

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)

Signature Not Verified

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

Digitally signed by

Gulshan Kumar Arora

Date: 2015.12.23

(With appln.(s) for permission to place addl. documents on record

15:06:30 IST

Reason:

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)

(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

3

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.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA  
HON'BLE MR. JUSTICE UDAY UMESH LALIT

Amicus Curiae Mr. R. Venkataramani, Sr. Adv.  
Ms. Neelam Singh, Adv.  
Mr. Yesraj Bundela, Adv.  
Ms. V. Vijaylaxmi, Adv.

For Appellant(s) Mr. Maninder Singh, ASG  
Mr. R. Balasubramaniam, Adv.  
Mr. Santosh Kumar, Adv.  
Ms. Pujita, Adv.  
Mr. Nolin Kohli, Adv.  
Mr. B.V. Balram Das, Adv.

Mr. Pallav Sishodia, Sr. Adv.  
Mr. Shivpati B. Pandey, Adv.  
Mr. V.N. Raghupathy, Adv.

Mr. P.N. Misra, Sr. Adv.  
Mr. K.L. Janjani, Adv.  
Mr. Som Raj Choudhury, Adv.  
Mr. Pankaj Kumar Singh, Adv.  
Mr. Amrendra Kumar Singh, Adv.

SLP 1672/14 Mr. Ashok Kumar Sharma, AOR

SLP 1672/14 Mr. Anjani Kumar Mishra, AOR

CA 4376/14 Mr. Rakesh Dwivedi, Sr. Adv.  
Ms. Preetika Dwivedi, Adv.  
Ms. Apoorva Garg, Adv.  
Mr. Garvesh Kabra, AOR

SLP CC 10408/14 Mr. Siddhartha Dave, Adv.  
Mr. R.K. Singh, Adv.

4

Mr. Kumar Gaurav, Adv.  
Mr. B.N. Dubey, Adv.  
Ms. Jemtiben, Adv.  
Mr. Sajith. P, AOR

Mr. Rakesh K. Khanna, Sr. Adv.  
Mr. Rakesh Mishra, Adv.  
Mr. Ankit Mishra, Adv.

SLP 11671/14 Mr. B.P. Singh Dhakray, Adv.  
Mr. Shakti Singh Dhakray, Adv.  
Ms. Vandana S. Bhandari, Adv.  
Ms. Shikha Tyagi, Adv.  
Dr. Kailash Chand, AOR

WP 167/15 Mr. Anand Nandan, Adv.  
Mr. G.P. Shrivastava, Adv.  
Mr. Amit Pawan, AOR  
Mr. Abhishek Amritanshu, Adv.  
Mr. Suryodaya Prakash Tiwari, Adv.  
Mr. Shailendra Kumar, Adv.  
Mr. D.S. Mishri, Adv.  
Mr. Ashish Upadhyay, Adv.

CP(C) 199/15 Mr. Arvind Kumar, Adv.  
Mr. Anupam Mishra, AOR

SLP 14386/15 Mr. Sanjay hegde, Sr. Adv.  
Mr. Anas Tanvir, Adv.  
Ms. Kanishka Prasad, Adv.

Ms. S. Janani, Adv.  
Mr. Deepak Goel, Adv.  
Mr. Sunando Rana, Adv.  
Mr. Vikrant Singh Bais, AOR

CP 399/15 Mr. S.R. Singh, Sr. Adv.  
Mr. Avnish Singh, Adv.  
Mr. Ankur Yadav, Adv.  
Ms. Asha Gopalan Nair, AOR  
Ms. Nivedita Nair, Adv.  
Mr. Abhishek Kumar Pandey, Adv.

WP 89/15 Mr. Nishit Agrawal, Adv.  
Mr. Vipin Kumar Jai, AOR  
Mr. Talha A. Rahman, Adv.

IA 10 in WP 167/15 Ms. Ranjeeta Rohatgi, Adv.  
  
Mr. Gaurav Bhatia, AAG  
Mr. Ankit Mishra, Adv.  
Mr. Utkarsh Jaiswal, Adv.

5

Mr. Gopal Subramaniam Sr. Adv.  
Ms. Mahalakshmi Pawani, Sr. Adv.  
Mr. G. Balaji, AOR  
Ms. Shiva Vijaya Kumar, Adv.

Dr. Abhishek Manu Singhvi, Sr. Adv.  
Mr. R.K. Singh, Adv.  
Mr. Kumar Gaurav, Adv.  
Mr. B.N. Dubey, Adv.,  
Mr. Robin Khokhar, Adv.  
Mr. Tom Joseph, Adv.  
Mr. Sushil Kumar, Adv.  
Mr. Syed Imtiyaz Ali, Adv.  
Mr. Ali Safeer Farooqi, Adv.  
Mr. Rameshwar Prasad Goyal, AOR

Mr. Siddartha Dave, Sr. Adv.  
Mr. R.K. Singh, Adv.  
Mr. Kumar Gaurav Adv.  
Mr. B.N. Dubey, Adv.  
Mr. Robin Khokhar, Adv.  
Mr. Vikas Verma, Adv.  
Mr. Sajith P., Adv.  
Mr. Rameshwar Pd. Goyal, Adv.

