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Sanjay Kumar Singh and Others Vs. Sstate of U. P. and Others

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Court : Allahabad

Decided On : May-25-2000

Reported in : 2000(3)AWC2239; (2000)3UPLBEC2482

Judge : A. K. Yog, J.

Acts : Direct Recruitment of Group `C' Posts (Outside purview of the Public Service Commission) Rules, 1998 - Rules 1(3), 5(3,4 and 5) and 8; [Constitution of India](#) - Articles 72, 162, 154, 226, 261 and 309; Uttar Pradesh Higher Education Services Commission Act, 1980 - Sections 6(3); Uttar Pradesh State Control of Public Corporation Act, 1975 - Sections 2; Uttar Pradesh Rural Development (Gram Sewak) Service Rules, 1980 - Rules 3, 14, 15 and 16

Appeal No. : C.M.W.P. Nos. 23161 and 24307 of 1999

Appellant : Sanjay Kumar Singh and Others

Respondent : Sstate of U. P. and Others

Advocate for Def. : S. C.

Advocate for Pet/Ap. : Ashok Khare, Adv.

Judgement :

A. K. Yog, J.

1. Five persons. Messrs Sanjay Kumar Singh and 4 others (Petitioner Nos. 1 to 51 have filed this petition under Article 226. [Constitution of India](#) being aggrieved against the Impugned order dated May 10, 1999. (Annexure-5 to the writ petition), issued by the State Government/Respondent No. 1, cancelling select list/merit list containing their names--said to be prepared under--'Direct Recruitment of Group 'C' Posts (Outside purview of the U. P. Public Service Commission) Rules. 1998.' (hereinafter called Rules. 1998.

2. Briefly stated, salient facts of the case are that an advertisement was made in daily newspaper (Amar Ujala) dated August 10, 1998--Annexure-1 to the writ petition Inviting applications from eligible candidates for appearing in the proposed examination. Petitioners, along with other candidates, applied against the aforesaid Advertisement and appeared in the written examination held on 13th December, 1998. Interview was also held by a Selection Committee (consisted of five members--(i) District Development Officer. Etawah, (Chairman the appointing authority), (ii) Employment Officer, Etawah, (iii) Assistant Director of Fisheries, Etawah, (iv) Block Development Officer, Saifai, Etawah and (v) the Principal, Gram Vikas Sansthan, Bakevar, Etawah.

3. A merit-list was prepared by the Selection Committee which list was displayed on the notice board on 9th March. 1999 (Annexure-3 to the writ petition). It was published in Dainik Jagran dated 12th March, 1999. (Annexure-4 to the writ petition), and names of the petitioners appeared at serial Nos. 6. 7. 8. 9 and 12 (shown at particular page 20 of the Writ Paper Book-Annexure-3 to the writ petition).

4. Petitioners' grievance is that in spite of their names being on the said merit list, they have not been given appointment. On the other hand, the State Government issued order dated May 10, 1999 (Annexure-5 to the writ petition), to cancel it and also directed to hold fresh interview of those candidates only who had qualified in the written examination already held on 13th December. 1998 (Paragraph 10 of the petition).

5. This Court passed following interim order on :

'Till 20.7.1999, the operation of the impugned Government Order dated 10-5.1999 shall remain stayed.'

It was further extended.

This left no option before the respondent except not to proceed in pursuance to the impugned order and the selection process remained incomplete.

6. Admittedly, no appointment letters were issued in the instant case to any one--including the petitioners on the basis of the merit list cancelled by the impugned order. Court is informed that eight candidates other than present petitioners in the 'cancelled list' in question (Annexure-3 to the writ petition), have also filed Civil Misc. Writ Petition No. 24307 of 1999. Shivendra Kumar Trivedi and 7 others v. State of U. P. and others, against this very impugned order.

7. Counsel for the parties failed to inform--whether other rest of the nine persons in the list (excluding 13 Petitioners of the two writ petitions) have challenged it.

8. In the counter-affidavit, the main defence taken is that in preparing select list, bungling, interpolations and irregularities have been committed, which fact came to the notice of the Government after enquiry on receiving complaint. Therefore, the action taken by the Government is fully justified. It is mentioned that there was over-writing in the award-sheets pertaining to the interview. Government by impugned order excluded the erstwhile Chairman and Members from the Selection Committee to ensure impartiality and fairness in the procedure (para 8 and 9 of counter-affidavit) procedure. It is further stated that Government is competent to hold enquiry regarding complaints of irregularities with respect to any action pertaining to the Government business (para 11 of counter-affidavit). Copies of the enquiry report dated 6th April, 1999 and Government Order dated 7th April, 1999, have been filed as Annexures-CA 1 and CA 2 to the counter-affidavit.

