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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4584 OF 2013
(Arising out of SLP(C) No.16388 of 2011)

Mahipal Singh Tomar .....Appellant(s)

VERSUS

State of Uttar Pradesh and others .....Respondents

With

CIVIL APPEAL NO.4585 OF 2013
(Arising out of SLP(C) NO. 16422 of 2011)

CIVIL APPEAL NO.4586 OF 2013
(Arising out of SLP(C) NO. 16485 of 2011)

CIVIL APPEAL NO.4587 OF 2013
(Arising out of SLP(C) NO. 17387 of 2011)

CIVIL APPEAL NO.4588 OF 2013
(Arising out of SLP(C) NO. 17388 of 2011)

CIVIL APPEAL NO.4589 OF 2013
(Arising out of SLP(C) NO. 17410 of 2011)

CIVIL APPEAL NO.4590 OF 2013
(Arising out of SLP(C) NO. 17415 of 2011)

CIVIL APPEAL NO.4591 OF 2013
(Arising out of SLP(C) NO. 17438 of 2011)

CIVIL APPEAL NO.4592 OF 2013
(Arising out of SLP(C) NO. 20092 of 2011)

CIVIL APPEAL NO.4593 OF 2013
(Arising out of SLP(C) NO. 20094 of 2011)

O R D E R

Leave granted.

These appeals are directed against orders of the Allahabad High Court whereby the writ petitions filed by the appellants were dismissed and the termination of their services from the posts of Principals was upheld.

In response to advertisement dated 13.8.1998 issued by the Uttar Pradesh Higher Education Service Commission (for short, 'the Commission') for recruitment of Principals for Post Graduate Degree Colleges and Degree Colleges (Aided and Unaided), the appellants submitted their respective applications for the posts for which they were qualified. They were selected by the Commission and their names were included in the select list published on 16/18.4.2001.

The Director, Higher Education, U.P. (for short, 'the Director') issued orders for placement of the appellants in the position of Principals of various Colleges. In some cases, the Management of the concerned Colleges did not issue orders appointing the appellants. In other cases, the appellants either voluntarily sought change of the placement or the Director suo motu changed the placement. After joining their respective positions, most of the appellants were confirmed by the Management of the concerned Colleges.

On receipt of complaints alleging large scale irregularities in the placement of selected candidates in different Colleges, the State Government directed District Magistrate, Allahabad to conduct an inquiry and submit report. The latter examined the relevant records and submitted report dated 4.2.2005 with the finding that the placement of the candidates was contrary to the provisions of the Uttar Pradesh Higher Education Services Commission Act, 1980 (for short, 'the 1980 Act') and the Uttar Pradesh State Universities Act, 1973 (for short, 'the 1973 Act') and was wholly illegal and arbitrary. The District Magistrate also found that in some cases, the candidates were given placement against non-existent posts in violation of the judgment of the Supreme Court in Kamlesh Kumar Sharma v. Yogesh Kumar Gupta AIR 1968 SC 1012.

In view of the fact finding report submitted by the District Magistrate, the State Government issued directions for cancellation of placement of the appellants and others on the posts of Principals. The Director faithfully implemented the directive of the State Government and issued letter dated 6.8.2005 to the Management of the Colleges to terminate the services of the appellants. For the sake of reference, the letter written by the Director to the Manager, D. N. College, Gulaothi, Bulandshahr (respondent No.5 in the appeal arising out of SLP (C) No.16388/2011) is reproduced below:

"From,

Director, (Higher Education)

U.P.Allahabad

To,

Manager,

D.N.College, Gulaothi,

Bulandshahr

Letter: Degree Arth-I/Ayog/2005-06 dated 06.08.2005.

Subject : Regarding terminating the appointment of Dr.Mahipal Singh Tamar as Principal of D.N.College, Gulaothi, Bulandshahr, which is not as per the law.

In reference to above subject, it is directed by the Govt. letter No.3009/70-2-2005-06 (14)/2003 dated 29.07.2005 that on receiving the complaints as to involvement of some extraneous considerations in the appointments and postings of the Principals, selected by the Commission, government got conducted an inquiry by Distt. Magistrate, Allahabad. After the perusal of inquiry report it was found that Dr. Mahipal Singh Tamar was selected as Principal under advertisement No.25 in the category of Graduate (Male), advertised by the Higher Education Service Commission, was appointed as Principal in the unadvertised Dev Nagri College, Gulaothi, Bulandshahr vide letter dated 10.04.2003 issued by the Director Higher Education, which is contrary to the provisions of under Section 13(3) of the Higher Education Service Commission Act, 1980 and being wrongly explained the order passed in Alka Rani Gupta case dated 27.02.2003 and by violating the order passed by the Hon'ble Supreme Court in Civil Appeal No.7904/1996 titled as Kamlesh Kumar Sharma Vs. Yogesh Kumar Gupta & Ors. The appointment of Dr. Tomar to the provisions of U.P. Higher Education Act, and order passed by the Hon'ble Supreme Court, this decision had been taken after proper discussion in the light of provisions of the Act, under Section 12(1) that the appointment of Dr. Mahipal Singh Tamar, as Principal Dev Nagri College, Gulaothi, Bulandshahr should be terminated.

Therefore, in the compliance of above Govt. letter No.3009/70-2-2005-06 (14)/2003 dated 29.07.2005, Dr. Mahipal Singh Tamar Principal Dev Nagri College, Gulaothi, Bulandshahr, appointed as Principal vide letter dated 10.04.2003 of the Directorate of Higher Education is being cancelled with immediate effect, you are directed to terminate the appointment of Dr. Tamar as Principal with immediate effect, which is contrary to the provisions of the Act, 1980 and against the above order of the Hon'ble Supreme Court and inform the Directorate about the action at the most within a week.

Sd/-
Dr. R.K. Baslas
Director, Higher Education
Allahabad."

In compliance of the instructions given by the Director, the Management of the Colleges issued letters to the appellants terminating their services. Letter dated 25.8.2005 sent to Dr. Mahipal Singh Tomar, who is appellant in the appeal arising out of SLP (C) No. 16388/2011 is reproduced below: :

"Ref. No.D.N./2005-06/115 Dated:25.08.2005

To,

Dr. Mahipal Singh Tamar
Principal
D.N. P.G. College
Gulaothi (Bulandshahr)

Sir,

I informing with great regret that I have received the letter Degree Arth-I/ Commission/3619/2005-06 dated 06.08.2005 sent by Director, Higher Education, U.P. Allahabad, the copy of which has been endorsed to you also heard your information and perusal.

