



2026 INSC 902

REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO(s). 238 OF 2026

(@ SPECIAL LEAVE PETITION (CIVIL) NO. 23061 of 2025)

SHAILENDRA KUMAR PATEL ...APPELLANT(S)

VERSUS

STATE OF CHHATTISGARH & ORS. ...RESPONDENT(S)

WITH

CONMT. PET. (C) NO. 765/2025

IN

SLP (C) NO. 22648/2025

SHAILENDRA KUMAR PATEL ...CONTEMPT PETITIONER

VERSUS

**DR. S. BHARATHI DASAN. ...CONTEMNORS/
RESPONDENT (S)**

J U D G M E N T

NONGMEIKAPAM KOTISWAR SINGH, J.

INTRODUCTION

1. Leave granted. The present appeal raises important questions concerning the interplay between the constitutional exercise of power by Public Service Commissions and the ultimate discretion of appointing authorities to appoint an individual. This appeal thus invites this Court to delineate the contours of their respective powers within the constitutional architecture governing public employment.

2. In this case, this Court is called upon to determine whether a candidate selected and recommended by the Chhattisgarh Public Service Commission (for short, “**Commission**”) acquires an indefeasible right to appointment and whether the State Government, prior to the issuance of a final appointment order, retains the authority to verify and reassess the candidate's eligibility after being found eligible and recommended by the Commission. Equally, this Court must examine whether the inquiry committee constituted by the State to reassess the eligibility of a recommended

candidate acted within the confines of the governing statutory framework and whether the conclusions arrived at by it can withstand judicial scrutiny.

3. The present proceedings arise from the judgment and order dated 17.06.2025 passed by the Division Bench of the High Court of Chhattisgarh at Bilaspur in Writ Appeal No. 360 of 2025, affirming the common judgment and order dated 22.05.2025 rendered by the learned Single Judge in WPS No. 8005 of 2022 and WPS No. 7350 of 2023. The writ petitions were instituted by the Appellant challenging, firstly, the order dated 31.10.2022 issued by the State Government that declared him ineligible for appointment to the post of Registrar despite his selection and recommendation by the Commission, and secondly, the order dated 31.08.2023 posting him to the office of the Commissioner, Higher Education Department, instead of appointing him as a Registrar in a State University.

4. The Division Bench, concurring with the view taken by the learned Single Judge, upheld the authority of the State

Government to reassess the Appellant's eligibility prior to the issuance of the final appointment order and declined to interfere with the conclusions recorded by the inquiry committee constituted by the State Government for that purpose. Aggrieved by the concurrent findings of the High Court and contending that the State lacked jurisdiction to revisit the issue of eligibility after he was found eligible and selected by the Commission, the Appellant has approached this Court by way of the present appeal.

5. The Appellant participated in a recruitment process conducted by the Commission pursuant to a public advertisement dated 09.02.2021 for appointment to the posts of Registrar in the State Universities of Chhattisgarh. The Commission, with the help of subject experts, scrutinised his qualifications and experience, and, finding him eligible and meritorious, selected and recommended him for appointment to the post of Registrar under the OBC category.

6. According to the Appellant, having been declared eligible by the constitutional selection body and having subsequently

also been found suitable by the Departmental Promotion Committee for promotion to the same post, the State Government lacked the authority to reopen and redetermine the issue of his eligibility. The Appellant further contends that the State's inquiry into his eligibility exceeded the limited scope of document verification contemplated by the applicable rules and earlier orders of the High Court, and that the subsequent decision declaring him ineligible and posting him outside the State university administration was arbitrary, contrary to the statutory scheme governing the post of Registrar, and violative of Articles 14 and 16 of the Constitution.

7. Per contra, the Respondents contend that the mere inclusion of a candidate's name in the select list or recommendation by the Commission does not confer an indefeasible right to appointment. They contend that the Appointing Authority remains duty-bound to satisfy itself regarding a selected candidate's eligibility before issuing the final appointment order, particularly where the Commission's

recommendation is expressly made subject to verification of original documents and satisfaction regarding eligibility. According to the Respondents, upon scrutiny of the materials placed on record and the report submitted by the committee constituted for that purpose, it was found that the Appellant did not fulfil the prescribed experience requirement under the advertisement and the applicable service rules.

8. Thus, the resolution of this controversy necessitates a careful assessment of two equally significant considerations: on the one hand, the autonomy and institutional primacy accorded to the Public Service Commission in matters of selection and on the other, the responsibility of the appointing authority to ensure that appointments to public posts are made strictly in conformity with the governing statutory framework and only eligible persons are appointed to public posts.

9. Before examining the rival submissions advanced on behalf of the parties, it would be apposite to recapitulate, in

some detail, the factual background out of which the present proceedings have arisen.

FACTUAL BACKGROUND

10. The present controversy started with the process for filling the post of Registrar in the State Universities of Chhattisgarh. The Appellant, Dr. Shailendra Kumar Patel, has been serving under the Chhattisgarh State Universities Service and was appointed as a Deputy Registrar on 26.02.2016. Before joining the University Service, the Appellant gained teaching and academic administrative experience in higher educational institutions. According to the Appellant, he had worked as an Assistant Professor in various colleges between 2013-2016.

11. On 09.02.2021, the Commission issued an advertisement inviting applications for direct recruitment to three posts of Registrar in the State Universities of Chhattisgarh, comprising one post each for the Unreserved, Scheduled Caste and Other Backward Classes categories. The

advertisement stipulated the essential qualifications and experience requirements under Schedule II of the Chhattisgarh State Universities Service Rules, 1983 (for short, **“Service Rules, 1983”**). The Appellant submitted his candidature under the OBC category, asserting that he satisfied the prescribed eligibility conditions.

12. After the Commission and the subject experts associated with the selection process scrutinised the applications and verified eligibility, and being satisfied with his eligibility, the Appellant was permitted to participate in the recruitment process, which included a written exam and interviews. Upon completion of the selection process, the Appellant was declared successful and secured the first position in the OBC category in the final select list published by the Commission on 30.09.2021. Thereafter, by communication dated 07.10.2021, the Commission forwarded its recommendation to the State Government for issuance of appointment orders. The recommendation stipulated that before issuing the appointment letter, the appointing

authority was required to verify original documents and satisfy itself regarding eligibility for the post.

13. Despite the Appellant's selection and recommendation by the Commission, no appointment order was issued in his favour. The Appellant submitted representations to the competent authorities seeking issuance of the appointment order.

14. In the meantime, a Departmental Promotion Committee was convened on 10.03.2022 for considering promotion of persons from the post of Deputy Registrar to that of Registrar, wherein the Appellant was also found suitable for promotion. However, owing to alleged non-availability of vacancies, no recommendation for his promotion was made. Pending regular appointment, the Appellant was entrusted with the additional charge of Registrar, Pt. Ravishankar Shukla University, Raipur, by order dated 25.05.2022, and he began to discharge the functions attached to the said office.