9. Petitioners with their rejoinder-affidavit filed copy of the charge-sheet, reply of the delinquent officer (P. S. Jain) who admitted that a few award sheets (containing Interview marks) were spoiled by 'fall of tea' and hence changed. It is also alleged that complaint by one Lal Singh Verma, M. L. A., Auraiya was

rejected as baseless by the Enquiry Officer (para 14 of the rejoinder-affidavit) and in support reference is being made to the letter of District Magistrate, Etawah dated 17th March, 1999, addressed to District Development Officer. Etawah (Annexure-RA 1, to the rejoinder-affidavit). Documents filed as Annexures-2, 3 and 4, of the rejoinder-affidavit are the explanation of P. S. Jain sent to the District Magistrate, who did not accept his explanation ; and consequently a charge-sheet was framed and served upon the delinquent officer P. S Jain, who was also suspended. The order of suspension was stayed by this Court in Civil Misc. Writ Petition No. 23992 of 1999, Prem Sagar Jain v. State of U. P. and others, (para 17 of rejoinder-affidavit). Copy of the said order has not been annexed nor the interim order has been quoted. But from the tenor of the averments in para 17 of the rejoinder-affidavit, it appears that further enquiry has not been stayed nor charge-sheet quashed.

10. Learned counsel representing the parties have no objection to the case being finally decided at the 'admission stage' as contemplated under rules of Court.

11. Argument of the learned counsel for the petitioners, in the present petition, is three folds :

(a) State Government has no power to cancel the select list inasmuch as there is no such provision in the relevant Rules framed under Article 309. [Constitution of India](#) : copy of the Rules annexed as Annexure-6 to the writ petition. Copy of the First Amendment of the said Rules, 1998 has been filed as Annexure-7. It is pointed out that in these Rules, there is no provision for cancelling select list on any ground whatsoever ;

(b) The enquiry report submitted to the State Government is based on conjecture and State Government had no valid material for cancelling the list: and

(c) In any view of the matter entire select list should not have been cancelled. According to the petitioners, names of those candidates with respect to which there was suspicion of malpractice and/or irregularity should have been excluded. In other words, petitioners contend that the decision to cancel entire select list is not proportionate even to the charge, which related to only some of the

candidates.

12. To appreciate first-submission--whether State Government is competent to pass the impugned order in absence of any provision to cancel select list prepared under the Rules, 1998 framed under Article 309. [Constitution of India](#) (Annexure-6 to the writ petition). It will be useful to have a look upon the Rules Itself.

13. Rule 1(3) of the Rules provides for exception to the posts in departments like U. P. Public Service Commission. Secondary Service Commission. Board of Revenue. High Court and the Court subordinate to the High Court under the control and superintendence of the High Court and the Police Department including Provincial Armed Constabulary and Armed Service and further, which are excluded from application of these Rules by the Government by notified order.

14. Rule 5 provides for making direct recruitment on vacancies notified as per procedure and criterion prescribed therein. It requires preparation of a merit list of the candidates on the basis of guidelines--including a written test on getting all evaluations under its sub-rule (3) and then call the candidates for Interview in the ratio of four (candidates) against one vacant post. Rule 5 (4), Clause (c), further lays down that Chairman/Member of selection committee shall in no case be provided Information with regard to marks obtained by candidates under sub-clauses (a), (b), (c), (d) and (e) of sub-rule (3) at the time of Interview.

15. Final list, on the basis of merit adjudged as above, is to be prepared by adding all marks on aggregate basis under Rule 5 (5).

16. Rule 8 reads, 'When selection process is complete and select list is forwarded to the appointing authority, the correct answer of the answers in the written examination and the mark obtained by the candidate along with the aggregate mark under Rule 5 (5) shall be published in the dally newspaper and displayed on the notice board of the office concerned.'

17. Shri Ashok Khare, learned counsel for the petitioners in support of his argument referred to Article 154, [Constitution of India](#) which reads :

'154. Executive power of State.--(1) The executive power of the State shall be vested in the Governor and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution.

