



2025:CGHC:18997-DB

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ROHIT
KUMAR
CHANDRA**HIGH COURT OF CHHATTISGARH AT BILASPUR****WA No. 272 of 2025**Digitally signed
by ROHIT
KUMAR
CHANDRA

- 1** - Mahesh Kumar S/o Hariram Sahu Aged About 26 Years R/o House No. 08 Ward No. 11 Village Tilaibhat Kawardha, District Kawardha (Kabirdham) (C.G.)
- 2** - Anjali Morya D/o Rajnarayan Mourya Aged About 30 Years R/o Ward No.33, Shakar Baba Tikrapara, Mannuchowk, Bilaspur, District Bilaspur (C.G.)
- 3** - Bharat Patel S/o Digamber Patel Aged About 33 Years R/o House No. 1/89 Street No. 03, Near Rambagh Rajiv Nagar Raigarh, District Raigarh (C.G.)
- 4** - Ashish Sahu S/o Sukrit Sahu Aged About 31 Years R/o Near Ram Milkasdol, Baloda Bazar, District Balodabazar-Bhathapara (C.G.)
- 5** - Ashok Kumar Patel S/o Ramlal Patel Aged About 31 Years R/o House No. 36 Ward No. 04, Jamnipali Korba, District Korba (C.G.)
- 6** - Anjani Kashyap D/o Asahok Kumar Kashyap Aged About 36 Years R/o Near Mayur Club, New Shiv Temple Pandari Raipur, District Raipur (C.G.)
- 7** - Savitri Sahu S/o Pritam Das Sahu Aged About 29 Years R/o House No. 144 Ward No. 7, Gudichowk, Parastrai, Raipur, District Raipur (C.G.)
- 8** - Deepak Kumar S/o Gannulal Dewangan Aged About 35 Years R/o School Chowk Hadgahan House No. 23, Sethpara Hadgahan, Arjunda, District Durg, (C.G.)
- 9** - Roshan Lal Sinha S/o Manohar Lal Sinha Aged About 27 Years R/o Village Chiddo, Post Chiddo Rajnandgaon, District Rajnandgaon (C.G.)
- 10** - Yajay Kumar Krishna S/o Paharuram Bareth Aged About 37 Years R/o House No. 199 Rishdi Tripathi, Mohalla Rishdi, Ward No. 04 Korba, District Korba (C.G.)
- 11** - Hrishikesh Patel S/o Shri Ramesh Kumar Patel Aged About 26 Years R/o House No. 165 Bazarpara, Village And Post Kendua, Saraipali, District Mahasamund (C.G.)
- 12** - Manish Yadav S/o Jawahar Lal Yadav Aged About 27 Years R/o House No. 01 Ward No. 04 Shanti Nagar, Sakri, District Bilaspur, (C.G.)
- 13** - Sawati Dewangan S/o Satyanarayan Dewangan Aged About 27 Years R/o Village Akhara Bhata Shakti, District Janjgir-Champa (C.G.)

14 - Durgesh Kumar S/o Biselal Yadu Aged About 31 Years R/o 115 Khuteri Mandir Hasaud, Post Godi, Raipur, District Raipur (C.G.)

15 - Kunti Dewangan S/o Bhuneshwar Dewangan Aged About 34 Years R/o Village Janjiri, Post Janjiri, Adarsh Nagar Sai Niwas Road, Near Patwari Office, Charoda, District Durg (C.G.)

16 - Pawan Kumar Manikpuri S/o Ratan Das Manikpuri Aged About 35 Years R/o Dr. Sharma Street Tataline Kohka, Supela Bhilai, Durg, District Durg, (C.G.)

17 - Namrta Namdev D/o Late Narayan Prasad Namdev Aged About 36 Years R/o Ward No. 6/33, Tilak Nagar Bilaspur, District Bilaspur, (C.G.)

18 - Minakshi Kamalvanshi D/o Kamesh Kumar Aged About 26 Years R/o Gopiya Para Purani Basti Raipur, District Raipur, (C.G.)

19 - Bundeshwari Maitry D/o Jivan Lal Maitriy Aged About 33 Years R/o M. D. 765 Ward No. 14, Mother Teresha, Dipika Colony Dipka, Korba, District Korba, (C.G.)

20 - Haldhar Sinha D/o Satrugan Sinha Aged About 28 Years R/o House No. 2, Aabadipara, Satmara Ward No. 1, Belaudi, Balod, District Balod, (C.G.)

21 - Mahesh Kumar S/o Santuram Aged About 26 Years R/o House No. 72 Ward No. 15 Village Tilaibhat Kawardha, District Kawardha (Kabirdham), (C.G.)