15. Aggrieved by the inaction of the State Government in issuing the appointment order despite his selection and

recommendation by the Commission, the Appellant approached the High Court of Chhattisgarh by filing WPS No. 780 of 2022. By order dated 29.08.2022, the learned Single Judge directed the State Government to issue the appointment order in favour of the Appellant within a period of four weeks.

16. Instead of issuing the appointment order in compliance with the aforesaid direction, the State Government undertook an exercise to verify the Appellant's eligibility and constituted a committee for examining the issue. Relying upon the report submitted by the said committee, the State Government, by order dated 31.10.2022, declared the Appellant ineligible for appointment to the post of Registrar on the ground that he did not possess the requisite experience prescribed under the advertisement and governing rules.

17. Challenging the order dated 31.10.2022 declaring him ineligible, the Appellant instituted another writ petition, WPS No. 8005 of 2022, before the High Court. The High Court, by order dated 17.11.2022, directed that any appointment

made to the post of Registrar during the pendency of the proceedings shall abide by the final outcome of the writ petition.

18. In the meantime, the Respondent-State instituted Review Petition No. 11 of 2023, while the Appellant initiated Contempt Case No. 1 of 2023 alleging non-compliance with the direction issued by the High Court for issuance of the appointment order. By a common order dated 31.03.2023 passed in the aforementioned review and contempt proceedings, the High Court, without expressing any opinion on the maintainability of the writ petition, directed the Respondents to issue a provisional appointment order in favour of the Appellant within a period of ten days. The High Court further granted liberty to the Respondent-State to conduct an inquiry, if considered necessary, for verification of the documents submitted by the Appellant while participating in the selection process for appointment to the post of Registrar. The matters were thereafter directed to be listed on 17.04.2023.

19. Pursuant thereto, the State Government issued a provisional appointment order dated 10.04.2023 appointing the Appellant to the post of Registrar. Significantly, however, the order did not specify any place of posting, thereby preventing the Appellant from assuming charge as a Registrar in any State University. The review petition and contempt proceedings were subsequently disposed of on 17.04.2023 after noting the issuance of the provisional appointment order.

20. Despite repeated representations seeking a posting order in a State University so as to enable him to assume charge as Registrar, no such posting order was issued by the Respondent-State. Consequently, the Appellant moved an application in the pending writ proceedings WPS No. 8005/2022, seeking appropriate directions for his posting in accordance with law. The High Court, by order dated 01.09.2023, expressed concern over the continued failure of the Respondents to assign a place of posting to the Appellant despite issuance of the provisional appointment order.

21. Thereafter, instead of posting the Appellant against any available vacancy in the cadre of Registrar in the State Universities, the Respondent-State, by order dated 31.08.2023, posted him on a temporary basis (till further orders) in the office of the Commissioner, Higher Education Department.

22. The Appellant, by representation dated 04.09.2023, informed the Respondent-State that vacancies to the post of Registrar continued to exist in various State Universities, including those at Raigarh, Bilaspur, Bastar and Raipur. He reiterated his request for posting against a regular vacancy of Registrar in accordance with the provisions of the Chhattisgarh Vishwavidyalaya Adhiniyam, 1973 (for short **“1973 Adhiniyam”**) and the Service Rules, 1983.

23. Aggrieved by the order dated 31.08.2023 posting him to the office of the Commissioner, Higher Education Department, and the continued failure of the Respondent-State to assign him a place of posting as Registrar in any State University, the Appellant instituted a fresh writ proceeding by

filing WPS No. 7350 of 2023 before the High Court. The Appellant sought quashing of the order dated 31.08.2023 and a direction for his posting against a regular vacancy of Registrar in a State University established under the 1973 Adhiniyam. The Appellant also challenged the inquiry report and subsequent orders that declared him ineligible for appointment. During the pendency of the writ petition, the High Court, by interim order dated 19.09.2023, directed the parties to maintain status quo and further called upon the State to explain the source of power under which a person appointed as Registrar could be attached to the Secretariat or the office of the Commissioner, particularly when the Registrar is an officer of the University under the 1973 Adhiniyam.

24. The Respondents placed reliance upon the recommendation letter dated 07.10.2021, forwarded by the Commission, contending that the recommendation was expressly made subject to verification of original documents and satisfaction regarding the eligibility of the selected

candidates before issuance of the appointment order. The Respondents referred to the report dated 28.06.2023 submitted by a committee constituted by the Higher Education Department pursuant to the liberty granted by the High Court in the review and contempt proceedings. The committee, comprising of three senior postgraduate principals of government colleges, had examined the Appellant's service particulars, Academic Grade Pay progression and teaching experience and ultimately concluded that he did not possess the requisite period of experience in the prescribed Academic Grade Pay scales to qualify for appointment as Registrar. Proceeding on the basis of the said report, the Respondents maintained that the Appellant's candidature had rightly been treated as invalid and that no enforceable right to appointment accrued in his favour. It was further asserted that the order dated 10.04.2023 was merely a provisional appointment order issued in compliance with the directions of the High Court and that the posting of the Appellant to the office of the Commissioner, Higher Education Department was

only a temporary arrangement pending completion of the scrutiny process. It was also brought on record that a separate writ petition, being WPS No. 2874 of 2023, had been instituted by one Dr. Naresh Kant Chandan challenging the provisional appointment order issued in favour of the Appellant and that the said proceedings were pending consideration before the High Court.

25. The materials placed on record further disclose that following submission of the committee report dated 28.06.2023, the Appellant sought a detailed clarification vide letter dated 04.03.2024, thereby disputing the conclusions recorded in the said report. The Appellant asserted, inter alia, that while computing his experience, the committee had failed to take into account the period of service rendered by him as Deputy Registrar after his appointment through direct recruitment in March 2016.

26. Significantly, during the pendency of the proceedings, the Respondent-State sought clarification from the Commission regarding the Appellant's eligibility. In response,

the Commission, by communication dated 28.03.2024, stated that prior to the interview, the educational qualifications and experience of the candidates had been scrutinized by subject experts and only those found eligible were permitted to participate in the interview process and that, upon completion of the selection process, the names of the selected candidates, including that of the Appellant, had been recommended to the Higher Education Department by communication dated 07.10.2021 for further action regarding appointment. The Commission noted that no action remained pending at its level and that matters relating to issuance of appointment orders fell within the domain of the Department. The Commission accordingly reaffirmed the determination of eligibility made during the recruitment process.

27. By a common judgment and order dated 22.05.2025, the learned Single Judge dismissed WPS No. 8005 of 2022 and WPS No. 7350 of 2023, thereby upholding the authority of the Respondent-State to verify the Appellant's eligibility before issuance of the final appointment order and concluded that

the Appellant did not possess the requisite experience prescribed for appointment to the post of Registrar under the applicable statutory framework. Relying upon the decisions of this Court in ***Commissioner of Police v. Umesh Kumar, (2020) 10 SCC 448*** and ***Tej Prakash Pathak v. Rajasthan High Court, (2025) 2 SCC 1***, the learned Single Judge held that mere selection does not confer an indefeasible right to appointment and that a selected candidate may be denied appointment if found ineligible upon verification. Consequently, the challenge to the order declaring the Appellant ineligible as well as to the order posting him to the office of the Commissioner, Higher Education Department came to be rejected.

