

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (S) No. 654 of 2018

Satyadeo Mohan Ghosh... **Petitioner**
Versus
The State of Jharkhand & Ors. ... **Respondents**
with
W.P. (S) No. 2984 of 2016

Naseem Ali & Ors ... **Petitioners**
Versus
The State of Jharkhand & Ors. ... **Respondents**
with
W.P. (S) No. 3027 of 2016

Ashok Kumar Roy & Ors ... **Petitioners**
Versus
The State of Jharkhand & Ors. ... **Respondents**
with
W.P. (S) No. 3031 of 2016

Pradip Kumar Gupta & Ors **Petitioners**
Versus
The State of Jharkhand & Ors. ... **Respondents**
with
W.P. (S) No. 5726 of 2017

Sanat Kumar ... **Petitioner**
Versus
The State of Jharkhand & Ors. ... **Respondents**
with
W.P. (S) No. 8 of 2018

Diploma Engineers Association, Jharkhand through its
General Secretary Shekhar Kumar
... **Petitioner**
Versus
The State of Jharkhand & Ors. ... **Respondents**
with
W.P. (S) No. 2189 of 2018

Shyam Das Singh ... **Petitioner**
Versus
The State of Jharkhand & Ors. ... **Respondents**

CORAM :HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE ARUN KUMAR RAI

For the Petitioners : Mr. Jitendra Singh, Sr. Adv. [through VC]
 Ms. Amrita Sinha, Advocate
 Mr. A.K. Sahani, Advocate
 Mr. Sameer Saurabh, Advocate
 Mr. Madhavi Nikunj Horo, Advocate
 Ms. Divya, Advocate
 Ms. Esha Kaushik, Advocate
 Mrs. Priti Kumari, Advocate
 Mr. Yash Singh, Advocate
 Mrs. Shweta Suman, Advocate
 Ms. Pragunee Kashyap, Advocate

For the State : Mr. Shray Mishra, AC to Advocate General
 Mr. Indranil Bhaduri, SC IV

For the JPSC : Mr. Sanjoy Piprawall, Adv.
 Mr. Prince Kumar, Adv.
 Mr. Jay Prakash, Adv.
 Mr. Rakesh Ranjan, Adv.

For JESA : Mr. Krishna Murari, Advocate
 Mr. Ritesh Kr. Pathak, Advocate

For the Intervener : Mr. Attau Rahman Masoodi, Sr. Advocate
 Mr. Priyanshu Shekhar, Advocate
 Mr. Arun Kumar, Advocate
 Mr. Kumar Karan, Advocate

Order No. 49 : Dated 4th December, 2025
Per Sujit Narayan Prasad, J:

1. Leave has been sought for by the learned State counsel for taking the Interlocutory Application on record, copy of which has been served upon learned counsel for the parties.
2. It has been submitted that the said Interlocutory Application has not been instituted.
3. Leave, as sought for, is granted.
4. Office is directed to institute the same.
5. Accordingly, Interlocutory Application is instituted as **I.A. No. 16268 of 2025**, which is taken on record for hearing.

6. The instant Interlocutory Application being I.A. No. 16268 of 2025 has been filed seeking further four weeks' time to comply with order dated 13.10.2025 and 13.11.2025 passed by this Court.

7. It has been contended therein that this Court vide order dated 13.11.2025 was pleased to grant time to the respondents till 04.12.2025 for getting approval over the draft of the proposed Rules, but the same could not be approved owing to the following reasons, as mentioned in paragraph 4 of the said Interlocutory Application, which is quoted as under:

***“4.** That the Hon’ble Court vide order dated 13.11.2025 was pleased to grant time to the answering respondent till 04.12.2025 getting approval over the draft of the proposed Rules, but the same has not been approved owing to the following reasons:*

***A.** That pursuant to the order dated 13.10.2025, the file containing the proposed Jharkhand Engineering Service, Appointment and other service condition Rules, 2025 having approval of the departmental minister was sent on 24.10.2025 to the Cabinet Secretariat and Vigilance Department, Govt. of Jharkhand for its approval by the cabinet.*

***B.** That it is pertinent to mention herein that the said proposal could not be placed before the cabinet held on 03.11.2025 and the Cabinet Secretariat and Vigilance Department, Govt. of Jharkhand has raised certain queries with regard to the same, which needs to be addressed.*

***C.**In order to meet the queries raised by Cabinet Secretariat and Vigilance Department, Govt. of Jharkhand on certain provision of the draft rules, it was felt necessary that the same be amended accordingly.*

Subsequently, after amending some of the provisions of the draft rules, it has been placed before the competent authority for approval.

