District Balrampur- Ramanujganj, Chhattisgarh., District : Balrampur, Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through Secretary, Tribal Welfare, Department Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

2 - State Of Chhattisgarh Through Assistant Commissioner, Department Of Tribal Welfare, Balrampur, District Balrampur- Ramanujganj, Chhattisgarh., District : Balrampur, Chhattisgarh

3 - The Commissioner Surguja Division Ambikapur, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

4 - The Collector Balrampur, District Balrampur- Ramanujganj, Chhattisgarh., District : Balrampur, Chhattisgarh

--- **Respondent(s)**

WPS No. 6101 of 2018

1 - Shashikala D/o Soni Ram Aged About 30 Years Working As Assistant Grad Iii At Higher Secondary School Basantpur, Tahsil And P.S. Wadrafnagar, District- Balrampur-Ramanujganj, Chhattisgarh., District : Balrampur, Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh, Through Secretary, Tribal Welfare, Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

2 - State Of Chhattisgarh Through Assistant Commissioner, Department Of Tribal Welfare, Balrampur, District- Balrampur- Ramanujganj, Chhattisgarh., District : Balrampur, Chhattisgarh

3 - The Commissioner Surguja Division, Ambikapur, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

4 - The Collector Balrampur District- Balrampur-Ramanujganj, Chhattisgarh., District : Balrampur, Chhattisgarh

--- **Respondent(s)**

WPS No. 722 of 2019

1 - Munna Ram S/o Ramchandra Aged About 29 Years Assistant Grad Iii At Higher Secondary School Ranhat, Tahsil Balrampur, District- Balrampur-Ramanujganj, Chhattisgarh., District : Balrampur, Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through Secretary, Tribal Welfare, Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Atal Nagar, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

2 - State Of Chhattisgarh Through Assisatnt Commissioner, Department Of Tribal Welfare, Balrampur, District- Balrampur- Ramanujganj, Chhattisgarh., District : Balrampur, Chhattisgarh

3 - The Commissioner Surguja Division, Ambikapur, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

4 - The Collector Balrampur District- Balrampur- Ramanujganj, Chhattisgarh., District : Balrampur, Chhattisgarh

--- **Respondent(s)**

WPS No. 729 of 2019

1 - Manoj Kumar Bhagat S/o Dularsai Bhagat Aged About 25 Years Assistant Grad Iii At The Officer Of Block Education Officer Rajpur, Tahsil And P.S. Rajpur, District Balrampur Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through Secretary, Tribal Welfare, Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Atal Nagar, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

2 - State Of Chhattisgarh Through Assistant Commissioner, Department Of Tribal Welfare, Balrampur, District Balrampur Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh

3 - The Commissioner Surguja Division, Ambikapur Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

4 - The Collector Balrampur District Balrampur Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh

--- **Respondent(s)**

WPS No. 1094 of 2019

1 - Mamta Khalkho D/o Pramod Khalkho Aged About 34 Years Assistant Grade - Iii At Higher Secondary School Jigadi, Tahsil And Police Station

Rajpur, District - Balrampur - Ramanujganj Chhattisgarh., District : Balrampur,
Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through Secretary, Tribal Welfare Department
Mahanadi Bhawan, Mantralaya Capital Complex Naya Raipur, District - Raipur
Chhattisgarh., District : Raipur, Chhattisgarh

2 - State Of Chhattisgarh Through Assistant Commissioner, Department Of
Tribal Welfare, Balrampur, District - Balrampur - Ramanujganj Chhattisgarh.,
District : Balrampur, Chhattisgarh

3 - The Commissioner Surguja Division Ambikapur Chhattisgarh., District :
Surguja (Ambikapur), Chhattisgarh

4 - The Collector Balrampur, District Balrampur - Ramanujganj Chhattisgarh.,
District : Balrampur, Chhattisgarh

--- **Respondent(s)**

WPS No. 5533 of 2018

1 - Sushma Thakur W/o Abhishek Thakur Aged About 33 Years Working As
Meddle School Charpara, Rajpur District Balrampur Ramanujganj
(Chhattisgarh) (Wrongly Mention In Impugned Order As Daughter Of
Abhishek Thakur)., District : Balrampur, Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through Secretary, Tribal Welfare, Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

2 - State Of Chhattisgarh, Through Assistant Commissioner, Department Of Tribal Welfare, Balrampur, District Balrampur Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh

3 - The Commissioner, Surguja Division, Ambikapur, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

4 - The Collector, Balrampur District Balrampur Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh. --- **Respondent(s)**

For Petitioner(s)	: Mr. Akath Kumar Yadav with Ms. Kusum Lalchandani, Advocates Mr. Harish Khutiya, Advocate
For Respondent(s)/State	: Mr. Anil S. Pandey, Government Advocate Ms. Saumya Sharma, Panel Lawyer

Hon’ble Shri Justice Rakesh Mohan Pandey

Order on Board

19/03/2026

1. In this batch of petitions, the petitioners have challenged the order passed by the Commissioner, Surguja, dated 05.06.2018, whereby the appeals preferred by the petitioners were dismissed and the order passed by the Collector, Balrampur-Ramanujganj dated 29.11.2017 was affirmed.
2. Facts of the present case are as under:-

- A.** An advertisement was issued by the Office of Collector, Balrampur-Ramanujganj on 04.04.2012, vide Annexure for 268 posts of Peon and 72 posts for Assistant Grade-III.
- B.** The eligibility criteria for the post of Peon was class 5th pass, whereas for the post of Assistant Grade-III, it was 12th pass or Ist year of graduation along with one-year diploma in Data Entry Operator and a typing speed of 5000 key depressions per hour.
- C.** The petitioners submitted their application forms for respective posts of Assistant Grade-III and Peon.
- D.** The petitioners and other candidates were required to appear in the the written test and skill test.
- E.** Vide notification dated 04.12.2012, State Government issued amended reservation roster.
- F.** The petitioners participated in the examination, and thereafter select list of 1521 candidates was published on 01.05.2013. Thereafter, appointment orders were issued in favour of the selected candidates on 02.07.2013 against 355 posts of Peon and 64 posts for Assistant Grade-III.
- G.** The appointment orders in favour of the 24 candidates, who are the petitioners herein, were issued on 01.01.2014. Pursuant to the orders of appointment, the petitioners joined service as Peon and Assistant Grade-III, thereafter, various complaints were received by the District Collector against selection list & appointment ordres.

H. Allegations were made to the effect that the reservation roster was not followed and appointments against subsequently sanctioned posts were made without proper advertisement. The Collector, vide order dated 05.10.2015, cancelled the appointment of 57 Peons and 11 Assistant Grade-III candidates. The names of the petitioners were part of order dated 05.10.2015 in those 57 candidates, thereafter, the petitioners preferred writ petitions before the High Court, and WPS No. 4091/2015 and other connected matters were registered. Those petitions were disposed of vide order dated 04.04.2017, whereby the order passed by the Collector was set aside and the matter was remitted back to the Collector. Liberty was granted to Collector to initiate a fresh enquiry in accordance with law after affording an opportunity of hearing to the petitioners.

I. On 03.08.2017, the Collector issued show-cause notices to the petitioners and other 33 selected candidates, afforded opportunity of hearing, and thereafter cancelled their appointments vide order dated 19.11.2017. The petitioners preferred appeals before the Commissioner challenging the said order. The Commissioner partly allowed the appeals by restoring the appointments of 33 candidates but dismissed the appeals preferred by the present petitioners vide order dated 05.06.2018; thus, the order passed by the Collector was affirmed against which, these petitions have been preferred.

3. Mr. Akhat Kumar Yadav, learned counsel appearing for the petitioners, who is leading the arguments would make following submission(s):-

- A.** Reservation roster was notified by the State Government on 04.12.2012, whereas the advertisement was issued prior to said date i.e. on 04.04.2012. He would contend that there were 268 posts of Peon and 72 posts of Assistant Grade-III.
- B.** He would further contend that the petitioners participated in the written test and skill test and secured their position in the merit list.
- C.** He would submit that on 28.09.2013, a decision was taken by the Scrutiny Committee to conduct counseling for selection of 24 additional posts of Peon as per the reservation roster. The petitioners were called for verification of documents on 07.10.2013, and thereafter appointment orders were issued on 01.01.2014. He would contend that the Collector, Balrampur-Ramanujganj without affording proper opportunity of hearing, cancelled the selection of 57 Peons and Assistant Grade-III candidates. The said order was set aside by this Court in earlier round of litigation.
- D.** He would contend that the Collector was directed to afford sufficient opportunity of hearing to the petitioners; however, only show-cause notice was issued and no proper opportunity of hearing was afforded. He would further submit that the Collector, vide order dated 19.11.2017, cancelled the appointments ignoring sanction granted by the committee and the reservation roster.
- E.** He would contend that the petitioners were appointed strictly in accordance with the reservation roster. The Commissioner, vide order dated 20.04.2018, directed the selection/scrutiny committee to consider the claim of the petitioners against vacant sanctioned posts after following the reservation roster