... Appellants

versus

1 - State of Chhattisgarh Through The Secretary, Department of Law and Justice, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District Raipur (C.G.)

2 - The District And Session Judge Bilaspur District Bilaspur (C.G.)

... Respondent(s)

For Appellants : Mr. Ravikar Patel, Advocate

For Respondent No.1/State : Mr. Y.S. Thakur, Addl. Adv. General

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Arvind Kumar Verma, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

28.04.2025

1. Heard Mr. Ravikar Patel, learned counsel for the appellant. Also heard Mr. Y.S. Thakur, learned Additional Advocate General,

appearing for the State/respondent No.1.

2. By way of present writ appeal under Section 2 of Sub-Section (1) of the Chhattisgarh High Court (Appeal to Division Bench Act, 2006, the appellants, who were petitioners in WPS No. 9766 of 2023 (***Mahesh Kumar & Others Vs. State of Chhattisgarh & Another***) have challenged the order dated 21.03.2025 passed by learned Single Judge in the said writ petition, whereby the writ petition filed by the writ petitioners / appellants herein was dismissed by the learned Single Judge.
3. Brief facts necessary for disposal of this appeal are that the respondent No. 2 published an advertisement for appointment of Stenographer, Steno Typist, and Assistant Grade III on 28.06.2023 and called applications in this respect from the candidates. As per the advertisement, the last date for submission of application form was 13.07.2023. The petitioners participated in the aforesaid proceeding and preliminary Exam was held on 22.10.2023. The respondent No. 2 prepared a separate list of candidates for skill test of Un-reserved, OBC, Scheduled Caste and Scheduled Tribe.
4. Being aggrieved by the same, the petitioners have filed writ petition being WPS No. 9677 of 2023 with a prayer that respondent No.2 be kindly directed to prepare a fresh list for skill test according to the reservation roster and as per law. The petitioners be also directed to provide opportunity for skill test in

the aforesaid recruitment examination. It was also the case of the petitioners that list for Unreserved candidates highest marks secured by the candidates is 45 and lowest is 29 whereas in OBC category highest marks is 46 and lowest is 39. The petitioners have scored more than 29 marks which is higher than the lowest marks of the Unreserved Category still they were not called for skill test by applying wrong reservation roster, consequently, the lower scored candidates were called for skill test. It has been further contended that in other District Court recruitment drive the appointing authority has prepared the list of candidates as per reservation roster and persons of OBC category who have secured higher marks than unreserved candidates were called for skill test, as such a discriminative and illegal procedure has been adopted by respondent No. 2. It has been further submitted that the petitioners raised objection before the authority but respondent No.02 has not redressed the grievance of petitioners in this regard. On the above factual foundations the petitioners have prayed for issuance of direction for preparation of list of candidates as per reservation rules. The writ petition was dismissed by the learned Single Judge vide impugned order dated 21.03.2025. Hence, this appeal.

5. Mr. Ravikar Patel, learned counsel for the appellants vehemently argued that the order impugned 21.03.2025 (Annexure-A/1) passed by the learned Single Judge is illegal and is liable to be set aside. He further submitted the petitioners are eligible to be

called for skill test but due to adoption of wrong reservation roster by the respondent No.2 petitioners are being deprived from skill test. He would further submit that the respondent authority has not applied its mind while preparing the list of candidates for skill test which is nothing but discrimination and arbitrariness. He would further submit that as per notice dated 06.12.2023 (Annexure P/4) and covering memo dated 10.09.2024, same exam has been conducted at Mungeli and Surguja District wherein the reservation rule has been followed in its letter and spirit. He would further submit that the Anusuchit Jatiyon, Anusuchit Janjatiyon avam Anya Pichhade Vargon ka Arakshan Adhiniyam, 1994 (in short 'the Rules of 1994') as per amendment made on 19.05.1995 and as per the notification issued by the State of Chhattisgarh on 11.02.2008 provides that any reserved candidates selected in unreserved category on their own merits does not count as a reserved candidate. To substantiate his submission he would refer to the judgment of constitutional Bench of the Hon'ble Supreme Court in ***Indra Sawhney Vs. Union of India & Ors. {1992 Supp. (3) SCC 217}*** wherein the Hon'ble Supreme Court has held that in India vertical reservation system was followed in all recruitment process. In this system, if any candidate obtains higher marks then they vertically migrate to the unreserved category and should be appointed against unreserved post. He would further rely upon the judgment of Hon'ble Supreme Court in ***Bharat Sanchar Nigam Limited & another Vs. Sandeep Choudhary & others***