As per direction given in the letter your posting to continue as Principal and remain in the service is terminated with immediate effect by the order of government.

Therefore, you are directed that you hand over the charge of Principal of the College to Lecturer Dr. B.S. Yadav immediately. Failing which all the responsibility are may arise shall be yours.

Please inform you immediately of the action taken.

Sd/-

(Mahesh Chand) Secretary"

Before proceeding further, we consider it appropriate to mention that before ordering cancellation of the appellants' placement in different Colleges, the State Government neither supplied copy of the report prepared by District Magistrate, Allahabad to any of the appellants nor gave them action oriented notice and opportunity of hearing. Likewise, the Director and the Management of the Colleges did not give any notice or opportunity of hearing to the appellants before terminating their services.

The appellants challenged communications dated 6.8.2005 and 25.8.2005 in Writ Petition Nos. 59276/2005, 61083/2005, 59399/2005, 59420/2005, 64023/2005, 59733/2005, 64406/2005, 59422/2005, 64109/2005 and 63160/2005. They pleaded that once they became employees of the Colleges, the State Government and the Director did not have the jurisdiction to tinker with their placement as Principals or bring about termination of their services and that too without following the procedure prescribed under the 1973 Act. They further pleaded that even if the Director is held to be competent to direct termination of their services, the action taken by him and the consequential orders passed by the Management of the Colleges are liable to be quashed on the ground of violation of the rules of natural justice.

In the affidavits filed on behalf of the respondents, every possible justification was offered to support the action taken by the State Government and the Director, but it was not disputed that copy of the report prepared by the District Magistrate was not supplied to any of the appellants

and none of them was given opportunity to show cause against the

proposed cancellation of his/her placement as Principal and termination of service.

The Division Bench of the High Court referred to the provisions of the 1973 Act and the 1980 Act (as amended) and the judgment of the Full Bench in Dr.Vinay Kumar v. Director of Education (Higher), Allahabad 2005 (4) ESC 2953, which had considered the correctness of the proposition of law laid down by the Division Benches in Dr.Prakash Chandra Srivastava v. Director of Higher Education, Allahabad 2002 (5) ESC 2202 and Alka Rani Gupta (Km.) v. Director of Education (Higher) 2003 (2) ESC 942 and another judgment of the Division Bench in Rama Shankar Rai v. State of U.P. 2008 (7) ADJ 422, considered the legality of the orders passed by the Director, Higher Education for placement of the appellants and observed:

> "In the present case, there is nothing on the record to indicate that the post of Principal in Nagrik Degree College, Janghai, Jaunpur was notified in Advertisement No.21 of 1995 or in Advertisement No.25 of 1998. In fact it was subsequently notified in Advertisement No.36 but still the Director issued the order dated 12th January, 2004 for placement of the petitioner on the post of Principal in Nagrik Degree College, Janghai, Jaunpur on the basis of the merit list of candidates prepared by the Commission on 7th July, 1995 in connection with Advertisement No.21 of 1995. It will, therefore, not be covered by Section 13(3) of the Act. It will also not covered by Section 13(4) of the Act and the Supreme Court made this position absolutely clear in Kamlesh Kumar Sharma (supra) decided on 9th February, 1998. Yet, the Director issued the order dated 12th January, 2004 for placement of the petitioner as Principal in the said College. What surprises us most is that this placement order dated 12th January, 2004 was issued by the Director taking the help of the select list prepared on the basis of the recruitment carried out nine years earlier against Advertisement No.21 of 1995 and much after the subsequent recruitment against Advertisement No.25 of 1998 in which the petitioner had also applied and her name was included in the select list prepared by the Commission. Though the Director had issued two placement orders for the petitioner but she did not join these Colleges. It appears that the petitioner was only looking to join a college of her convenience and the Director helped the petitioner to achieve this by issuing the placement order of the petitioner when a vacancy in the Nagrik Degree College arose after the submission of the resignation by the regular Principal, even though this vacancy was not included in Advertisement No.21 of 1995. The appointment of the petitioner as Principal on the basis of this order is void as no placement could be made for a College not advertised and Section 12(1) of the Act expressly provides that every appointment of a teacher of any college made by the management in contravention of the provisions of the Act is void.
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> We must also remind ourselves of what was observed by the Full Bench of this Court in Dr. Vinay Kumar (supra) and by the Division Bench in Rama Shanker Rai (supra) that the Director does not have a discretion to intimate the name of a candidate to the management dehorse the provisions of Section 13 of the Act and that he has necessarily to see the merit position of the candidate and the preference given by the candidate for the Colleges. The Director did initially issue the placement orders but they were cancelled. The subsequent placement order of the Director dated 12th January, 2004 ignores the essential and relevant criterion for placement and the petitioner has been recommended for a College for which even advertisement had not been issued.

Even in the absence of Section 12(1) of the Act, we would have had no difficulty in holding that the appointment of the petitioner is void, being contrary to the statutory provisions. In this connection reference needs to be made to the decision of the Supreme Court in Pramod Kumar Vs. U.P. Secondary Education Services Commission & Ors., (2008) 7 SCC 153. It was held that any appointment which is contrary to the Statute/statutory rules is void. This principle was reiterated by the Supreme Court in Government of A.P. & Ors. Vs. K. Brahmanandam & Ors., 2008 AIR SCW 5352. In State of Orissa & Anr. Vs. Rajkishore Nanda & Ors., (2010) 6 SCC 777, the Supreme Court also observed that a select list cannot be treated as a reservoir for the purpose of appointments, so as to fill vacancies by taking the names from such a list as and when it is so required."

The Division Bench then adverted to Section 13(2) of the 1980 Act and observed:

"The issue can be examined from yet another aspect. Section 13(2) of the Act provides that the list sent by the Commission shall be valid till the receipt of a new list from the Commission. The Commission prepared the list dated 7th July, 1995 pursuant to Advertisement No.21 of 1995 in which the petitioner was placed at Serial No.10. This list could be valid only till the receipt of the new list from the Commission. The new list dated 18th April, 2001 was received by the Director from the Commission pursuant to Advertisement No.25 of 1998. The earlier list dated 7th July, 1995 prepared by the Commission pursuant to the Advertisement No.21 of 1995, therefore, could not have been utilized by the Director on 12th January, 2004 for issuing placement orders after the receipt of the list dated 18th April, 2001.

