Writ Petition (Civil) No. 4623 / 20

CERTIFICATE

1. The case is fit for consignment and that no proceedings are pending either in the High Court of Delhi or in the Supreme Court of India, in terms of rules as provided in Ch-5(C) of the High Court Rules & Orders Vol.-V", as no communication has been received in this respect.

2. It is also certified that all the relevant papers including office noting pertaining to payments and return of FRD/Bank Guarantee or other documents have been removed from Part 'B' and have been placed at the end of Part 'A' at pages — to 246.

3. During Covid Period, En-bloc dates W.E.F 17.03.2020 to 14.02.2022 were given by the Hon'ble Court and for such period no court orders were passed by the Hon'ble Court.

10.4.24 e-data available on site

Prepared by:

26/04/24

Dealing Assistant
I.D No. 27841469

07.5.24

A.O.J(Writs)

2212

Asst. Registrar/ Dy. Registrar

10/5/24

WPC - 4623/20
CM - 16717-20/20

1) Order sheet 1 to 78

2) FID 79

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P. (C) 4623/2020 & CM APPLs. 16717-16720/2020

UNION OF INDIA ..... Petitioner
Through: Mr. Chetan Sharma, ASG with
Mr. Sahaj Garg, Advocate.

versus

ABHIJEET ALKESH & ORS. ..... Respondents
Through: Mr. Naresh Kaushik, Advocate for UPSC.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% 28.07.2020

The petition has been listed before this Bench by the Registry in view of the urgency expressed therein. The same has been heard by way of video conferencing.

Learned counsel for the petitioner states that the connected matters are listed for hearing before the Division Bench-IV on 29th July, 2020.

Accordingly, list the present writ petition along with W.P.(C) No.701/2020 and W.P.(C) No.1158/2020, before the Division Bench-IV on 29th July, 2020, subject to orders of Hon'ble the Chief Justice.

The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

SANJEEV NARULA, J

JULY 28, 2020/js

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **W.P.(C) 4623/2020**

UNION OF INDIA ..... Petitioner

Through: Mr. Chetan Sharma, ASG with Mr. Sahaj Garg and Mr. Neeraj Advocates

Versus

ABHIJEET ALKESH AND ORS ..... Respondent

Through: Sri Salman Khurshid, Senior Advocate with Mr. Arpit Shukla, Ms. Gargi Srivastava and Ms. Mitali Chauhan, Advocates for R-1

Mr. Naresh Kaushik and Mr. Vardhman Kaushik, Advocates for R-2

CORAM:
HON'BLE MR. JUSTICE SIDDHARTH MRIDUL
HON'BLE MR. JUSTICE TALWANT SINGH

ORDER

% 29.07.2020

The present matter has been taken up for hearing by way of Video Conferencing on account of COVID-19 pandemic.

CM APPL.16717/2020 & CM APPL.16718/2020 (Exemption)

Exemptions granted subject to all just exceptions.

The applications are disposed of accordingly.

CM APPL.16720/2020 (Exemption)

The present application under Section 151 of the Code of Civil Procedure, 1908 has been filed on behalf of the applicant/petitioner seeking exemption from filing duly attested affidavits in support of the

accompanying petition, as well as, applications and to pay the requisite court fees.

For the reasons stated in the application and in view of the present prevailing situation, the same is allowed. The applicant/petitioner is permitted to file the duly attested affidavits within a period of one week from the date of resumption of regular functioning of the Court. Further, the applicant/petitioner is permitted to file the requisite court fee within a period of 72 hours from the date of resumption of regular functioning of the Court.

With the above directions, the present application is disposed of.

W.P.(C) 4623/2020 & CM APPL.16719/2020 (Stay)

The present writ petition has been received on transfer and is stated to be connected with W.P.(C) 701/2020 titled '***Satabdi Mazumder and Ors*** **vs.** ***Union Of India and Anr.***', and the other connected matters listed today as Item Nos.4 to 7.

Renotify along with W.P.(C) 701/2020 and other connected matters on 04.08.2020.