{2022 Livelaw (SC) 419}, wherein the Hon'ble Supreme Court has held that rule of reservation is applied in all over vacancies. He has also referred to the judgment of Hon'ble Supreme Court in **Saurav Yadav & ors. Vs. State of UP & ors. {(2021) 4 SCC 542}** wherein the Hon'ble Supreme Court laid down the system of filling up the posts of reserved candidates. Again he has referred to the judgment of Hon'ble Supreme Court in **Union of India & ors. Vs. M. Selvakumar & another, {(2017) 3 SCC 504}** wherein it has been held that the vertical and horizontal reservation system should be followed in public employment all over India. He has also referred to the judgments of Hon'ble Supreme Court in **Ritesh R. Sah Vs. Dr. Y.L. Yamul & ors., {(1996) 3 SCC 253}'**, **R.K. Sabharwal Vs. State of Punjab (1995) 2 SCC 745}**, **Union of India Vs. Virpal Singh Chouhan (1995) 6 SCC 684}** wherein the Hon'ble Supreme Court has held that if any candidate selected, promoted on the rule of merit shall not be counted as reserved category candidates. Thus, he would submit that if any candidate obtains higher marks against the unreserved category candidates then they will be selected against unreserved category candidates and selection committee should not be counted as a reserved category candidate. This is called a vertical reservation system, which was held by the Hon'ble Supreme Court in **Indra Sawhney Vs. Union of India & Others (supra)**. He would further submit that it is clear that every selection committee has followed a vertical reservation system and reservation rules have to be

followed at every stage of selection process. He further submitted that in ***Deependra Yadav & ors. Vs. State of MP & ors. {(2024) SCC Online (SC) 724 decided on 01.05.2024}***, the Hon'ble Supreme Court clearly stated that reservation roster/rules will be followed in all steps of selection process, but the learned Single Judge has failed to appreciate the aforesaid judicial precedent and has committed grave illegality in rejecting the writ petition filed by the writ petitioners.

6. On the other hand, Mr. Y.S. Thakur, learned Additional Advocate General, appearing on behalf of State / respondent No.1 opposed the submission made by learned counsel for the appellants and submitted that the learned Single Judge, after considering all the aspects of the matter, has rightly dismissed the writ petition, in which no interference is called for. He further submitted that according to Clause No. 6 of the terms of the advertisement dated 28.06.2023, the preliminary examination was conducted only for the purpose of short listing in case more number of applications were received, and the marks secured in the preliminary examination were not to be added to the marks of the skill test conducted for the final selection. Thus, it is well settled position of law that the rules of reservation related to migration from a reserved category to an unreserved/exempt category at the initial/screening level are not applicable. The petitioners are not entitled for relief as sought as the rule of reservation regarding migration from reserved category to unreserved category is not

applicable at the stage of declaring result of the preliminary examination result/screening level. (***See: Pushpendra Kumar Patel and others vs High Court of Madhya Pradesh 2023 SCC OnLine MP 12***). Therefore, in accordance with law, based on the marks obtained in the preliminary examination a category-wise list of candidates eligible for the skill test has been prepared by the answering respondent. He would submit that it is incorrect to say that answering respondent has adopted reservation roster in wrong pattern while preparing the list of candidates eligible for skill test based on the marks obtained in preliminary examination.

7. We have heard learned counsel for the parties and perused the impugned order and other documents appended with writ appeal.
8. On a pointed query being made to learned counsel for the parties, whether the selection process is over, they submit that the selection process has already been over.
9. Considering the fact that the selection process is already over, we are not inclined to unsettle the thing which has already been settled and further considering the fact that as per clause 6 of the terms of the advertisement dated 28.06.2023, the selection process has been prescribed in three stages. First stage is preliminary examination which consists of 50 Objective type questions and the candidates have to be called in ratio of 1:10 and to participate in the skill test. This clause specifically provides that the marks obtained in this examination will not be added for

preparation of merit list. Thereafter, in the second stage skill test has to be conducted for Assistant Grade III and the final select list as well as waiting list have to be prepared as per the marks obtained in the skill test. As such, the first stage examination is nothing but a step for shortlisting of the candidates which is the process of evaluating and selecting a candidate with aim to identify the most qualified candidates for further consideration in selection process. The first stage examination being shortlisting of the candidates therefore, it is not necessary for the answering respondent to adopt vertical reservation as submitted by the learned counsel for the petitioners and further considering the finding recorded by the learned Single Judge while dismissing the writ petition filed by the writ petitioners / appellants herein, we are of the considered opinion that the learned Single Judge has not committed any illegality, irregularity or jurisdictional error in the impugned order warranting interference by this Court.

10. Accordingly, the writ appeal, being devoid of merit, is liable to be and is hereby **dismissed**. No cost(s).

Sd/-
(Arvind Kumar Verma)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice