

CORRECTED

JITEM NO.301+303

COURT NO.4

SECTION XI

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

Civil Appeal No(s). 4347-4375/2014

STATE OF U.P & ORS

Appellant(s)

VERSUS

SHIV KUMAR PATHAK & ORS

Respondent(s)

WITH

SLP(C) No. 62/2014

(With Interim Relief and Office Report)

SLP(C) No. 1672/2014

(With Interim Relief and Office Report)

SLP(C) No. 1674/2014

(With Office Report)

C.A. No. 4376/2014

(With Interim Relief and Office Report)

S.L.P.(C)...CC No. 10408/2014

(With appln.(s) for impleadment and Office Report)

SLP(C) No. 11671/2014

(With appln.(s) for directions and exemption from filing O.T. and impleadment and de-tagging and Office Report)

SLP(C) No. 11673/2014

(With Office Report)

W.P.(C) No. 135/2015

(With appln.(s) for directions and impleadment and impleadment and directions and Office Report)

W.P.(C) No. 167/2015

(With appln.(s) for permission to appear and argue in person and impleadment and de-tagging and exemption from filing O.T. and impleadment and impleadment and intervention and impleadment and exemption from filing O.T. and impleadment and impleadment and impleadment and impleadment and intervention and directions and Office Report)

CONMT.PET.(C) No. 199/2015 In C.A. No. 4347-4375/2014

(With Office Report)

SLP(C) No. 14386/2015

(With appln.(s) for exemption from filing O.T. and appln.(s) for permission to submit additional document(s) and Interim Relief and Office Report)

CONMT.PET.(C) No. 399/2015 In C.A. No. 4347-4375/2014

(With Interim Relief and Office Report)

W.P.(C) No. 89/2015

(With appln.(s) for permission to place addl. documents on record and appln.(s) for exemption from filing O.T. and appln.(s) for exemption from filing O.T. and Office Report)

S.L.P.(C)...CC No. 21708-21709/2015

(With Office Report)

S.L.P. (C)...CC No(s). 20837/2015
(with appln. (s) for permission to file SLP and interim relief and office report)

S.L.P.(C)...CC No. 20914/2015
(With appln.(s) for permission to file SLP and Interim Relief and Office Report)

S.L.P.(C)...CC No. 20953/2015
(With appln.(s) for permission to file SLP and Interim Relief and Office Report)

S.L.P.(C)...CC No. 20875/2015
(With appln.(s) for permission to file SLP and Interim Relief and Office Report)

SLP(C) No. 32599/2015
(With appln.(s) for impleadment as party respondent and exemption from filing O.T. and Interim Relief and Office Report)

S.L.P.(C)...CC No. 20894/2015
(With appln.(s) for permission to file SLP and Interim Relief and Office Report)

S.L.P.(C)...CC No. 21017/2015
(With appln.(s) for permission to file SLP and Interim Relief and Office Report)

S.L.P.(C)...CC No. 21265/2015
(With appln.(s) for permission to file SLP and Interim Relief and Office Report)

S.L.P.(C)...CC No. 21277/2015
(With appln.(s) for permission to file SLP and Interim Relief and Office Report)

S.L.P.(C)...CC No. 20690/2015
(With appln.(s) for permission to file SLP and Interim Relief and Office Report)

S.L.P.(C) Nos.33328-3339/2015
(With appln.(s) for exemption from filing O.T. and Interim Relief and Office Report)

S.L.P.(C)...CC No. 21052/2015
(With appln.(s) for permission to file SLP and Interim Relief and Office Report)

S.L.P.(C)...CC No. 20651/2015
(With appln.(s) for permission to file SLP and Interim Relief and Office Report)

S.L.P.(C)...CC No. 21118/2015
(With appln.(s) for permission to file SLP and Interim Relief and Office Report)

S.L.P.(C)...CC No. 21184/2015
(With appln.(s) for permission to file SLP and Interim Relief and Office Report)

S.L.P.(C) No. 33235/2015
(With appln.(s) for exemption from filing O.T. and Interim Relief and Office Report)

S.L.P.(C)...CC No. 21085-21089/2015
(With appln.(s) for permission to file SLP and Interim Relief and Office Report)

S.L.P.(C)...CC No. 21376/2015
(With appln.(s) for permission to file SLP and Interim Relief and

Office Report)

S.L.P.(C)...CC No. 21392/2015

(With appln.(s) for permission to file SLP and Interim Relief and Office Report)

S.L.P.(C)...CC No. 21589/2015

(With appln.(s) for permission to file SLP and Interim Relief and Office Report)

S.L.P.(C)...CC No. 21056/2015

(With appln.(s) for permission to file SLP and Interim Relief and Office Report)

S.L.P.(C) No. 34093/2015

(With appln.(s) for permission to file SLP and Interim Relief and Office Report)

Date : 07/12/2015 These appeals were called on for hearing today.

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HON'BLE MR. JUSTICE UDAY UMESH LALIT

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 Mr. D.S. Mishri, Adv.
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CP(C) 199/15

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SLP 14386/15

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CP 399/15

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WP 89/15

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IA No. 309

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 Mr. Vivek Misra, Adv.
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Ms. Veera Gaur, Adv.

