



HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 608 of 2025

Ms. Vinita Yadav D/o Shri Devi Prasad Yadav Aged About 43 Years
Occupation Government Servant, R/o B59 Anup Vihar AWHO Colony, Gaur
Jabalpur, (M.P.) 482021

... Petitioner

versus

1 - The State Of Chhattisgarh Through Secretary, Law And Legislative
Affairs Department, Chhattisgarh, Mahanadi Bhawan Mantralay Nava
Raipur, Atal Nagar (C.G.)

2 - Chhattisgarh Public Service Commission Through The Secretary Nava
Raipur Atal Nagar (C.G.)

3 - The High Court Of Chhattisgarh Through The Registrar General, High
Court Premises, Bodri, District-Bilaspur (C.G.)

... Respondent(s)

Order-Sheet

22/01/2025	Heard Ms. Sharmila Singhai, learned Senior Advocate assisted by Ms. Ishita Niyogi, learned counsel for the petitioner. Also heard Mr.

Y.S.Thakur, learned Additional Advocate General for the State/respondent No. 1, Mr. Animesh Tiwari, learned counsel for the respondent No. 2/Chhattisgarh Public Service Commission as well as Mr. Anurag Dayal Shrivastava, learned counsel for the respondent No. 3/High Court of Chhattisgarh.

Ms. Singhai, learned counsel for the petitioner submits that the petitioner is a Law Graduate having completed a degree in Law from Rani Durgavati Vishwavidyalaya, Jabalpur. She is desirous for appearing for the Civil Judge (Junior Division) Examination, 2024 advertised by the respondent No. 3-Chhattisgarh Public Service Commission. Presently, she is working as a government servant and not enrolled as an Advocate under the Advocates Act, 1961 (*for short, the Act of 1961*) and being a full time government employee, she is statutorily barred from enrolling as an Advocate under Rule 49 of the Bar Council of India Rules framed under the Act of 1961 which prohibits enrollment for individuals engaged in any full time occupation.

The petitioner is aggrieved by the Gazette Notification dated 05.07.2024 (Annexure P/1) issued by the Department of Law and Legislative Affairs, Government of Chhattisgarh by which clause (c) of sub-rule (1) of Rule 7 of the Chhattisgarh Lower Judicial Service (Recruitment and Conditions of Service) Rules, 2006, has been

substituted and according to which, a candidate should possess a degree in Law from any recognized University and enrolled as an Advocate under the Act of 1961. The petitioner is also aggrieved by the advertisement dated 23.12.2024 (Annexure P/2) issued by the Chhattisgarh Public Service Commission, in which one of the essential qualification is mentioned that the candidate should be registered as an Advocate under the Act of 1961.

It is submitted by Ms. Singhai that the last date for submission of the online application is 24.01.2025. The petitioner, under the old rules was eligible to participate in the recruitment process but because of the amendment as aforesaid, she has become ineligible. It is further submitted that several other States like Haryana, Rajasthan, Uttarakhand, Madhya Pradesh, Gujarat and Delhi does not have any such condition. In the State of Madhya Pradesh, it is an optional requirement to be a practicing Advocate for appearing in Civil Judge examination.

It is lastly submitted that the aforesaid amendment and the condition imposed in the recruitment process has curtailed the right of the petitioner to appear in the examination which she is otherwise entitled to. There is no rationale in imposing such condition in the Rules of 2006 or in the advertisement. In support of her contention, she

places reliance on the decision of the Supreme Court in ***State of West Bengal v. Anwar Ali Sarkar {AIR 1952 SC 75}***, ***Ajay Hasia Etc. v. Khalid Mujib Sehravardi & Others {AIR 1981 SC 487}*** and ***All India Judges' Association & Others v. Union of India & Others {(2002) 4 SCC 247}***.

Ms. Singhai also prays that since the disposal of this petition would take some time, the petitioner may provisionally be permitted to appear in the aforesaid examination, without requiring enrollment as an Advocate, subject to the final outcome of this petition.

Learned counsel for the respective respondents submit that since this petition has come up for hearing for today itself, they may be allowed some time to go through the petition and file their appropriate response.

The contention of the learned counsel for the petitioner appears to have some substance. In a selection process, the scope of the candidates for participation should not be narrowed down by imposing unwarranted conditions rather more candidates should be allowed to participate so that better qualified candidates may be selected. A candidate who is a Law Graduate, whether or not is enrolled as an Advocate, would hardly make any difference as he/she will also have to go through the same scrutiny which the other candidate, who is

enrolled as an Advocate, has to go. Hence, *prima facie*, we are of the view that for the present, the petitioner shall be permitted to fill up her online form and in case she fulfills all the other criteria, she may be permitted to participate in the recruitment process.

Since the last date for submission of online forms is 24.01.2025, we direct the respondent-Chhattisgarh Public Service Commission to extend the last date of submission of online form, preferably by one month from today. Further, purely as an interim measure, the respondent-Chhattisgarh Public Service Commission shall permit the candidates to fill their online forms even if they are not enrolled as an Advocate, under the Act of 1961. The said changes may be notified to the aspirants by way of a corrigendum to be published in widely circulated newspapers and other forms of media. However, the participation of the candidates in the recruitment process would be subject to the final outcome of this petition.

It is also also made clear that this order would operate *in rem* and not in *personam* and even those candidates who have not approached this High Court seeking for the aforesaid relief, shall be permitted to avail the benefit of the present order.

Further, we request the respondent-High Court of Chhattisgarh, to revisit the amendment brought in vide Annexure P/1, in light of the

judgments of the Apex Court, as aforesaid.

The respective respondents may file their returns before the next date of hearing.

Mr. Animesh Tiwari, learned counsel is directed to communicate this order to the respondent-Chhattisgarh Public Service Commission forthwith.

Let this matter be listed on **17th February, 2025**.

Certified copy, today.

Sd/-
(Ravindra Kumar Agrawal)
JUDGE

Sd/-
(Ramesh Sinha)
CHIEF JUSTICE