dated 04.12.2012. However, the subsequent reservation roster was wrongly applied by the Collector while cancelling the appointment of the petitioners.

- F.** He would contend that an enquiry was conducted and a report was submitted on 08.09.2023, wherein no irregularity was found in the selection process. He would argue that the petitioners were appointed in accordance with the terms and conditions of the advertisement, dated 04.04.2012.
- G.** He would further contend that on the date of advertisement, total 537 vacant posts were available and the petitioners were appointed against those vacant posts, therefore, the findings recorded by the Collector and affirmed by the Commissioner are bad in law. He would also submit that the advertisement was issued on 04.04.2012, the written and skill tests were conducted on 01.05.2013, and appointment orders were issued on 01.01.2014; thus, the petitioners were appointed within one year from the date of issuance of the merit list.
- H.** Mr. Yadav would further submit that the petitioners worked as Peon and Assistant Grade-III for about four years & five months, and thus right had accrued in their favour. He would pray that the order passed by the Commissioner dated 05.06.2018 may be quashed and a direction may be issued for reinstatement services of the petitioners. He has placed reliance on the judgments passed by the Hon'ble Supreme Court in the matters of ***Anmol Kumar Tiwari & Ors. vs. State of Jharkhand & ors.*** reported in ***(2021) 5 SCC 424***, and ***Vikas Pratap Singh and others vs. State of Chhattisgarh***, reported in ***(2013) 14 SCC 494***.

4. On the other hand, Mr. Anil S. Pandey, Government Advocate and Ms. Saumya Sharma, Panel Lawyer appearing for the State would oppose the submissions made by Mr. Yadav and submit that initially an advertisement for 268 posts of Peon and 72 posts of Assistant Grade-III was issued and appointments were required to be made as per the reservation roster dated 04.12.2012. They would further submit that a select list of 1521 candidates was published but no waiting list was prepared. Against 268 posts of peon, 355 candidates were appointed, and against 72 posts of Assistant Grade-III, only 64 candidates were appointed. They would contend Peons were appointed in excess of the available vacancy. They would submit that complaints were made, and upon enquiry, it was found that 355 Peons were appointed against 268 vacancies and the reservation roster was not followed, therefore, appointment orders of 57 candidates were cancelled. They would further submit that after remand by this Court, show-cause notice was issued to the petitioners and, after affording proper opportunity of hearing, the Collector cancelled the appointment of the petitioners and 33 other candidates. The appeals preferred by the petitioners were partly allowed, and appointments of 33 candidates were restored, whereas the petitioners' appeals were dismissed. They would contend that during the recruitment process, 30 posts of Peon and 15 posts of Assistant Grade-III were sanctioned on 28.09.2013 but the selection committee used the select list of 1521 candidates as a reservoir for filling future vacancies. They have placed reliance upon the judgments passed by the Hon'ble Supreme Court in the matters of **Anurag Kumar Singh & Ors. vs. State of Uttarakhand & Ors.** passed in Civil Appeal No. 8334 of 2013 and another connected matter; and **Rakhi Ray & ors. vs. High Court of Delhi & ors,** reported in **(2010) 2 SCC 637**.

