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HIGH COURT OF SIKKIM : GANGTOK
Record of Proceedings

CNR No. SKHC010002772026

WP(C) No.88 of 2026

ANIRUDH GUPTA AND OTHERS PETITIONER(S)

VERSUS

THE STATE OF SIKKIM AND OTHERS RESPONDENT(S)

For Petitioner(s) : Petitioners in person.

For Respondent(s)
R-1 to R-3 : Mr. Zangpo Sherpa, Additional Advocate General with Mr. Thinlay Dorjee Bhutia, Government Advocate.

R-4 : None.

Date :04/11/2026

CORAM
HON'BLE MR. JUSTICE A. MUHAMED MUSTAQUE, CHIEF JUSTICE

FINAL ORDER

The Learned Additional Advocate General with Learned Government Advocate entered appearance on behalf of the State-Respondents on advance notice.

This writ petition was filed by the lawyers, who claim that they are practicing in the High Court and other District Courts of Sikkim, have sought an interim relief and stay challenging an Employment Notification issued by this Court on the Administrative side on 17.09.2026. The Employment Notice is in fact the invitation for the eligible candidates to fill up five vacant posts in the entry level of the Sikkim Judicial Service under the Sikkim Judicial Service Rules, 1975. The eligibility conditions as prescribed in the Notification is as follows:

(a) Candidate must be a citizen of India, in possession of a Certificate of Identification and a valid Local Employment Card.

(b) Should not be more than 35 years of age, as on the last date fixed for submission of applications.

(c) Must be a holder of a degree in law, granted by a University established by law in India.

(d) Must be able to communicate in Nepali, or any other language of the State.

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(e) Must have adequate knowledge in Computer applications, which will be tested at the time of viva-voce.

The last date to receive applications was on 30.10.2026. The writ petition was filed on 28.10.2026 and the IA No.01 of 2026, which is an application for interim relief and stay, was filed on 31.10.2026. The case is listed today, i.e., 04.11.2026, due to the delay in curing the defects by the Petitioners.

Learned Petitioners in person, who are the lawyers of this Court, have raised two points before this Court. One is, the Constitutional validity of the prescription of eligibility that one should possess Certificate of Identification (COI) and a valid local employment card. Second, is the Notification contrary to the Apex Court's judgment in ***Bhumika Trust*** vs. ***Union of India and Others***[1] which mandates one year experience be insisted for applying for the recruitment notice.

Learned Additional Advocate General also relied on paragraph 23 of the judgment of the Hon'ble Apex Court in ***Kerala Public Service Commission*** vs. ***K.N. Radhamani & Ors.***[2].

> "23. So far as Civil Appeal Nos. 2822 and 2823 of 2010 are concerned, we do not find any error in the judgment *[T.N. Sadasivan v. State of Kerala, 2008 SCC OnLine Ker 760]* of the High Court in rejecting the writ petition on the ground of delay. In disputes related to service, particularly in the field of recruitment, fate of a large number of candidates are involved. An aspirant for the posts advertised has to demonstrate promptitude in approaching the Court if in his perception, the eligibility criteria is fixed beyond that stipulated by law. Delayed arrival of a candidate in the judicial forum can have chaotic consequences if decisions taken on the basis of the disputed eligibility criteria are required to be upset much after the selection process is over. The High Court has rightly exercised its discretion in dismissing the said two writ petitions. We dismiss both the appeals."

The question at this stage is whether, this Court should entertain this writ petition. The last date for application is already over. The Employment Notice does not indicate that it is in violation or derogation of the Apex Court's judgment. None of these Petitioners had applied for the said post

[1] 2026 SCC OnLine SC 956
[2] (2021) 15 SCC 501.

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nor have the applications been rejected. They now seek an interim direction for permission to apply for the said posts.

At this stage, this cannot be entertained only for the simple reason that the last date is already over.

The non-mentioning of the prescription of one year minimum practice does not mean that the Petitioners have been prevented from applying for the said posts. The Notification came on 17.09.2026. The Petitioners chose to file the litigation just immediately before the last date of application and they have not even meant to bring up this case before the last day. If the Petitioners' applications cannot be entertained beyond the last date, the consideration of the challenge does not arise.

In service matters, one should have a *locus standi*, which means in this context one should be in a position to apply. For the reason that the last date is over, they cannot apply. That means, they do not have a *locus standi* and this writ petition cannot be converted into a Public Interest Litigation (PIL). The Apex Court, in its plethora of judgments have said that in the service matters, the PIL cannot be entertained. That does not mean that the question raised by the Petitioners need not be considered. That can be considered at the appropriate stage when the Petitioners applies or intends to apply before the deadline.

Therefore, the larger question raised in this matter, i.e., challenging the validity of the COI in this present matter, will have to be decided at an appropriate stage.

Since none of the Petitioners have applied for the said posts and also they have not raised that their applications have been returned or rejected for want of eligibility, they cannot say that the directions of the Apex Court are not followed.

Anyway, as the Petitioners have not chosen to apply for the said posts and also they had not attempted to bring this case before this Court,

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before the last date of application, the case cannot be entertained and is accordingly dismissed *in limine*.

It is made clear that the question raised in this writ petition is left open.

The writ petition stands dismissed *in limine*.

Chief Justice

ds/ami/arc