(2) Nothing in this article shall :

(a) be deemed to transfer to the Governor any function conferred by any existing law on any other authority : or

(b) prevent Parliament or the Legislature of the State conferring by law functions on any authority subordinate to the Governor.'

18. It is argued that aforesaid article contains restriction upon Government not to exercise a power, which is not specifically conferred by statutory provisions. Government could not pass the impugned order and cancel the list in question in absence of specific power under statutory rules.

19. How the above article helps the petitioners has not been explained to the Court's satisfaction.

20. In reply, respondents referred to Articles 72 and 162. [Constitution of India](#), which read :

'72. Power of President to grant pardons, etc. and to suspend, remit or commute sentences in certain cases.--(1) The President shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any persons convicted of any offence :

(a) in all cases where the punishment or sentence is by a Court Martial ;

(b) in all cases where the punishment or sentence is for an offence against any law relating to a matter which the executive power of the Union extends ;

(c) in all cases where the sentence is a sentence of death.

(2) Nothing in sub-clause (a) of Clause (1) shall affect the power conferred by law on any officer of the Armed Forces of the Union to suspend, remit or commute a

sentence passed by a Court Martial.

(3) Nothing in sub-clause (c) of Clause (1) shall affect the power to suspend, remit or commute a sentence of death exercisable by the Governor of a State under any law for the time being in force.

162. Extent of executive power of State.--Subject to the provisions of this Constitution, the executive power of a State shall extend to the matters with respect to which the Legislature of the State has power to make laws :Provided that in any matter with respect to which the Legislature of a State and Parliament have power to make laws, the executive power of the State shall be subject to, and limited by, the executive power expressly conferred by this Constitution or by any law made by Parliament upon the Union or authorities thereof.'

Proviso to Article 162. [Constitution of India](#) makes it clear that the executive power of the State is limited only to the extent provided under the Constitution or any law made by Parliament or Legislature of a State and not otherwise.

21. Rules 1998 have been framed under Article 309. [Constitution of India](#) which confers powers upon the State Government or such person as he may direct in connection with the affairs of the State to make Rules regardless of persons appointed, to such services/post until provision in that behalf is made by and under Act of the appropriate Legislature under this article and that said Rules, so made, shall have effect subject to the provisions of any such Act.

22. Petitioners have not pointed out any provision of law or otherwise which may have taken away the power of the State Government to ensure that the provisions of Rule. 1998 are being followed faithfully, its officers/authorities. In absence of specific provision controlling or curbing fundamental and Inherent power of superintendence of the Government in the relevant Rules to ensure that statutory Rules are followed faithfully in letter and spirit and the list is prepared strictly on the basis of merit (which is the sole object of framing statutory rules in the matter of appointment to the post in connection with the affairs of the State). Marks inserted by interpolation and bungling in a 'merit list' are not the 'marks' obtained by adjudging merit as per the procedure prescribed under the Rules. Alleged

marks, interpolated on extraneous consideration, are 'no marks' on the criterion of merit and hence nonexistent in the eye of law.

23. Argument on behalf of the petitioners gets no support from Article 154, [Constitution of India](#).

24. Learned counsel for the petitioners, in support of his contention, referred to the case of Rom Gopal v. State of U. P., 1999 (2) UPLBEC 825.

In the said case, a Division Bench of this Court, was dealing with the posts within the purview of U. P. Higher Service Education Commission created regulated by U. P. Higher Education Services Commission Act.

In the case of Ram Gopal (supra), this Court made observations and laid down law with reference to the question--'whether a direction restraining Commission to make selection can be issued by the State Government in exercise of its power under Section 2 of U. P. State Control of Public Corporation Act, 1975Section 6 (3) of U. P. Higher Education Services Commission Act, 1980, because selection covers the legislative activity. Firstly, the selection in the instant case is not being done by the Commission of the Corporation having distinct legal entity vis-a-vis State Government.

25. Learned counsel for the petitioner has referred to the Uttar Pradesh Rural Development (Gram Sewak) Service Rules, 1980. Perusal of Rule 3--Definition Clause, Rules 14. 15 and 16, dealing with procedure for recruitment vis-a-vis. Determining of vacancies, procedure for direct recruitment and training as well as Rules 25 and 26, general provisions providing that the matters not specifically covered by these rules or by special orders, persons appointed to the service shall be governed by the rules, regulations and orders applicable generally to Government servants serving in connection with the affairs of the State and also conferring power of relaxation with respect to condition of service allowing way in establishing the fact that there is no Commission and in fact these rules having been framed by the State Government for specific purpose and Government has itself the complete control apart from the fact State Government is not under obligation to ensure that selection is held in fair manner. There is no corporation in

between. In these circumstances, the ratio decidendi laid down in the case of Ram Copal (*supra*) is not attracted to the fact of the instant case.