UPON hearing the counsel the Court made the following
O R D E R

CA Nos. 4347-4375 and 4376/2014, SLP(C) No. 62, 1672, 1674, 11671 and 11673/2014, SLP (C) No.14386/2015, SLP (C).....CC No. 10408/2014, WP(C) No. 135, 167 and 89/2015 and CONMT.PET.(C) No. 199/2015 In C.A. No. 4347-4375/2014 and CONMT.PET.(C) No. 399/2015 In C.A. No. 4347-4375/2014

On 2.11.2015, after hearing the learned counsel for the parties, this Court noted the stand of Mr. Bhatia which is to the following effect :-

"It is submitted by Mr. Bhatia that keeping in view the order dated 27.07.2015, as against 72825 posts advertised, 43,077 candidates have been appointed, who, after completion of the training till September 2015, are working in praesenti. It is also submitted that 15,058 candidates are undergoing training out of which 8,500 shall be appearing in the examination on 16th and 17th November, 2015 and the rest will be appearing in the examination after completion of their training. In the result around 14,640 posts still remain vacant."

Thereafter a grievance was made with regard to the people obtaining higher percentage not being appointed. The said grievance was taken note of in the following manner :

"At this juncture, number of counsel have raised a grievance that there are number of candidates who have secured more than 70% marks in TET examination in the general category and the lower percentage for other categories as per our earlier order and yet they are not appointed. At this juncture, learned Additional Advocate

General submitted that some of the candidates might not have been appointed as they may not have been qualified otherwise under the NCTE Rules. We do not intend to interpret on the said point, as advised today.

However, the persons who are claiming that they are entitled to the benefit on the basis of the percentage fixed by the earlier order dated 27.07.2015 shall submit their applications/representations before the Secretary, U.P. Basic Education Board (Board), Allahabad within one week hence and the said authority shall constitute a Committee to verify their percentage of marks as well as criteria by which the persons who have already been selected and put the same on the website as well as due intimation be given to the applicants. If there is parity they shall be extended the benefit of our order forthwith. The said exercise shall be completed within three weeks."

Be it stated that on that occasion, four issues were framed to be dealt with at the time of final hearing.

It is submitted by Ms. K. Sharda Devi, learned counsel that the names of the appointees have not yet been put on the website. Mr. Vijay Bahadur Singh, learned Advocate General for the State of U.P. and Mr. Gaurav Bhatia, learned AAG undertake that the same shall be put on the website within a week hence.

At this juncture, we may state that Mr. Bhatia, learned AAG submitted that in pursuance of the direction of this Court on the earlier occasion and prior to that more than 75,000 representations were received and after scanning the same, the State Government has found 12,091 persons eligible for being appointed subject to verification of antecedents. Let the said persons be appointed subject to the said verification within six weeks hence.

At this juncture, Mr. Rakesh Dwivedi, learned senior counsel, Mr. Neeraj Jain, Mr. Siddharth Dave, Mr. Sanjay Hegde, Mr. Vikas Singh, Mr. Anand Nandan, Mr. Arvind Srivastava, Mr. Ajay Jain, Ms. Rachana Shrivastava, Mr. Avnish Singh, Mr. D.K. Tiwary, Mr. Rajiv

Dubey, Ms. S. Janani, Mr. Ashok Kuamr Sharma and Mr. Manoj Prasad learned counsel submit that they represent approximately 1100 people and some arrangement should be made for them. On being asked, Mr. Vijay Bahadur Singh, learned Advocate General submitted that the State has no objection to offer them appointment on *ad hoc* basis subject to result of the special leave petitions. Let that be done within four weeks hence. Needless to say, no right shall accrue in their favour because of this order.

Let the matter be listed for final disposal on 24.02.2016 at 2.00 p.m. The hearing shall continue on 25.02.2016 and 26.02.2016 at the same time.

S.L.P.(C)...CC Nos. 21708-21709, 20837, 20914, 20953, 20875, 20894, 21017, 21265, 21277, 20690, 21052, 20651, 21118, 21184, 21085-21089, 21376, 21392, 21589, 21056/2015 and SLP(C) Nos. 32599, 33328-33339, 33235 and 34093/2015

Permission to file the special leave petitions stands allowed.

Heard Mr. Dushyant Dave, learned senior counsel along with Mr. Gaurav Bhatia, learned counsel for the petitioner.

Issue notice returnable within four weeks.

Dasti, in addition, is permitted.

The State shall make a paper publication which is widely published in the State of Uttar Pradesh so that the persons who were the petitioners before the High Court shall be aware of the pendency of these cases before this Court.

Learned counsel for the State shall file a convenience volume which shall contain all the pleadings that were filed before the High Court in Writ Petition No.34833 of 2014 so that no fresh pleadings are required to be filed.

Let this matter be heard along with Civil Appeal No.4347-4375 of 2014 on 24.02.2016 for final disposal. As indicated by learned

counsel for the petitioners, they will not seek any adjournment.

As an interim measure, there shall be stay of the operation of the impugned judgment till the next date of hearing.

(Gulshan Kumar Arora)
Court Master

(H.S. Parasher)
Court Master