Mr. Imtiyaz Ahmed, Adv.  
Mr. Saurabh Arora, Adv.  
Mr. Rameshwar Prasad Goyal, AOR

Mr. Dushyant Dave, Sr. Adv.  
Mr. Vijay Bahadur Singh, Advocate General, UP  
Mr. Irshad Ahmad, AAG  
Mr. M. R. Shamshad, AOR  
Mr. Shashank Singh, Adv.  
Mr. Aditya S., Adv.

Mr. M.N. Krishnamani, Sr. Adv.  
Mr. Sanjay Kumar Tyagi, Adv.

Mr. Ajay Srivastava, Adv.  
Mr. Manoj Prasad Sr. Adv.

Mr. Pradeep Kumar Yadav, Adv.  
Ms. Purvish Jitendra Malkan, Adv.

Mr. V.K. Mishra, Adv.

Mr. K.N. Rai, Adv.

Mr. Jatin Sehgal, Adv.  
Mr. Harish malik, Adv.  
Mr. Adhirath Singh, Adv.  
Mr. Asit Kumar Roy, Adv.

6

Mr. S. Mukherjee, Adv.

Mr. Wills Mathews, Adv.  
Mr. Mukesh Kumar Verma, Adv.  
Ms. Nishoo Kumar Verma, Adv.  
Mr. B.D. Tyagi, Adv.  
Mr. Rabin Majumder, Adv.

Mr. Anurag Dubey, Adv.  
Mr. Meenesh Dubey, Adv.  
Ms. Anu Sawhney, Adv.  
Ms. Indu H., Adv.

Mr. K.K. Venugopal, Sr. Adv.  
Mr. Fuzail Ahmad Ayyubi, AOR  
Mr. Abhishek Srivastava, Adv.  
Mr. Abdul Qadir, Adv.  
Mr. Anas Tanwir, Adv.  
Ms. Kanishka Prasad, Adv.

IA No.309

Mr. J.P. Cama, Sr. Adv.  
Mr. D.P. Rajbhar, Adv.  
Mr. Kiruba Munuswamy, Adv.

Mr. S.P. Singh, Sr. Adv.  
Mr. Keshav Choudhary, Adv.  
Mr. Vivek Misra, Adv.  
Mr. Kundan Lal, Adv.

Mr. Subramoium Prasad, Adv.  
Mr. Manish Khandelwar, Adv.

Mr. Manish Khandelwal, Adv.  
Mr. R. Gopalakrishnan, Adv.

For Respondent(s)

Dr. Kailash Chand, AOR

Dr. Monika Gusain, AOR  
Mr. Hari Om Yaduvanshi, Adv.  
Ms. Geeta Singh, Adv.

Mr. Vikas Singh, Sr. Adv.  
Mr. Prashant Shukla, Adv.  
Mr. Alok Gupta, AOR

Mr. L. Nageshwar Rao, Sr. Adv.  
Mr. Amit Pawan, AOR  
Mr. Shailendra Kumar, Adv.  
Mr. Sunjodey P. Tiwari, Adv.

Mr. Anupam Mishra, AOR

7

Mr. Garvesh Kabra, AOR

Mr. Gopal Singh, AOR

Mr. Ajay Jain, Adv.  
Mr. Jinendra Jain, AOR  
Mr. Abhishek Jain, Adv.  
Ms. Aruna Singh, Adv.

Mr. S.A. Akhtar, Adv.  
Mr. Shashwat Bhardwaj, Adv.

Mr. M.P. Jha, AOR

Mr. Virendra Partap Singh, Adv.  
Mr. Hitesh Kumar Sharma, Adv.  
Mr. Viresh Singh Tripathi, Adv.  
Mr. P.N. Ramalingam, AOR

Mr. Rajiv Ranjan Dwivedi, AOR  
Mr. Ashish Singh, Adv.

Mr. Rameshwar Prasad Goyal, AOR

Mr. Rohit Singh, AOR

Mr. Dinesh Kr. Tiwary, Adv.  
Ms. Jaya Kumari, Adv.  
Mr. Santosh Kumar Tripathi, AOR

IA 300 in CA 4347/14 Mr. Mr. Neeraj Jain, Sr. Adv.  
Mr. Jayant Mehta, Adv.  
Mr. Sushil Tomar, Adv.  
Ms. Abha R. Sharma, AOR

Mr. Shree Pal Singh, AOR

Mrs. K. Sarada Devi, AOR

Mr. Yugal Kishor Prasad, Adv.  
Mr. Varinder Kumar Sharma, AOR

Mr. Kartik Prasad, Adv.  
Mr. Vikrant Singh Bais, AOR

Mr. Vishwa Pal Singh, AOR

Ms. Meenakshi Lekhi, Adv.  
Mr. Vijendra Kasana, Adv.  
Mr. Gaurav Yadava, Adv.  
Mr. Vivek Singh, Adv.