SIDDHARTH MRIDUL, J

TALWANT SINGH, J

JULY 29, 2020*/dn/pa*

4623/20

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **W.P.(C) 701/2020 & CM APPL. 16064/2020**

SATABDI MAZUMDER AND ORS. ..... Petitioners

Through: Mr. Arpit Shukla, Ms. Gargi Srivastava, Mr. J. Sai Deepak and Ms. Mitali Chauhan, Advocates

Versus

UNION OF INDIA AND ANR. ..... Respondents

Through: Mr. Chetan Sharma, ASG with Mr. Sahaj Garg, Advocate for R-1/UOI
Mr. Naresh Kaushik, with Mr. Vardhman Kaushik, Advocates for R-2/UPSC

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\+ **W.P.(C) 1158/2020 & CM APPL. 3855/2020**

UNION PUBLIC SERVICE COMMISSION THROUGH THE CHAIRMAN ..... Petitioner

Through: Mr. Naresh Kaushik and Mr. Vardhman Kaushik, Advocates

Versus

SAUMYA PANDEY & ORS. ..... Respondents

Through: Mr. Arpit Shukla, Ms. Gargi Srivastava, Mr. J. Sai Deepak and Ms. Mitali Chauhan, Advocates
Mr. Chetan Sharma, ASG with Mr. Anil Dabas, Advocate for R-22
Mr. Arunav Patnaik and Mr. Shikhar Saha, Advocates for intervener/applicant

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+ **W.P.(C) 1195/2020**

PRINCE GARG ..... Petitioner

Through: Mr. J. Sai Deepak, Mr. G. Nataraj and Mr. Avinash K. Sharma, Advocates

Versus

UNION OF INDIA AND ANR. ..... Respondents

Through: Mr. Chetan Sharma, ASG with Mr. Sahaj Garg, Advocate for R-1/UOI Mr. Naresh Kaushik with Mr. Vardhman Kaushik, Advocates for R-2/UPSC

12
+ **W.P.(C) 1365/2020**

VIKAS AGARWAL ..... Petitioner

Through: Mr. J. Sai Deepak, Mr. G. Nataraj and Mr. Avinash K. Sharma, Advocates

Versus

UNION OF INDIA AND ANR. ..... Respondents

Through: Mr. Chetan Sharma, ASG with Mr. Sahaj Garg, Advocate for R-1/UOI Mr. Naresh Kaushik with Mr. Vardhman Kaushik, Advocates for R-2/UPSC

13
+ **W.P.(C) 4623/2020 & CM APPL. 16719/2020**

UNION OF INDIA ..... Petitioner

Through: Mr. Chetan Sharma, ASG with Mr. Sahaj Garg, Advocate

versus

ABHIJEET ALKESH AND ORS ..... Respondents

Through: Mr. Arpit Shukla, Ms. Gargi Srivastava and Ms. Mitali Chauhan, Advocates for R-1

Mr. Naresh Kaushik and Mr. Vardhman Kaushik, Advocates for UPSC/R-2

CORAM:
HON'BLE MR. JUSTICE SIDDHARTH MRIDUL
HON'BLE MR. JUSTICE TALWANT SINGH

ORDER

% **04.08.2020**

The present matters have been taken up for hearing by way of Video Conferencing on account of COVID-19 pandemic.

At joint request of learned counsel appearing on behalf of the parties, the hearing of the writ petitions is adjourned.

Renotify on 11.08.2020.

SIDDHARTH MRIDUL, J

TALWANT SINGH, J

AUGUST 04, 2020/dn/pa

Click here to check corrigendum, if any

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$~4 to 8

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **W.P.(C) 701/2020**

SATABDI MAZUMDER AND ORS. ..... Petitioners

Through: Mr. Salman Khurshid, Senior Advocate with Mr. Arpit Shukla, Ms. Gargi Srivastava and Ms. Mitali Chauhan, Advocates for P-2, 4, 6 and 8
Mr. J. Sai Deepak, Mr. G. Nataraj and Mr. Avinash K. Sharma, Advocates

Versus

UNION OF INDIA AND ANR. ..... Respondents

Through: Mr. Chetan Sharma, ASG with Mr. Sahaj Garg, Advocate for R-1/UOI.
Mr. Naresh Kaushik, with Mr. Vardhman Kaushik, Advocates for R-2/UPSC.

\+ **W.P.(C) 1158/2020**

UNION PUBLIC SERVICE COMMISSION ..... Petitioner

Through: Mr. Naresh Kaushik with Mr. Vardhman Kaushik, Advocates.

Versus

SAUMYA PANDEY & ORS. ..... Respondents

Through: Mr. Salman Khurshid, Senior Advocate with Mr. Arpit Shukla, Ms. Gargi Srivastava and Ms. Mitali Chauhan, Advocates

Mr. Chetan Sharma, ASG with Mr. Anil Dabas, Advocate for R-22.
Mr. Arunav Patnaik and Ms. Anandini Kumar, Advocates for R-23.