Different Associations like Jharkhand Diploma Engineers Association/ Members of different Association have filed different cases with prayers in their particular interest. To resolve the disputed issue for once and all and bring all the stake holders on a common platform without prejudice the competent authority has asked to clarify some points in the proposed rules under consideration.

After the approval is obtained from the competent authority it will be sent to department of Personnel, Administrative Reforms and Rajbhasha, JPSC and Department of Finance for concurrence and to Law Department for legal vetting.

After the above process is completed it will be sent to Cabinet Secretariat and Vigilance Department for getting approval of the Cabinet.

The answering respondent is in the process of taking approval of the above mentioned departments & authority. It is likely to take some more time in notifying the rules.”

8. It has been contended that for the reasons aforesaid four weeks' further time be granted to comply with the order dated 13.10.2025 in its true letter and spirit.

9. Learned counsel for the petitioners has vehemently opposed the prayer made in the Interlocutory Application and submission has been made that it is the fourth Interlocutory Application wherein time and again, adjournment has been sought for coming with the amended Rules, 2016 besides on several occasions time has been granted by this Court.

10. It has further been submitted although the learned Advocate General has undertaken before this Court, as taken

note of in order dated 10.03.2022 that new Rules will be framed but even after lapse of more than nine years of filing of the instant writ petitions the amended rule has not been framed with *mala fide* intention due to which not only the promotion of engineers in Road Construction Department is at stall but also the arrangement is being made in In-charge capacity.

11. This Court, before appreciating the argument advanced on behalf of parties and going into the contention made in the Interlocutory Application [I.A. No. 16268 of 2025], needs to refer herein the background of institution of the instant writ petitions that prior to coming into effect of the Jharkhand Engineering Service Rules, 2016 [in short 'Rules, 2016'] the 'Bihar Engineering Class-I Service Rules, 1939' [herein after referred to as Rules, 1939] was in force. The Rules, 2016 has been issued in suppression to Rules, 1939.

12. The State of Jharkhand has come out with the plea that the State is intending to amend the Rules, 2016, as has been taken note in order dated 10th March, 2022 passed in W.P.(S) No. 2984 of 2016 and batch cases [Naseem Ali & Ors Vs. State of Jharkhand & Ors.]

13. This Court has gone through order dated 10th March, 2022 passed in W.P.(S) No. 2984 of 2016 and batch cases and found that while referring the statement made in para-9

of the supplementary counter affidavit dated 15.02.2022 filed on behalf the State wherein it has been stated that amendment in Jharkhand Engineering Service Rules, 2016 is underway. The Court taking into consideration such intention of the State has granted three months time. For ready reference, order dated 10th March, 2022 passed in W.P.(S) No. 2984 of 2016 is quoted as under:

“Heard the parties.

In view of the statement made in para-9 of the supplementary counter affidavit dated 15.02.2022 filed on behalf the State that amendment in Jharkhand Engineering Service Rules, 2016 is underway and in the meantime, process of granting conditional promotion to the members of Jharkhand Engineering Services as per the prevailing Rules has also been started by the Department in light of the order dated 17.08.2017 in the instant batch of cases, we are of the opinion that already five years have lapsed since the order, therefore, such action should be taken by the State within a further period of three months.

Put up these cases on 08.06.2022.”

14. Thereafter, several opportunities were granted to the State but taking one excuse or the other, the amended Rules, 2016 has not been brought by the State.

15. Thereafter, when the matter was taken up on 28th April, 2025, the learned counsel for the petitioners pressed the issue of validity of Rules, 2016, whereupon, learned Advocate

General appeared for the State and submitted that the Government has considered the aforesaid issues, which would be evident from the affidavit filed on behalf of the State on 06.04.2023 wherein the specific statement has been given at Para 17 that the respondents are taking due steps to get the amendment done at the earliest. The learned Advocate General, on the basis of the aforesaid statement, has submitted that since the Government is thinking to amend the aforesaid part of the Rule 2016 which is under challenge in the writ petitions, as such sought for adjournment awaiting for the amendment which is under consideration with the State Government.