5. I have heard learned counsel for the parties and perused the documents with utmost circumspection.

6. In the matter of **Vikas Pratap Singh** (supra), the Hon'ble Supreme Court held that right to appointment can't be claimed if such appointment is obtained by fraud, misrepresentation or malafide, and such appointments are liable to be set aside. It was reiterated that a person cannot be permitted to benefit from a wrongful appointment at the cost of more meritorious candidates. However, the Hon'ble Supreme Court carved out an exception by observing that where the appointment is irregular or erroneous due to a mistake on the part of the authorities, and there is no fault, fraud or misrepresentation attributable to the appointee, a sympathetic view may be taken. In such cases, factors like the bona fide conduct of the candidate and the length of service rendered are relevant considerations while determining the relief. The relevant paragraph 22 is reproduced as under:-

"22.The pristine maxim of *fraus et jus nunquam cohabitant* (fraud and justice never dwell together) has never lost its temper over the centuries and it continues to dwell in spirit and body of service law jurisprudence. It is settled law that no legal right in respect of appointment to a said post vests in a candidate who has obtained the employment by fraud, mischief, misrepresentation or malafide. (See: District Collector & Chairman, Vizianagaram Social Welfare Residential School Society, Vizianagaram and another v. M. Tripura Sundari Devi, (1990) 3 SCC 655, P. Chengalvaraya Naidu v. Jagannath and others, (1994) 1 SCC 1 and Union of India and others v. M. Bhaskaran, 1995 Suppl. (4) SCC 100). It is also settled law that a person appointed erroneously on a post must not reap the benefits of wrongful appointment jeopardizing the interests of the meritorious and worthy candidates. However, in cases where a wrongful or irregular appointment is made without any mistake on the part of the appointee and upon discovery of such error or irregularity the

appointee is terminated, this Court has taken a sympathetic view in the light of various factors including bonafide of the candidate in such appointment and length of service of the candidate after such appointment (See: Vinodan T. and Ors. v. University of Calicut and Ors.,(2002) 4 SCC 726; State of U.P. v. Neeraj Awasthi and Ors. (2006) 1 SCC 667)."

7. In the matter of ***Anmol Kumar Tiwari (supra)***, the Hon'ble Supreme Court held that where appointments are found to be irregular due to lapses on the part of the authorities, but there is no allegation of fraud or misrepresentation against the appointees, such employees should not be penalized for faults not attributable to them. If the employees have already undergone training and have rendered service for a considerable period, their termination would unjustly prejudice their careers. It has further been held that in such circumstances, reinstatement or continuation in service can be granted without disturbing the rights of other duly selected candidates, and such appointees may be accommodated against existing or future vacancies with appropriate adjustments in seniority. The relevant paragraphs 4 & 11 are reproduced as under:-

"4. Forty-two persons filed Writ Petitions being aggrieved by the termination of their services. The Appellants in the Civil Appeals arising out of SLP (Civil) Nos.24404-24405 of 2019 and Civil Appeals arising out of SLP (Civil) Nos. 26302-26305 of 2019 filed applications for intervention in the Writ Petitions before the High Court. The Writ Petitions filed by the 42 persons whose services were terminated were allowed by a judgment dated 12.08.2016. A learned Single Judge of the High Court held that the appointment of the Writ Petitioners was irregular. The authorities prepared a revised select list after correcting the irregularities and appointed 43 persons on the basis of their merit in accordance with the Rules. As the Writ Petitioners were appointed after completion of their training and have served the State for a considerable period, the High Court was of the opinion that they should be

appointed against existing/ anticipated or future vacancies. Their appointments were directed to be treated as fresh appointments and they were to be placed at the bottom of the seniority list in the revised merit list. The High Court observed that the Writ Petitioners cannot be held responsible for the irregularities committed by the authorities in the matter of their selection and there is no allegation of fraud or misrepresentation on their part.

11. Two issues arise for our consideration. The first relates to the correctness of the direction given by the High Court to reinstate the Writ Petitioners. The High Court directed reinstatement of the Writ Petitioners after taking into account the fact that they were beneficiaries of the select list that was prepared in an irregular manner. However, the High Court found that the Writ Petitioners were not responsible for the irregularities committed by the authorities in preparation of the select list. Moreover, the Writ Petitioners were appointed after completion of training and worked for some time. The High Court was of the opinion that the Writ Petitioners ought to be considered for reinstatement without affecting the rights of other candidates who were already selected. A similar situation arose in *Vikas Pratap Singh's case* (supra), where this Court considered that the Appellants-therein were appointed due to an error committed by the Respondents in the matter of valuation of answer scripts. As there was no allegation of fraud or misrepresentation committed by the Appellants therein, the termination of their services was set aside as it would adversely affect their careers. That the Appellants-therein had successfully undergone training and were serving the State for more than 3 years was another reason that was given by this Court for setting aside the orders passed by the High Court. As the Writ Petitioners are similarly situated to the Appellants in *Vikas Pratap Singh's case* (supra), we are in agreement with the High Court that the Writ Petitioners are entitled to the relief granted. Moreover, though on pain of Contempt, the Writ Petitioners have been reinstated and are working at present."

