

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No.2984 of 2016

1. Naseem Ali, S/o late Amin Ali, resident of 1/23A Road No.1, Risaldar Nagar, PO and PS: Doranda, District-Ranchi.
 2. Deepak Kumar, son of late Bir Kishore Prasad, resident of Plot-299-C, Road 1A PO and PS Argora, Ashok Nagar, District Ranchi.
 3. Raghubansh Chaudhary, son of late Mahabir Sahani, resident of flat no. 2D, Sharda Apartment, Shivani Park, Ratu Road, Hehal, PO Hehal Road, PS Shukhdeonagar, District Ranchi.
 4. Satyendra Prasad Singh, son of late Ramnarayan Singh, resident of H-23, Argora Housing Colony, PO: Argora, PS: Argora, District Ranchi.
 5. Manoj Kumar Verma, S/o late Ishwari Narayan Verma, resident of B-408, Satya Enclave, Lake Avenue, PO and PS Gonda, Kanke Road, Ranchi District Ranchi.
 6. Abhinendra Kumar, son of late Jugal Sharan Singh, resident of Village and Post Jat Dumari, PO and PS Punpun, District Patna, Bihar.
 7. Abhay Kumar Roy, son of late Jai Ram Roy, resident of flat no. A4, Block-C, Narayan Enclave, Harihar Singh Road, PO and PS Bariatu Ranchi.
- Petitioners**

Versus

1. The State of Jharkhand through Chief Secretary, Govt. of Jharkhand, Project Bhawan, PS Jagarnathpur, District Ranchi.
 2. The Chief Secretary, Govt. of Jharkhand, Project Bhawan, PS Jagarnathpur, District Ranchi.
 3. The Secretary to Government of Jharkhand, Road Construction Department, Project Building, District Ranchi.
 4. The Joint Secretary, Govt. of Jharkhand, Road Construction Department, Project Building, District Ranchi.
 5. The Engineer-in-chief, Road Construction Department, Project Building, District Ranchi.
 6. Departmental Promotion Committee through its Secretary, Development Commissioner, Jharkhand, Nepal House, Ranchi.
 7. The Under Secretary, Govt. of Jharkhand, Road Construction Department, Project Building, District Ranchi.
- Respondents**
8. Deo Bihari Yadav, son of late Parmeshwar Yadav, resident of House No. 212, Road No.4, Birsa Nagar, PO Hatia, PS Jagarnathpur, District Ranchi, Jharkhand.
- Intervenor**
9. J.P.S.C. through its Secretary, Circular Road, District Ranchi, Jharkhand.
- Respondent.**

With
W.P.(S) No. 3027 of 2016

1. Ashok Kumar Roy son of late Anuj Kumar Roy, resident of House No. 989, Opposite Siddhu Kanhu Park, Kanke Road, PO Ranchi University, PS Gonda, Ranchi, 834008.
 2. Hemant Kumar Lohani, son of Kailash Prasad Lohani, resident of House of Dr. S.N. Bhadani, Manda Bagicha, Harihar Singh Road, PO Ranchi University, PS Bariatu, Ranchi-834009.
 3. Devendra Prasad, son of Baldev Mahto, resident of Quarter No. 386/B, Ashok Nagar, C/o Dinesh Prasad Mandal, Road No.4, PO and PS Argora, Ranchi-834002.
 4. Saroj Kumar, son of Ram Nath Sah, resident of at PO Haripur, PS Dumka, District Dumka.
- Petitioners**

Versus

1. The State of Jharkhand through the Chief Secretary having its office at Project Building, PO and PS Dhurwa, Ranchi.
2. The Principal Secretary, Road Construction Department, Govt. of Jharkhand, Project Building, PO and PS: Dhurwa, Ranchi.
3. The Principal Secretary, Department of Personal Training, Government of Jharkhand, Project Building, PO and PS: Dhurwa Ranchi.
4. The Principal Secretary, Water Resources Department, Govt. of Jharkhand, Nepal House, PO and PS: Doranda, Ranchi.
5. The Principal Secretary, Drinking Water and Sanitation, Govt. of Jharkhand, Nepal House, PO and PS: Doranda, Ranchi.
6. The Principal Secretary, Planning and Development Department, Govt. of Jharkhand, Project Building, PO and PS: Dhurwa, Ranchi.
7. Kanhaee Prasad, son of Sri Sitaram Sao, resident of Village Dumri, PO Chechadhi, PS Obra, Distt. Aurangabad (Bihar) at present posted and working as Asst. Engineer –cum- Asst. Manager, Jharkhand State Building Construction Corporation, Govt. of Jharkhand, PO and PS Dhurwa, Distt. Ranchi, Jharkhand
8. Kumar Arvind, son of Saryu Prasad Singh, R/o 101, Madhusudan Complex, Dimna Road, Jamshedpur, PS MGM, Pin 831012.
9. Sanjay Kumar Singh, son of Shri Chadrika Prasad Singh, R/o O-407, Ashiyana Woodland, PO Pardih, PS Chandil, Distt.-Saraikela-Kharsawan, PIN 831020.
10. J.P.S.C. through its Secretary, Circular Road, Ranchi, Jharkhand.

