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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Date of decision: 09.03.2026

1. CWP-12842-2020 (O&M)

Aman Duddi

... Petitioner

Vs.

Haryana Staff Selection Commission and others

... Respondents

2. CWP-12870-2020 (O&M)

Krishan

... Petitioner

Vs.

Haryana Staff Selection Commission and others

... Respondents

3. CWP-12872-2020 (O&M)

Sumeet Kumar Gupta

... Petitioner

Vs.

Haryana Staff Selection Commission and others

... Respondents

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4. CWP-16533-2023 (O&M)

Prasoon Sharma

... Petitioner

Vs.

Haryana Staff Selection Commission and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Samrat Malik, Advocate
for the petitioner(s) (in CWP-12842, 12870 & 12872 of 2020).

Mr. Amit Kaushik, Advocate for
Mr. Suresh Kumar Kaushik, Advocate
for the petitioner (in CWP-16533-2023).

Mr. Vikrant Pamboo, Addl. AG, Haryana and
Mr. Piyush Khanna, Addl. AG, Haryana.

Mr. Hitesh Pandit, Advocate
for respondent No.2
(in CWP-12842 & 12872 of 2020, CWP-16533-2023).

Mr. Davinder Kaliraman, Advocate for
Mr. Jitender Nara, Advocate and
Mr. Rajat Sharma, Advocate
for respondent No.5 (in CWP-12872 & 12870-2020).

HARPREET SINGH BRAR, J. (ORAL)

1. This common judgment shall dispose of all the abovementioned writ petitions, as they arise from a similar factual matrix and pose a common question of law. However, for the sake of brevity, the facts are taken from **CWP-12842-2020**.

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2. Present petition has been preferred under Article 226 of the Constitution of India seeking issuance of writ in the nature of *certiorari* seeking quashing the action of the respondent-Commission regarding allotting the desired department of the petitioner to those lower in merit than him and further for issuance of a direction to the respondents to consider claim of the petitioner for appointment as Junior Engineer (Civil) in the Irrigation and Water Resources Department, Haryana, as per the preference given by him.

FACTUAL BACKGROUND

3. Briefly, the facts are that the respondent-Haryana Staff Selection Commission (for short 'HSSC') advertised for filling up various posts of Junior Engineer (Civil) across multiple departments vide advertisement dated 15.06.2019 (Annexure R-1). While applying to the same, the candidates were also required to indicate their preferences with respect to the employer-department(s). The petitioner applied for the said post under General category and indicated his preferences, as discernible from Annexure P-1. The final result was declared on 06.06.2020 (Annexure P-2). The last selected candidate in the General category had secured 63 marks, while the petitioner had secured 65 marks. On 09.06.2020, the petitioner was offered appointment in Haryana Vidyut Prasaran Nigam (HVPNL) although it ranked at Sr. No.11 in his list of preferences, the first three being PWD (B&R), Irrigation and Water Resources Department and Town & Country Planning. The candidates lower in the merit in General category, as compared to the petitioner, namely Prashant

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Samadhiya, Mahesh Chandra and Suraj Kumar Vishwakarma, had been allotted the Irrigation and Water Resources Department, which was preferred by the petitioner at Sr. No.2. However, the petitioner was allotted HVPNL, which is at Sr. No.11 of his preferences. Aggrieved by the same, the present writ petition has been moved by the petitioner.

CONTENTIONS

4. Learned counsel for the petitioner(s) submits that undisputedly, the petitioner ranks higher in merit than the other selected candidates in the General category, as ascertained on the basis of written test, scrutiny of documents and the applicable socio-economic criteria. In spite of that, the petitioner has not been allotted his preferred department i.e., Irrigation and Water Resources Department. By virtue of being higher in merit, the petitioner ought to have been prioritized in allocation of departments. However, the respondent-Commission has fallen into grave error by arbitrarily deciding to prioritize those who had indicated 03 or fewer preferences over those who had scored higher with respect to allocation of preferred departments. The respondent-Commission has undermined merit, which ought to be the guiding criterion for the purpose of public employment. Moreover, once the selection process has begun, the respondent-Commission could not have introduced fresh criteria for allotment of departments, in furtherance of the recruitment process. Reliance in this regard is placed on the judgment rendered by the

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Hon'ble Supreme Court in *K. Manjusree Vs. State of Andhra Pradesh (2008)*
3 SCC 512.

5. Learned counsel further submits that the mandate of the respondent-Commission is limited to conducting the test and declaring results. The respondent-Commission has exceeded its authority by introducing the criteria to prioritize candidates with 03 preferences or less for allocation of departments. The petitioner cannot be made to suffer because of the failure of the respondent-Commission to account for a situation where some candidates indicate fewer preferences than others, which is rather a foreseeable issue while conducting a consolidated examination for several departments. It is evident that the respondent-Commission has misused its authority to unjustly favour certain candidates by granting the department of their choice. The *mala fide* is also substantiated by the fact of prioritization of those lower in merit, which is inherently unfair and illegal. Lastly, learned counsel submits that the respondent-Commission has followed the algorithm, as illustrated in notice dated 25.10.2019 (Annexure R-1/1), only in select cases in order to cherry pick candidates of its choice, thereby violating the rights of the petitioner under Articles 14 and 16 of the Constitution of India. Learned counsel also prays that an inquiry be got conducted by an independent agency like the C.B.I. in order to unearth the scam perpetuated by the respondent-Commission by changing the criteria for allocation of departments mid-process and tailoring it to give undue benefit to certain candidates due to extraneous considerations.

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6. *Per contra*, learned State counsel refers to the affidavit dated 13.01.2026 filed by Rajiv Sindhu, Under Secretary on behalf of the respondent-HSSC and submits that vide advertisement (*supra*), the recruitment to the post of Junior Engineer (Civil) was notified across 19 departments under 35 categories. During a meeting of the respondent-Commission held on 22.10.2019, a resolution was passed, whereby it was decided that those, who have indicated 03 preferences or less, would be given priority in allotment of departments. In any case, indicating a preference does not give an absolute right to claim appointment in the desired department only. A notice was duly issued on 25.10.2019 (Annexure R-1/1) asking all candidates to submit their preferences for allotment of departments. The respondent-Commission has not indulged in any pick-and-choose policy, but a considered decision has been taken in exercise of its powers, as highlighted vide notifications dated 10.01.2006 and 21.06.2007. Further, the respondent-Commission must be consulted on methods of recruitment and the principles to be followed in making appointments to Group C and D posts and as per notification dated 21.06.2007, an amendment was introduced, which reads as follows:

“(iv) in paragraph 6, for clause (d), the following clause shall be substituted and shall be deemed to have been substituted with effect from 10th January, 2006, namely:-

(d) methods of recruitment and the principles to be followed in making appointments to the Group B, Group C and Group D posts under the State Government. The Commission shall devise the mode of selection and fix the criteria for selection of posts

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for which requisition is sent to it by a department or an office, as it may deem appropriate and the criteria for the selection of posts fixed earlier by the Board/Commission shall be deemed to have been fixed under this clause.”

OBSERVATIONS

7. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it is evident that the grievance of the petitioner pertains to prioritization of candidates lower in merit, with respect to allocation of departments. Admittedly, the petitioner scored 65 marks while the last selected candidate in the General category obtained 63 marks. However, the selected candidate, lower in merit to the petitioner, was appointed to the department of the latter's preference. The respondent-Commission attempted to justify this approach by stating that those, who had indicated 03 preferences or less, were accorded prioritization based on the criterion and algorithm agreed upon by the respondent-Commission.

8. In this backdrop, the following questions of law arise for adjudication: -

- A. *Whether, in a combined recruitment for appointment to multiple departments or services, the State is bound to allocate departments strictly in accordance with inter-se merit of the selected candidates?*
- B. *Whether a method of allocation that permits candidates lower in merit to secure more desirable departments ahead of higher-*

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ranked candidates is arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India?