28. Following the dismissal of the writ petitions, the Respondent-State, by order dated 28.05.2025, relieved the Appellant from the post of Deputy Registrar and directed him to report to the Directorate of Higher Education, Indravati Bhawan, Nava Raipur. It was also indicated that departmental proceedings were proposed to be initiated against him.

29. Aggrieved by the judgment of the learned Single Judge, the Appellant preferred Writ Appeal No. 360 of 2025 before the Division Bench of the High Court on 29.05.2025. The Division Bench admitted the appeal on 03.06.2025 and, as an interim measure, directed the parties to maintain status quo in respect of one post of Registrar in the State Universities pending adjudication of the appeal.

30. However, by judgment and order dated 17.06.2025, the Division Bench dismissed Writ Appeal No. 360 of 2025 and affirmed the findings recorded by the learned Single Judge. The Division Bench held that the Respondent-State was competent to scrutinise the Appellant's eligibility after his selection by the Commission. Taking note of the report of the committee constituted after the orders passed in the review and contempt proceedings, the Division Bench accepted the conclusion that the Appellant did not possess the requisite eligibility for appointment as Registrar under the Service Rules, 1983. Thus, the Division Bench held that no illegality had been committed in declining to post the Appellant as

Registrar and in assigning him duties in the office of the Commissioner, Higher Education Department. Reiterating the settled principle that selection by itself does not confer an indefeasible right to appointment, the Division Bench found no ground warranting interference with the judgment of the learned Single Judge.

31. Aggrieved by the concurrent judgments of the High Court, the Appellant has approached this Court by way of the present appeal, raising questions concerning the extent of finality attaching to the determination of eligibility by the Public Service Commission, scope of post-selection verification by the Appointing Authority, legality of the inquiry committee's report, and permissibility of posting a selected candidate to a post other than the one for which recruitment was conducted.

32. While issuing notice on 25.08.2025, this Court directed that the status of the parties as existing prior to the passing of the impugned judgment shall continue during the pendency of the present proceedings.

33. It is further brought on record that during the pendency of the present appeal, the Appellant instituted Contempt Petition (C) No. 765 of 2025 alleging wilful disobedience of the order dated 25.08.2025 passed by this Court. According to the Appellant, despite the direction requiring maintenance of the status prevailing prior to the impugned judgment, he was not permitted to resume his duties in the capacity of Deputy Registrar in which he had been functioning before the impugned judgment came to be passed. The said contempt proceedings remain pending consideration and are taken up along with the present Appeal.

SUBMISSIONS ON BEHALF OF THE APPELLANT

- 34.** It has been submitted on behalf of the Appellant that:
- i. That the Respondent-State acted wholly without jurisdiction in reopening and re-examining the issue of the Appellant's eligibility after he had been declared eligible and selected by the Commission. It is contended that Rule 10 of the Service Rules, 1983 accords finality to the determination of eligibility made by the Commission and, therefore, once the

Commission found the Appellant eligible and recommended him for appointment, it was not open to the Respondent-State to undertake a fresh inquiry into the very same issue. Reliance is placed on the principle that where a statute prescribes a particular manner for doing an act, it must be done in that manner alone and in no other manner [***Patna Improvement Trust v. Smt. Lakshmi Devi*, AIR 1963 SC 1077; *Tata Chemicals Ltd. v. Commissioner of Customs (Preventive), Jamnagar*, (2015) 11 SCC 628**].

ii. That the Appellant's eligibility had repeatedly been affirmed by competent expert bodies, including the Commission at the stage of direct recruitment and the Departmental Promotion Committee while considering his promotion. Reliance was also placed upon the communication dated 28.03.2024 issued by the Commission reiterating that the Appellant's qualifications and experience had been duly scrutinized by subject experts and found to be in conformity with the prescribed eligibility criteria. According to the Appellant, such consistent expert determination could not have been displaced by a committee constituted by the Respondent-State.

iii. That the liberty granted by the High Court in the review and contempt proceedings was confined only to verification of the authenticity and correctness of the documents submitted by the Appellant and did not authorize a *de-novo* examination of his eligibility. It is contended that the order dated 31.03.2023 permitting verification of documents was subsequently merged in the final order dated 17.04.2023 whereby the review petition was dismissed and the earlier direction requiring issuance of the appointment order was effectively affirmed. According to the Appellant, the Respondent-State could not rely upon the said order to constitute a committee for reassessing an issue that had already attained finality.

iv. That the Respondent-State is precluded from reopening the issue of eligibility in view of the earlier writ proceedings in WPS No. 780/2022 culminating in the order dated 29.08.2022 directing issuance of the appointment order and the subsequent withdrawal of Writ Appeal No. 613 of 2022 preferred against the said order. Thus, the impugned action is contrary to settled principles of judicial discipline and finality of litigation.

v. That the finding regarding the Appellant's ineligibility is factually unsustainable and contrary to the material on record. The committee constituted by the Respondent-State arbitrarily excluded substantial portions of the Appellant's teaching and administrative experience, including his service as Deputy Registrar, while reassessing his eligibility and upon a proper application of the Government Notification dated 30.03.2010 revising pay scales and corresponding Academic Grade Pay (AGP) structures, the Appellant's pre-revised pay scale of ₹12,000–18,300 which clearly corresponded to AGP ₹8,000, thereby giving him more than the minimum eight years' experience prescribed under the advertisement. It was submitted that the State's assertion that the Appellant did not possess the requisite AGP of ₹6,000/₹8,000 is contrary to the applicable pay revision notification, service records and experience certificates.

vi. That the Respondent-State adopted inconsistent standards while assessing eligibility, inasmuch as similarly situated candidates were found eligible and appointed as Registrars whereas the Appellant alone was denied appointment. Particular reliance was placed on the appointment of one Rajesh Lalwani,

whose experience in a lower pay scale was treated as equivalent to AGP ₹7,000, while the Appellant's higher pay scale corresponding to AGP ₹8,000 was disregarded. It was contended that such unequal treatment is arbitrary and violative of Articles 14 and 16 of the Constitution. Reliance was placed upon the decisions of the High Court in **Anoop Mishra v. State of Chhattisgarh, 2015 SCC OnLine Chh 1707**, and of this Court in **Shankarsan Dash v. Union of India, (1991) 3 SCC 47** and **Manoj Manu v. Union of India, (2013) 12 SCC 171**, to contend that while a selected candidate may not possess an indefeasible right to appointment, appointment cannot be denied on arbitrary, discriminatory or irrational grounds, particularly when the Appellant had already been issued a provisional appointment order pursuant to judicial directions.

vii. That once a candidate has been duly selected through a lawful recruitment process, any decision denying appointment must be justified by the State on the basis of cogent, rational and legally sustainable reasons. According to learned counsel, the burden lay upon the Respondent-State to justify its decision not to appoint the Appellant despite his selection and the issuance of a provisional

appointment order. It was argued that the Respondent-State has failed to discharge this burden.

viii. It is thus submitted that the Respondent-State has, through successive administrative actions, frustrated the implementation of judicial directions issued in favour of the Appellant and denied him the benefits of appointment despite his selection by the Commission and the issuance of a provisional appointment order.

ix. It is accordingly urged that the impugned judgments of the learned Single Judge and the Division Bench be set aside and appropriate directions be issued for posting the Appellant as Registrar in a State University.