This is what was also observed by the Supreme Court in State of U.P. & Anr. Vs. Nidhi Khanna & Ors., (2007) 5 SCC 572. The Commission issued Advertisement No. 29 for notifying vacancies of Lecturers in different non-Government Colleges. Nidhi Khanna applied for the post of Lecturer in Geography and a select list was prepared by the Commission on 19th July, 2001. Her name was placed at Serial No. 1 in the wait list of General Category candidates. The Director issued an order on 23rd November, 2002 appointing her as a Lecturer in Geography in R.G. Girls College, Meerut. However, as she did not join another candidate was appointed and her placement was cancelled. On 5th March, 2003, another merit list was prepared pursuant to Advertisement No. 32 and names of selected candidates were received by the Director on 7th March, 2003. On 3rd July, 2003, Nidhi Khanna met the Director and stated that though she was selected as Lecturer in Geography pursuant to Advertisement No.29 and was placed at Serial No.1 in Wait List but she had not received letter of appointment. She also stated that there was a vacancy in C.M.P. Degree College, Allahabad and the said College had no objection if she was appointed. She, therefore, prayed that she be appointed in C.M.P. Degree College, Allahabad. The prayer was rejected by the Director on the ground that a new list had been prepared in March, 2003 pursuant to Advertisement No. 32 and she had been selected under Advertisement No. 29 which list was valid only till the new list was prepared. This led to the filing of the writ petition by Nidhi Khanna which was allowed by the High Court and a direction was issued to the authorities to appoint her as Lecturer in C.M.P. Degree College, Allahabad. The State of U.P. filed Special Leave Petition in the Supreme Court. The Supreme Court set aside the directions of the High Court holding that such directions were contrary to the statutory provisions and the decision of the Supreme Court in Kamlesh Kumar Sharma (supra). It was observed that the earlier list

prepared under Advertisement No.29 came to an end when the new list was prepared under Advertisement No.32. The observations of the Supreme Court are:-

> "14. In our opinion, in view of the above legal position, the appellants were right in their submission that Respondent 1 could not be appointed in pursuance of Advertisement No. 32 since she was selected and empanelled pursuant to Advertisement No. 29.
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> 15. The learned counsel for Respondent 1 contended that there was no fault on her part. It was also stated that though the Authorities asserted that a communication was sent to Respondent 1 at the address supplied by her, she had never received such so-called communication. It was also urged that the address at which the communication was sent was not correct address. It was only because of the fact that there was no communication by the Director of Higher Education that constrained Respondent 1 to approach him as to what had happened to her appointment though she was at Serial No. 1 in the wait list. Only at that time she was informed about the order of appointment and her placement in Meerut College but since she did not join duty, other person was appointed. Precisely because of subsequent development that Respondent 1 approached C.M.P. College, Allahabad and obtained 'no objection certificate' from the management of that College, the High Court, submitted the counsel, believed the case of Respondent 1 and granted relief observing that it was the mistake of the Authorities for which the candidate should not suffer.
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> 16. Without expressing final opinion as to correctness or otherwise as to assertion of Respondent 1, even if it is believed that what Respondent 1 contended before the High Court and before us is correct, in our considered opinion, no writ of Mandamus could have been issued by the High Court in the light of express and unequivocal statutory provisions referred to hereinabove and the declaration of law in Kamlesh Kumar Sharma Vs. Yogesh Kumar Gupta & Ors., AIR 1998 SC 1021.
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> 17. It is an admitted fact that the first respondent was selected and empanelled in the Wait List pursuant to Advertisement No. 29 on July 19, 2001. It is further not disputed that Advertisement No. 32 was thereafter issued and Merit List was prepared on March 5, 2003 which was received by the Director on March 7, 2003. Once the above facts have been established, the statutory provisions will come into play. Under the said provisions as soon as the new list is prepared, the old list comes to an end. The High Court, in view of the above facts, in our considered opinion, could not have issued a writ of Mandamus directing the Authorities to act contrary to law. That is not the ambit and scope of writ of Mandamus." "

The Division Bench finally relied upon the judgments of this Court in Ashok Kumar Sonkar v. Union of India (2007) 4 SCC 54, State of Manipur v. Y.Token Singh (2007) 5 SCC 65 and Mohd. Sartaj v. State of U.P. (2006) 2 SCC 315 and negatived the appellants' plea that the decision taken by the State Government and the consequential actions taken by the Director and the Managements of the Colleges were violative of the rules of natural justice.

We have heard learned counsel for the parties and scanned the records of all the appeals. Since there is no dispute between the parties that copy of the report prepared by the District Magistrate

was not supplied to any of the appellants and no action oriented notice or opportunity of hearing was given to them proposing cancellation of their placement as Principals and termination of their services, there is no escape from the conclusion that the decision taken by the State Government and consequential actions taken by the Director and the Management of the Colleges were nullity and the laboured exercise undertaken by the High Court to record a finding that placement of the appellants in the particular Colleges was void was not at all warranted.

It is neither the pleaded case of the respondents nor has it been argued before us that any of the appellants was instrumental in his/her placement in the particular college or change of placement from one College to the other. It has also not been suggested that the appellants or any one of them had misled the Director in the matter of his/her placement in the particular college or used undue influence for securing placement in the particular College. Therefore, the appellants could not have been condemned unheard by the State Government and the Director by being denied the bare minimum opportunity to controvert the finding recorded by the District Magistrate and to show cause that there was no valid ground or justification to cancel his/her placement. The Division Bench of the High Court committed serious error by non-suiting them by invoking the proposition laid down in Mohd. Sartaj v. State of U.P. (supra), Ashok Kumar Sonkar v. Union of India (supra) and State of Manipur v. Y.Token Singh (supra).

In administrative law, the 'rules of natural justice' have traditionally been regarded as comprising 'audi alteram partem' and 'nemo judex in causa sua'. The first of these rules requires the maker of a decision to give prior notice of the proposed decision to the persons affected by it and an opportunity to them to make representation. The second rule disqualifies a person from judging a cause if he has direct pecuniary or proprietary interest or might otherwise be biased. The first principle is of great importance because it embraces the rule of fair procedure or due process. Generally speaking, the notion of a fair hearing extends to the right to have notice of the other side's case, the right to bring evidence and the right to argue. This has been used by the Courts for nullifying administrative actions. The premise on which the Courts extended their jurisdiction against the administrative action was that the duty to give every victim a fair hearing was as much a principle of good administration as of good legal procedure. Under the European Convention on Human Rights and Fundamental Freedoms of 1950, it is provided that:

> "In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law."

The rule of audi alteram partem was recognised in R. v. University of Cambridge (1723) 1 Str. 557. In that case, the University of Cambridge had deprived Bentley, a scholar, of his degrees on account of his misconduct in insulting the Vice-Chancellor's Court. The action of the University was nullified by the Court of King's Bench on the ground that deprivation was unjustified and, in any case, he should have been given notice so that he could make his defence. In that case, it was noted that the first hearing in human history was given in the Garden of Eden, in the following words:

> "I remember to have heard it observed by a very learned man upon such an occasion, that even God himself did not pass sentence upon Adam, before he was called upon to make his defence. 'Adam', says God,' where art thou? Hast thou not eaten of the tree, whereof I commanded thee that thou shouldst not eat?' And the same question was put to Eve also."

In Capel v. Child (1832) 2 C&J 558, the Court of Exchequer gave a lucid exposition of the rule of audi alteram partem. That was a case in which a Bishop had appointed a Curate, at the Vicar's expense, to

perform the duties of the Vicar whom the Bishop considered to be negligent. While quashing the action of the Bishop, Bayley, J. said:

> "When the Bishop proceeds on his own knowledge I am of the opinion also that it cannot possibly, and within the meaning of this Act, appear to the satisfaction of the Bishop, and of his knowledge, unless he gives the party an opportunity of being heard, in answer to that which the Bishop states on his own knowledge to be the foundation on which he proceeds."

In Cooper v. Wandsworth Board of Works (1863) 14 CB (NS) 180, the action of the Local Board of Works in demolishing a building raised by a builder was declared to be void for want of hearing. The Board defended its action on the premise that it was purely administrative in character. Erle, CJ. rejected this plea and observed:

> "I think the board ought to have given notice to the plaintiff and to have allowed him to be heard. The default in sending notice to the board of the intention to build, is a default which may be explained. There may be a great many excuses for the apparent default. The party may have intended to conform to the law. He may have actually conformed..... though by accident his notice may have miscarried....I cannot conceive any harm that could happen to the district board from hearing the party before they subjected him to a loss so serious as the demolition of his house; but I can conceive a great many advantages which might arise in the way of public order, in the way of fulfilling the purposes of the statute, by the restriction which we put upon them, that they should hear the party before they inflict upon him such a heavy loss. I fully agree that the legislature intended to give the district board very large powers indeed: but the qualification I speak of is one which has been recognised to the full extent. It has been said that the principle.....is limited to a judicial proceeding, and that a district board ordering a house to be pulled down cannot be said to be doing a judicial act.....I do not quite agree with that; .....I think the appeal clause would evidently indicate that many exercises of the power of a district board would be in the nature of judicial proceedings."

Willes, J. said:

> "I am of the same opinion, I apprehend that a tribunal which is by law invested with power to affect the property of one of Her Majesty's subject, is bound to give such subject an opportunity of being heard before it proceeds: and that the rule is of universal application, and founded on the plainest principles of justice. How, is the board in the present case such a tribunal? I apprehend it clearly is....."

Byles, J. said:

> "It seems to me that the board are wrong whether they acted judicially or ministerially. I conceive they acted judicially, because they had to determine the offence, and they had to apportion the punishment as well as the remedy. That being so, a long course of decisions beginning with Dr. Bentley's case, and ending with some very recent cases, establish that, although there are no positive words in a statute, requiring that the party shall be heard, yet the justice of the common law will supply the omission of the legislature."

The same principles were applied in Smith v. R. (1878) 3 AC 614 involving cancellation of a Crown lease and in Queensland Hall v. Manchester Cpn. (1915) 84 LJ Ch. 732 involving condemnation of a house

in Manchester as unfit for human habitation.

In Board of Education v. Rice (1911) AC 179, the question which arose for consideration before the House of Lords was whether the Board of Education properly determined a dispute between a body of school managers and the local education authority of Swansea. The local authority had refused to pay teachers in church schools at the same rate as teachers in the authority's own schools. The teachers gave notice to leave, and the managers complained that the local authority was failing to keep the schools efficient, as the Education Act required. A public inquiry was held before a barrister who made a report in favour of the managers, but the Board of Education decided in favour of the local authority. The Court of Appeal upheld the award of certiorari and mandamus to quash the decision of the Board of Education. The House of Lords confirmed the decision of the Court of Appeal. Lord Loreburn observed that although the action of the Board of Education might be administrative, in such cases it will have to ascertain the law and also the facts, and even though the Board may not be required to act judicially and was free to obtain information in any manner it liked, what was necessary for it was to give a fair opportunity to those who are parties to the controversy for correcting or contradicting anything prejudicial to their view.

In Errington v. Minister of Health (1935) 1 KB 249, the Jarrow Corporation made a clearance order under the Housing Act, 1930 in respect of an area which included the properties owned by the appellants. This order was objected to by the owners on the ground that the houses in question were fit for human habitation. The Minister held a public inquiry. At the conclusion of the inquiry some more information was sent by the Corporation to the Minister. The owners were not heard thereafter and were not invited to the discussion between the Ministry and the Council representatives. The order was confirmed by the Minister. The Court of Appeal reversed the decision. Greer, L.J. observed:

> "I am satisfied that there was nothing wrong in the Minister receiving those communications from the Council. It was a matter on which the Council were entitled to stress the view that was already implied in the clearance order that they had made in the first instance, but I think it would have been a wise precaution on the part of the Minister when he received those further communications from the Council pressing for the confirmation of the order to communicate those letters or verbal persuasions to the other side, the objectors, and ask whether they had anything further to say on the matter. The Ministry were acting in a quasi-judicial capacity they were doing what a semi-judicial body cannot do, namely, hearing evidence from one side in the absence of the other side, and viewing the property and forming their own views about the property without giving the owners of the property the opportunity of arguing that the views which the Ministry were inclined to take were such as could be readily dealt with by means of repairs and alterations to the buildings."

Similar view was expressed by the House of Lords in Fairmount Investments Ltd. v. Secretary of State for the Environment (1976) 2 All E.R.865.

In Ridge v. Baldwin and others (1964) AC 40, the Chief Constable of Brighton had been tried and acquitted on a criminal charge of conspiracy to obstruct the course of justice. Two other police officers were convicted, and the judge twice took the opportunity to comment adversely on the Chief Constable's leadership of the force. Thereupon the Brighton Watch Committee, without giving any notice or offering any hearing to the Chief Constable, unanimously dismissed him from office. The appeal filed by him was also dismissed. His claim against the dismissal was rejected by the High Court and the Court of Appeal. The House of Lords however reversed the decisions of the High Court and the Court of Appeal. In his judgment, Lord Reid observed:

> "The mere fact that the power affects rights or interests is what makes it 'judicial', and so subject to the procedures

required by natural justice. In other words, a power which affects rights must be exercised 'judicially', i.e. fairly, and the fact that the power is administrative does not make it any the less 'judicial' for this purpose."