\+ **W.P.(C) 1195/2020**

PRINCE GARG ..... Petitioner
Through: Mr. J. Sai Deepak, Mr. G. Natraj and Mr. Avinash K. Sharma, Advocates.

Versus

UNION OF INDIA AND ANR. ..... Respondents
Through: Mr. Chetan Sharma, ASG with Mr. Sahaj Garg, Advocate for R-1/UOI.
Mr. Naresh Kaushik with Mr. Vardhman Kaushik, Advocates.

\+ **W.P.(C) 1365/2020**

VIKAS AGARWAL ..... Petitioner
Through: Mr. J. Sai Deepak, Mr. G. Nataraj and Mr. Avinash K. Sharma, Advocates.

Versus

UNION OF INDIA AND ANR. ..... Respondents
Through: Mr. Chetan Sharma, ASG with Mr. Sahaj Garg, Advocate for R-1/UOI.
Mr. Naresh Kaushik with Mr. Vardhman Kaushik, Advocates.

\+ **W.P.(C) 4623/2020**

UNION OF INDIA ..... Petitioner

Through: Mr. Chetan Sharma, ASG with Mr. Sahaj Garg, Advocate.

Versus

ABHIJEET ALKESH AND ORS ..... Respondents

Through: Mr. Salman Khurshid, Senior Advocate with Mr. Arpit Shukla, Ms. Gargi Srivastava and Ms. Mitali Chauhan, Advocates for R-1.
Mr. Naresh Kaushik and Mr. Vardhman Kaushik, Advocates for UPSC/R-2.

CORAM:
HON'BLE MR. JUSTICE SIDDHARTH MRIDUL
HON'BLE MR. JUSTICE TALWANT SINGH

ORDER

% 11.08.2020

The present matters have been taken up for hearing by way of Video Conferencing on account of COVID-19 pandemic.

CM APPL.17670/2020 & CM APPL.18644/2020 (Exemptions) in W.P.(C) 701/2020

The present applications under Section 151 of the Code of Civil Procedure, 1908 have been filed on behalf of the applicants/petitioners seeking permission to file the documents without proper margin and uncertified copies, the duly affidavits without attestation in support of the accompanying applications and to pay requisite court fees.

For the reasons stated in the applications and in view of the prevailing situation, the same are allowed. The applicants/petitioners are permitted to file the duly signed and attested affidavits within a period of one week from the date of resumption of regular functioning of the Court.

The applicants/petitioners are also permitted to file the requisite court fee within a period of one week from the date of resumption of regular functioning of the Court. Further, the applicants/petitioners are permitted to file the documents without proper margin and uncertified copies, subject to all just exceptions.

With the above directions, the present applications are disposed of.

W.P.(C) 701/2020, CM APPL. 16064/2020, CM APPL.18643/2020, CM APPL.17669/2020
W.P.(C) 1158/2020 & CM APPL. 3855/2020
W.P.(C) 1195/2020
W.P.(C) 1365/2020
W.P.(C) 4623/2020 & CM APPL. 16719/2020

Re-notify for further hearing on 20.08.2020.

SIDDHARTH MRIDUL, J

TALWANT SINGH, J

AUGUST 11, 2020/dn/pa

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **W.P.(C) 701/2020, CM APPL. 16064/2020, CM APPL. 18643/2020 & CM APPL. 17669/2020**

SATABDI MAZUMDER AND ORS. ..... Petitioners

Through: Mr. J. Sai Deepak, Mr. G. Nataraj and Mr. Avinash K. Sharma, Advocates for P-1

Mr. Salman Khurshid, Senior Advocate with Mr. Arpit Shukla, Ms. Gargi Srivastava and Ms. Mitali Chauhan, Advocates for P-2, P-4, P-6 and P-8

versus

UNION OF INDIA AND ANR. ..... Respondents

Through: Mr. Chetan Sharma, ASG with Mr. Sahaj Garg, Advocate for R-1

Mr. Naresh Kaushik, with Mr. Vardhman Kaushik, Advocates for R-2

\+ **W.P.(C) 1158/2020 & CM APPL. 3855/2020**

UNION PUBLIC SERVICE COMMISSION ..... Petitioner

Through: Mr. Naresh Kaushik with Mr. Vardhman Kaushik, Advocates

versus

SAUMYA PANDEY & ORS. ..... Respondents

Through: Mr. Salman Khurshid, Senior Advocate with Mr. Arpit Shukla,

Ms. Gargi Srivastava and Ms. Mitali Chauhan, Advocates
Mr. Chetan Sharma, ASG with Mr. Anil Dabas, Advocate for R-22
Mr. Arunav Patnaik and Mr. Anandini Kumar, Advocates for R-23