.... Respondents

With

W.P.(S) No. 3031 of 2016

1. Pradip Kumar Gupta, son of late Ayodhya Prasad, R/o 12, Buddha Vihar, Near Nirankari Satsang Bhawan, Argora, PO and PS Argora, Ranchi-834002.
2. Manohar Prasad, son of late Saryug Prasad, R/o Flat No. 402, Krishan Apartment, PP Compound, PO Ranchi, PS Hindpiri, Ranchi-834001.
3. Sanjay Kumar, son of late Shyam Sunder Choudhary, near Holiday Home (Hot Lips Restaurant), Kanke Raod, PO and PS Kanke, District Ranchi-834008.

4. Shashi Bhusan Kumar, son of Shri Ramchandra Singh, R/o Quarter No. A II-167(T), HEC Colony, PO and PS Dhurwa, Ranchi-834004.

..... **Petitioners**

Versus

1. The State of Jharkhand through the Chief Secretary having its office at Project Building, PO and PS Dhurwa, Ranchi.
2. The Principal Secretary, Road Construction Department, Govt. of Jharkhand, Project Building, PO and PS: Dhurwa, Ranchi.
3. The Principal Secretary, Department of Personal Training, Government of Jharkhand, Project Building, PO and PS: Dhurwa Ranchi.
4. The Principal Secretary, Water Resources Department, Govt. of Jharkhand, Nepal House, PO and PS: Doranda, Ranchi.
5. The Principal Secretary, Drinking Water and Sanitation, Govt. of Jharkhand, Nepal House, PO and PS: Doranda, Ranchi.
6. The Principal Secretary, Planning and Development Department, Govt. of Jharkhand, Project Building, PO and PS: Dhurwa, Ranchi.
7. J.P.S.C. through its Secretary, Circular Road, Ranchi, Jharkhand.

.... **Respondents**

With

W.P.(S) No. 5726 of 2017

Sanat Kumar, son of late Sita Ram Sharma, resident of Maa Enclave, Flat No. 304, Cheshire Home Road, Bariatu Road, PO and PS-Bariatu, District-Ranchi-834009.

..... **Petitioner**

Versus

1. The State of Jharkhand through the Chief Secretary having her office at Project Bhawan, Dhurwa, PO and PS Dhurwa, District-Ranchi-834004.
2. Additional Chief Secretary, Department of Finance, State of Jharkhand having his office at Project Bhawan, Dhurwa, PO and PS: Dhurwa, Ranchi-834004.
3. Principal Secretary, Personnel Administrative Reforms and Rajbhasha Department, State of Jharkhand having his office at Project Bhawan, Dhurwa, PO and PS: Dhurwa, Ranchi-834004.
4. Principal Secretary, Road Construction Department, State of Jharkhand, having his office at Project Bhawan, Dhurwa, PO & PS- Dhurwa, District- Ranchi-834004.
5. Secretary, Rural Development Department (Rural Works Affairs), State of Jharkhand, having his office FFP Building, Dhurwa PO and PS: Dhurwa, District: Ranchi-834004.
6. The Secretary, Jharkhand Public Service Commission (JPSC) having its office at Circular Road, Deputy Para, Ahirtoli, PO and PS Lalpur, District Ranchi-834001.

.... **Respondents**

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

For the Petitioners(s) : Mr. Jitendra Singh, Sr. Advocate;
 Miss Amrita Sinha, Advocate;
 Mr. Yash Singh, Advocate;
 Ms. Shweta Suman, Advocate;
 Ms. Pragunee Kashyap, Advocate;
 Mr. Saurabh Raj, Advocate;
 Mr. Sameer Saurabh, Advocate;
 Mr. Vishal Kumar, Advocate;
 Mr. Divya, Advocate;
 Mr. Isha Kaushik, Advocate;
 Mrs. Priti Kumari, Advocate

For the Respondent(s): Mr. Krishna Murari, Advocate;
 Mr. Mahesh Tewari, Advocate;
 Mr. Ritesh Kumar Pathak, Advocate;
 Ms. Mitali, Advocate