CONSTITUTIONAL SCHEME AND ROLE OF PUBLIC SERVICE COMMISSIONS

9. The constitutional scheme provides for independent recruitment bodies such as the Union Public Service Commission and the State Public Service Commission(s) precisely to insulate the recruitment process from arbitrariness, nepotism and extraneous influence. These constitutional bodies are entrusted with the solemn responsibility to safeguard the integrity of the recruitment process and to ensure that appointments to public services are made strictly on merit through a transparent, impartial and fair process. Public employment in a constitutional democracy rests upon the bedrock of public trust and as such, the selection process must not only be fair in substance, but must also appear to be fair and transparent, so as to inspire confidence among aspirants and the public at large. Further, constitutional Courts have repeatedly held that transparency and fairness are the foundational requirements of any selection process conducted by a recruiting agency.

IMPORTANCE OF MERIT-BASED ALLOCATION OF DEPARTMENTS IN COMBINED RECRUITMENT

- **Constitutional Foundation of Merit-Based Selection**

10. The constitutional framework places equality, fairness and meritocracy at the heart of public employment. Articles 14 and 16 of the Constitution of India guarantee equality before law and equality of opportunity



in matters relating to public employment. Further, merit-based selection is not merely an administrative practice, but a constitutional mandate. Any selection process conducted by the State must ensure transparency, fair competition, recognition of merit and absence of arbitrariness.

11. In *B.S. Yadav Vs. State of Haryana, 1981 AIR SC 561*, the Hon'ble Supreme Court affirmed that while the Governor has the authority under Article 309 of the Constitution of India to frame rules for public employment, including making them retrospective, such rules must conform to Articles 14 and 16 of the Constitution of India, ensuring fairness and avoiding arbitrary or discriminatory practices. Through this judgment, the Hon'ble Supreme Court has fundamentally established that discretionary power in public employment must be exercised within constitutional boundaries to maintain the integrity of public service, thereby reinforcing that merit-based recruitment is the bedrock of equality in public service.

- **Merit Must Also Govern Allocation of Departments**

12. In combined selections, a single examination or selection process is conducted for recruitment to multiple departments. The principle of merit does not end with the preparation of a merit list. It must extend to the allocation of departments. The rationale is straightforward - the candidate, who performs better in the selection process, acquires a higher right in preference as merit must be rewarded and incentivized. Thus, higher-ranked candidates must be allowed to exercise priority in choosing departments. If this principle is



ignored, the entire purpose of competitive examination is defeated. As such, that merit position must be respected while determining service allocation in a combined selection.

- **Incentivizing Merit: A Core Principle of Competitive Recruitment**

13. Competitive examinations are designed to identify the best talent available to the State. If a candidate, who secures higher merit, is denied a better department, while a lower-ranked candidate secures a more desirable post, the system becomes irrational and discouraging. Such a system not only has the potential to demoralize meritorious candidates, but also suffocates the incentive to perform better and it further undermines institutional credibility. Therefore, a structure of open selection and transparent recruitment has been institutionalized, where the objective is not only to select meritorious candidates, but also to ensure public confidence in the integrity of the selection process.

14. The Courts have constantly avowed that transparency and equal opportunity are not mere administrative aspirations, but constitutional necessities. However, systemic challenges such as nepotism and favouritism continue to corrode public trust in the recruitment process. These practices strike at the heart of constitutional morality, which demands governance rooted in integrity, fairness, and adherence to constitutional values rather than personal loyalties or extraneous considerations. Open competitive examinations and merit-based selections are among the key mechanisms



through which the principles of constitutional morality and the rule of law are realized.

15. Further, providing a level playing field in allotment of departments in a combined selection process remains the most effective method to ensure fairness and predominance of merit in public recruitment. Even after a selection process is completed, the State must act fairly and reasonably in matters relating to allotment of departments. As such, selection processes must operate in a manner that preserves fairness and integrity of merit lists. Merit cannot be treated as a mere ceremonial exercise; it must have real consequences in determining outcomes such as department allocation.

- **Lower-Ranked Candidates Cannot Steal a March Over Meritorious Candidates**

16. Allowing candidates placed lower in merit to secure better departments, ahead of higher-ranked candidates, would amount to them stealing a march over the meritorious candidates. This situation is constitutionally impermissible for several reasons, including the following:

(a) Violation of Article 14 (Equality)

The State cannot act arbitrarily in distributing public posts. Any policy that allows candidates lower in merit to supersede candidates higher in merit without any lawful justification is violative of Article 14 of the Constitution as arbitrariness is the antithetical to equality.

**(b) Violation of Article 16 (Equality of Opportunity)**

Public employment must operate through fair competition. When merit is ignored at the stage of allocation of departments, the equality guaranteed under Article 16 is compromised.

(c) Defeat of Merit-Based Selection

Competitive examinations exist to ensure that the best available candidate is selected for public employment. Further, it also ensures that a candidate is rewarded proportionally to his performances in the examination, as such, those who perform better gain a proportionate advantage over their counterparts who are lower in merit. Denying meritorious candidates better departments destroys the very rationale behind conducting a selection process.

- **Judicial Recognition of Merit-Preference Principle**

17. The Courts have repeatedly held that recruitment processes must remain transparent, predictable and non-arbitrary. Rules cannot be manipulated in a manner, that prejudices meritorious higher-ranked candidates. This reasoning also extends to allocation of departments where priority must be accorded in terms of the merit of the candidates.

18. Further, judicial review is invoked where the decision-making process suffers from manifest arbitrariness i.e. when it is unfair, unreasonable, discriminatory, opaque, capricious, biased, indicative of favouritism or



nepotism and when it hinders healthy competition and equitable treatment (See: *Union of India Vs. Ganpati Dealcom (P) Ltd., 2022 AIR SC 4558*). Additionally, when perversity i.e. unreasonableness is of such a dimension that no authority vested with the jurisdiction would have come to such a conclusion, the Court can indulge in judicial review of such a process (See: *Mayawati Vs. Markandeya Chand, 1998 AIR SC 3340*).

(a) Consequences of a Rigged or Manipulated Selection Process

Constitutional Courts have consistently prioritized institutional integrity over individual equities, holding that the purity of the recruitment process must be preserved at all costs. Accordingly, an analysis of precedents indicates that the following steps have been taken in such situations:

- (i) Cancellation of the entire selection process;
- (ii) Termination of illegally appointed candidates; and
- (iii) Criminal and disciplinary proceedings.

(b) Institutional Consequences of Compromised Recruitment

The manipulation of recruitment processes with respect to public employment ought to be taken with utmost seriousness as it breeds several harmful consequences such as:

- (i) Erosion of public trust in constitutional institutions;
- (ii) Demoralization of meritorious candidates;
- (iii) Deterioration in the quality of public administration; and

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(iv) Increase in litigation and, administrative instability.

19. Therefore, the Courts consistently insist that recruitment processes must not only be fair, but must also appear to be fair and whenever the integrity of a recruitment process conducted by a constitutional or statutory authority stands compromised, the Courts are duty-bound to intervene so as to restore fairness, transparency and meritocracy, which constitute the foundational pillars of public employment under the Constitution.

ANALYSIS

20. The respondent-Commission was granted another opportunity to justify its actions and on 04.12.2025, the following order was passed by this Court:

“1. Learned counsel appearing for the petitioner (in CWP-16533-2023) submits that after issuance of the advertisement, the selection process was carried out for appointment in various Departments, Boards and Corporations of the Government of Haryana. The petitioner participated in the selection process and after scrutiny of the documents, the Haryana Staff Selection Commission, Panchkula thereafter issued the following instructions on 25.10.2019 for online submission of department preferences:-

Instructions filling Department Preference online:-

- 1. Click on "Fill Preferences for Post of junior Engineer" on hssc.gov.in.*
- 2. Candidates shall use the same Login ID and Password as was used for downloading admit cards for the written examination for post of junior Engineer.*
- 3. Candidate is advised to go through the name of the 12 number of departments as mentioned in the advertisement against which he has applied and the categories against*

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which he has applied, before starting to fill up the preference form to avoid any confusion.