16. This Court, on the specific statement made by learned Advocate General adjourned the matter to be listed on 17th June, 2025

17. For ready reference, order 28.04.2025 passed in W.P. (S) No. 654 of 2018 and other batch cases is quoted as under:

“Mr. Sameer Saurabh, learned counsel at the outset has submitted that he is advocate on record in W.P.(S) No. 2984 of 2016, however, he is having instructions to argue the matters being W.P.(S) No. 3027 of 2016 and W.P.(S) No. 3031 of 2016 and he will file the appearance on behalf of the petitioners.

2. Mr. Sameer Saurabh, learned counsel appearing in aforesaid three writ petitions has submitted that the validity of the Rule 2016 is under challenge.

3. It has been submitted that the petitioners are aggrieved with the insertion of the quota of 50 per cent of the total

posts which has been decided to be filled up from the post of Assistant Engineer to that of the post Executive Engineer.

4. It has further been contended that the same is in the teeth of Articles 14 and 16 of the Constitution of India due to the reason that the Assistant Engineers who have been promoted from the post of Junior Engineer in consequence of having certificate from the AMIE and the moment they have inducted into the cadre of Assistant Engineer, they cannot be allowed to get the benefit of such Assistant Engineers by fixing quota of 40 per cent again for the purpose of consideration of their cases to be promoted as Executive Engineer.

5. Learned Advocate General is present and while addressing the Court he has submitted that the Government has considered the aforesaid issues, which would be evident from the affidavit filed on behalf of the State on 06.04.2023 wherein the specific statement has been given at Para 17 that the respondents are taking due steps to get the amendment done at the earliest.

6. The learned Advocate General, on the basis of the aforesaid statement, has submitted that since the Government is thinking to amend the aforesaid part of the Rule 2016 which is under challenge in the writ petitions.

7. As such, the learned Advocate General has sought for adjournment awaiting for the amendment which is under consideration with the State Government.

8. Considering the same, the matter is being adjourned to be listed on 17th June, 2025.

18. The matter was listed on 17th June, 2025. The learned Advocate General appeared and submitted that the rule is in the process of finalization. Such submission has been made on the basis of fact that the new Rule has been approved by the Departmental Minister and it is now to be placed before the concerned departments for the purpose of aforesaid

Rules, i.e., Law Department, Personnel and Administrative Reforms Department and Finance Department of the State of Jharkhand. Thereafter, the matter will be forwarded to J.P.S.C. for consultation and then it will be placed before the Cabinet for the purpose of its notification, if approved. This Court considering the aforesaid submission adjourned the matter to be listed on 04.08.2025.

19. For ready reference order dated 15th June, 2025 passed in W.P. (S) No. 654 of 2018 and other batch cases is quoted as under

“Reference be made to the order dated 28.04.2025.

2. Mr. Jitendra Singh, learned senior counsel, while pointing out the said order, has submitted that no affidavit in terms of the said order has been filed.

3. Mr. Rajiv Ranjan, learned Advocate General, has submitted that the Rule is in the process of finalization.

4. It has been submitted that the new Rule has been approved by the Departmental Minister and it is now to be placed before the concerned departments for the purpose of aforesaid Rules, i.e., Law Department, Personnel and Administrative Reforms Department and Finance Department of the State of Jharkhand. Thereafter, the matter will be forwarded to J.P.S.C. for consultation and then it will be placed before the Cabinet for the purpose of its notification, if approved.

5. Considering the aforesaid submission, the matter is being posted after six weeks.

6. List these cases on 04.08.2025.”

20. Accordingly, the matter was listed on 4th August, 2025. The learned Advocate General has appeared and pressing an Interlocutory Application being I.A. No.10336 of 2025, has

submitted that after the rules having been approved by some of the Departments, it is now lying pending before the Jharkhand Public Service Commission (in short “J.P.S.C.”) for its opinion. This Court, considering the aforesaid fact directed to implead the J.P.S.C. through its Secretary as party respondent, in all the cases. Since, it was informed that Mr. Sanjay Piprawall, learned counsel is the retained counsel for the J.P.S.C., as such he appeared and was directed to seek instruction as to which shortest possible time, the opinion which has been sought on the issue of formulation of Rule, would be communicated to the State.

21. Accordingly, the matter was adjourned to be listed on 12th August, 2025.

22. For ready reference, order dated 4th August, 2025 passed in W.P. (S) No. 654 of 2018 and other batch cases is quoted as under:

“In the change circumstances, as has been submitted by the learned Advocate General, based upon the averment made in the interlocutory application being I.A. No.10336 of 2025, that after the rules having been approved by some of the Departments, it is now lying pending before the Jharkhand Public Service Commission (in short “J.P.S.C.”) for its opinion.