In A.G v. Ryan (1980) AC 718, the Privy Council said:

".....the Minister was a person having legal authority to determine a question affecting the rights of individuals. This being so it is a necessary implication that he is required to observe the principles of natural justice when exercising that authority; and if he fails to do so, his purported decision is a nullity."

In R. v. Commission for Racial Equality, LBC (1982) AC 779 Lord Diplock observed:

"Where an Act of Parliament confers upon an administrative body functions which involve its making decisions which affect to their detriment the rights of other persons or curtail their liberty to do as they please, intended that the administrative body should act fairly towards those persons who will be affected by their decisions."

In Chief Constable of North Wales Police v. Evans (1982) 1 WLC 1155, a police probationer was removed by the Chief Constable on account of allegations about his private life but he was not given any fair opportunity to refute the material collected against him. The House of Lords declared the action of the Chief Constable as unlawful.

In R. v. Assistant Metropolitan Police Commissioner (1986) RLR 52, refusal to renew licence of a taxi driver on the ground of an adverse medical report was quashed because the medical report was not disclosed to him.

In Kanda v. Government of Malaya (1962) AC 322, the dismissal of the police officer was declared as void because the adjudicating officer was in possession of a report of inquiry which was not made available to the concerned officer. While holding that the rules of natural justice have been violated, Lord Denning observed:

"If the right to be heard is to be a real right which is worth anything, it must carry with it a right in the accused man to know what evidence has been given and what statements have been made affecting him: and then he must be given a fair opportunity to correct or contradict them."

In Shareef v. Commissioner for Registration of Indian and Pakistani Residents (1966) AC 47, a decision of the Industrial Injuries Commissioner was set aside because he had relied on some report which was not available to the parties and no opportunity was given to them to offer their comment on the report before the decision was taken.

The question whether even in the absence of statutory provisions requiring compliance of natural justice, the Court could invoke those principles was answered in Wiseman v. Borneman (1971) AC 297 in the following words:

"For a long time the courts have, without objection from Parliament, supplemented procedure laid down in legislation where they have found that to be necessary for this purpose. But before this unusual kind of power is exercised it must be clear that the statutory procedure is insufficient to achieve justice and that to require additional steps would not frustrate the

apparent purpose of the legislation."

In Lloyd v. McMohan (1987) 2 WLC 821, Lord Bridge said:

> "In particular, it is well-established that when a statute has conferred on any body the power to make decisions affecting individuals, the courts will not only require the procedure prescribed by the statute to be followed, but will readily imply so much and no more to be introduced by way of additional procedural safeguards as will ensure the attainment of fairness."

In A.K. Kraipak and others. v. Union of India and others AIR 1970 SC 150, this Court declared that the dividing line between administrative power and quasi-judicial power is quite thin and is being gradually obliterated. Speaking for the Bench, K.S. Hegde, J., observed:

> "The dividing line between an administrative power and a quasi-judicial power is quite thin and is being gradually obliterated. For determining whether a power is an administrative power or a quasi-judicial power one has to look to the nature of the power conferred, the person or persons on whom it is conferred, the framework of the law conferring that power, the consequences ensuing from the exercise of that power and the manner in which that power is expected to be exercised. In a welfare State like ours it is inevitable that the organ of the State under our Constitution is regulated and controlled by the rule of law. In a Welfare State like ours it is inevitable that the jurisdiction of the administrative bodies is increasing at a rapid rate. The concept of rule of law would lose its validity if the instrumentalities of the State are not charged with the duty of discharging their functions in a fair and just manner. The requirement of acting judicially in essence is nothing but a requirement to act justly and fairly and not arbitrarily or capriciously. The procedures which are considered inherent in the exercise of a judicial power are merely those which facilitate, if not ensure a just and fair decision. In recent years the concept of quasi-judicial power has been undergoing a radical change. What was considered as an administrative power some years back is now being considered as a quasi-judicial power....."

In State of Orissa v. Dr. (Miss.) Binapani Dei AIR 1967 SC 1269, this Court observed:

> "We think that such an enquiry and decision were contrary to the basic concept of justice and cannot have any value. It is true that the order is administrative in character, but even an administrative order which involves civil consequences as already stated, must be made consistently with the rules of natural justice after informing the first respondent of the case of the State..."

In Sayeedur Rehman v. The State of Bihar and others AIR 1973 SC 239, this Court while considering the challenge to the decision of the Board of Secondary Education, which had reviewed its earlier order granting salary and allowances to the appellant, reversed the order passed by the Patna High Court and held:

"This unwritten right of hearing is fundamental to a just decision by any authority which decides a controversial issue affecting the rights of the rival contestants. This right has its roots in the notion of fair procedure. It draws the attention of the party concerned to the imperative necessity of not overlooking the other side of the case before coming to its decision, for nothing is more likely to conduce to just and right decision than the practice of giving hearing to the affected parties. The omission of express requirement of fair hearing in the rules or other source of power claimed for reconsidering an order is supplied by the rule of justice which is considered as an integral part of our judicial process which also governs quasi-judicial authorities when deciding controversial points affecting rights of parties."

In Sirsi Municipality v. Cecelia Kom Francis Tellis AIR 1973 SC 855, Beg, J., in his concurring judgment quoted with approval the following passage from State of Orissa v. Dr. (Miss.) Binapani Dei (supra):

"The rule that a party to whose prejudice an order is intended to be passed is entitled to a hearing applies a like to judicial tribunals and bodies of persons invested with authority to adjudicate upon matters involving civil consequences. It is one of the fundamental rules of our constitutional set up that every citizen is protected against exercise of arbitrary authority by the State or its officers. Duty to act judicially would, therefore, arise from the very nature of the function intended to be performed; it need not be shown to be super-added. If there is power to decide and determine to the prejudice of a person, duty to act judicially is implicit in the exercise of such power. If the essentials of justice be ignored and an order to the prejudice of a person is made, the order is a nullity. That is a basic concept of the rule of law and importance thereof transcends the significance of a decision in any particular case."

In Smt. Maneka Gandhi v. Union of India and another AIR 1978 SC 597, a seven Judge Bench of this Court held:

"Although there are no positive words in the statute requiring that the party shall be heard, yet the justice of the common law will supply the omission of the legislature. The principle of audi alteram partem, which mandates that no one shall be condemned unheard, is part of the rules of natural justice."