8. In the matter of **Anurag Kumar Singh (Supra)**, the Hon'ble Supreme Court held that the selection process must be confined strictly to the number of posts advertised, and any additional posts created after the recruitment year cannot be filled from the same selection process but require a fresh advertisement. The relevant paragraph No.13 is reproduced as under:-

“As we have held that the selection pursuant to the advertisement dated 19.09.2009 should be confined only to posts that were advertised, the additional posts that were created after the expiry of the recruitment year shall be filled up by issuance of an advertisement afresh. In view of the shortage of Assistant Prosecuting Officers in the State of Uttarakhand, we direct the authorities to expedite the process of selection.”

9. In the matter of **Rakhi Ray (supra)**, the Hon'ble Supreme Court held that appointments cannot be made beyond the number of vacancies notified in the advertisement, as doing so would violate Articles 14 and 16 of the Constitution. It has further been held that once the notified vacancies are filled, the selection process stands exhausted and no further appointments can be made from the select list. The Hon'ble Supreme Court also clarified that inclusion in a select list does not confer any indefeasible right to appointment, and such empanelment merely indicates eligibility, not a vested right to be appointed. The relevant paragraphs No.7, 13 & 24 are reproduced as under:-

7. It is a settled legal proposition that vacancies cannot be filled up over and above the number of vacancies advertised as "the recruitment of the candidates in excess of the notified vacancies is a denial and deprivation of the constitutional right under Article 14 read with Article 16(1) of the Constitution", of those

persons who acquired eligibility for the post in question in accordance with the statutory rules subsequent to the date of notification of vacancies. Filling up the vacancies over the notified vacancies is neither permissible nor desirable, for the reason, that it amounts to "improper exercise of power and only in a rare and exceptional circumstance and in emergent situation, such a rule can be deviated and such a deviation is permissible only after adopting policy decision based on some rational", otherwise the exercise would be arbitrary. Filling up of vacancies over the notified vacancies amounts to filling up of future vacancies and thus, not permissible in law. (Vide Union of India & Ors. v. Ishwar Singh Khatri & Ors. (1992) Supp 3 SCC 84; Gujarat State Deputy Executive Engineers' Association v. State of Gujarat & Ors. (1994) Supp 2 SCC 591; State of Bihar & Ors. v. The Secretariat Assistant S.E. Union 1986 & Ors AIR 1994 SC 736; Prem Singh & Ors. v. Haryana State Electricity Board & Ors. (1996) 4 SCC 319; and Ashok Kumar & Ors. v. Chairman, Banking Service Recruitment Board & Ors. AIR 1996 SC 976).

13. In the instant case, as 13 vacancies of the General Category had been advertised and filled up, the selection process so far as the General Category candidates is concerned, stood exhausted and the unexhausted select list is meant only to be consigned to record room.

24. A person whose name appears in the select list does not acquire any indefeasible right of appointment. Empanelment at the best is a condition of eligibility for purpose of appointment and by itself does not amount to selection or create a vested right to be appointed. The vacancies have to be filled up as per the statutory rules and in conformity with the constitutional mandate. In the instant case, once 13 notified vacancies were filled up, the selection process came to an end, thus there could be no scope of any further appointment.

10. Admittedly, the advertisement dated 04.04.2012 was issued for 268 posts of Peon and 72 posts of Assistant Grade-III. For the post of Assistant Grade-III, out of 72 posts, 4 posts were reserved for Scheduled Castes (SC), 34 posts were reserved for Scheduled Tribes (ST), 13 posts were reserved for Other Backward Classes (OBC), and 21 posts were kept under the Unreserved (UR) category.

11. For the post of Peon, out of 268 posts, 16 posts were reserved for Scheduled Castes (SC), 121 posts were reserved for Scheduled Tribes (ST), 61 posts were reserved for Other Backward Classes (OBC), and 70 posts were kept under the Unreserved (UR) category.