2. This Court, therefore, is of the view that the J.P.S.C. through its Secretary, needs to be impleaded as party respondent.

3. Learned counsel for the writ petitioners are directed to implead Jharkhand Public Service Commission through its Secretary as party respondent, in all the cases.

4. It has been informed that Mr. Sanjay Piprawall, is the retained counsel for the J.P.S.C.

5. Let the copy of the writ petition along with interlocutory application where the averment has been made by the State that the issue of finalization of Rule is lying pending before the J.P.S.C., be supplied to Mr. Sanjay Piprawall, learned counsel, by tomorrow, i.e., 05.08.2025.

6. Learned counsel for the J.P.S.C. is directed to seek instruction as to which shortest possible time, the opinion which has been sought on the issue of formulation of Rule, be communicated to the State.

7. With the consent of the parties, let these matters be listed on 12th August, 2025.

8. In the meanwhile, let response to the interlocutory application being I.A. No.11333 of 2024, be filed by the respondent-State.”

23. Accordingly, the matter was heard on 12th August, 2025. Mr. Sanjay Piprawall, learned counsel for Jharkhand Public Service Commission has submitted that JPSC has filed an affidavit on 08.08.2025 wherein it has been stated that certain infirmities have been found in the proposed Jharkhand Engineering Service Appointment (Amendment) Rules, 2025. The infirmities have been referred in Annexure-A to the affidavit. It has been stated that the same has been communicated to the Principal Secretary, Road Construction Department, Government of Jharkhand for rectifying the aforesaid infirmities. Upon this, learned Advocate General appearing on behalf of the State had submitted that the State is keen to rectify the infirmities as available in the communication dated 06.8.2025. It has further been

submitted that within two weeks the fresh draft of Jharkhand Engineering Service Appointment (Amendment) Rules, 2025 will be sent to the Jharkhand Public Service Commission. The learned counsel appearing for the JPSC has submitted that one week time may be granted for giving consent of the aforesaid draft Rule after receipt of the same from the State.

24. This Court, considering the aforesaid facts, directed to list these matters after three weeks so that the descriptive affidavit may be filed on behalf of the State as well as JPSC. Accordingly, the matters were directed to be listed on 4th September, 2025.

25. For ready reference, order dated 12th August, 2025 is quoted as under:

“Reference may be made to the order dated 4th August, 2025.

2. Jharkhand Public Service Commission has filed an affidavit on 08.08.2025 stating therein that certain infirmities have been found in the proposed Jharkhand Engineering Service Appointment (Amendment) Rules, 2025. The infirmities have been referred in Annexure-A to the affidavit. It has been stated that the same has been communicated to the Principal Secretary, Road Construction Department, Government of Jharkhand for rectifying the aforesaid infirmities.

3. Learned Advocate General appearing on behalf of the State has submitted that the State is keen to rectify the infirmities as available in the communication dated 06.8.2025. It has been submitted that within two weeks the fresh draft of Jharkhand Engineering Service Appointment

(Amendment) Rules, 2025 will be sent to the Jharkhand Public Service Commission.

4. Mr. Sanjoy Piprawall, the learned counsel appearing for the JPSC has submitted that one week time may be granted for giving consent of the aforesaid draft Rule after receipt of the same from the State.

5. Mr. Jitendra Singh, the learned senior counsel along with the other counsel appearing on behalf of the petitioners has submitted that these matters may be posted after three weeks.

6. Considering the aforesaid facts, list these matters after three weeks so that the descriptive affidavit may be filed on behalf of the State as well as JPSC.

7. Let these matters be listed on 4th September, 2025.

26. Accordingly, the matter came on Board on 4th September, 2025. But the matters were adjourned on the basis of submission made by learned Advocate General that the affidavit is ready and he will file the same today. The copy of the same will be served upon the learned Counsel for the petitioners in course of the day. This Court has gone through the affidavit and found that after making necessary correction by the State it has been sent to the J.P.S.C. on 01.09.2025 which was received on 02.09.2025. Accordingly, Mr. Piprawall, learned Counsel for the J.P.S.C. was directed to file affidavit on or before the next date of hearing regarding the final decision. He has submitted that necessary steps will be taken.

27. Considering the aforesaid fact, the matters were directed to be listed on 15.09.2025.

28. For ready reference, order dated 4th September, 2025 is quoted as under:

Learned Advocate General has submitted that the affidavit is ready and he will file the same today. The copy of the same will be served upon the learned Counsel for the petitioners in course of the day.