For the Resp. Intervenor: Mr. A.R. Masoodi, Sr. Advocate;
 Mr. Shadab Eqbal, Advocate;
 Mr. Kumar Karan, Advocate;
 Mr. Arun Kanwa, Advocate;
 Mr. Zeeshan Ahmed, Advocate;
 Mr. Priyanshu Shekhar, Advocate;
 Mr. Mehul Raj, Advocate
 [In WP(S) 3027 of 2016]

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

Order No.29/Dated:22nd January, 2026

1. Since all the above-noted writ petitions have been filed challenging the Jharkhand Engineering Service Recruitment Rules, 2016, as such, they have been tagged together and taken up together for analogous hearing and are being disposed of by this common order, taking WP(S) No. 2984 of 2016 as main case.

Prayer:

2. The following prayers have been made in the aforesaid writ petitions:

“(i) For appropriate declaration that Jharkhand Engineering Service Recruitment Rules, 2016 (hereinafter referred to as Rules, 2016) so far as it relates to Rule 6, 7 and 8 is unconstitutional being violative of Article 14 and

16 of the Constitution of India. Alternatively, the petitioners prays for appropriate declarations (a) that the Rules, 2016 is inapplicable in relation to the Assistant Engineers direct recruit as well as promotees included in final combined gradation list dated 5.5.2015 which was published prior to commencement of Rules, 2016, (b) promotees Assistant Engineers once born in the cadre of Assistant Engineer as Engineering Service Class-II cannot count separate seniority list for grant of further promotion in the position of Executive Engineer, (c) the rights and expectation of the petitioners accrued in terms of 1939 Recruitment Rules for promotion from Class-II Engineering service to Class-I Engineering Service cannot be defeated by Rules, 2016; (d) the vacancies of Executive Engineer accrued prior to 3.5.2016 i.e. the gazette notification of Rules, 2016 shall be filled-in by the old existing un-amended rules; (e) the amalgamation of Bihar Service Class-II and Class-I by Rules, 2016 is unreasonable, arbitrary and violative of Article 14 and 16 of the Constitution of India, (f) reservation of 40% posts for promotion of Assistant Engineer promoted in the quota of promotes from subordinate Engineering Service is unreasonable, irrational, arbitrary and colourable exercise of power.

(ii) For reading down the Rules, 2016 to make it consistent with Article 14 and 16 of the Constitution of India.

(iii) For a follow-up direction to the Respondents not to act upon the Rules, 2016 as Rule never existed.

(iv) For a further direction to the Respondents to consider and grant promotion to the petitioners as per the un-amended Rules against the 41 vacancies of Executive

Engineers as admitted by the Department upto February, 2016 vide memo no. 1589 (s) dated 8.3.2016.”

3. It is evident that the main issue involved regarding validity of Jharkhand Engineering Service Recruitment Rules, 2016 which came in supersession to Bihar Engineering Class-1 Service Rules, 1939. In course of hearing, at the belated stage, the learned Advocate General has submitted before this Court that the Government is proposing to come out with a fresh Rule, as would be evident from the orders dated 17.6.2025, 4.8.2025, 12.8.2025, 13.10.2025, 13.11.2025, 4.12.2025 and 19.12.2025 passed by this court.

4. The Rule when was not framed even in-spite of the undertaking furnished by the learned Advocate General on different occasions as referred hereinabove. This Court has passed a detailed order on 04.12.2025 commanding the State to come out with the Rule within two weeks by giving *prima facie* view that due to non-enactment of the new Rule the same leads to issue of good governance, for the reference the order dated 04.12.2025 is quoted herein under which reads as under:

“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:

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:*

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

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

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:*

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:*

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:

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:

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:

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:

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:*

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.

50/Dated: 19.12.2025

I.A. No. 17216 of 2025 in W.P.(S) No. 654 of 2018

- 1. I.A. No. 17216 of 2025 has been filed wherein relief has been sought for to accept the interlocutory application.*
- 2. Let the same be taken on record*

3. *Copy of the same has already been supplied to the learned counsel appearing on behalf of all the respondents.*
4. *The instant Interlocutory Application has been filed for extension of further four weeks' time, contents thereof reads as hereunder.*

5. *This Court, has already passed an order on 04.12.2025 and rejected interlocutory application seeking therein the same prayer by filing interlocutory application being I.A. No. 16268 of 2025. Again, the attempt has been made to get further four weeks' time*