12. The total sanctioned vacant posts of Assistant Grade-III in the Tribal Development Department, Balrampur, were 120, out of which 10% i.e 12 post were reserved for compassionate appointment and 30% i.e. 36 post for promotion from Class IV employees, thereby leaving a total of 72 posts, for which advertisement was issued. Likewise, 537 posts of Peon were vacant, of which 50% were earmarked for regularization of daily wage employees and compassionate appointments, leaving 268 post, for which advertisement was issued on 04.04.2012. The last date for submission of applications was extended to 20.04.2012.

13. After closure of the application process, the selection process was initiated. Candidates for the post of Peon were called for skill test on 01.05.2013, and a merit list comprising 1521 candidates was prepared. Meanwhile, pursuant to directions of the Collector, District Balrampur, 190 posts (being vacancies earmarked for regularization of daily wage employees) were also included in the recruitment process and select list of 355 candidates (excluding 103 post earmarked of ex-servicemen, for which no application was received) was prepared. Further, counselling was conducted on 04.06.2013 for 268 posts and

subsequently on 24.06.2013 for the additional 190 posts. During counselling, the category-wise select list was prepared. Thereafter, upon completion of the selection process and approval of the Collector, Balrampur- Ramanujganj, appointment orders dated 02.07.2013 were issued appointing 355 candidates to the post of Peon & 64 candidates to the post of AG-III and finally, the recruitment process culminated.

14. On account of upgradation of 06 Middle Schools to High Schools and 09 High Schools to Higher Secondary Schools on 17.07.2013 and 26.07.2013, 30 additional posts of Peon were sanctioned by the state government on 27.07.2013. Pursuant thereto on the basis directions of the Collector, Balrampur, and in accordance with the reservation roster dated 29.11.2012, appointments to 24 posts (Peon & AG-III) (excluding 06 posts reserved for Ex-serviceman since no applications were received for the same) were made from the existing merit list in order of placement in the said list after due approval, vide order dated 01.01.2014.

15. Complaints were made regarding irregularities in the recruitment process led to constitution of a four-member inquiry committee by the Collector, District Balrampur-Ramanujganj. The committee, after due inquiry, submitted its report dated 09.05.2017. The Committee concluded that the recruitment process was conducted in violation of the reservation roster and statutory rules and it was also observed that no proper advertisement was issued for newly created posts; mandatory category-wise reservation for Scheduled Castes, women, disabled persons, and ex-servicemen, was not adhered to; and irregular appointments exceeding advertised posts were made without due process. The Committee further noted absence of age relaxations as per applicable norms, thereafter, the Collector, vide order dated 05.10.2015 cancelled the appointments of 57 Peons and 11 Assistant

Grade-III candidates, which included the present petitioners. Aggrieved thereby, the petitioners approached the High Court by filing writ petitions, registered as WPS No. 4091/2015 and other connected matters. Those petitions were disposed of on 04.04.2017, whereby the Collector's order was set aside and the matters were remitted back for fresh consideration with a direction to conduct an enquiry in accordance with law after providing an opportunity of hearing to the petitioners. Pursuant thereto, the Collector issued show-cause notices on 03.08.2017 to the petitioners and other selected candidates. After affording an opportunity of hearing, the Collector again cancelled their appointments vide order dated 19.11.2017. The petitioners then preferred appeals before the Commissioner. The Commissioner partly allowed the appeals by restoring the appointments of 33 candidates; however, the appeals of the present petitioners were dismissed vide order dated 05.06.2018.

16. The Commissioner, Surguja Division, while passing the order dated 05.06.2018 in para-8 & 9 held as under:-

“8. प्रकरण में आये तथ्यों, अपीलार्थीगण के विद्वान अभिभाषक द्वारा प्रस्तुत तर्क, जाँच समिति द्वारा प्रस्तुत प्रतिवेदन तथा उपरोक्त विवेचना के आधार पर कलेक्टर बलरामपुर- रामानुजगंज द्वारा पारित प्रश्नाधीन आदेश दिनांक 29.11.2017 में आंशिक रूप से हस्तक्षेप करते हुए निम्नानुसार आदेश पारित किया जाता है:-