2. We have gone through the affidavit and found that after making necessary correction by the State it has been sent to the J.P.S.C. on 01.09.2025 received on 02.09.2025.

3. Mr. Piprawall, learned Counsel for the J.P.S.C. on or before the next date of hearing will come with the final decision by filing an affidavit. He has submitted that necessary steps will be taken.

4. Considering the same, as jointly prayed for on behalf of the learned Counsel for the parties, let these matters be listed under the same heading on 15.09.2025.”

29. Accordingly, the matter was taken up on 15th September, 2025. Mr. Sanjoy Piprawall, learned counsel for the respondent-JPSC appeared has submitted that due advice, as has been sought for by the State with respect to the amendment which is to be carried out in the Rule, has been given.

30. Upon this, learned Advocate General appearing for the State has submitted that now the advice of the JPSC has been received on the basis of document, copy of which has been supplied by Mr. Piprawal, learned counsel for the JPSC to learned Advocate General. Submission has been made by learned Advocate General that all efforts will be taken to

bring on record the required amended rule by way of filing affidavit.

31. Therefore, again the matter was adjourned to be listed on 13th October, 2025.

32. For ready reference, order dated 15th September, 2025 is quoted as under:

“1.Heard learned counsel for the parties.

2.Mr. Sanjoy Piprawall, learned counsel for the respondent-JPSC has submitted that due advice, as has been sought for by the State with respect to the amendment which is to be carried out in the Rule, has been given.

3.Mr. Advocate General appearing for the State has submitted that now the advice of the JPSC has been received on the basis of document, copy of which has been supplied by Mr. Piprawal, learned counsel for the JPSC to learned Advocate General. Submission has been made by learned Advocate General that all efforts will be taken to bring on record the required amended rule by way of filing affidavit.

4.Mr. Jitendra Singh, learned counsel for the petitioner in W.P. (S) No. 654 of 2018 has insisted to hear the matter separately.

*5.Let these matters be listed on **13th October, 2025**, with the consent of learned counsel for the parties.”*

33. On 13th October, 2025, this Court took note of the fact that no affidavit has been filed in pursuance to order dated 15.09.2025 by showing the compliance of specific statement made by learned Advocate General as taken note in order dated 15.09.2025. Therefore, this Court has constrained to criticize the State functionary by making statement at paragraph 11 of the order dated 13.10.2025 making specific

observation at paragraph 11 to the effect that *‘This Court fails to understand that how the State is functioning in absence of any specific Rule by denying the promotion to one or the other Engineers belonging to different cadres.’*

34. However, the prayer for adjournment of the matter for four weeks was made for the purpose of getting approval of the different Departments, so that it be sent to the Cabinet. Such excuse led this Court to make an observation at paragraph 13 that the State Government is not taking sincere endeavour in spite of the specific submission made to that effect by the learned Advocate General to bring the final Rule on record, as has been taken note in the order dated 15th September, 2025. This Court has further made observation that the State for one reason or the other is delaying the matter reasons best known to the State. This Court further observed at paragraph 15 that it is nothing, but the lethargic approach of the State. However, this Court, on the basis of instruction so received telephonically in the midst of the proceeding, by way of last indulgence, adjourned the matter to be listed on 13th November, 2025 for getting final approval of the Rule and to bring it on record by way of an affidavit.

35. For ready reference, order dated 13.10.2025 is quoted as under:

“1. The batch of writ petitions involves the validity of Jharkhand Engineering Service Rules, 2016 which has been

enacted in supersession to the Bihar Engineering Service Rules, 1939.

2. One interim order was passed on 17th August, 2017 and when the matter was being heard, then the learned Advocate General has submitted that the Government is proposing again to amend the 2016 Rule, which has been referred in the order dated 28th April, 2025.

3. The matter when was posted on 17th June, 2025, it has been brought to the notice of this Court that the new Rule has been approved by the Departmental Minister and it is placed before the concerned Department. Subsequent thereto, it has been brought to the notice of this Court, as has been referred in the order dated 04th August, 2025, that the matter has been reported to be sent to the Jharkhand Public Service Commission for its advise/opinion. As such, this Court vide order dated 04th August, 2025 has impleaded the Jharkhand Public Service Commission through its Secretary as party to the proceeding with a direction to seek instruction as to under what shortest possible time, the opinion which has been sought on the issue of formation of Rule, be communicated to the State.