4. Candidate shall be considered against the posts for which he applied in the respective application forms and against the category i.e. General/SC/BC- A/BC-B/EWS only, as mentioned by him in the respective application forms. As per the Government instructions, in case a candidate has filled up more than one profile application form for same post, then the candidate shall be considered against the category as specified in the latest submitted application form.

5. Candidate should select the box as per the preference which shall be numbered in the sequence of selection automatically.

6. The selection can be altered any number of time before final submission by deselecting and then again selecting the boxes.

7. The candidate shall be mandatorily required to give all the preferences in respect of the roll number and posts against which he has appeared.

8. After filling in all preferences, the candidate shall be required to press the button "Send OTP, an OTP shall be sent to the registered mobile number of the candidate. The candidate shall be required to enter OTP and click on verify OTP button". On verification of OTP the preference shall get freezed and candidate can take print of the same.

9. No change shall be allowed after the final submission of the selection format and the preferences submitted shall be considered final.

2. Thereafter, for the reasons best known to the respondent/Commission, it made a U-turn and adopted a different yardstick for the allocation of departments to the selected candidates. In the meeting of the respondent/Commission held on 22.10.2019, it was decided that candidates who have indicated preference for three or less departments will be considered first for allocation, irrespective of merit. The operative part of the said resolution, reads as follows:-

Note 1: *While checking the application data by HKCL, it has been observed that many candidates have applied for 3 or*

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less than three categories of posts. So, candidates who have applied for only three or less than three posts/categories shall be considered first for allocation/adjustment against their preferred department, Because the candidates who would be lower in merit & have filled preferences 3 which will lead to no allocation to these candidates. This will compromise the merit of the candidates as those further lower in merit but having applied for more number of categories would then have to be selected or the seats would remain vacant. The attempt should be to allocate departments to all candidates without compromising merit calling for preferences from candidates shall not give absolute right to candidates to claim appointment in preferred department only. It's just an attempt to allocate preferred choice as far as possible but shall not break the merit list/order and will also lead to filling up of all seats in order of merit.

3. Learned counsel for the petitioner further submits that the respondent/Commission has erred in changing the criteria after culmination of the selection process. This tailor-made criterion was intended to favour certain candidates who might have been asked to give less than three preferences in advance, clearly reflecting mala fide on the part of the respondent/Commission.

*4. To support his contentions, learned counsel for the petitioner has relied upon the judgment rendered by a Division Bench of Allahabad High Court in **Dr. Anju Chaudhary vs. State of U.P. and others, 2023(156) ALR 577**, wherein reliance has been placed upon the judgment passed by a Full Bench in the case of **Dr. Vinay Kumar vs. The Director of Education (Higher) and others, 2006 (62) ALR 808** to concluded that a candidate higher in merit must be accorded priority in allocation of the department, according to his preferences, over those who ranked below him. Thus, the respondent/Commission has acted in an arbitrary fashion, causing great prejudice to the petitioner in spite of him being higher in merit.*

5. However, learned counsel for respondent/Commission could not explain the rationale behind the decision to prioritize

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candidates on the basis of a particular number (i.e. three) of preferences indicated by them as opposed to merit, to the satisfaction of this Court.

6. Learned State counsel seeks a short accommodation to have complete instructions in the matter and file an appropriate affidavit of the responsible officer addressing the issues highlighted above, well before the next date of hearing.

7. The common citizens cherish opportunities of public employment as it guarantees a dignified life and financial security. Thus, the process of selection for such employment must remain completely transparent, fair, and beyond reproach. In that vein, the respondent/Commission, being a major recruitment agency for the State of Haryana is expected to employ an even higher standard of care in holding the examination, evaluation, declaration of results and enabling fair appointment. It is, therefore, crucial to ensure that the vice of arbitrariness does not infiltrate the well- respected domain of public employment, both to set the correct tone for other employers and to prevent undue harassment to the aspirants. If any distinction is to be drawn between selected candidates, it must rest on a clear intelligible differentia that bears a rational nexus to the objective sought to be achieved by such distinction. In the absence of these essential characteristics, this distinction would amount to nothing more than exploitative discrimination.

8. In the interest of justice, adjourned to 17.12.2025. The relevant affidavit be filed with the Registry before the next date of hearing.

9. To be taken up immediately after the Urgent List.

10. A photocopy of this order be placed on the file of other connected cases.”

21. In pursuance thereof, an affidavit dated 13.01.2026 was filed by Rajiv Sindhu, Under Secretary on behalf of the respondent-HSSC. The relevant part thereof is reproduced below:

*“6. That it is pertinent to mention here that the **Respondent Commission issued a notice dated 25.10.2019, in which the***

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Respondent Commission gave direction to all candidates including the petitioner who were shortlisted for Scrutiny of Documents are required for filling their preferences of department online. It was mandatory for the candidates to fill up the preferences through online mode failing which their candidature will be considered as "Cancelled". It is further pertinent to mention here that the petitioner has duly filled the preferences of the department and he has been allotted HVPNL, Haryana as per his preference. Further, it submitted that posts were allocated on the basis of software/algorithm which categorically picks up the candidates on the basis of merit, preferences selected and availability of posts. The relevant part of the said algorithm is reproduced as under:-

"Algorithm

1. Firstly System will check the candidates in order of merit, who have given the preferences <3 for post/category.
2. System will check first post preference of the candidate and seek available vacancy in the first preferred post according to merit and availability of vacancies.
3. If there is vacancy available, then the candidate will be allocated to the vacancy and removed from the list of candidates.
4. If there is vacancy of the first preferred post, then system will next check preferred post and repeat the process till the preferred post get exhausted.
5. The aforesaid process shall repeat till all the posts are filled.
6. Secondly, after allocating all the candidates who have filled preferences <3, system will check the candidates in order of merit, who have given the preferences >3 for post/category.
7. System will check first post preference of the candidate and seek available vacancy in the first preferred post according to merit and availability of vacancies.
8. If there is vacancy available, then the candidate will be allocated to the vacancy and removed from the list of candidates.

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9. *If there is no vacancy of the first preferred post, then system will next check preferred post and repeat the process till the preferred post get exhausted.*

10. *The aforesaid process shall repeat till all the posts are filled."*

*Hence, the above said criteria were followed in the present case. Further, it is worthwhile to mention here that the meritorious candidates who had applied less than 3 preferences were given precedence over those who had applied more than three preferences. **The reason behind the same is that while checking the application data by HKCL, it was observed that many candidates had applied for 03 or less than three categories of posts. So, if the candidates who had applied for three or less than three posts/categories are not considered first for allocation/adjustment against their preferred department, then those candidate (who would be lower in merit & have filled 3 preferences only) may have got no allocation.** This would have compromised the merit of the candidates as those, further lower in merit but having applied for more number of categories would then have to be selected or the seats would remain vacant. The attempt should be to allocate departments to all candidates without compromising merit. It was also mentioned in the resolution that the calling for preferences from candidates shall not give absolute right to candidates to claim appointment in preferred department only. It was just an attempt to allocate preferred choice as far as possible and also filling up of all seats in order of merit.. Hence, the petitioner was rightly allotted department on the basis of above mentioned criteria and there was no pick and choose policy.*

Therefore, Keeping in view the above explained facts and circumstances, it is clear that the petitioner was rightly allotted his preferred department on the basis of a just and fair criteria and there was no pick and choose policy. Therefore, petition filed by the petitioner deserve to be dismissed qua the Commission in the interest of justice."