SUBMISSIONS ON BEHALF OF RESPONDENT NOS. 1 TO 3

35. *Per contra*, following submissions were made on behalf of the Respondents:

- i. That the Appellant did not fulfil the eligibility criteria prescribed for appointment to the post of Registrar under the advertisement dated 09.02.2021 and the applicable statutory framework. Upon verification of the Appellant's credentials, it was

revealed that he lacked the requisite teaching and administrative experience prescribed for the post, as also concluded in the report dated 28.06.2023 submitted by the inquiry committee constituted by the Higher Education Department.

ii. That the recommendation made by the Commission did not confer any vested right to appointment upon the Appellant. Reliance is placed on the communication dated 07.10.2021, whereby the Commission expressly stipulated that appointment could be made only after verification of documents and satisfaction regarding eligibility. It is therefore submitted that the Appointing Authority was competent to independently verify the Appellant's eligibility before issuance of the final appointment order.

iii. That neither the order dated 29.08.2022 passed in WPS No. 780 of 2022 nor the subsequent withdrawal of Writ Appeal No. 613 of 2022 foreclosed the Respondent-State from examining the Appellant's eligibility. The order dated 31.03.2023 passed in Review Petition No. 11 of 2023 and Contempt Case No. 1 of 2023 expressly permitted the State to conduct an inquiry and verify the documents the Appellant submitted while participating in the selection process. The inquiry subsequently undertaken by the State is

therefore stated to be within the scope of the liberty granted by the High Court.

iv. That it is a settled principle of service jurisprudence that mere inclusion of a candidate's name in a select list does not confer an indefeasible right to appointment. Even after selection, appointment may legitimately be denied if the selected candidate is found not to fulfil the prescribed eligibility conditions. Reliance is placed upon the decisions of this Court in ***Punjab State Electricity Board v. Malkiat Singh, (2005) 9 SCC 22*** and ***Tej Prakash Pathak*** (supra).

v. Defending the posting order dated 31.08.2023, learned counsel submits that the Appellant's placement in the office of the Commissioner, Higher Education Department was an administrative arrangement made in exercise of the executive powers of the State under Article 162 of the Constitution.

vi. That the Appellant cannot claim parity with other candidates, including Rajesh Lalwani, since each candidature was assessed independently on its own merits. It is therefore submitted that no case of discrimination is made out.

vii. On the aforesaid grounds, it is submitted that the learned Single Judge and the Division Bench rightly

upheld the action of the Respondent-State and that the present appeal deserves to be dismissed.

36. Before proceeding further, it may be noticed that vide order dated 08.01.2026, this Court allowed I.A. No. 285031 of 2025 filed by Shri Naresh Kant Chandan seeking intervention in the present proceedings. The intervenor claims to be a candidate placed in the supplementary/waiting list prepared pursuant to the recruitment process for the post of Registrar and asserts a consequential interest in the event the Appellant's candidature is held to be invalid. Learned counsel appearing for the intervenor was accordingly heard, who supported the impugned judgment as well as the stand taken by the Respondent-State.

ISSUES FOR CONSIDERATION

37. In the backdrop of the above, the following questions arise for consideration before this Court:

- i. Whether a candidate selected and recommended by the Commission acquires an indefeasible right to

appointment merely by virtue of such selection and recommendation?

ii. Whether, notwithstanding the recommendation made by the Commission, the Respondent-State, as the Appointing Authority, was competent to verify and reassess the Appellant's eligibility prior to issuance of the final appointment order, particularly in view of the stipulation contained in the Commission's communication dated 07.10.2021?

iii. Whether the Appellant fulfils the teaching criteria and whether the findings of the committee as to the eligibility of the Appellant are otherwise legally sustainable?

ANALYSIS & FINDINGS

ISSUE NO. I: *Whether selection by the Chhattisgarh Public Service Commission conferred an indefeasible right to appointment upon the Appellant?*

PROCESS OF RECOMMENDATION MADE BY A PUBLIC SERVICE COMMISSION:

38. This issue requires an examination of the Commission's constitutional and legal position vis-à-vis the

Appointing Authority. Ordinarily, the Appointing Authority is vested with the right and authority to decide on appointment at all stages of any appointment, be it the advertisement, the selection process or the final appointment, as it is involved directly or indirectly in all these stages of appointment.

39. In our country, the Founding Fathers of the Indian Constitution, relying on the experience of other countries with democratic institutions, intended to secure an efficient civil service based on the rule of law. This is the genesis for setting up autonomous and independent bodies like the Public Service Commission at the Centre and in the States under Article 315 of the Constitution. The values of independence, impartiality and integrity are the basic determinants of the constitutional conception of Public Service Commissions and their role and functions. It was felt that for the efficient functioning of a democracy, it is imperative that the Public Service Commissions are manned by people of the highest skill and irreproachable integrity, so that the selections to various public posts can be immunised from all sorts of

extraneous factors like political pressure or personal favouritism and are made solely on considerations of merit.

[See **Ram Ashray Yadav (Dr), Chairman, Bihar Public Service Commission, In Re, (2000) 4 SCC 309; Ram Kumar Kashyap v. Union of India, (2009) 9 SCC 378.**]

40. The mandate of the Public Service Commissions has been extended to most civil posts of significance and is not confined only to organised central or state civil services. The Public Service Commissions are expected to adopt a fair and judicious selection process to ensure that the most deserving and meritorious candidates are inducted into the services of the State. Thus, under our constitutional scheme, the absolute right of the state employers has been circumscribed by the constitution of Public Service Commissions, not only to assist the State but also to bring transparency in the selection process.

41. However, the Commission's role is essentially advisory/recommendatory, and the Appointing Authority has the ultimate discretion to accept or not accept such

recommendations for appointment. This discretion whether to accept or not to accept the recommendation of the Commission and whether to appoint the recommended candidates, is, however, not absolute but is circumscribed by the relevant rules and must not be vitiated by arbitrariness.