4. The Jharkhand Public Service Commission by filing an affidavit on 08th August, 2025, as taken note in the order dated 12th August, 2025, has sought for one week's time for giving opinion of the aforesaid draft Rule after receipt of the same from the State.

5. It appears from the order dated 04th September, 2025 that some rectification is required by the State in the draft Rule and, as such, the same was sent to the State Government. The State Government has rectified the same and again sent it to the Jharkhand Public Service Commission, as taken note in the order dated 15th September, 2025.

6. Learned Advocate General appearing for the State on that date has submitted that all efforts will be taken to bring on record the required amended Rule by way of an affidavit.

7. Mr. Shray Mishra, learned A.C. to A.G. has submitted orally seeking four weeks' time, as per the instruction.

8. No affidavit has been filed to that effect seeking modification of the order by way of extension of time which was required in view of the specific statement made by learned Advocate General, as taken note in the order dated 15th September, 2025.

9. The reason for referring the details of the above orders is that the matter is pending since 2018, Rule 2016 has been enacted in supersession to the 1939 Rule and again the Government has proposed to come out with a new Rule in supersession to the 2016 Rule. Thus, it is evident that the Recruitment Rule, which is lying for its consideration under the power of Judicial Review of the year 2016 and now almost 9 years has expired, but still we are on the stage of the day when the writ petition was filed.

10. This is on the basis of the decision which is being taken on behalf of the State and the effect is 5 that in absence of any Rule, the entire requirement/promotion came to stand still.

11. This Court fails to understand that how the State is functioning in absence of any specific Rule by denying the promotion to one or the other Engineers belonging to different cadres.

12. Today, four weeks' time again has been sought for. The excuse has been given by the learned State counsel that it is for the purpose of getting approval in the different Departments, thereafter, it will be sent to the Cabinet.

13. This Court, in the aforesaid backdrop, is of the view that the State Government is not taking sincere endeavour inspite of the specific submission made to that effect by the learned Advocate General to bring the final Rule on record, as has been taken note in the order dated 15th September, 2025.

14. This Court, therefore, is of the view that the State for one reason or the other is delaying the matter reasons best known to the State.

15. This Court is further of the view that it is nothing, but the lethargic approach of the State. However, in the midst of proceeding, learned State counsel has got the telephonic instruction and as per the instruction received, the time has

been sought for upto 06th November, 2025 for final approval of the Rule and to bring it on record by way of an affidavit.

16. This Court, before passing the further necessary order, is adjourning the matter by granting time upto 06th November, 2025, by way of last indulgence.

17. List these matters on 13th November, 2025.”

36. Accordingly, the matter was listed on 13th November, 2025. When the cases were taken up, learned Advocate General appeared and pressed one interlocutory application being I.A. No.15196 of 2025, wherein again four weeks' time was sought for due to the reason that the Cabinet Secretariat and the Vigilance Department, State of Jharkhand, has made certain queries which needs to be addressed.

37. This Court, taking into consideration the specific direction passed in the order dated 13.10.2025, called upon the Secretary, Road Construction Department and the Secretary, Personnel, Administrative Reforms and Rajbhasha Department to explain the issue as to why the rule has not been framed.

38. Accordingly, the Secretary, Road Construction Department appeared and stated before this Court that some mistake has been crept up in the file, as has been pointed out, before sending it to the Cabinet. Thereafter, again the file has been sent to the parent department, i.e., Road Construction Department, and after rectification it is to be sent to the Personnel, Administrative Reforms and Rajbhasha

Department and other departments, therefore, time has been sought for by filing interlocutory application.

39. The said application was opposed by the learned counsel appearing for the petitioners. But the Court taking into consideration the fact that the State Government is in process of formation of said Rules and seeking time by way of last indulgence, as such, adjourned the matter to be listed after three weeks making it clear that there will be no further adjournment on the ground which has been sought for in the last two occasions, as would be evident from the order dated 15th September, 2025 and 13th October, 2025.

40. For ready reference, order dated 13th November, 2025 is quoted as under:

“Reference be made to the order dated 13.10.2025 wherein this Court has criticized the State for not coming out with the final shape of the rule, as would be evident from paragraph 10 to 16, for ready reference, the same are being referred herein:-

“10. This is on the basis of the decision which is being taken on behalf of the State and the effect is that in absence of any Rule, the entire requirement/promotion came to stand still.