(emphasis added)

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22. Upon perusing the aforementioned affidavit, this Court was of the considered opinion that the rationale provided therein does not aid the case of the respondent-Commission in any manner. As such, on 22.01.2026, the following order was passed:

“On 08.04.2024, a specific query was raised by this Court as to under what authority of law the precedence was granted on the basis of preferences.

The learned State counsel is directed to place on record the notification vide which the Haryana Staff Selection Commission was constituted and its mandate. Further, the statutory framework, if any, which empowers the Haryana Staff Selection Commission to embark upon the task of allotting the Departments after the declaration of results. It is a trite law that selection process commences with the issuance of an advertisement and the mandate of the selection commission ceases on declaration of the result.”

23. In pursuance thereof, learned State counsel has provided an assortment of documents to highlight the powers and functions of the respondent-Commission. The same is taken on record as Mark ‘X.’ Learned State counsel referred to notification dated 10.01.2006 issued by the Government of Haryana. The aforesaid response was not only lacking in relevant details, but also failed to controvert the specific stand taken by learned counsel for petitioners.

24. Conspicuously, the respondent-Commission had primarily filed short affidavits only to present their case, which failed to answer the queries

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put to them and has raised the curiosity of this Court. Therefore, finding the above information insufficient and unconvincing, specific information by way of affidavit was sought by this Court vide order dated 13.02.2026, which reads as follows: -

“A perusal of the affidavit filed on behalf of respondent No.1 indicates that the candidates, who were shortlisted for scrutiny of documents, were directed to give their preferences of departments vide notice dated 25.10.2019, circulated on the website of the respondent-Commission. The candidates were also informed that giving preferences is mandatory and failure to provide the same will result in cancellation of their candidature.

Further, the affidavit dated 13.01.2026 of Rajiv Sindhu, Under Secretary on behalf of respondent No.1-Commission reveals that in the meeting held on 22.10.2019, respondent No.1-Commission passed a resolution to give priority to those candidates, who have given three or less preferences for department allocation.

In view of the above, respondent No.1-Haryana Staff Selection Commission is directed to provide following information along with supporting document by way of affidavit of its Secretary:

- (a) The agenda of the meeting of the respondent-Commission held on 22.10.2029 as well as the minutes of the said meeting. Additionally, indicating whether the decision taken therein was circulated to the candidates by publishing a notice on the website of the respondent-Commission.*
- (b) The record pertaining to the preferences given by all the private respondents in all the abovementioned petitions,*

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respectively, in furtherance and compliance of the order dated 19.04.2023. Also, provide complete information regarding the number of preferences given by them, their position in the final merit list and the department allocated to them.

(c) The complete details i.e. number of preferences given and position in the final merit list, of the candidates, who have been allocated the following departments:-

(i) PWD (B&R), Haryana,

(ii) Irrigation and Water Resources Department, Haryana,

(iii) Town & Country Planning, Haryana.

The affidavit be filed with the Registry at least 03 days before the next date of hearing and an advance copy be provided to learned counsel for the petitioner(s).

Further the Secretary of Haryana Staff Selection Commission – respondent No.1 is also directed to remain personally present before this Court along the complete record of the selection process on the date fixed.”

25. In response to the same, an affidavit dated 09.03.2026 of Chinmai Garg, Secretary, Haryana Staff Selection Commission was filed, wherein it was admitted that the allotment criteria approved vide resolution dated 22.10.2019 was never uploaded on the website of the respondent-Commission. Further, the concerned private respondents namely Kunal Chhilar (Rank 414) and Prashant Samadhiya (Rank 392) had given 15 and 07 preferences, respectively and yet they were allotted the department marked as their respective second preferences. However, it was stated that no human intervention was involved in the selection process. The relevant part of the affidavit is reproduced below: -

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“3. That in compliance of aforesaid order passed by this Hon'ble Court, the deponent is furnishing following information alongwith the supporting/ annexures:-

A. A meeting of Haryana Staff Selection Commission was held on 22.10.2019, which was presided by the then Chairman, HSSC, and the minutes of meeting were formulated in the resolution/proceeding of meeting dated 22.10.2019, are attached herewith as Annexure A-1. It is further submitted that as per the general practice of the respondent Commission a notice/instructions regarding filing up of preference(s) of departments was uploaded on 25.10.2019 on the website of the Commission, **however the allotment criteria consisted in the OTA dated 22.10.2019 was not published on the website of the Commission.** A copy of notice dated 25.10.2019 annexed as Annexure A-2.

B. The record pertaining to the preferences given by all the private respondents in CWP No. 12842, 12870 & 12872-2020 (O & M), CWP No. 16533-2023 (O& M) is as under:-

CWP No.	Roll No.	Respondent Name	Father Name	Preference	Number of Preference	Category Allocated	Allocated Department Name	Merit No. as per final selection list
12870/2020 12872/2020	10191 25747	Kunal Chhillar	Dharamvir Singh	32, 25, 5, 30, 1, 29, 4, 12, 23, 16, 18, 14, 24, 20, 34	15	25	PWD (B&R) Haryana	414
12842/2020	10191 37265	Prashant Samadhiya	Dinesh Kumar Samadhiya	25, 1, 18, 14, 16, 12, 29	7	1	Irrigation & W&R Department Haryana Panchkula	392

C. The complete details i.e. number of preferences given and position in final merit list, of the candidates, who have been allocated following departments i.e. PWD (B & R), Haryana, Irrigation and Water Resources Department. Haryana and Town & Country Planning has been given in **Annexure A-3** annexed with this affidavit.

4. That it is humbly submitted that per the record available, the Commission proceeded to allocate departments to the selected candidates through the algorithm as per the details given in the

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resolution dated 22.10.2019 as was prevalent at that time. However, as per the record, it cannot be ruled out that the departments have been allocated strictly in accordance with inter-se merit of the candidates as is evident from the challenges arose during the said process of allocation of departments as per the preferences given by the candidates.

5. That it is most respectfully brought to the kind notice of this Hon'ble Court that the Commission presently allocates departments to the selected candidates strictly on the basis of their merit position and indicated preferences through a duly established systemic and automated process. Further submitted that no human intervention is involved in the said allocation process, thereby ensuring fairness, transparency, and adherence to the principles of merit in the selection procedure.

6. That it is further brought to the kind notice of this Hon'ble Court that the pay scale for the post of Junior Engineer (J.E.) in all departments under the Government of Haryana is identical, and therefore, allocation of a particular department does not materially affect the pay fixation or seniority of the selected candidates.

7. That it is further submitted that the present affidavit is filed in compliance of order dated 13.02.2026 and the contents of short reply dated 21.03.2022 & affidavit dated 13.01.2026, filed on behalf of respondent commission shall be read as part and parcel of the present affidavit and the same are not reproduced here for the sake of brevity.”

(emphasis added)

26. The aforesaid affidavit vindicates the stand taken by the petitioner as admittedly, the criteria agreed upon in the meeting dated 22.10.2019 of the respondent-Commission was kept concealed from all candidates for the reasons best known to the respondent-Commission. This approach in itself amounts to a serious misconduct. In addition to this, it is astoundingly self-

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evident that even this undisclosed algorithm was not uniformly applied to all selected candidates. Had it been so, private respondents - Kunal Chhilar (Rank 414) and Prashant Samadhiya (Rank 392) would not have been granted the department of their second preference, as they had provided 15 and 07 preferences, respectively and were lower in merit to the petitioner.

27. In the background of the aforementioned affidavit, this Court finds force in the argument raised by learned counsel for the petitioner(s) that the allocation criteria has been tailored to suit certain candidates. This conclusion is further buttressed by the fact that the notification regarding change in criteria i.e. prioritization of those, who had indicated 03 or less preferences, was never circulated or got notified to all candidates or uploaded on the respondent-Commission's website. No justification was forthcoming from the respondent-Commission to justify this glaring concealment of necessary information from the candidates, especially when failure to indicate preferences through online mode would have resulted in cancellation of their candidature.