In ***H. Mukherjee (Dr) v. Union of India, 1994 Supp***

(1) SCC 250, it was held as follows:

“8. It is obvious from what we have stated above that this Court clearly observed in *Jatinder Kumar case* that the selection made by the Commission was only recommendatory in nature and it was open to the Government to either accept the recommendation or to depart therefrom. Observations on which the Tribunal relies merely convey that if the Government does not depart from the recommendation of the Commission the Government must make the appointments strictly adhering to the order of merit as recommended by the Commission. It cannot disturb the order of merit according to its own sweet will except for good reasons, namely, bad conduct or character but that does not mean that the Government cannot depart from the recommendation of the Commission. If it departs from the recommendation it must ultimately comply with the requirement of Article 323 of the Constitution. There is nothing in that article or in the rules to suggest that the Government cannot take

into consideration the developments subsequent to the selection made by the UPSC. Such a view would not be in public interest and may lead to serious complications if the Government is enjoined to make the appointment notwithstanding certain serious matters having come to its notice subsequent to the recommendation made by the Commission.....”

42. Keeping the aforesaid constitutional architecture in mind, we will proceed to examine the matter further.

We shall now briefly explain what occurs before the Commission makes a recommendation. The Commission invites persons to apply for specific posts through a public notification/advertisement, which contains the necessary information about the number of vacancies/posts, reservation, eligibility criteria, mode of selection, etc. After receiving the applications, the Commission examines the candidates' eligibility with the help of experts as per the relevant service rules.

Thereafter, the Commission assesses the candidates' suitability by examining their knowledge in the concerned and relevant subjects, their aptitude, personality, etc., with the

help of domain experts. To evaluate suitability, it may adopt various tests, written exams, and/or interviews, as per the relevant service rules and the norms set by the Commission, and thus determine the candidates' merit.

After evaluating the candidates' merits, the Commission prepares the select list based on *inter se* merit, which is then declared publicly. The Commission then forwards this select list to the Appointing Authority/State for appointment. Upon receiving the Commission's recommendation, the Appointing Authority takes necessary steps to appoint the selected candidates in terms of merit and as per the posts/vacancies advertised.

NO INDEFEASIBLE RIGHT TO APPOINTMENT:

43. It is settled law that a recommended candidate does not have an indefeasible right to appointment and the Appointing Authority retains certain discretion in the matter of appointments. The mere inclusion of a candidate's name in a select list or in a recommendation by the selection body/Commission does not create a vested right to

appointment. Selection undoubtedly confers upon the candidate a right to fair, non-arbitrary and equitable consideration for appointment, but it does not by itself crystallise into an absolute right to be appointed to the post.

44. The Constitution Bench of this Court in ***Shankarsan Dash*** (supra), while considering the rights of candidates whose names had been included in a select list, authoritatively held as follows:

“7. It is not correct to say that if a number of vacancies are notified for appointment and adequate number of candidates are found fit, the successful candidates acquire an indefeasible right to be appointed which cannot be legitimately denied. Ordinarily the notification merely amounts to an invitation to qualified candidates to apply for recruitment and on their selection they do not acquire any right to the post. Unless the relevant recruitment rules so indicate, the State is under no legal duty to fill up all or any of the vacancies. However, it does not mean that the State has the licence of acting in an arbitrary manner. The decision not to fill up the vacancies has to be taken bona fide for appropriate reasons. And if the vacancies or any of them are filled up, the State is bound to respect the comparative merit of the candidates, as reflected at the recruitment test, and no discrimination can be permitted. This correct position has been consistently followed by this Court, and we do not find any discordant note in the decisions in State of Haryana v. Subash Chander

Marwaha [(1974) 3 SCC 220 : 1973 SCC (L&S) 488 : (1974) 1 SCR 165] , Neelima Shangla v. State of Haryana [(1986) 4 SCC 268 : 1986 SCC (L&S) 759] , or Jatinder Kumar v. State of Punjab [(1985) 1 SCC 122 : 1985 SCC (L&S) 174 : (1985) 1 SCR 899] .”

The principle enunciated in **Shankarsan Dash** (*supra*) that the State is not bound to fill up any or all vacancies, has consistently been reiterated in subsequent decisions of this Court. In **Commissioner of Police v. Umesh Kumar** (*supra*) this Court reaffirmed that inclusion in a select list does not confer a vested right to appointment. More recently, the Constitution Bench in **Tej Prakash Pathak** (*supra*), observed:

“64. Thus, in light of the decision in Shankarsan Das (supra), a candidate placed in the select list gets no indefeasible right to be appointed even if vacancies are available. Similar was the view taken by this Court in Subash Chander Marwaha (supra) where against 15 vacancies only top 7 from the select list were appointed. But there is a caveat. The State or its instrumentality cannot arbitrarily deny appointment to a selected candidate. Therefore, when a challenge is laid to State's action in respect of denying appointment to a selected candidate, the burden is on the State to justify its decision for not making appointment from the Select List.”

45. Therefore, from the above discussion it becomes clear that while appointment pursuant to the Commission's selection would be the norm, the Appointing Authority retains ultimate discretion as to whether to make an appointment, even if the selection process is entirely lawful. The Commission's recommendation does not create any vested right in the recommended candidates to claim appointment. However, in a society based on the rule of law, discretion of the Appointing Authority cannot be absolute or arbitrary; it must be informed by valid and germane reasons and based on the relevant statutory rules.

REASONS FOR REJECTION TO BE JUSTIFIABLE, HENCE

REASONS MUST EXIST ON RECORD:

46. This right to reject the recommendation of the Commission can pertain to all stages of the recruitment process, as below:

- (i) Even if the selection process is lawful and the select list is valid, the Appointing Authority can still decline to make an appointment under the select list

because of a change in government policy insisting on higher standards of competence. [See ***State of Haryana v. Subash Chander Marwaha*, (1974) 3 SCC 220**, wherein it was held that where appointments are made by selection from a number of eligible candidates, it is open to the Government to fix a score which is much higher than the one required for more eligibility, with a view to maintain high standards of competence, as it essentially a matter of administrative policy, and if the State Government thinks that in the interest of judicial competence, persons securing less than 55% of marks in the competitive examination should not be selected for appointment, those who got less than 55% have no right to claim that the selections be made of also those candidates who obtained less than the minimum fixed by the State Government].

(ii) The Appointing Authority can also refuse to make an appointment if the selection process is

vitiating by illegalities such as fraud, manipulation, nepotism, leakage of exam papers, rigging of exam results, corruption, adoption of unfair means, etc., the facts of which must be well established.

(iii) The Appointing Authority may decline to appoint any recommended candidate if, on necessary verification of documents, it finds that the candidate is not eligible. We will deal with this issue in detail hereinafter, as this is the principal issue involved in this proceeding.

47. It is thus clear that the Appointing Authority thus may reject the recommendation on various grounds and keeping in mind the observations made in ***Tej Prakash Pathak*** (*supra*), we can only emphasise that if the Appointing Authority declines to act on the recommendation of the Commission, the burden lies on the Appointing Authority to show that there were proper reasons to reject the recommendation, as we shall also elaborate herein as below.