11. This Court fails to understand that how the State is functioning in absence of any specific Rule by denying the promotion to one or the other Engineers belonging to different cadres.

12. Today, four weeks’ time again has been sought for. The excuse has been given by the learned State counsel that it is for the purpose of getting approval in the different Departments, thereafter, it will be sent to the Cabinet.

13. This Court, in the aforesaid backdrop, is of the view that the State Government is not taking sincere endeavour inspite

of the specific submission made to that effect by the learned Advocate General to bring the final Rule on record, as has been taken note in the order dated 15th September, 2025.

14. This Court, therefore, is of the view that the State for one reason or the other is delaying the matter reasons best known to the State.

15. This Court is further of the view that it is nothing, but the lethargic approach of the State. However, in the midst of proceeding, learned State counsel has got the telephonic instruction and as per the instruction received, the time has been sought for upto 06th November, 2025 for final approval of the Rule and to bring it on record by way of an affidavit.

16. This Court, before passing the further necessary order, is adjourning the matter by granting time upto 06th November, 2025, by way of last indulgence.”

2. Today, at 10:30 A.M., when the cases have been taken up, learned Advocate General has pressed one interlocutory application being I.A. No.15196 of 2025, wherein four weeks’ time has been sought for due to the reason that the Cabinet Secretariat and the Vigilance Department, State of Jharkhand, has made certain queries which need to be addressed.

3. This Court, taking into consideration the specific direction passed in the order dated 13.10.2025, has called upon the Secretary, Road Construction Department and the Secretary, Personnel, Administrative Reforms and Rajbhasha Department to explain the issue as to why the rule has not been framed.

4. The Secretary, Road Construction Department has stated before this Court that some mistake has been crept up in the file as has been pointed out before sending it to the Cabinet. Thereafter, again the file has been sent to the parent department, i.e., Road Construction Department, 4 and after rectification it is to be sent to the Personnel, Administrative Reforms and Rajbhasha Department and other departments, therefore, time has been sought for by filing interlocutory application.

5. However, objection has been made by learned senior counsel appearing for the petitioner.

6. Since the State Government is in process and seeking time by way of last indulgence, as such, this Court is adjourning the matter to be listed after three weeks.

7. It is made clear that there will be no further adjournment on the ground which has been sought for in the last two occasions, as would be evident from the order dated 15th September, 2025 and 13th October, 2025.

8. This Court has already made observation in paragraphs 11 to 16 of the order dated 13.10.2025, particularly paragraphs 14 and 15 thereof, therefore, the same is not being repeated and the Court will proceed in pursuance to the order already passed on 13.10.2025.

9. List these cases on 04.12.2025.

10. Accordingly, I.A. No.15196 of 2025 stands disposed of.

41. In the backdrop of these facts, the matter has been listed today i.e., 04.12.2025 but, instead of complying the order passed by this Court, again one Interlocutory Application being **I.A. No. 16268 of 2025** has been filed seeking further four weeks time making the ground as under paragraph 4 of the said Interlocutory Application which has been quoted in the preceding paragraph of this order.

42. Therefore, the question which requires consideration by this Court that the present Interlocutory Application, which fourth in series seeking extension of time for framing of amended rule, for seeking adjournment in a situation of approval of the draft by the Cabinet. In all the Interlocutory Applications, filed earlier to the present one, the ground has been taken that certain infirmities or queries, either made by the JPSC or by one or the other departments of the State.

43. It needs to refer herein that the Rules is to be formulated by the Department, which is headed by senior officers of *Indian Administrative Service* Cadre holding the post of Principal Secretary or the Additional Chief Secretary. They are the senior bureaucrat officers in the State of Jharkhand, then in such situation, how can it be accepted by the Court of law that time and again the infirmities is being crept up in taking final approval for the purpose of sending the draft rule to the Cabinet for its approval. If that be so, then this Court is constrained to criticize the State that all such senior IAS Officials are having no legal acumen and foresightedness in making drafts of the rule that too in a situation that right from the year 2016 there is no rule for recruitment/promotion of the posts of engineers, from the promotional post of Executive Engineer, Superintending Engineer, Chief Engineer and even the Engineer-in-Chief in the Road Construction Department.

44. The question is that if the rule is not yet finalized right from the year 2016, then how the Road Construction Department is functioning.

45. This Court has been apprised that the interim arrangements are being made by deputing one or the other engineers even of the rank of Assistant Engineers to be

posted as Superintendent Engineer in the in-charge capacity or current charge.

46. We are living in the constitutional set up wherein the underlying principle is the good governance and if the officers of the basic cadre are being posted as Superintending Engineer or the Chief Engineer by allowing them to jump to the next hierarchy cannot be considered to be the good governance.

47. The instant Interlocutory Application [I.A. No. 16268 of 2025], seeking four weeks' time in the backdrop of the aforesaid situation which is in fourth of series seeking extension of time and matter since is pending since 2016, is not fit to be allowed.

48. Accordingly, the instant Interlocutory Application i.e., **I.A. No. 16268 of 2025 is hereby rejected.**

49. This Court is conscious that the under the provision of Article 226 of the Constitution of India it is not appropriate for the writ Court to issue command upon the State to come out with any rule rather it is upon the wisdom of the State to frame the Rule as per the need. But at the same time, it is equally settled that when the Court is ceased with the matter, it is not available for the State to mislead the Court of law and if Court of law is coming to that impression, then

certainly the jurisdiction conferred to this Court under Article 226 of the Constitution of India is to be exercised.

50. Further it requires to refer herein the settled position of law that the said judicial restraint into the legislative domain cannot and should not be such that it amounts to judicial abdication and judicial passivism. The Judiciary cannot abdicate the solemn duty which the Constitution has placed on its shoulders and the Constitutional Courts cannot sit in oblivion when rights of individuals are at stake. Our Constitution has conceived the Constitutional Courts to act as defenders against illegal intrusion of the rights of individuals. The Constitution, under its aegis, has armed the Constitutional Courts with wide powers which the Courts should exercise, without an iota of hesitation or apprehension, when the rights of individuals are in jeopardy, reference in this regard be made to the judgment rendered by Hon'ble Apex Court in the case of ***Kalpana Mehta v. Union of India, (2018) 7 SCC 1***, relevant paragraph of the which is being quoted as under:

45. At this juncture, we think it apt to clearly state that the judicial restraint cannot and should not be such that it amounts to judicial abdication and judicial passivism. The Judiciary cannot abdicate the solemn duty which the Constitution has placed on its shoulders i.e. to protect the fundamental rights of the citizens guaranteed under Part III of the Constitution. The constitutional courts cannot sit in oblivion when fundamental rights of individuals are at stake. Our Constitution has

conceived the constitutional courts to act as defenders against illegal intrusion of the fundamental rights of individuals. The Constitution, under its aegis, has armed the constitutional courts with wide powers which the courts should exercise, without an iota of hesitation or apprehension, when the fundamental rights of individuals are in jeopardy. Elucidating on the said aspect, this Court in Virendra Singh v. State of U.P. [Virendra Singh v. State of U.P., AIR 1954 SC 447] has observed : (AIR p. 454, para 34)

“34. ... We have upon us the whole armour of the Constitution and walk from henceforth in its enlightened ways, wearing the breastplate of its protecting provisions and flashing the flaming sword of its inspiration.”

51. In view of aforesaid factual aspect, discussion and judicial pronouncement of Hon’ble Apex Court, this Court directs the State to come out with the proposed amended rule within a period of two weeks’ failing which this Court will take *suo moto* cognizance by initiating contempt proceeding against the erring officials/authorities.

52. It needs to refer herein that whatever has been stated by learned Advocate General, as has been recorded in various order passed by this Court, is the undertaking furnished by the First Officer of the Court that is enough for initiating proceeding against the Secretary/Principal Secretary of the concerned department. It is not only that the Secretary, Road Construction Department himself appeared physically before this Court and furnished undertaking that is also sufficient to initiate proceeding of contempt against him. But at this stage, this Court is refraining itself to initiate the proceeding

for contempt rather than directs the State Government to come out with the final amended rule.

53. Mr. A.R. Masoodi, learned senior counsel appeared and pressed the Interlocutory Application being I.A. No. 16124 of 2025 filed in W.P. (S) No. 3027 of 2016 and has submitted that the instant Interlocutory Application has been filed by way of intervention by taking the ground that in absence of the rule having not been amended, how the government is functioning and in such situation the finality of the rule is having more bearing.

54. Learned counsel appearing for the respective parties has sought for time to file response to the said Interlocutory Application.

55. Let the response be filed.

56. List the matter on **19th December, 2025.**

(Sujit Narayan Prasad, J.)

(Arun Kumar Rai, J.)

Alankar/
A.F.R.

4th December, 2025