26. In the instant case, Rules are framed under Article 309. [Constitution of India](#), which are in contradistinction of procedure prescribed for selection being held by a 'Commission' under legislative enactment.

27. Petitioners then referred to the case of B. N. Nagrajan v. State of Karnataka and others, (1979) 4 SCC 507. In the said decision. Apex Court was dealing with the question of seniority and regularization vide rules framed under Article 309, [Constitution of India](#). Court held that regularization could not be done in contravention of rules framed under said article.

28. Lastly, reliance is being placed on the case of State of U. P. v. Ravindra Nath Rai and others, 1999 (36) ALR 152. The Division Bench, while dismissing the special appeal, in Para 17 of the report observed thus--'There being no statutory rule or statutory limit.....and there being no justification for not considering candidature of the candidate figuring in the comparative list next below the last candidature.....must consider the candidature of such candidate for filling up 136 advertised vacant posts. Rule affair play which refers in all state of affairs demands so.'

In the aforesaid case, the authenticity of the select list was not under challenge. There was no allegation against the personnel/spreparing select list of committing Irregularity and being guilty of tampering with the selection record. The observation of the Division Bench to the effect, 'Rule affair play, which has been reflected in all actions of the State, demands so' completely demolishes the argument of learned counsel for the petitioners.

29. Learned standing counsel, on the other hand, has placed reliance on the following decisions :

(1) AIR 1988 SC 2255. Union of India v. Sh. Somasundaram Viswanath and others.

Relevant extract of para 6 of the said judgment reads :

'.....by means of executive instructions issued under Article 309 of the [Constitution of India](#) in the case of Civil Services under the Union of India and under Article 162, of the [Constitution of India](#) in the case of Civil Services under the State Government. If there is a conflict between the executive Instructions and the rules made under the proviso to Article 309 of the [Constitution of India](#), the rules made under proviso to Article 309 of the [Constitution of India](#) prevail.....'(2) 1997 Lab, IC 423 (SC), S.C. and S.T. Officers Welfare Council v. State of U. P.

Relevant extract of the judgment (contained in para 11) is being reproduced :

'.....Under Article 162, the executive has the power to issue executive instructions consistent with the fundamental rights in Chapter III, to regulate conditions of service but they are subject to the law made by the State Legislature or the Rules made by the Governor under proviso to Article 309 of the Constitution. Executive instructions can also be made to supplement the law to fill in the yawning gaps. The permanent bureaucracy, therefore. In evolving the principles or giving shape to the policy of the political executive on applying the law, rules or instructions, is guided by constitutional philosophy and public policy envisaged thereunder. Article 261 of the Constitution, therefore, accords full faith and credit to the executive acts and records of the Union and the State, the law made by the Parliament or the Legislature or such of the rules or regulations etc. made in furtherance thereof as well as judicial proceedings of the Union and of every State.'The said judgment is relevant to the extent that Government is not divested of overall supervision upon its officers and authorities even if under Article 309. [Constitution of India](#). Rules have been framed unless otherwise restriction/limitation is imposed upon it.

(3) 1998 Lab IC 1723, Vinod Kumar and others v. State of U. P. and others.

Learned single Judge observed--'.....The recruitment, of necessity, had to be according to the procedure prescribed.' it is a case in which patent and blatant Irregularities and illegalities were committed in making selection. Moreover, when once the superior authorities, including the State Government had taken a firm decision that no fresh appointment even of the candidate of reserved category are to be made on the basis of Group 'D' the act of the concerned Deputy Director,

namely, Sri Ram Lakhan, was clearly in flagrant violation of such policy decision duly communicated to him. He deliberately disobeyed the directions of the superior authorities. The petitioners have not joined their duties. The fervent and persuasive submission of Sri Ashok Khare, learned counsel for the petitioner that once the selection process is complete and appointment letters have been issued to the petitioners, they have acquired an indefeasible right to join their duties and that in any case, the appointment letters could not have been cancelled without affording them an opportunity of hearing, is not acceptable. The Constitution Bench of the Supreme Court in Shonkarson B. Dash v. Union of India, AIR 1991 SC 1612. has observed that 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.....'It is true that the State does not have a licence to act in an arbitrary manner but in the present case. It would appear that there have been glaring illegalities and flagrant disregard of the procedure prescribed as well as deliberate disobedience of the directions issued in the matter by the superior authorities.'(4) 1999 Lab IC 244. Surendra Singh Negi and others v. Union of India and others, paras 6 and 16.