Mr. Vikas Singh, Sr. Adv.

8

Mr. Brijender Chahar, Sr. Adv.  
Mr. Prashant Shukla, Adv.  
Mr. Alok Gupta, Adv.  
Ms. Abha R. Sharma, AOR

Ms. Rachana Srivastava, AOR

Mr. Rana Mukherji, Sr. Adv.  
Mr. Ashok Kumar Roopanwal, Sr. Adv.  
Mr. Ankit Roopanwal, Adv.  
Mr. Prashant Shukla, Adv.  
Mr. Man Bahadur Singh, Adv.  
Mr. Jayant Mehta, Adv.  
Mr. Prashant Shukla, Adv.  
Mr. Satyajeet Kumar, AOR

Mr. M.R. Shamshad, AOR  
Mr. Syed Imtiyaz Ali, Adv.  
Mr. Shashank Singh, Adv.  
Mr. Rajat Singh, Adv.

Mr. Sibho Sankar Mishra, AOR

Mr. V.N. Raghupathy, Adv.

Mr. Amit Sibal, Sr. Adv.  
Mr. Tahir Ashraf Siddiqui, Adv.  
Mr. Abhishek Srivastav, Adv.  
Mr. M.L. Sharma, Adv.

Mr. Praveen Kumar Rai, Adv.  
Mr. Durga Prasad Shukla, Adv.  
Mr. Hemal Kiritkumar Sheth, Adv.

Mr. Parag P. Tripathi, Sr. Adv.  
Mr. Ajay Srivastava, Adv.

Mr. K.C. Vishwakarma, Adv.  
Dr. Vinod Tiwari, Adv.

Ms. Nidhi Singh, Adv.  
Mr. Anirudh Tanwar, Adv.  
Ms. Shefali Jain, Adv.  
Ms. Shourya, Adv.

Dr. B.K. Jauhari, Adv.  
Ms. Purnima Jauhari, Adv.

Mr. Yash Pal Dhingra, AOR.

Ms. Mahalakshmi Pavani, Sr. Adv.  
9

Mr. G. Balaji, Adv.  
Ms. S.V. Ankit, Adv.  
Ms. Arti Gupta, Adv.

Mr. Wills Mathews, Adv.  
Mr. Mukesh Kumar Verma, Adv.  
Ms. Nishoo Singh, Adv.  
Mr. Rabin Majumdar, Adv.

Mr. Satya Mitra Garg, AOR

Mr. R.P. Wadhvani, AOR

Ms. Manju Jetley, AOR

Mr. Anand Nandan, Adv.  
Mr. Amit Pawan, AOR  
Mr. Dhruv Mishra, Adv.

Mr. Pradeep Kant, Sr. Adv.  
Mr. Prashant Bhushan, Sr. Adv.  
Mr. Praveen Kumar Rai, Adv.  
Mr. Hemal Kiritkumar Sheth, Adv.  
Mr. Durga P Shukla, Adv.

Mr. R.P. Wadhvani, Adv.

Mr. Shiv Mangal Sharma, Adv.  
Mr. Nishit Agrawal, Adv.  
Mr. T.A. Rahman, Adv.  
M/s Aura & Co., Adv.

Mr. Satyajeet Kumar, AOR

Mr. Arvind Srivastava, Adv.  
Mr. Anupam Mishra, Adv.

Mr. Rajesh Shrivastava, Adv.

Mr. Raghvendra Pratap Adv.  
Ms. Suresh Kumari, Adv.

Mr. Rajeev Dubey, Adv.  
Mr. Kamlendra Mishra, Adv.

Ms. Asha Upadhyay, Adv.  
Mr. Rati Raj Yadav, Adv.  
Mr. J.P. Tripathi, Adv.  
Mr. G.G. Upadhyay, Adv.  
Mr. R.D. Upadhyay, Adv.

Mr. H.R. Khan SS., Adv.  
Mr. Mohd. Naved Khan, Adv.

10

Mr. Rajesh Pandey, Adv.

Ms. Reena Singh, Adv.  
Mr. Ashish Malik, Adv.  
Ms. Saumya, Adv.

Mr. Gaurav Sharma, Adv.  
Mr. Prateek Bhatia, Adv.  
Mr. Dhawal Mohan, Adv.  
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

11

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

12

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

13

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