48. In this regard, we may also recall the decision in **Asha Kaul (Mrs.) & Anr. Vs. State of Jammu and Kashmir & Ors. (1993) 2 SCC 573** wherein it was held as follows:

6. It is true that the government is the appointing authority for the Munsifs but it is misleading to assert that in the matter of selection and appointment the government has an absolute power. Such an argument does violence to the constitutional scheme. The Constitution has created a Public Service Commission and assigned it the function of conducting examinations for appointments to the services of the Union or to the services of the State, as the case may be. According to Article 320 clause (1) this is the primary function of the Commission. The Government is directed to consult the Public Service Commission on all matters relating to methods of recruitment to civil services and to civil posts and on the principles to be followed in making appointment to civil services and posts and on the suitability of candidates for such appointment, among other matters. An examination of Articles 317 to 320 makes it evident that the Constitution contemplates the Commission to be an independent and effective body outside the Governmental control. This is an instance of application of the basic tenet of democratic form of government viz., diffusion of governing power, The idea is not to allow the concentration of governing power in the hands of one person, authority or organ. It is in the light of this constitutional scheme that one has to

construe Rules 39 and 41 of the 1967 Rules. They read as follows:

"39.Final List.-- The list of selected candidates after it is approved shall be published by the Government Gazette and a copy thereof shall be sent to the court along with the waiting list, if any, furnished by the commission for record in their office."

"41. Security to the list.-- The list and the waiting list of the selected candidates shall remain in operation for a period of one year from the date of its publication in the Government Gazette or till it is exhausted by appointment of the candidates whichever is earlier, provided that nothing in this rule shall apply to the list and the waiting list prepared as a result of the examination held in 1981 which will be in operation till the list or the waiting list is exhausted."

7. Construed in the above light, Rule 39, in our opinion, does not confer an absolute power upon the government to disapprove or cancel the select list sent by the Public Service Commission. Where, however, the government is satisfied, after due enquiry that the selection has been vitiated either on account of violation of a fundamental procedural requirement or is vitiated by consideration of corruption, favouritism or nepotism, it can refuse to approve the select list. In such a case, the government is bound to record the reasons for its action, and produce the same before a Court,

if and when summoned to do so, apart from placing the same before the legislature as required by clause (2) of Article 323. Indeed, clause (2) of Article 323 obliges the Governor of a State to lay a copy of the annual report received from the commission before the legislature "together with a memorandum explaining, as respects the cases, if any, where the advice of the commission was not accepted (and) the reasons for such non-acceptance." Evidently, this is meant as a check upon the power of the government. This provision too militates against the theory of absolute power in the Government to disapprove or reject the recommendations of the Commission. For the same reason, it must be held that the Government cannot pick and choose candidates out of the list. Of course, where in respect of any particular candidate any material is discovered disclosing his involvement in any criminal activity, the government can always refuse to appoint such person but this would not be a case touching the select list prepared and recommended by the Commission. It is equally not open to the government to approve a part of the list and disapprove the balance. In this case, it may be remembered that the government itself had asked for a list of twenty and the commission had sent a list of twenty. (We are not concerned with the waiting list sent by the Commission, at this stage). It could not have been approved in part and rejected in part. The number of vacancies available on the date of approval and publication of the list is not material. By merely approving the list of twenty, there was no obligation upon the government to

appoint them forthwith. Their appointment depended upon the availability of vacancies. A reading of Rule 41 makes this aspect clear. The list remains valid for one year from the date of its approval and publication. If within such one year, any of the candidates therein is not appointed, the list lapses and a fresh list has to be prepared. In this case, no doubt, a number of complaints appears to have been received by the government about the selection process. We have seen the note file placed before us. It refers to certain facts and complaints. But if the Government wanted to disapprove or reject the list, it ought to have done so within a reasonable time of the receipt of the select list and for reasons to be recorded. Not having done that and having approved the list partly (thirteen out of twenty names) they cannot put forward any ground for not approving the remaining list. Indeed, when it approved the list to the extent of thirteen, it ought to have approved the entire list of twenty or have disapproved the entire list of twenty. The objections the Government have pertain to the very process of selection i.e., to the entire list, and not individually to any of the remaining seven candidates.

49. From the above discussion, it can be indubitably said that while the State is not bound to act mechanically on the recommendation of the Commission and issue appointment orders solely on the basis of such recommendation, any

decision to withhold or deny appointment is required to be supported by lawful, rational and non-arbitrary reasons and must be done in accordance with the applicable statutory framework and rules. Therefore, for the Appointing Authority to reject a recommendation by the Commission, it must provide lawful, clear, and cogent reasons and account for them before the Court of law when questioned.

APPLICABILITY IN THE PRESENT CASE:

50. In the present case, we are dealing primarily with the issue of refusal of the Respondent-State to appoint the Appellant on the ground that he is not eligible for the post of Registrar.

51. The Respondent-State independently constituted a committee of experts to examine the eligibility of the Appellant and rejected the Appellant's candidature on the ground that in their independent assessment, they found that he did not fulfil the requisite teaching experience. The finding of the Respondent-State in holding/declaring that the Appellant is not eligible is based on a detailed examination of the teaching

experience of the Appellant in various institutions drawing varying salaries. The committee of experts examined the Appellant's teaching experience, taking into account the various Academic Grade Pays in different institutions and comparing these pay grades with what the members of the committee considered appropriate or equivalent. No indisputable official criterion or parameter formed the basis of their finding. Thus, the exercise involved an element of subjectivity. It was not based on any finding that there were materials which clearly demonstrated that the Appellant did not fulfil the eligibility criteria, nor was it based on any finding that the process of evaluation of eligibility of the Appellant by the Commission was fundamentally flawed, corrupt, or vitiated by mala fides, fraud, illegality, etc. It is also not the case of the Respondent-State that there was any new material that had been brought to the notice of the authorities which would clearly demonstrate that the appellant was not eligible. The expert committee's finding was based on materials already examined by the Commission. In fact, the committee

of experts had to resort to a detailed fact-finding exercise on the materials already examined by the Commission before coming to their conclusion.

52. The Appointing Authority did not place on record any material to show that the Commission's examination of the eligibility of the Appellant was palpably and demonstrably incorrect or flawed or that there existed some new materials that warranted the re-examination of the question of the Appellant's eligibility. In our view, the Respondent-State could not have embarked upon an exhaustive exercise to find out that the Appellant was not eligible. This leads us to the next connected issue.

ISSUE NO. II: *Whether the Respondent-State was competent to verify and reassess the Appellant's eligibility prior to issuance of the final appointment order?*

53. The Appellant's principal submission is that once the Commission declared him eligible, permitted him to participate in the interview process, and ultimately recommended his name for appointment to the post of

Registrar, the issue of eligibility stood conclusively determined by virtue of Rule 10 of the Service Rules, 1983 and could not thereafter be reopened by the Respondent-State.

Rule 10 of the Service Rules, 1983, provides as follows:

“10. Commission's decision about the eligibility of candidates Final.— The decision of the Commission as to the eligibility or otherwise of a candidate for selection shall be final and no candidate to whom a certificate of admission has not been issued by the Commission shall be interviewed by them.”

54. As discussed above, the Commission's role in the selection process is twofold. First, it examines candidates' eligibility and then their suitability.