28. Furthermore, a perusal of Annexure A-3 appended with the affidavit makes it abundantly clear that the algorithm proposed by the respondent-Commission was not put to practice, as candidates, who had indicated more than 03 preferences, were also prioritized for allocation of departments of their choice. For instance, one Aakil (Roll No.1019111360), rank 469, had indicated 17 preferences, out of which PWD (B&R) Department ranked at the first place and he was allocated the same. Similarly, one Gulshan

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(Roll No.1019115808), rank 725, was allocated his first preference i.e. Irrigation and W&R Department, even though he had indicated 15 preferences. In spite of being lower in merit than the petitioner, they were allocated their preferred department, while the petitioner was allocated his 11th preference i.e. HVPNL. The data presented by the respondent-Commission fully establishes the case of the petitioner(s) that serious prejudice has been caused to the more meritorious candidates due to the clandestine and opaque approach adopted by the respondent-Commission.

29. Pertinently, the disputed criterion did not even form part of the advertisement (supra). Surprisingly, a public notice dated 25.10.2019 was issued in clandestine manner, whereby preferences for department allocation were sought from all the selected candidates, without disclosing the criterion adopted on 22.10.2019, which resulted in complete obliteration of the level playing field. In doing so, the respondent-Commission has suffocated the principle of equality in public employment. Furthermore, candidates higher in merit, including the petitioner(s), were kept completely in the dark regarding the change in criteria for allotment of departments. If the criterion adopted on 22.10.2019 was duly circulated to all the candidates, those higher in merit would have made an informed decision while exercising their preferences for allotment of departments. As such, grave prejudice has been caused to the meritorious candidates, defeating the fundamental principle of merit-based selection. Further still, the respondent-Commission has tried to withhold

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relevant information from this Court, resulting in passing of repeated orders in order to elicit complete information. Such conduct is deprecated in strictest and strongest terms.

30. This Court must also squarely confront the respondent-Commission's contention that all the departments covered by the aforementioned advertisement offer an identical pay scale for the post of Junior Engineer, and that, consequently, neither pay fixation nor seniority of the selected candidates has been materially impacted. Such a submission is nothing but a thinly veiled and unconvincing attempt to trivialize its own misconduct. It is a matter of common knowledge that certain positions, such as those in the Public Works or Irrigation Departments are inherently more sought after than others. The very act of soliciting departmental preferences from candidates underscores the recognition that these roles are not interchangeable, but are distinguished by the nature of their public functions and perceived desirability. Had the respondent-Commission genuinely believed all posts to be equal in every respect, there would have been no occasion to invite preferences and a random allocation would have sufficed. This argument, therefore, is not only manifestly untenable but also glaringly self-contradictory, particularly in light of the respondent-Commission's own assertion that allocations were carried out on the basis of objective criteria. Such inconsistency lays bare the fallacy of its defense. The respondent-Commission cannot be permitted to evade accountability for a demonstrably flawed allocation process. It must be pointed



out that even in the context of the Civil Services Examination, the Union Public Service Commission places paramount emphasis on merit while allocating services and cadres, an approach befitting a fair and transparent selection system.

31.1. At this juncture, it would be profitable to refer to the judgment rendered by a Full Bench of the Allahabad High Court in ***Dr. Vinay Kumar Vs. The Director of Education (Higher) and others, 2006 (62) ALR 808***, wherein the following was held: -

“36. This merit list is not the only list. Though the management has no say in the matter, the employee, i.e., the prospective Principal or the prospective Teacher has a say of his own. He can make a preference for a college.

37. In our opinion, the Director at the time of making intimation is to take into account only two things, in regard to every candidate namely, the candidate's merit position as determined under Section 13(1), and the preferential list of college or institutions given by the candidate himself.

38. How the Director is to allot the candidates to the different colleges on the basis of these two items and these two items only are, with respect, correctly laid down by the Division Bench in paragraph 9 in Alka Rani's case (supra) and we agree with that paragraph in toto.

*39. In our opinion the Director does not use a discretionary power in making intimations under sub-section (3) of Section 13. **Instead***

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of the Director, any other person with an equally logical mind as the Director will also be able to perform the same act but the Director has been given the authority so as to carry conviction and to make it safe for the colleges to follow the recommendations and intimations coming under his signature.

40. The wording of sub-section (3) of Section 13 shows that Director's action is compulsorily prescribed by the said sub-section. Although the said sub-section does not refer to the merit list at all yet as laid down in paragraph 9 of Dr. Alka Rani's case (*supra*) the merit list must be considered by the Director and in this regard the Director cannot disregard sub-section (1) of Section 13 and the exercise performed under that sub-section. The exercise by the Director is performed thereafter and must be performed thereon.”

(emphasis added)

31.2. Furthermore, relying upon **Dr. Vinay Kumar's** case (*supra*), a Division Bench of the Allahabad High Court in **Dr. Anju Chaudhary Vs. State of U.P. and others, 2023(156) ALR 577** opined as follows: -

“23. From the decision of the Full Bench, it is clear that **the Director has to accord due weightage to the merit list before making allotment of colleges.** Thus, if we apply the ratio laid down in Alka Rani's case, affirmed in Dr. Vinay Kumar's case, **the position that would emerge is that the candidate placed higher in the order of merit would have a first right to be appointed in the college opted than the person/candidate who is lower in the order of merit irrespective of that college being lower in the order of preference than in the preference list of the candidate**

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lower in the order of merit. But, if the person higher in the order of merit is placed in a college which was higher in his order of preference, then his/her claim to the college allotted to the other candidate, lower in the order of merit, would not sustain.”

(emphasis added)

32. Therefore, in view of *Dr. Vinay Kumar*'s case (*supra*), the allocation of departments must be made by giving due weightage to the merit in furtherance of the constitutional philosophy as enshrined in Articles 14 and 16 of the Constitution of India. However, these constitutional principles do not implement themselves. In order to realize them, recruitment agencies are required to put the principles of equality, fairness and transparency in practice in the actual recruitment processes by establishing a framework for allotment of departments in order to promote merit-based selection.

THE EFFECT OF OBSCURITY IN THE LEGAL REGIME GOVERNING THE ALLOCATION OF DEPARTMENTS AND NECESSITY OF SETTLED NORMS

33. It is trite law that the criteria for selection must remain unchanged and consistent once the recruitment process has begun. Be that as it may, when changing the same is expedient in public interest, modifications may be made in exceptional cases. In such a scenario, however, it becomes absolutely essential to ensure that the candidates are informed of the change and reason thereof, by publishing the same in writing. Such an approach will assist in maintaining public trust, as application of mind would be duly reflected. Additionally, should an occasion for judicial review arise, precise actionable

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grounds would be readily available.