The relevant extracts of paras 6 and 16, are reproduced :

'.....On behalf of the respondents. It has been maintained that the present writ petitions at the instance of the petitioners are not maintainable for the reason that the petitioners are only candidates in the process of recruitment, wherein even the panel has not become final having not been approved by the competent authority and, therefore, the petitioners have no legal right to challenge the decision of the Head of the Department to hold a fresh selection. It is also alleged that even if it be taken that the petitioners have been finally selected, they do not have an Indefeasible right of appointment or to remain on the panel and, therefore, the petitioners have no locus standi to challenge the impugned order. The respondents have justified the order of cancellation of the selection list.....'

'16. The Supreme Court had the occasion to test the validity or otherwise of the action of the departmental authorities in cancelling the recruitment process or

scrapping of the selectlist for variety of reasons. There are a series of decisions on the point, but without unnecessarily burdening this Judgment within plethora of rulings, a reference may profitably be made to the decision of the Supreme Court in Union Territory of Chandigarh v. Dil Bagh Singh, AIR 1993 SC 796 ; Preet Pal Stngh v. State. (1994) 5 SCC 695 : AIR 1995 SC 414 : Hanuman Prasad v. Union of India, JT 1996 (8) SC 510 and Biswa Ranjan Sahoo v. Sushant Kumar Dinda, JT 1996 (6) SC 515 : AIR 1996 SC 552. The case of. Hanuman Prasad (supra) is very near to the point in hand. The order of cancellation of appointment of the petitioners cannot be made subject-matter of challenge before this Court and in any case, since the entire selection process stands tainted, the petitioners cannot complain about the cancellation of the select lists which were not even declared.'

30. In the case of Preet Pal Singh a. State of Haryana and others. (1994) 5 SCC 695, Supreme Court on the basis of circumstances pertaining to that case, came to the conclusion that conduct of the authorities was subjective of the conduct of the authorities. On the basis of attending circumstances, like hasty destruction of necessary papers, the Supreme Court held that in the matter of appointment, when selection is held, on its face but ft is not objective and fair, the primacy of public interest require that fresh process be adopted irrespective of interest of a few candidate who may have been otherwise on the select list but bye-passed.

31. It hardly requires to be commented that the purpose of preparing select list is to adjudge the merit of the candidates by adopting a fair procedure, avoid whims, nepotism, favouritism and like.

32. Rules 1998 were framed by the State Government under Article 309. [Constitution of India](#) precisely in order to avoid arbitrariness and have selection on the post concerning affairs of the Government on a fair basis by adjudging merit as per criterion and guideline contained in the said Rules. If the authorities under said Rules exceeded in their jurisdiction and are guilty of Inaction or arbitrary and extraneous consideration, which ultimately affects the very object of preparing select list. It is hardly the merit list contemplated in the eyes of law. Clearly, if records are being interpolated and under the Rules in the eye of law.

33. The very premise of the petitioners that there has been a select list, in the facts and circumstances of the case stands, belied. Purpose to choose the best one is frustrated--See 1997 (2) AISLJ 14. Perusal of Annexures-1 and 2 to the counter-affidavit show that award sheets were admittedly changed. The explanation that award sheets were spoiled due to fall of 'Tea' is ridiculous in the facts of the present case, e.g., it is admitted to the charged officer (P. S. Jain) that those original award sheets were neither retained nor factum recorded on file and that the award sheet were retyped and inserted by replacing the originals without recording reasons or reporting it to higher authorities.

34. The District Magistrate in its order dated 7th April, 1999 (Annexure-CA 2 to the counter-affidavit), referred the matter to the Commissioner informing all the relevant facts and proposed that P. S. Jain be suspended and departmental enquiry be initiated as well as charge be given and interview be got held by constituting a fresh Selection Committee under Chairmanship of another person.

35. The material on record of the present case, as it stands, does not show what made the concerned officer to destroy the original award sheets.