When the Commission examines a candidate's eligibility as per the statutory provisions, it involves an objective assessment with the help of experts as to whether the candidate fulfils eligibility criteria or not. Once the Commission is satisfied that the candidate is eligible, it will assess her on merit to determine whether she is suitable for the post advertised.

At the time of assessing the merit/suitability of the candidate, the Commission undertakes an exercise by proper application of mind with the help of subject experts, subjecting the candidates to written and/or oral examinations and sometimes to personality tests, etc as per requirements of the statutory rules or as per the well-laid-down norms of the Commission.

55. Regarding the candidate's eligibility, the Commission reaches a conclusion by careful application of mind based on the material available before it. In the present case, the Commission's determination as to the candidate's eligibility, which was done with the help of experts, is final and binding, as mandated by Rule 10, which categorically provides that the Commission's decision on a candidate's eligibility for selection is final. In the light of the statutory provision attaching finality to the view of the Commission, we hold that it was not open for the Government to independently re-examine the issue of eligibility and arrive at a different conclusion, based on the detailed re-examination that the candidate is not eligible, that

area of consideration having been taken away statutorily from the Appointing Authority and specifically assigned to the Commission.

56. Consequently, in the light of Rule 10, if the Respondent-State had any reservations about the eligibility of the candidate, the Appointing Authority could have returned the recommendation the Commission with reasons for its view. If the Commission concurred with the view, the Appointing Authority would then be within its right to refuse appointment to the recommended candidate who was found subsequently ineligible by the Appointing Authority.

57. This, of course, does not mean that the Appointing Authority would be entitled to undertake a detailed and exhaustive reassessment of the candidate's eligibility, as the Commission had already undertaken such an exercise with the help of experts, as per the constitutional scheme. At best, the Appointing Authority could examine the candidate's eligibility from a limited perspective, as discussed above. If the Appointing Authority detects a fundamental error which is

apparent and easily discoverable without undertaking an exhaustive enquiry which goes to the root of the eligibility, or on the basis of new materials brought to their notice, comes to the conclusion that the candidate is not eligible, the Appointing Authority would be within its right to defer appointment and seek the view of the Commission as regards the eligibility in view of the statutory provision under Rule 10.

58. In the present case, the Commission had already undertaken a detailed examination of the Appellant's eligibility with the help of experts. The Commission reiterated the Appellant's eligibility when the State Government sought the Commission's view again during the pendency of the proceedings before the High Court. Under the circumstances, in this case, if we approve the State Government's action to embark on a detailed de novo examination of a candidate's eligibility, it will be encroaching upon the domain of the Commission, which is specifically tasked with such an exercise. Such action would supplant the Commission's role and function in assessing eligibility, and not only the

suitability of the candidate, a role specifically assigned to the Commission under the constitutional scheme and, in the present case, is made conclusive as Rule 10 attaches finality to the view of the Commission as regards eligibility.

59. The Respondent-State sought to overcome this legal hurdle by contending that the recommendation letter dated 07.10.2021 issued by the Commission contained a stipulation that granted them the authority to re-examine the Appellant's eligibility, which in our view appears to be without any substance. The relevant portion of the communication dated 07.10.2021 of the Commission reads as follows:

“Before issuing the appointment letter, verification of all original educational certificates and other documents of the candidates and, in case of candidates belonging to the physically handicapped category, their disability certificates, shall compulsorily be undertaken. Further action regarding appointment shall be taken only after verification and satisfaction regarding the eligibility of the candidate for the post.”

(emphasis added)

This communication, in our view, has to be read in the light of Rule 10. The words ‘verification’ and ‘satisfaction’ in the communication must be understood within the scope of

the constitutional scheme and the statutory rules and cannot render Rule 10 redundant or otiose. The executive order cannot have the effect of diluting a statutory provision. We have already held that the Appointing Authority, having final discretion to appoint a recommended candidate, must also be satisfied that the candidate is eligible, as only someone who is eligible can hold a public post.

But as discussed above, such discretion of the Appointing Authority is circumscribed by the constitutional scheme and the relevant statutory provisions. Thus, verification as contemplated under the aforesaid communication could have been undertaken only to verify the genuineness of the documents, or if the Commission had made a patently wrong determination, or if new materials were brought on record clearly showing that the candidate is not eligible.

Thus, if, at the time of verification, it is found that the documents were fraudulently acquired or forged, that there was patent illegality in the determination by the Commission,

or that new documents or materials emerged that clearly show the candidate is not eligible, the Appointing Authority may decline to accept the Commission's recommendation. But in light of Rule 10, it is not open to them to conduct a de novo examination of the question of eligibility of the Appellant but to refer it back to the Commission. We, therefore, find substance in the Appellant's contention that the Respondent-State lacked the ability to independently reopen the question of eligibility after the same had been verified by the Commission in the light of Rule 10 of the Service Rules, 1983.

We must also note that in respect of other recommended candidates, appointments have been made, thus showing that there were no issues with the selection process. But the appointment of the Appellant was held up, as the Appointing Authority treated him as ineligible. In our view, the Appointing Authority could not have re-determined this aspect at this stage and reject the recommendation for the reasons discussed above.

60. For the reasons discussed above, in the present case we are unable to approve the step taken by the Government in constituting an expert committee to examine the Appellant's eligibility. We are satisfied that the course of action adopted by the State Government is contrary to the constitutional arrangement and is not supported by the governing statutory rules.

61. We are, therefore, of the considered view that the finality attached to the Commission's determination under Rule 10 prevents the Appointing Authority from examining the substantive question of eligibility in the manner so done in the present case. The verification could be only of the genuineness of the documents or to find out any patent demonstrative deficiency in the eligibility of the Appellant, which is not the case herein. Accordingly, the report dated 28.06.2023 cannot form the basis for redetermining the Appellant's eligibility, as it has no force of law and is liable to be ignored.

ISSUE NO. III: *Whether the Appellant fulfils the teaching criteria and whether the findings of the committee as to the eligibility of the Appellant are otherwise legally sustainable?*

62. Even though we have already held that the report of the committee cannot be acted upon, yet what it provides is another expert view at the instance of the Respondent-State. Thus, we find that there are two views of experts giving contradictory opinions on the eligibility of the Appellant. One view is that of the Commission, which found the Appellant eligible, and the contrary view is that of the committee of experts constituted by the Respondent-State, which found the Appellant ineligible. Since there are two contradictory views that exist as to the Appellant's eligibility, one view must prevail over the other. Ordinarily, the Courts do not examine the correctness of expert views, especially when it pertains to the domain of subject-experts, unless there are clear patent illegalities based on certain undisputed facts. Yet, if a choice had to be made by the Court, obviously the Court must favour the expert view that is more reasonable. However, in the

present case, in the light of the specific provision of Rule 10, this Court may not have to take recourse to this option but give primacy to the view of the Commission unless it is shown to be wholly incorrect and unsustainable in law, which has not been demonstrated before this Court.