"Natural justice is a great humanising principle intended to invest law with fairness and to secure justice and over the years it has grown into a widely pervasive rule affecting large areas of administrative action. The inquiry must always be: Does fairness in action demand that an opportunity to be heard should be given to the person affected?"

In Mohinder Singh Gill and another v. The Chief Election Commissioner, New Delhi and others AIR 1978 SC 851, a Constitution Bench observed that:

"Fair hearing is a postulate of decision making, cancelling a poll, although a fair abridgment of that process is permissible. It can be fair without the rules of evidence or form of trial.

> It cannot be fair if apprising the affected and appraising the representatives is absent. The philosophy behind natural justice is, in no sense, participatory justice in the process of democratic rule of law. The silence of a statute has no exclusionary effect except where it flows from necessary implication."

In Union of India v. Tulsi Ram Patel AIR 1985 SC 1416, the Constitution Bench, speaking through Madon, J., considered the various facets of the principles of natural justice and application of the same in the context of Article 14 and observed that "the principles of natural justice are not the creation of Article 14 Article 14 is not their begetter but their constitutional guardian. The principles of natural justice apply not only to legislation and State action but also where any tribunal, authority or body of men, not coming within the definition of "State" in Article 12, is charged with the duty of deciding a matter. In such a case, the principles of natural justice require that it must decide such matter fairly and impartially."

In Managing Director, U.P. Warehousing Corporation v. Vijay Narayan Vajpayee AIR 1989 SC 840, this Court examined the issue of applicability of the rules of natural justice in the cases of employment under public bodies and held that even in the absence of statutory rules or regulations, these principles are required to be followed. Speaking for the Court, Sarkaria, J. observed:

> "Even if at the time of dismissal of respondent-employee of U.P. State Warehousing Corporation, the statutory regulations had not been framed or had not come into force, then also, the employment of the respondents was public employment and the statutory body, the employer, could not terminate the services of its employee without due enquiry in accordance with the statutory Regulations, if any in force, or in the absence of such Regulations, in accordance with the rules of natural justice. Such an enquiry into the conduct of a public employee is of a quasi-judicial character. The Court would, therefore, presume the existence of a duty on the part of the dismissing authority to observe the rules of natural justice, and to act in accordance; with the spirit of Regulation 16, which was then on the anvil and came into force shortly after the impugned dismissal. The rules of natural justice in the circumstances of the case, required that the respondent should be given a reasonable opportunity to deny his guilt, to defend himself and to establish his innocence which means and includes an opportunity to cross-examine the witnesses relied upon by the appellate-Corporation and an opportunity to lead evidence in defence of the charge as also a show cause notice for the proposed punishment."

Having noticed the judgments which generally dealt with the scope of the rule of audi alteram partem, we may now advert to two judgments in which question similar to the one raised in these appeals was considered and decided.

In Inderpreet Singh Kahlon v. State of Punjab (2006) 11 SCC 356, a two Judge Bench of this Court considered the question whether the selection and / or appointment to the Punjab Civil Service (Judicial Branch) could be cancelled on the allegations of favoritism and corruption without giving opportunity of hearing to the selected candidates. The appellants in that case had been selected for appointment to the Punjab Civil Service (Judicial Branch). On receipt of the complaints that there were large scale irregularities in the process of selection, the High Court recommended to the State

Government that the entire selection may be cancelled. The State Government accepted the recommendations of the High Court and cancelled the selection. The affected candidates, some of whom had already been appointed against the vacant posts, challenged the decision of the High Court and the State Government. A three Judge Bench of the High Court dismissed the writ petitions. This Court reversed the order of the High Court and held that the selection could not have been cancelled without giving notice and opportunity of hearing to the affected candidates. In his judgment, S.B. Singh, J. extensively referred to the factual matrix of the case and observed:

> "If the services of the appointees who had put in few years of service were terminated, compliance with three principles at the hands of the State was imperative viz. (1) to establish satisfaction in regard to the sufficiency of the materials collected so as to enable the State to arrive at its satisfaction that the selection process was tainted; (2) to determine the question that the illegalities committed go to the root of the matter which vitiate the entire selection process. Such satisfaction as also the sufficiency of materials were required to be gathered by reason of a thorough investigation in a fair and transparent manner; (3) whether the sufficient material present enabled the State to arrive at a satisfaction that the officers in majority have been found to be part of the fraudulent purpose or the system itself was corrupt."

Sinha, J. then referred to the judgments in Union Territory of Chandigarh v. Dilbagh Singh (1993) 1 SCC 154, Krishan Yadav v. State of Haryana (1994) 4 SCC 165, Union of India v. Anand Kumar Pandey (1994) 5 SCC 663, Hanuman Prasad v. Union of India (1996) 10 SCC 742, Union of India v. O. Chakradhar (2002) 3 SCC 146, B.Ramanjini v. State of A.P. (2002) 5 SCC 533, Benny T.D. v. Registrar of Cooperative Societies (1998) 5 SCC 269, Onkar Lal Bajaj v. Union of India (2003) 2 SCC 673, Union of India v. Rajesh P.U., Puthuvalnikathu (2003) 7 SCC 285, and held that the High Court was not correct in rejecting the contention of the appellants that the cancellation of their selection was vitiated due to violation of rules of natural justice.

Dalveer Bhandari, J. partly disagreed with Sinha, J. that the consideration made by the High Court was vitiated due to bias but agreed with him that the rules of natural justice ought to have been followed in the case. Some of the observations made by Bhandari, J are extracted below:

> "Undoubtedly, in the selection process, there have been manipulations and irregularities at the behest of R.S. Sidhu, the then Chairman, Punjab Public Service Commission. On a careful scrutiny of the facts and circumstances of the case, in my considered opinion, the High Court ought to have made a serious endeavour to segregate the tainted from the non-tainted candidates. Though the task was certainly difficult, but by no stretch of imagination, was it an impossible task.
>
> The peculiar facts of this case which need to be highlighted are that some of the candidates have worked for about three years and their services were terminated only on the basis of criminal investigation which was at the initial stage. The termination of their services as a consequence of cancellation of selection would not only prejudice their interests seriously, but would ruin their entire future career.
>
> The facts of this case reveal that the material supplied to the Committee having regard to the fact that majority of the officers named in the FIR belonged to 2001 batch, the respondents not only cancelled the entire selection of 2001 batch, but on the basis of the cancellation of selections of

2001 batch the entire process of 1999 and 2002 selections was also cancelled. It is also relevant to mention that the selection process for the year 1998 was not the subject-matter nor any recommendation had been made by the Committee, even then the selections of this year were also vitiated. The High Court Committee without there being sufficient and adequate material on record recommended cancellation of selections of both the executive and judicial officers and the Full Bench erred in accepting the recommendation and terminating the services of all the officers.