(1) कलेक्टर (आदिवासी विकास) बलरामपुर-रामानुजगंज द्वारा आदेश क्र0 1952 दिनांक 01.01.2014 द्वारा सहायक ग्रेड-3 के 11 पदों पर नवीन आरक्षण रोस्टर का उल्लंघन कर "नियुक्ति किया जाना प्रमाणित होने के कारण कलेक्टर, बलरामपुर द्वारा आदेश क्रमांक 4845 दिनांक 05.10.2015 द्वारा निरस्त किया गया है, जिसे विधि सम्मत होने से स्थिर रखा जाता है।

(2) कलेक्टर (आदिवासी विकास) बलरामपुर-रामानुजगंज द्वारा आदेश क्र० 717, दिनांक 02.07.2013 द्वारा संक्र० 755 पर

अ०पि०व० (मुक्त) वर्ग से दिनेश कुशवाहा की नियुक्ति भृत्य पद पर की गई है। परीक्षण में उक्त वर्ग में दिनेश कुशवाहा की नियुक्ति आरक्षण रोस्टर से अधिक एवं प्राप्ताकों की अनदेखी कर किये जाने के कारण कलेक्टर, बलरामपुर द्वारा आदेश क्र० 4833 दिनांक 05.10.2015 द्वारा नियुक्ति निरस्त की गई है। जिसे विधि सम्मत होने से स्थिर रखा जाता है।

(3) आदेश क्र० 1956 दिनांक 01.02.2014 द्वारा कुल 24 पद पर नवीन आरक्षण रोस्टर क्र० 4827 दिनांक 05.10.2015 द्वारा भृत्य पद पर नियुक्ति निरस्त की गयी है, जिसे विधि, सम्मत होने से स्थिर रखा जाता है।

(4) कलेक्टर (आदिवासी विकास) बलरामपुर-रामानुजगंज द्वारा आदेश क्र० 717, दिनांक 02.07.2013 द्वारा कुल 33 अभ्यर्थियों की नियुक्ति आरक्षण रोस्टर से अधिक होने के कारण निरस्त की गई है। परीक्षण में पाया गया है, कि कार्यालय द्वारा त्रुटिपूर्ण आरक्षण रोस्टर रजिस्टर संधारित किये जाने के कारण भ्रामक स्थिति उत्पन्न हुई है। जबकि त्रुटिपूर्ण संधारित किये गये आरक्षण रजिस्टर का भरा जाना कार्यालयीन प्रक्रिया है, यदि इसमें त्रुटि हुई है तो इसे सुधारा जा सकता है।

9. अतः उपरोक्त परिप्रेक्ष्य में उपरोक्त कुल 33 भृत्यों को निकाले जाने हेतु कलेक्टर, बलरामपुर का आदेश क्र० 4829/05.10.2015, 4831/05.10.2015, 4835/05.10.2015, 4837/05.10.2015 निरस्त किया जाकर निर्देशित किया जाता है कि त्रुटिपूर्ण बनाए गए आरक्षण रोस्टर रजिस्टर को निरस्त कर दिनांक 29.11.2012 के पूर्व के आरक्षण रोस्टर में पूर्व से पदस्थ कर्मचारियों के नामों को पहले अग्रणीत करें इसके पश्चात नृत्य के कुल स्वीकृत 814 पदों के विरुद्ध नयीं भर्ती किए गए भृत्यों के नाम जिनका जहां पर बिन्दु निर्धारित होता हो, वहां पर उनके नामों की प्रविष्टि कर प्रश्नाधीन आरक्षण रोस्टर रजिस्टर को अद्यतन करें। इसी प्रकार सहायक ग्रेड-3 के आरक्षण रोस्टर रजिस्टर को भी अद्यतन किया जावे। उपरोक्तानुसार कार्यवाही 02 (दो) माह में पूर्ण किया जावे। अपील आंशिक रूप से स्वीकार की जाती है।

आदेश पारित एवं घोषित।"

17. From a perusal of the above quoted order, it is evident that in the appeal preferred against the order passed by the Collector, the Commissioner held that the cancellation of appointments made in violation of the reservation roster and prescribed procedure was lawful and accordingly affirmed the same. However, the order of termination of 33 employees was set aside and a direction was issued by the Commissioner to the authorities concerned to rectify the reservation roster and re-adjust the employees within a period of two months and thus, appeal was partly allowed.