6. *This Court, is of the view that the instant interlocutory application is to be rejected outrightly, since, the similar prayer which has been made by way of filing an interlocutory application being I.A. No. 16268 of 2025 has already been rejected and, thereafter the following order was passed, for ready reference, entire order passed by this Court on 04.12.2025 needs to be referred hereunder:*

7. *The said order has been passed also on the backdrop of the fact that even the learned Advocate General has stated before this Court regarding the time frame of coming out the final rule, which cannot be disputed. The consent of the learned Advocate General will amount to the consent given by the State, but even these functionaries have not taken care of the statement, which has been made by the learned Advocate General not once rather, at least three times.*

8. *This Court has already made observation while rejecting L.A. No. 16268 of 2025, commanding the State, in such a situation, to come out with the 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.*

9. *This Court considering the aforesaid observations already made and again the attempt which has been made by filing the instant interlocutory application for seeking further four weeks' time is nothing but a deliberate attempt to defy the order passed by this Court.*

10. *Accordingly, I.A. No.17216 of 2025 is hereby rejected.*

11. *In view of above, let notice be issued under Rule 393 of the Jharkhand High Court Rules in due format upon the (I) Principal Secretary, Personnel, Administrative, Reforms and Rajbhasha Department, Government of Jharkhand and (II) Secretary, Road Construction Department, Government of Jharkhand.*

I.A. No. 16124 of 2025 in W.P.(S) No.3027 of 2016

12. *Mr. A.R. Masoodi, learned Senior counsel appearing for the intervenor/ respondents has submitted that he has supplied the copy of the said interlocutory application in the midst of the Court proceeding itself.*

13. Accordingly, the instant interlocutory application will be heard on the next date of hearing.

14. List these cases on 22nd January, 2026. ”

5. Even after the time has been granted, as per paragraph no. 51 of the order dated 04.12.2025 when the Rule was not formulated rather the time was sought for on 19.12.2025 then this court considering the aforesaid conduct of the state functionaries has issued a notice under Rule 393 of the Jharkhand High Court Rule.

6. Today a show-cause has been filed wherein it is stated that Rule has been formulated, copy thereof has been supplied to the learned counsel for the respective parties, bringing on record the enactment of Jharkhand Engineering Service Appointment and other Service Conditions Rule, 2025 in exercise of power conferred under proviso to Article 309 of the Constitution appended as Annexure-A which has also been notified in the Gazette Notification which is in supersession to the Jharkhand Engineering Service Recruitment Rules, 2016. The Rule 2016 has come in supersession to Bihar Engineering Class-1 Service Rules, 1939 now there would be only one Rule i.e. Rule, 2025.

7. Although, after some delay, the Rule has been formulated and, as such, there is substantial compliance of the direction passed by this court. Hence, this court does not intend to proceed further in pursuance to the notice issued under Rule 393 of the Jharkhand High Court Rule. The new Rule has been enacted and as such this court is of the view that keeping these matters pending will be uncalled for. Any promotion granted in the meanwhile will exclusively be governed on the basis of the new Rule.

8. Accordingly, these writ petitions are disposed of with liberty to the petitioners that if any of the parties aggrieved they may challenge the validity of the Rule or any part thereof by approaching the appropriate forum, if so advised.

9. The copy of Gazette Notification has been tendered by the learned counsel for the State which has been kept on record.

10. One question has been raised by the learned counsel for the parties with respect to the promotion having been granted by the order dated 17.8.2017 passed by this Court in WP(S) No. 3027 of 2016, WP(S) 2984 of 2016 and WP(S) 3031 of 2016 from the post of Assistant Engineer (Diploma Holders) to the post of Executive Engineer, as would be evident from paragraph no.20 of the order dated 17.08.2017, that promotion granted to the petitioner(s) may be saved otherwise he/they will face irreparable loss as most of him/them have already been retired from service.

11. The aforesaid facts have not been disputed by any of the learned counsel(s) appearing on behalf of the respondents.

12. This court is of the view that since the new Rule has been enacted as Jharkhand Engineering Service Appointment and other Service Conditions Rule, 2025 which is in supersession to the Rule 2016 and the Rule 2016 is in supersession to the Rule 1939 hence, promotion granted by virtue of interim order dated 17.8.2017 is to be saved.

13. Considering the fact, as has been reported, that most of the engineers promoted by virtue of interim order have now superannuated from

service and as such promotion granted vide interim order dated 17.8.2017 is being saved.

14. Accordingly, these writ petitions are disposed of.

15. Pending Interlocutory Application(s), if any, stands disposed of.

(Sujit Narayan Prasad, J.)

(Arun Kumar Rai, J)

Dated: 22nd January, 2026

KNR/NAFR