36. Be that as it may be, a responsible senior officer conducted an enquiry and found that irregularities were committed. The Chief Development Officer, Etawah in his report to the District Magistrate concluded that prima facie certain original interview award sheets were changed in order to induct certain candidates and confer benefit illegally upon those candidates who were not in original award sheets. The explanation submitted by the officer concerned has not been satisfactory. It is, no doubt, a good ground which compelled the State Government to direct for fresh interview under supervision of different officers.

37. The impugned order dated 17th May, 1999 (Annexure-5 to the writ petition) was passed after holding detailed enquiry taking into account all relevant material. One finds no arbitrariness in the said process.

38. The Supreme Court in the case of Preet Pal Singh (supra) under similar facts held that interest of 'a few' has to be ignored in the larger public interest which must have the primacy ultimately. Also on the point see AIR 1971 All 567 (paras 2

and 4) and JT 1991 (2) SC 380.

39. It is not possible in the present case to find out as to the result on which candidate/s would have remained unaffected in spite of the 'interpolation' in the record. The faint suggestion on this score on behalf of the petitioners has no weight. Assuming for the argument sake that petitioners' contention has some force--but it cannot be ignored that factual position is under serious dispute. Disputed facts are nothing but slippery base for the petitioners.

40. In none of the cases cited on behalf of the petitioners, the question of 'bungling' and 'irregularity' in the selection process has been considered.

41. The very fact that there has been bungling and Interpolations in records and that authorities conducting selection process have acted irresponsibly (i.e. admittedly original award sheets were changed without retaining the originals) go to show that entire 'select list' is tainted which has no legitimacy.

42. Petitioners' alleged right to claim appointment rests on the basis of forgery from which no statutory right can flow.

43. Petitioners have no Indefeasible right merely on the basis of tampered partial selection (up to written test only). A person has no vested right/enforceable right in law by virtue of his name appearing in the select list much less when it is the case of a bungled 'select list' as also held in several decisions. For reference, a few of them are :

(1) 1996 (72) FIR 549 (SC), Union of India v. S. S. P. Pal

(2) (1996) 3 SCC 139.

(3) 1997 All CJ 1148 (SC).

(4) (1997) 1 SCR 522.

(5) (1998) 1 SCC 487.

(6) AIR 1971 All 67 (Paragraphs 2-4).

(7) 1997(3) ESC 1579, wherein it is held that there should be a good jurisdiction for cancelling select list.

44. While considering the present case, one may keep in mind that in the instant case 'bungled list' does not become 'merit list' merely by giving such a title to the bungled list. There is no select list, whatsoever, as contemplated under law. And hence in that view, the names appearing in the tainted/bungled list do not even have the semblance of 'selection'.

45. Vidur in his Neeti Shastra propounds--'sacrifice an individual, if necessary to save a family, sacrifice a family for the sake of village and so forth. Learned Scholar says - 'Tyajet Kulalrth Pursham, Gram Syaartho kulam tyajyet ; Gramam Janpadsyartho, Aatmartho Prithvi Tyajate.'

46. Otherwise also, I find that by directing fresh interview to be held, no vested right of the petitioners, will be infringed which may justify interference by this Court in exercise of its discretionary jurisdiction under Article 226, [Constitution of India](#). This is not a fit case where this Court should resort to its extraordinary powers under Article 226. [Constitution of India](#) particularly when no substantive right of the petitioners has been infringed and no irreparable injury is caused inasmuch as the petitioners will again have chance to appear in interview on the basis of their earlier written test merit--if the selection process is to be completed provided the Government so decides after lapse of more than one year, and if so permissible under law.

47. Regarding the second submission that enquiry report is baseless and without basis, the argument deserves to be rejected in view of the material brought on record with the counter-affidavit. Even learned counsel for the petitioners did not press this point in his submissions. Third submission of the petitioners has already been suitably dealt with while discussing first submission.

48. In view of the above, writ petitions are devoid of merit and, accordingly, both the petitions are dismissed.

49. Considering the facts of the present case particularly, the delay caused due to ad interim order dated 14.6.1999 in Writ Petition No. 24307 of 1999 and also the Interim order dated 28.5.1999 (extended from time to time) in Writ Petition No. 23161 of 1999, I direct the respondents as well as concerned authority to ensure that the selection process is being completed as contemplated under relevant rules in accordance with law as early as possible preferably within four months of the receipt of a certified copy of this judgment.

50. There will be no order as to costs.

A copy of this judgment shall be placed in the record of connected Writ Petition No. 24307 of 1999.

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