34. Obscurity with regards to the criteria or methodology adopted for allocation of departments creates a serious risk for arbitrariness and manipulation, especially when no statutory rules are available in this regard. The lack of a clear normative framework expands administrative discretion beyond its legitimate bounds that enable authorities to act subjectively, without transparent standards. The Hon'ble Supreme Court in *Ramana Dayaram Shetty Vs. International Airport Authority of India, 1979 AIR SC 1628* and *E.P. Royappa Vs. State of Tamil Nadu, 1974 AIR SC 555* has emphatically held that arbitrariness falls foul of the promise of Article 14 of the Constitution of India and asserted that the State action must be guided by reason and transparency. Therefore, in the absence of defined rules, it was incumbent upon the respondent-Commission to allocate departments to the candidates only in terms of their merit and preference, so as to ensure that there is no post-selection manipulation based on favouritism. The respondent-Commission has clearly violated the legitimate expectations of the candidates, who reasonably anticipated that merit will determine outcomes. At this juncture, a reference may be made to the judgment rendered by a two-Judge Bench of the Hon'ble Supreme Court in *Navjyoti Co-operative Group Housing Society Vs. Union of India, 1993 AIR SC 155*, wherein speaking through Justice G.N. Ray, the following was held: -

“15. It may be indicated here that the doctrine of 'legitimate expectation' imposes in essence a duty on public authority to act

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fairly by taking into consideration all relevant factors relating to such 'legitimate expectation'. Within the conspectus of fair dealing in case of 'legitimate expectation', the reasonable opportunities to make representation by the parties likely to be affected by any change of consistent past policy, come in. We, have not been shown any compelling reasons taken into consideration by the Central Government to make a departure from the existing policy of allotment with reference to seniority in Registration by introducing a new guideline. On the contrary, Mr. Jaitley the learned counsel has submitted that the DDA and/or Central Government do not intend to challenge the decision of the High Court and the impugned memorandum of January 20, 1990 has since been withdrawn. We therefore feel that in the facts of the case it was only desirable that before introducing or implementing any change in the guideline for allotment, an opportunity to make representations against the proposed change in the guideline should have been given to the registered Group Housing Societies, if necessary, by way of a public notice.”

35.1. Further, while discussing the principle of equal opportunity to all, a two-Judge Bench of the Hon'ble Supreme Court in ***State of Orissa Vs. Mamata Mohanty, (2011) 3 SCC 436*** held that relevant information must be disseminated to the candidates in a reasonable manner. Speaking through Dr. Justice B.S. Chauhan, the following was opined: -

“19. Therefore, it is a settled legal proposition that no person can be appointed even on a temporary or ad hoc basis without inviting applications from all eligible candidates. If any appointment is made by merely inviting names from the Employment Exchange or putting a note on the Notice Board etc. that will not meet the

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requirement of Articles 14 and 16 of the Constitution. Such a course violates the mandates of Articles 14 and 16 of the Constitution of India as it deprives the candidates who are eligible for the post, from being considered. A person employed in violation of these provisions is not entitled to any relief including salary. For a valid and legal appointment mandatory compliance of the said Constitutional requirement is to be fulfilled. The equality clause enshrined in Article 16 requires that every such appointment be made by an open advertisement as to enable all eligible persons to compete on merit.”

35.2. Reliance in this regard can also be placed on the judgment rendered by a three-Judge Bench of the Hon’ble Supreme Court in ***Raj Kumar and others Vs. Shakti Raj and others, (1997) 9 SCC 527***, wherein, speaking through Justice G.B. Pattnaik, the following was held: -

*“14. A Bench of three Judges of this Court in ***Excise Superintendent v. K.B.N. Visweshwara Rao, 1996(6) SCC 216***, had held thus:*

"It is common knowledge that many candidates are unable to have the names sponsored, though their names are either registered or are waiting to be registered in the employment exchange, with the result that the choice of selection is restricted to only such of the candidates whose names come to be sponsored by the employment exchange. Under these circumstances, many a deserving candidates are deprived of the right to be considered for appointment to a post under the State. Better view appears to be that it should be mandatory for the requisitioning authority/establishment to intimate the employment exchange, and employment exchange should

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sponsor the names of the candidates to the requisitioning Departments for selection strictly according to seniority and reservation, as per requisition. In addition, the appropriate Department or undertaking or establishment, should call for the names by publication in the newspapers having wider circulation and also display on their office notice boards or announce on radio, television and employment news-bulletins; and then consider the cases of all the candidates who have applied. If that procedure is adopted, fair play would be subserved. The equality of opportunity in the matter of employment would be available to all eligible candidates."

15. In view of this legal position, the necessary requirement should be that they should necessarily not only notify but also call the names from employment exchange; in addition they should give wide publicity in the media inviting applications from qualified persons for selection..."

35.3. The binding judicial precedents unequivocally establish that strict compliance with Articles 14 and 16 of the Constitution of India is mandatory in matters concerning public employment. The Constitution is rooted in the foundational doctrine of the rule of law, and thus, even the highest constitutional authorities are precluded from deviating from the principle of equality in public employment. The same is evidenced by the judgment rendered by a two-Judge Bench of the Hon'ble Supreme Court in ***H.C. Puttaswamy and others Vs. The Hon'ble Chief Justice of Karnataka High Court, Bangalore and others, 1991 AIR SC 295***, wherein speaking through Justice K. Jagannatha Shetty, the following was opined: -

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“11....But the Chief Justice or any other Administrative Judge is not an absolute ruler. Nor he is a free wheeler. He must operate in the clean world of law, not in the neighbourhood of sordid atmosphere. He has a duty to ensure that in carrying out the administrative functions, he is actuated by same principles and values as those of the Court he is serving. He cannot depart from and indeed must remain committed to the constitutional ethos and traditions of his calling. We need hardly say that those who are expected to oversee the conduct of others, must necessarily maintain a higher stands of ethical and intellectual rectitude. The public expenses do not seem to be less exacting.”

35.4. In ***Som Raj Vs. State of Haryana, (1990) 2 SCC 653***, a three-Judge Bench of the Hon’ble Supreme Court emphasized on the importance of adhering to the constitutional ethos and speaking through Justice K. Ramaswamy, the following was held: -

“5. ... The absence of arbitrary power is the first postulate of rule of law upon which our whole constitutional edifice is based. In a system governed by rule of law, discretion when conferred upon an executive authority must be confined within clearly defined limits. The Rules provide the guidance for exercise of the discretion in making appointment from out of selection lists which was prepared on the basis of the performance and position obtained at the selection. The appointing authority is to make appointment in the order of gradation, subject to any other relevant rules like, rotation or reservation, if any, or any other valid and binding rules or instructions having force of law. If the discretion is exercised without any principle or without any rule, it is a situation amounting to the antithesis of rule of law. Discretion

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means sound discretion guided by law or governed by known principles of rules, not by whim or fancy or caprice of the authority.”

35.5. A reference must also be made to the judgment rendered by a three-Judge Bench of the Hon'ble Supreme Court in ***Renu and others Vs. District & Sessions Judge, Tis Hazari Courts, Delhi and another, (2014) 14 SCC 50*** wherein, speaking through Dr. Justice B.S. Chahuan, the following was held: -

“6. The aforesaid provision is in consonance with the legal principle of "Rule of Law" and they remind us of the famous words of the English jurist, Henry de Bracton - "The King is under no man but under God and the Law". No one is above law. The dictum - "Be you ever so high, the law is above you" is applicable to all, irrespective of his status, religion, caste, creed, sex or culture. The Constitution is the supreme law. All the institutions, be it legislature, executive or judiciary, being created under the Constitution, cannot ignore it. The exercise of powers by an authority cannot be unguided or unbridled as the Constitution prescribes the limitations for each and every authority and therefore, no one, howsoever high he may be, has a right to exercise the power beyond the purpose for which the same has been conferred on him. Thus, the powers have to be exercised within the framework of the Constitution and legislative provisions, otherwise it would be an exercise of power in violation of the basic features of the Constitution i.e. Part III dealing with the fundamental rights which also prescribes the limitations.

7. Article 14 of the Constitution provides for equality of

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opportunity. It forms the cornerstone of our Constitution.

*In **I.R. Coelho (dead) by L.Rs. v. State of Tamil Nadu**, AIR 2007 Supreme Court 861 : JT 2007 (2) SC 292, the doctrine of basic features has been explained by this Court as under:*

"The doctrine of basic structure contemplates that there are certain parts or aspects of the Constitution including Article 15, Article 21 read with Articles 14 and 19 which constitute the core values which if allowed to be abrogated would change completely the nature of the Constitution. Exclusion of fundamental rights would result in nullification of the basic structure doctrine, the object of which is to protect basic features of the Constitution as indicated by the synoptic view of the rights in Part III."