18. With regard to judgments cited by the counsel for the petitioner on **Vikas Pratap Singh** (*supra*) and **Anmol Kumar Tiwari** (*supra*) is misplaced and clearly distinguishable on facts. In the matter of **Vikas Pratap Singh** (*supra*), the Hon'ble Supreme Court carved out a limited exception in cases where the appointment was rendered irregular solely due to an error attributable to the authorities, without any illegality in the selection process itself, and where the appointees had acted bona fide. Similarly, in the matter of **Anmol Kumar Tiwari** (*supra*), relief was granted in peculiar circumstances where the appointments, though irregular, were made pursuant to a flawed selection process, but within the framework of available vacancies, and without infringing the rights of other eligible candidates.

19. In the present case, however, the defect goes to the root of the matter. The petitioners were not appointed against the vacancies notified in the advertisement dated 04.04.2012, but were appointed against additional posts created subsequent to the completion of the recruitment process. The select list, prepared for the notified vacancies, had already been exhausted upon issuance of appointment orders to the selected candidates; thus, the appointments of the petitioners were not merely irregular but were de hors the recruitment process itself and in clear violation of the settled principles governing public

employment. Such appointments, being contrary to Articles 14 and 16 of the Constitution, cannot be protected on equitable considerations. Hence, the ratio laid down in ***Vikas Pratap Singh*** (*supra*) and ***Anmol Kumar Tiwari*** (*supra*) is inapplicable to the facts of the present case.

20. With regard to the judgment cited by the State counsel in the matters of ***Anurag Kumar Singh*** (*supra*) and ***Rakhi Ray*** (*supra*) squarely applies to the facts of the present case. In the matter of ***Anurag Kumar Singh*** (*supra*), it has been categorically held that the selection process must be confined strictly to the number of posts advertised, and any additional posts created subsequently must be filled only through a fresh recruitment process. Similarly, in the matter of ***Rakhi Ray*** (*supra*), it has been held that once the notified vacancies are filled, the selection process stands exhausted and no further appointments can be made from the select list, as the same would amount to filling up future vacancies and would violate the constitutional mandate of equality in public employment.

21. In the present case, it is an admitted fact that the recruitment process initiated pursuant to the advertisement dated 04.04.2012 stood concluded upon filling up the notified vacancies. The subsequent inclusion of additional posts and appointments made therefrom using the existing select list is in direct contravention of the aforesaid settled legal principles, therefore, the action of the authorities in cancelling such appointments cannot be faulted.

22. The core issue for consideration is whether the inclusion and filling of additional posts after completion of the recruitment process, without issuing a fresh advertisement, was legally sustainable or not.

23. An advertisement was issued for recruitment of Peon and Assistant Grade-III. During the recruitment process, additional posts were included, and a select list was prepared. Consequently,

appointment orders were issued in favour of 355 candidates for Peon and 64 candidates for Assistant Grade-III. After completion of the recruitment process and issuance of appointment orders, further 30 posts of Peon were included. The petitioners participated in the selection process, qualified in the examination, and were included in an extended select list of 1521 candidates. They were appointed vide orders dated 01.01.2014 and worked for approximately 4.5 years before their appointments were cancelled. It is an admitted position that the petitioners were appointed after the initial recruitment process had concluded and after all notified vacancies had already been filled. The Commissioner found that the petitioners were appointed against subsequently sanctioned posts (30 Peon and 15 Assistant Grade-III) approved by the State Government on 28.09.2013.

24. It is settled that once notified vacancies are filled, the select list cannot be used as a reservoir for future vacancies, and any subsequent vacancies must be filled through a fresh recruitment process in accordance with statutory rules and constitutional requirements.

25. Even though the petitioners worked for a considerable period, but their appointments were made outside the proper recruitment process; thus, they cannot be continued, as it would be unfair to other qualified candidates waiting for their chance through a proper selection process.

26. Taking into consideration the above stated facts, this Court is of the considered opinion that the petitioners' appointments, having been made against posts not forming part of the original advertisement and after the conclusion of the selection process, are legally unsustainable. The judgments relied upon by the petitioners are distinguishable on facts, whereas the principles laid down in **Anurag Kumar Singh** (*supra*) and **Rakhi Ray** (*supra*) fully support the stand of

the respondents. Consequently, no interference is warranted with the order passed by the Commissioner, and the petitions, being devoid of merit, are liable to be and are hereby **dismissed**.

27. No order as to cost(s).

Sd/-

Rakesh Mohan Pandey

JUDGE

Nadim