A close scrutiny of the facts of this case clearly reveals that the judicial officers did not get a fair treatment by the High Court. They were not given copies of the report and other material on which reliance was placed and they virtually had no chance of making effective representation before the Committee or any other forum where they could ventilate their grievances and present their point of view.

When the basis of termination is serious allegations of corruption, then it is imperative that the principles of natural justice must be fully complied with.

The High Court has not considered the case in the proper perspective. The consequences of en masse cancellation would carry a big stigma particularly on cancellation of the selections which took place because of serious charges of corruption. The question arises whether for the misdeeds of some candidates, honest and good candidates should also suffer on en masse cancellation leading to termination of their services? Should those honest candidates be compelled to suffer without there being any fault on their part just because the respondents find it difficult to segregate the cases of tainted candidates from the other candidates? The task may be difficult for the respondents, but in my considered view, in the interest of all concerned and particularly in the interest of honest candidates, the State must undertake this task. The unscrupulous candidates should not be allowed to damage the entire system in such a manner where innocent people also suffer great ignominy and stigma.

This Court had an occasion to examine a similar controversy in Onkar Lal Bajaj v. Union of India (2003) 2 SCC 673. In that case, there were serious allegations of political patronage in allotment of retail outlets of petroleum products (LPG distributorships and SKO-LDO dealerships). This Court laid down that how could a large number of candidates against whom there was not even insinuation be clubbed with a handful of those who were said to have been allotted dealerships/distributorships on account of political connection and patronage? This Court clearly stated that the two were clearly unequals. Equal treatment to unequals is nothing but inequality. This is the most important principle which has been laid down in this case by this Court. The Court further observed that to put both the categories, tainted and the rest, on a par is wholly unjustified, arbitrary and unconstitutional, being violative of Article 14 of the Constitution. In somewhat similar circumstances, in this case, the Government, instead of discharging its obligation, unjustly resorted to the cancellation of all the allotments en masse by treating unequals as equals without even prima facie examining their cases. Those officers whose services were affected because of en masse cancellation have not been given an opportunity to represent before the authorities concerned. In Onkar Lal Bajaj there were 413 cases and the task was indeed difficult to segregate the

cases of political connection and patronage with other cases. But, even then, this Court, while setting aside the order of the Government cancelling the allotment, appointed a committee of two retired Judges, one of this Court and another from the Delhi High Court, and they were requested to examine all 413 cases and decide the matter after getting the report from that committee appointed by the Court.

While following the ratio of the said case, in the facts and circumstances of the case, we deem it appropriate to set aside the order of the respondents cancelling the en masse selections and direct the respondents to examine each case separately on its merits and submit a report to this Court."

In Onkar Lal Bajaj v. Union of India (supra), this Court examined the legality of the policy decision taken by the Government to cancel the allotment of retail outlets, dealerships / distributorships of petroleum products. Speaking for the Bench, Sabharwal, J. made the following observations:

"The role model for governance and decision taken thereof should manifest equity, fair play and justice. The cardinal principle of governance in a civilized society based on rule of law not only has to base on transparency but must create an impression that the decision-making was motivated on the consideration of probity. The Government has to rise above the nexus of vested interests and nepotism and eschew window-dressing. The act of governance has to withstand the test of judiciousness and impartiality and avoid arbitrary or capricious actions. Therefore, the principle of governance has to be tested on the touchstone of justice, equity and fair play and if the decision is not based on justice, equity and fair play and has taken into consideration other matters, though on the face of it, the decision may look legitimate but as a matter of fact, the reasons are not based on values but to achieve popular accolade, that decision cannot be allowed to operate.

The mere reason that a "controversy" has been raised by itself cannot clothe the Government with the power to pass such a drastic order which has a devastating effect on a large number of people. In governance, controversies are bound to arise. In a given situation, depending upon facts and figures, it may be legally permissible to resort to such en masse cancellation where the executive finds that prima facie a large number of such selections were tainted and segregation of good and bad would be difficult and a time-consuming affair. That is, however, not the case. Here the controversy raised was in respect of 5 to 10%, as earlier indicated. In such a situation, en masse cancellation would be unjustified and arbitrary. It seems that the impugned order was a result of panic reaction of the Government. No facts and figures were gone into. Without application of mind to any of the relevant considerations, a decision was taken to cancel all allotments. The impugned action is clearly against fair play in action. It cannot be held to be reasonable. It is nothing but arbitrary.

Regarding the probity in governance, fair play in action and larger public interest, except contending that as a result of media exposure, the Government in public interest decided to cancel all allotments, nothing tangible was brought to our notice. On 5-8-2002 the only reason was that "a controversy" had been raised. In the order dated 9-8-2002 the reasons given are that facts and circumstances considered and to ensure fair play in action and in public interest, it was passed. In the counter-

affidavit, the aspect of probity in governance has been brought in. Be that as it may, the fact remains that admittedly, no case was examined, not even from a prima facie angle to find out whether there was any substance in the media exposure. None examined the impact that was likely to result because of en masse cancellation. Many had resigned their jobs. It was necessary because of such a stipulation in LOI. Many had taken huge loans. There were many Scheduled Castes/Scheduled Tribes, war widows and those whose near relation had died as a result of terrorist activities. The effect of none was considered. How could all those large number against whom there was not even insinuation be clubbed with the handful of those who were said to have been allotted these dealerships/distributorships on account of political connection and patronage? The two were clearly unequals. The rotten apples cannot be equated with good apples. Under these circumstances, the plea of probity in governance or fair play in action motivating the impugned action cannot be accepted. The impugned order looked from any angle cannot stand the scrutiny of law.

In our view, the Government should not have exercised the power in a manner so as to enable it to escape the scrutiny of allotments exposed by the media. No arbitrary exercise of power should intervene to prevent the attainment of justice. Instead of passing the impugned order, in the context of the facts of the present case, the Government should have ordered an independent probe of alleged tainted allotments. The impugned order had the twin effect of (1) scuttling the probe, and (2) depriving a large number of others of their livelihood that had been ensured for them after their due selections pursuant to a welfare policy of the Government as contained in the guidelines dated 9-10-2000. The public in general has a right to know the circumstances under which their elected representatives got the outlets and/or dealerships/distributorships."