*8. As Article 14 is an integral part of our system, each and every state action is to be tested on the touchstone of equality. Any appointment made in violation of mandate of Articles 14 and 16 of the Constitution is not only irregular but also illegal and cannot be sustained in view of the judgments rendered by this Court in **Delhi Development Horticulture Employees Union v. Delhi Administration, Delhi & Ors.**, AIR 1992 Supreme Court 789 : JT 1992 (1) SC 394; **State of Haryana & Ors. v. Piara Singh & Ors. etc.etc.**, AIR 1992 Supreme Court 2130 : JT 1992 (5) SC 179; **Prabhat Kumar Sharma & Ors. v. State of U.P. & Ors.**, AIR 1996 Supreme Court 2638 : JT 1996 (6) SC 579; **J.A.S. Inter College, Khurja, U.P. & Ors. v. State of U.P. & Ors.**, AIR 1996 Supreme Court 3420; **M.P. Housing Board & Anr. v. Manoj Shrivastava**, AIR 2006 Supreme Court 3499 : JT 2006 (3) SC 73; **M.P. State Agro Industries Development Corporation Ltd. & Anr. v. S.C. Pandey**, (2006) 2 SCC 716 : JT 2006 (2) SC 348; and **State of Madhya Pradesh & Ors. v. Ku. Sandhya Tomar & Anr.**, JT 2013 (9) SC 139.*

*9. In **Excise Superintendent Malkapatnam, Krishna District, A.P. v. K.B.N. Visweshwara Rao & Ors.**, (1996) 6 SCC 216 : JT 1996 (9) SC 638, a larger Bench of this Court reconsidered its earlier judgment in **Union of India & Ors. v. N. Hargopal & Ors.**, AIR 1987 Supreme Court 1227 : JT 1987 (2) SC 182, wherein it had*

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been held that insistence of requisition through employment exchanges advances rather than restricts the rights guaranteed by Articles 14 and 16 of the Constitution. However, due to the possibility of non sponsoring of names by the employment exchange, this Court held that any appointment even on temporary or ad hoc basis without inviting application is in violation of the said provisions of the Constitution and even if the names of candidates are requisitioned from Employment Exchange, in addition thereto, it is mandatory on the part of the employer to invite applications from all eligible candidates from open market as merely calling the names from the Employment Exchange does not meet the requirement of the said Articles of the Constitution. The Court further observed:

"In addition, the appropriate department..should call for the names by publication in the newspapers having wider circulation and also display on their office notice and employment news bulletins; and then consider the case of all candidates who have applied. If this procedure is adopted, fair play would be sub served. The equality of opportunity in the matter of employment would be available to all eligible candidates."

(Emphasis added)

(See also: Arun Tewari & Ors. v. Zila Mansavi Shikshak Sangh & Ors., 1998(1) S.C.T 533 : AIR 1998 Supreme Court 331 : JT 1997 (9) SC 593; and Kishore K. Pati v. Distt. Inspector of Schools, Midnapur & Ors., (2000) 9 SCC 405).

10. In Suresh Kumar & Ors. v. State of Haryana & Ors., (2003) 10 SCC 276 : JT 2001 (3) SC 453, this Court upheld the judgment of the Punjab & Haryana High Court wherein 1600 appointments made in the Police Department without advertisement stood quashed though the Punjab Police Rules, 1934 did not provide for such a course. The High Court reached the conclusion that process of selection stood vitiated because there was no advertisement and due publicity for inviting applications from the eligible candidates at large.

11. In Union Public Service Commission v. Girish Jayanti Lal Vaghela & Ors., 2006(1) S.C.T. 621 : AIR 2006 Supreme Court 1165 : JT 2006 (2) SC 137, this Court held:

".....The appointment to any post under the State can only be made after a proper advertisement has been made inviting applications from eligible candidates and holding of selection by a body of experts or a specially constituted committee whose members are fair and impartial, through a written examination

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or interview or some other rational criteria for judging the inter se merit of candidates who have applied in response to the advertisement made Any regular appointment made on a post under the State or Union without issuing advertisement inviting applications from eligible candidates and without holding a proper selection where all eligible candidates get a fair chance to compete would violate the guarantee enshrined under Article 16 of the Constitution...."

(Emphasis added)

12. *The principles to be adopted in the matter of public appointments have been formulated by this Court in **M.P. State Coop. Bank Ltd., Bhopal v. Nanuram Yadav & Ors., (2007) 8 SCC 264 : JT 2007 (11) SC 369** as under:*

"(1) The appointments made without following the appropriate procedure under the rules/Government circulars and without advertisement or inviting applications from the open market would amount to breach of Articles 14 and 16 of the Constitution of India.

(2) Regularisation cannot be a mode of appointment.

(3) An appointment made in violation of the mandatory provisions of the statute and in particular, ignoring the minimum educational qualification and other essential qualification would be wholly illegal. Such illegality cannot be cured by taking recourse to regularisation.

(4) Those who come by back-door should go through that door.

(5) No regularisation is permissible in exercise of the statutory power conferred under Article 162 of the Constitution of India if the appointments have been made in contravention of the statutory rules.

(6) The court should not exercise its jurisdiction on misplaced sympathy.

(7) If the mischief played is so widespread and all pervasive, affecting the result, so as to make it difficult to pick out the persons who have been unlawfully benefited or wrongfully deprived of their selection, it will neither be possible nor necessary to issue individual show-cause notice to each selectee. The only way out would be to cancel the whole selection.

(8) When the entire selection is stinking, conceived in fraud and delivered in deceit, individual innocence has no place and the entire selection has to be set aside."

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13. A similar view has been reiterated by the Constitution Bench of this Court in **Secretary, State of Karnataka & Ors. v. Umadevi & Ors.**, AIR 2006 Supreme Court 1806 : JT 2006 (4) SC 420, observing that any appointment made in violation of the Statutory Rules as also in violation of Articles 14 and 16 of the Constitution would be a nullity. "Adherence to Articles 14 and 16 of the Constitution is a must in the process of public employment". The Court further rejected the prayer that ad hoc appointees working for long be considered for regularisation as such a course only encourages the State to flout its own rules and would confer undue benefits on some at the cost of many waiting to compete.

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15. Where any such appointments are made, they can be challenged in the court of law. The quo warranto proceeding affords a judicial remedy by which any person, who holds an independent substantive public office or franchise or liberty, is called upon to show by what right he holds the said office, franchise or liberty, so that his title to it may be duly determined, and in case the finding is that the holder of the office has no title, he would be ousted from that office by judicial order. In other words, the procedure of quo warranto gives the Judiciary a weapon to control the Executive from making appointment to public office against law and to protect a citizen from being deprived of public office to which he has a right. These proceedings also tend to protect the public from usurpers of public office who might be allowed to continue either with the connivance of the Executive or by reason of its apathy. It will, thus, be seen that before a person can effectively claim a writ of quo warranto, he has to satisfy the Court that the office in question is a public office and is held by a usurper without legal authority, and that inevitably would lead to an enquiry as to whether the appointment of the alleged usurper has been made in accordance with law or not. For issuance of writ of quo warranto, the Court has to satisfy that the appointment is contrary to the statutory rules and the person holding the post has no right to hold it. (Vide: **The University of Mysore & Anr. v. C.D. Govinda Rao & Anr.**, AIR 1965 Supreme Court 491; **Shri Kumar Padma Prasad v. Union of India & Ors.**, AIR 1992 Supreme Court 1213 : JT 1992 (2) SC 247; **B.R. Kapur v. State of Tamil Nadu & Anr.**, AIR 2001 Supreme Court 3435 : JT 2001 (8) SC 40; **The Mor Modern Co-operative Transport Society Ltd. v. Financial**

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Commissioner and Secretary to Govt., Haryana & Anr., AIR 2002 Supreme Court 2513 : JT 2002 (5) SC 125; Arun Singh v. State of Bihar & Ors., AIR 2006 Supreme Court 1413 : JT 2006 (3) SC 389; Hari Bansh Lal v. Sahodar Prasad Mahto & Ors., 2010(4) S.C.T. 286 : AIR 2010 Supreme Court 3515 : JT 2010 (9) SC 192; and Central Electricity Supply Utility of Odisha v. Dhobei Sahoo & Ors., (2014) 1 SCC 161 : JT 2013 (14) SC 522.

