

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<p><u>CLCON No. 318 of 2025</u> <u>Hon'ble Rakesh Thapliyal, J.</u></p> <ol style="list-style-type: none"> 1. Mr. Shobhit Saharia, learned counsel for the petitioner. 2. Mr. Shivanand Bhatt, learned counsel with Mr. Shailendra Nauriyal, learned counsel for the contemnor/respondent. 3. Yesterday, this Court already framed the charge against respondent/contemnor and the matter is posted for today and today a compliance affidavit has been filed by Mr. Shivanand Bhatt, learned counsel for the respondent/contemnor dated 11.05.2026 and the same is taken on record. 4. In the compliance affidavit a reference has been given by Dr. Shiv Kumar Barnwal that he was transferred on 17.04.2026 and at present posted as Registrar, Uttarakhand Ayurveda University and he has already handed over the charge to the present incumbent who was transferred in his place. In para 3 it is contended that when respondent/contemnor realized that the order passed on 22.04.2026 was misconstrued and it will lead to contempt of Court, then immediately he apprised to the Commission the real position of the order of writ court and in compliance thereof the present Secretary without any delay recommended the name of the petitioner to the concerned department by letter dated 11.05.2026 the copy of which is enclosed as CA no. 2. 5. This Court already framed the charge against the respondent/contemnor on 11.05.2026 and it reveals that when the charge was framed, on the same day this letter was issued by the present Secretary. It appears that the present

		<p>Secretary of the Commission is also making an attempt to frustrate the proceeding of instant contempt petition, therefore, Mr. Shobhit Saharia, learned counsel for the petitioner is permitted to implead the present Secretary of the Commission as respondent/contemnor in the instant contempt petition during course of the day.</p> <p>6. Letter of the Secretary dated 11.05.2026 is nothing but an attempt to close the instant contempt proceeding, however, since this Court already framed the charge on the ground that earlier office memorandum dated 02.07.2025 and the response affidavit dated 26.08.2025 clearly make out a case of initiating contempt proceeding against the respondent/ contemnor, therefore, based on the subsequent compliance affidavit, the proceeding of this contempt petition cannot be closed. In such view of the matter, in addition to the earlier charge framed yesterday, one more additional charge is also being framed:-</p> <p><i>“Whether issuance of subsequent letter dated 11.05.2026 by the present Secretary of the Commission does not amount interference with the Court proceeding and whether the earlier charge framed against respondent/contemnor should be expunged at this stage.”</i></p> <p>7. This Court is of the firm opinion that subsequent compliance affidavit will not frustrate ongoing proceeding of the instant contempt petition.</p> <p>8. The respondent/contemnor is present in Court and submits his response to the charge framed yesterday.</p> <p>9. Issue notice to the present Secretary of the Uttarakhand Subordinate Selection Service Commission.</p> <p>10. Since, the counsel for the petitioner is permitted to implead the present Secretary of the Commission as respondent/contemnor , he may file his response positively within a week to show cause why the contempt proceeding be not</p>
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		<p>initiated against him, since, an attempt is made by him by issuing letter dated 11.05.2026 to frustrate the instant contempt petition.</p> <p>11. Put up this matter on 18.05.2026 as a first case.</p> <p>12. After dictating this order, Dr. Shiv Kumar Barnwal tender his unconditional apology and in response to this Mr. Shobhit Saharia, learned counsel placed reliance to the judgment passed by the Hon'ble Apex Court in the Contempt Petition No. 118 of 2007, i.e., in the case of C. Elumalai & Ors. vs. A.G.L. Irudayaraj & Anr. particular place reliance to para 4 and 5 which reads as under:-</p> <p style="padding-left: 40px;">4. <i>Apology is an act of contrition. Unless apology is offered at the earliest opportunity and in good grace, the apology is shorn of penitence and hence it is liable to be rejected. If the apology is offered at the time when the contemnor finds that the court is going to impose punishment it ceases to be an apology and becomes an act of cringing coward.</i></p> <p style="padding-left: 40px;">5. <i>Apology is not a weapon of defence to purge the guilty of their offence nor is it intended to operate as universal panacea, but it is intended to be evidence of real contriteness. As was noted in L.D.Jaikwal vs. State of U.P. [1984 (3) SCC 405]:</i></p> <p style="padding-left: 40px;"><i>"We are sorry to say we cannot subscribe to the "slap-say sorry-and forget" school of though in administration of contempt jurisprudence. Saying "sorry" does not make the slapper taken the slap smart less upon the said hypocritical word being uttered. Apology shall not be paper apology and expression of sorrow should come from the heart and nor from the pen. For it is one thing to "say" sorry-it is another to "feel" sorry."</i></p> <p>13. After gone through with the judgment this Court is of the view that the apology as tendered by Dr. Shiv Kumar Barnwal cannot be accepted because this Court already observed that it is a deliberate attempt on the part of the respondent/contemnor as well as on the part of the present Secretary of the Commission to flout the order as to interfere with the proceeding of</p>
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			<p>instant contempt petition.</p> <p>14. Mr. Saharia, learned counsel submit compilation of the judgment which is also placed on record in which he placed reliance particularly to the judgment of Apex Court in the case of C.K. Daphtary vs. O.P. Gupta(1971) 1 SCC 626 and it's para 77, 78, 81 and 98.</p> <p>15. Keep this matter as part heard.</p> <p style="text-align: right;">(Rakesh Thapliyal, J.) 12.05.2026</p> <p>Parul</p>
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