We shall now advert to the impugned orders. As analysis thereof shows that the High Court had mainly relied upon the fact finding report prepared by the District Magistrate, referred to the provisions of the 1980 Act and held that the appellants' placement in the particular colleges was contrary to law and they were responsible for such placement. The High Court noted that some of the appellants had been placed in the colleges which were not even advertised by the Commission and others were placed against the vacancies notified in earlier years. In the opinion of the High Court, the placement of the appellants was per se illegal and void. However, the record produced before this Court does not show the appellants' direct involvement in their placement in the particular colleges. That apart, the questions whether the appellants' placement in the particular colleges was contrary to the statute and whether their placement was subsequently changed for extraneous considerations could not have been decided without supplying each one of them copy of the inquiry report and without giving him/her an effective opportunity to controvert the findings recorded by the District Magistrate, who had prepared the report by looking at one side of the coin. He did not give opportunity to any of the appellants to represent his/her cause or explain his/her position. Not only this, he did not confront any of the appellants with the adverse material produced before him. Therefore, the report of the District Magistrate could not have been relied upon by the State Government for directing cancellation of the placement of the appellants in the particular Colleges and the Director committed grave illegality by mandating the termination of their services.

The three judgments relied upon by the High Court for rejecting the appellants' contention on the issue of violation of the rule of audi alteram partem are clearly distinguishable. In all the cases, this Court had found that the appointments of the appellants were

contrary to law and the constitutional code of equality. It was also found that the appellants did not fulfil the conditions of eligibility. In the background of the factual matrix of those cases, this Court upheld the action taken by the employer to terminate the services of the appellants. On a factual plane, there is no similarity between the cases of the appellants and those relied upon by the High Court. Therefore, the principle that the Court will not restore an illegal order could not have been invoked by the High Court for defeating the rights acquired by the appellants on the basis of their selection by the Commission.

In the result, the appeals are allowed. The impugned orders are set aside. The termination the appellants' services is declared illegal and quashed. They shall be deemed to be continuing on the posts of Principals, subject to the following riders:

i) If the Management of the particular college has initiated any disciplinary action against any of the appellants for the misconduct committed during the course of service then this order shall not operate as a bar to the taking of final decision in the matter.

ii) The Director shall be free to relocate or change the placement of the appellants in accordance with the relevant statutory provisions and the order passed by this Court shall not operate as an impediment in the taking of appropriate action by the Director.

.....J.
(G.S. SINGHVI)

.....J.
(RANJANA PRAKASH DESAI)

New Delhi;
May 9, 2013.

ITEM NO.34 COURT NO.3 SECTION XI

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).16388/2011

(From the judgement and order dated 20/05/2011 in WP No.59276/2005 of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

MAHIPAL SINGH TOMAR Petitioner(s)

VERSUS

STATE OF U.P.& ORS. Respondent(s)

(With prayer for interim relief and office report)
WITH SLP(C) NO. 16422 of 2011
(With appln.(s) for exemption from filing O.T. and permission to file additional documents and with prayer for interim relief and office report)
SLP(C) NO. 16485 of 2011
(With appln.(s) for permission to file lengthy list of dates and with prayer for interim relief and office report)
SLP(C) NO. 17387 of 2011
(With appln.(s) for directions and permission to place on record subsequent

facts and with prayer for interim relief and office report)
SLP(C) NO. 17410 of 2011
(With appln.(s) for exemption from filing O.T. and permission to file additional documents with prayer for interim relief and office report)
SLP(C) NO. 17415 of 2011
(With appln.(s) for directions and impleadment and with prayer for interim relief and office report)
SLP(C) NO. 17438 of 2011
(With prayer for interim relief and office report)
SLP(C) NO. 17388 of 2011
(With appln.(s) for permission to place on record subsequent facts and with prayer for interim relief and office report)
SLP(C) NO. 20092 of 2011
(With prayer for interim relief and office report)
SLP(C) NO. 20094 of 2011
(With prayer for interim relief and office report)

Date: 09/05/2013 These Petitions were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MRS. JUSTICE RANJANA PRAKASH DESAI

For Petitioner(s) Mr.R.Venkatramani, Sr.Adv.
In SLP(C)16388/11 Mr.Neeraj Kr.Sharma, Adv.
Mr.Vinay Kumar Garg, Adv.
Ms.Neelam Singh, Adv.
Ms.Supriya Garg, Adv.
Ms.Priyanka Dixit, Adv.

In SLP(C)16422/11 Mr.Rakesh Dwivedi, Sr.Adv.
Mr.Devashish Bharuka, Adv.

In SLP(C)16485/11 Mr.S.P.Singh, Sr.Adv.
Ms.T.Anamika, Adv.
Mr.S.K.Bajwa, Adv.

In SLP(C)17410/11, 17415/11 & 17438/11 Mr.P.P.Rao, Sr.Adv.
Mr.Vijay Hansaria, Sr.Adv.
Mr.Ajai Bhalla, Adv.
Ms.Abha R.Sharma, Adv.
Mr.Jitendra Mohan Sharma, Adv.
Mr.Nitin Singh, Adv.

In SLP(C)20092/11 Mr.Ramkishor Singh Yadav, Adv.
Mr.Mahendra Yadav, Adv.
Mr.E.V.Venugopal, Adv.
Mr.Rameshwar Prasad Goyal, Adv.

In SLP(C)17387/11 Ms.Charu Mathur, Adv.

For Respondent(s) Ms.Shobha Dixit, Sr.Adv.
For State of U.P. Mr. M.R. Shamshad, Adv.
Ms.Malvika Trivedi, Adv.
Mr.Shashank, Adv.

For RR No.4 in SLP(C) 16485/11 Mr.Rajiv Dutta, Sr.Adv.
Mr.Pramod Dayal, Adv.
Mr.Nikunj Dayal, Adv.

For RR No.5 in SLP(C)16388/11 Mr.Balraj Dewan, Adv.
Mr.O.N.Sharma, Adv.

In SLP(C)16422/11 Mrs.Jyoti Chahar, Adv.
Mr.Vivek Gupta, Adv.

In SLP(C)17387/11 Mr.Gaurav Jain, Adv.
Ms.Abha Jain, Adv.

In SLP(C)17438/11 Mr.Ameet Singh, Adv.
Mr.Praveen Swarup, Adv.
Mr.Mukul Singh, Adv.

Mr. Pahlad Singh Sharma, Adv.
For Intervenor in Mr.A.S.Pundir, Adv.
SLP(C)17415/11 Mr.Saurabh Trivedi, Adv.

Mr.Vikash Singh, Adv.

UPON hearing counsel the Court made the following

O R D E R

The application for impleadment is allowed.

Leave granted.

The appeals are allowed in terms of the signed order.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master

(Signed order is placed on the file)