16. Another important requirement of public appointment is that of transparency. Therefore, the advertisement must specify the number of posts available for selection and recruitment. The qualifications and other eligibility criteria for such posts should be explicitly provided and the schedule of recruitment process should be published with certainty and clarity. The advertisement should also specify the rules under which the selection is to be made and in absence of the rules, the procedure under which the selection is likely to be undertaken. This is necessary to prevent arbitrariness and to avoid change of criteria of selection after the selection process is commenced, thereby unjustly benefiting someone at the cost of others.

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26. ***In Binod Kumar Gupta & Ors. v. Ram Ashray Mahoto & Ors., 2005(2) S.C.T. 663 : AIR 2005 Supreme Court 2103 : JT 2005 (11) SC 56, this Court did not accept the contention that appointment could be made to Class-IV post in Subordinate Courts under the Civil Court Rules without advertisement in the newspapers inviting applications for the posts as that would lead to lack of transparency and violation of the provisions of Article 16 of the Constitution. The Court terminated the services of such appointees who had worked even for 15 years observing that the Court otherwise "would be guilty of condoning a gross irregularity in their initial appointment."***

35.6. Lastly, a two Judge Bench of the Hon'ble Supreme Court in ***State of Punjab and another Vs. Brijeshwar Singh Chahal, (2016) 6 SCC 1***, speaking through Justice T.S. Thakur, made the following observations in this context: -

"17. In S.G. Jaisinghani v. Union of India, AIR 1967 Supreme



*Court 1427, this Court held that absence of arbitrary power is the first essential of "Rule of Law" upon which rests our Constitutional system. This Court ruled that in a system governed by rule of law, any discretion conferred upon the executive authorities must be confined within clearly defined limits. This Court quoted with approval, the following observations of Douglas J. in **United States v. Wunderlick, 1951 342 US 98:96 Law Ed 113:***

"Law has reached its finest moments when it has freed man from the unlimited discretion of some ruler Where discretion is absolute, man has always suffered."

18. A similar sentiment was expressed by this Court in **E.P. Royappa v. State of Tamil Nadu and Anr., (1974) 4 SCC 3** where this Court declared that Article 14 is the genus while Article 16 is a specie and the basic principle which informs both these Articles is equality and inhibition against discrimination. Equality, declared this Court, was antithetic to arbitrariness. The Court described equality and arbitrariness as sworn enemies, one belonging to the rule of law in a republic and the other to the whims and caprice of an absolute monarch. Resultantly if an act is found to be arbitrary, it is implicit that it is unequal both according to political logic and constitutional law, hence violative of Article 14 and if it affects any matter of public employment it is also violative of Article 16. This Court reiterated that Articles 14 and 16 strike at arbitrariness in State action and ensure fairness and inequality of treatment.

19. Then came the decision of this Court in **Maneka Gandhi v. Union of India, (1978) 2 SCR 621**, where this Court held that the

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principle of reasonableness both legally and philosophically is an essential element of equality and that non-arbitrariness pervades Article 14 with brooding omnipresence. This implies that wherever there is arbitrariness in State action whether, it be legislative or executive Article 14 would spring into action and strike the same down. This Court held, that the concept of reasonableness and non-arbitrariness pervades the constitutional scheme and is a golden thread, which runs through the entire Constitution.

20. *In Ramana Shetty v. International Airport Authority 1979 AIR (SC) 1628*, this Court relying upon the pronouncements of *E.P Royappa and Maneka Gandhi (supra)* once again declared that state action must not be guided by extraneous or irrelevant considerations because that would be denial of equality. This Court recognised that principles of reasonableness and rationality are legally as well as philosophically essential elements of equality and non-arbitrariness as projected by Article 14, whether it be authority of law or exercise of executive power without the making of a law. This Court held that State cannot act arbitrarily in the matter of entering into relationships be it contractual or otherwise with a third party and its action must conform to some standard or norm, which is in itself rational and non-discriminatory.

21. *In D.S. Nakra v. Union of India, 1983 (1) SCC 305*, this Court reviewed the earlier pronouncements and while affirming and explaining the same held that it must now be taken to be settled that what Article 14 strikes at is arbitrariness and that any action that is arbitrary must necessarily involve negation of equality.



22. In Dwarkadas Marfatia v. Board of Trustees of the port of Bombay, 1990(1) RCR (Rent) 495 : 1989 (3) SCC 293, this Court had an occasion to examine whether Article 14 had any application to contractual matters. This court declared that every action of the state or an instrumentality of the State must be informed by reason and actions that are not so informed can be questioned under Articles 226 and 32 of the Constitution.”

CONCLUSION

36. Upon a comprehensive analysis, this Court is of the considered opinion the allocation of departments cannot be made in a covert, unfettered and arbitrary manner. Such allocation must necessarily be made while adhering to the provisions of Articles 14 and 16 of the Constitution of India and/or statutory rules. Accordingly, the questions framed above are answered in the following terms: -

‘In combined selections, a single process is used to recruit for multiple departments, and the principle of merit must extend beyond merely preparing a merit list to governing departmental allocation. A higher-performing candidate earns a superior claim to preference, as merit must be both recognized and rewarded. Accordingly, higher-ranked candidates must be given priority in choosing departments; otherwise, the very purpose of a competitive examination stands defeated. Merit position, therefore, must be duly respected in service allocation. Any arbitrary deviation from merit would fall foul of Articles 14 and 16 of the Constitution.’

37. Further, the Court is conscious of the fact that with the efflux of time, the petitioner(s) and other selected candidates have acquired considerable experience and may also have earned promotions. As such, disturbing the

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allocation of departments at this stage would not only create administrative chaos, but would also be against public interest.

38. However, the act and conduct of the respondent-Commission in allocating departments to the selected candidates through an opaque and capricious process is deeply troubling and must be addressed. Therefore, in order to avoid recurrence of such a scenario, the Chief Secretaries to the Governments of Haryana and Punjab, respectively, are directed to issue appropriate instructions to ensure that:

- a) A lawful, comprehensive and rational criterion is devised for selection to public employment as well as for the allocation of departments in cases involving a consolidated process, so as to ensure transparency and preserve the integrity of the recruitment process.
- b) The criteria for such allocation of the departments are in line with the judgment rendered by the Full Bench of the Allahabad High Court in *Dr. Vinay Kumar's* case (*supra*). The criteria so formulated must be declared in advance, at the time of issuance of the advertisement.
- c) The said instructions shall be issued within a period of 03 months of the date of receipt of a certified copy of this order.

39. Since the present scenario makes out a clear case of misconduct, the Chief Secretary to the Government of Haryana is also directed to examine

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the suitability of inquiring into the conduct of the members and office-bearers of the respondent-Commission and desirability of taking appropriate action against those, who are responsible for the same. Accordingly, appropriate order in this regard shall be passed.

40. A compliance report shall be filed with the Registry of this Court with respect to the action taken before expiry of 03 months from the date of receipt of a certified copy of this order.

41. In view of the foregoing, all the aforementioned four writ petitions are disposed of.

42. The pending miscellaneous application(s), if any, shall also stand disposed of.

43. A copy of this order be sent to learned State counsel for the States of Punjab and Haryana as well as the respective Chief Secretaries to the Governments of Punjab and Haryana for necessary information and compliance.

44. Photocopy of this order be placed on the files of connected cases.

09.03.2026
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No