63. We are, however, also not inclined to refer the matter to the Commission again. When the Respondent-State wrote to the Commission on 28.02.2024 pertaining to the eligibility of the Appellant, the Respondent-State had within their knowledge the report of the committee of experts dated 28.06.2023, which had allegedly found that the Appellant was not eligible. In response to the said letter, the Commission clarified on 28.03.2024 that the necessary verifications of the documents had been conducted by subject experts who had checked the experience and educational qualification of the candidates and only after such verification was the Appellant was allowed to appear for the interview.

The only inference we can draw from the above correspondence is that the Commission was not inclined to re-

examine the eligibility of the Appellant and instead reiterated its view that the necessary subject experts had already examined the documents, educational qualification, and experience qua the Appellant, which found him eligible and he was thus called for the interview. Thus, in view of the post-inquiry communication between the Respondent-State and the Commission, and Rule 10, we are not inclined to refer the matter back to the Commission.

64. We are also conscious of the fact that the view of the state-constituted committee may be a possible one, but in light of the legal provision conferring finality to the decision of the Commission under Rule 10, and the reiteration by the Commission during the writ proceedings about his eligibility, as also noted in the impugned judgment, we are disinclined to engage further on the question of eligibility. Under the circumstances, in the absence of any patent and demonstrable deficiency in the eligibility of the Appellant, we are not inclined to disturb the view of the Commission, and it should be allowed to prevail.

65. Hence, the issue as to whether the Appellant is eligible or not is not being examined by this Court in the absence of any material which would prima facie demonstrate that the Appellant is not eligible or that the view of the Commission was wholly incorrect. We would accordingly accept the view of the Commission as regards the eligibility of the Appellant in terms of Rule 10 and accordingly hold him to be eligible by rejecting the view of the Respondent-State.

66. However, while holding so, we clarify that the eligibility of the Appellant cannot be determined with reference to the Rules as applicable for appointment by way of promotion to the post of Registrar, as contended by the Appellant, as the eligibility criteria can be different for direct recruitment and promotion.

67. Thus, having regard to **(a)** the Appellant's selection and recommendation by the Commission; **(b)** the subsequent opinion rendered by the Commission reaffirming his eligibility; **(c)** the statutory provision attaching finality to the opinion of the Commission as regards eligibility under Rule 10, **(d)** the

unsustainability of the inquiry committee report; and **(e)** the prolonged pendency of the dispute since the year 2021, we are satisfied that the interests of justice would be best served by directing the State Government to identify an appropriate vacancy in the cadre of Registrar and appoint the Appellant against such vacancy.

CONCLUSIONS

68. In view of the foregoing discussion, we hold as follows:

- (i) Selection and recommendation by the Chhattisgarh Public Service Commission did not confer upon the Appellant an indefeasible right to appointment to the post of Registrar;
- (ii) Rule 10 of the Chhattisgarh State Universities Service Rules, 1983 accords finality to the Commission's decision on a candidate's eligibility;
- (iii) Rule 10, however, does not exclude or curtail the authority of the Appointing Authority to undertake verification as regards eligibility, but any such decision by the Appointing Authority on

eligibility must be based on a patent and demonstrable deficiency in eligibility;

(iv) In view of the specific provision under Rule 10, if the Appointing Authority had any doubt about the eligibility of any candidate, the Appointing Authority ought to have referred the matter back to the Commission for their decision. The Appointing Authority cannot, on its own, make an independent assessment of eligibility and declare any candidate ineligible based on a detailed enquiry. In the present case, instead of adopting the aforesaid course of action, the Appointing Authority proceeded to make its own assessment by undertaking a detailed enquiry without referring to the Commission, which is not permissible;

(v) While the Respondent-State was competent to verify the Appellant's eligibility, it would be limited only to the verification of his documents for its satisfaction, prior to issuance of the final appointment order, and could not mean authorising it to undertake an exhaustive enquiry into the eligibility, which exercise is within the domain of the Commission;

(vi) The leave granted by the High Court during the proceedings before it to verify the eligibility of

the candidate must be understood within the aforesaid contours of the law and cannot be understood to confer the State with the untrammelled authority to independently and subjectively reassess a candidate's eligibility by undertaking a detailed enquiry;

(vii) The inquiry undertaken pursuant to the orders dated 25.04.2023 and the report dated 28.06.2023 submitted by the committee of experts constituted by the Higher Education Department, thus accordingly, cannot be sustained in law.

(viii) Having held that the Appellant is eligible for the post of Registrar as advertised on 09.02.2021, and having been recommended by the Commission, he would be entitled to be appointed as a Registrar. It has been brought on record that the Appellant had earlier approached the High Court of Chhattisgarh by filing a Writ Petition, WPS No. 780 of 2022 seeking a direction to the State Government for issuing of appointment order in his favour and the High Court passed an order on 29.08.2022 to issue the appointment order within four weeks and hence, the Appellant could not be faulted for the delay in the appointment as Registrar and the State-Respondent is responsible

for the delay. The Appellant was given provisional appointment as Registrar only on 10.04.2023.

DIRECTIONS

69. Consequently, while affirming the authority of the Respondent-State to verify the eligibility of a selected candidate before issuance of a final appointment order within the parameters as discerned above, we issue the following orders and directions:

(i) The inquiry report dated 28.06.2023 submitted by the committee of experts constituted by the Higher Education Department shall not be given effect to *qua* the Appellant.

(ii) The Appellant is declared eligible for the post of Registrar, in terms of the Advertisement dated 09.02.2021. Consequently, the order dated 31.10.2022 passed by the State Government declaring the Appellant as ineligible is set aside.

(iii) The State Department shall issue the necessary appointment order in favour of the Appellant to the post of Registrar in any State University of Chhattisgarh in terms of the public

advertisement dated 09.02.2021 within a period of three weeks from the date of this judgment.

(iv) As we have already held that the Appellant is eligible, he is entitled to be appointed to the post of Registrar from the date on which others who were selected and recommended along with him were given appointment to the post of Registrar, and the Appellant shall be entitled to all the service benefits from that date. However, as the Appellant was given provisional appointment to the post of Registrar on 10.04.2023, the Appellant shall not be entitled to arrears of pay with effect from the said appointed date till 10.04.2023, and his seniority shall also be determined in accordance with the statutory Rules;

70. The appeal is, accordingly, allowed and disposed of in the aforesaid terms. The impugned judgment and order dated 17.06.2025 passed by the Division Bench of the High Court of Chhattisgarh in Writ Appeal No. 360 of 2025 is set aside. Consequently, the Writ Petitions, WPS No. 8005 of 2022 and WPS No. 7350 of 2023, are allowed.

71. In view of the directions issued herein, Contempt Petition (C) No. 765 of 2025, in SLP (C) No. 22648 of 2025, also stands disposed of.

Parties to bear their own cost.

Application(s), if any, pending shall stand disposed of in terms of the above directions and order.

.....**J.**
(SANJAY KAROL)

.....**J.**
(NONGMEIKAPAM KOTISWAR SINGH)

NEW DELHI;
August 20, 2026.