\+ **W.P.(C) 1195/2020**

PRINCE GARG ..... Petitioner

Through: Mr. J. Sai Deepak, Mr. G. Natraj and Mr. Avinash K. Sharma, Advocates

versus

UNION OF INDIA AND ANR. ..... Respondents

Through: Mr. Chetan Sharma, ASG with Mr. Sahaj Garg, Advocate for R-1/UOI.
Mr. Naresh Kaushik with Mr. Vardhman Kaushik, Advocates.

\+ **W.P.(C) 1365/2020**

VIKAS AGARWAL ..... Petitioner

Through: Mr. J. Sai Deepak, Mr. G. Nataraj and Mr. Avinash K. Sharma, Advocates

versus

UNION OF INDIA AND ANR. ..... Respondents

Through: Mr. Chetan Sharma, ASG with Mr. Sahaj Garg, Advocate for R-1
Mr. Naresh Kaushik with Mr. Vardhman Kaushik, Advocates

+ **W.P.(C) 4623/2020 & CM APPL. 16719/2020**

UNION OF INDIA ..... Petitioner

Through: Mr. Chetan Sharma, ASG with Mr. Neeraj, Mr. Sahaj Garg, Mr. R.V. Prabhat, Mr. Amit Gupta and Mr. Avnish Roy, Advocates

versus

ABHIJEET ALKESH AND ORS ..... Respondents

Through: Mr. Salman Khurshid, Senior Advocate with Mr. Arpit Shukla, Ms. Gargi Srivastava and Ms. Mitali Chauhan, Advocates for R-1

Mr. Naresh Kaushik and Mr. Vardhman Kaushik, Advocates for R-2

CORAM:
HON'BLE MR. JUSTICE SIDDHARTH MRIDUL
HON'BLE MR. JUSTICE TALWANT SINGH

ORDER

% 20.08.2020

The present matter has been taken up for hearing by way of Video Conferencing on account of COVID-19 pandemic.

For further arguments, list on 26.08.2020.

SIDDHARTH MRIDUL, J

TALWANT SINGH, J

AUGUST 20, 2020/dn/pa

Click here to check corrigendum, if any

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

\+ **W.P.(C) 701/2020, CM APPL.16064/2020, CM APPL.17669/2020 & CM APPL.18643/2020**

SATABDI MAZUMDER AND ORS. ..... Petitioners

Through: Mr. J. Sai Deepak, Mr. G. Nataraj, Mr. Avinash K. Sharma and Mr. R Abhishek, Advocates for P-1.
Mr. Salman Khurshid, Senior Advocate with Mr. Arpit Shukla, Ms. Gargi Srivastava and Ms. Mitali Chauhan, Advocates for P-2, P-4, P-6 and P-8

versus

UNION OF INDIA AND ANR. ..... Respondents

Through: Mr. Chetan Sharma, ASG with Mr. Sahaj Garg, Mr. Amit Gupta, Mr. Neeraj, Mr. R.V. Prabhat and Mr. Anil Dabas, Advocates for R-1
Mr. Naresh Kaushik with Mr. Vardhman Kaushik, Advocates for R-2

\+ **W.P.(C) 1158/2020 & CM APPL. 3855/2020**

UNION PUBLIC SERVICE COMMISSION ..... Petitioner

Through: Mr. Naresh Kaushik and Mr. Vardhman Kaushik, Advocates

versus

SAUMYA PANDEY & ORS. ..... Respondents

Through: Mr. Salman Khurshid, Senior Advocate with Mr. Arpit Shukla, Ms. Gargi Srivastava and Ms. Mitali Chauhan, Advocates
Mr. Chetan Sharma, ASG and Mr. Anil Dabas, Advocate for R-22

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Mr. Arunav Patnaik and Mr. Anandini Kumar, Advocates for R-23.

\+ **W.P.(C) 1195/2020**

PRINCE GARG ..... Petitioner

Through: Mr. J. Sai Deepak, Mr. G. Nataraj, Mr. Avinash K. Sharma and Mr. R Abhishek, Advocates

versus

UNION OF INDIA AND ANR. ..... Respondents

Through: Mr. Chetan Sharma, ASG with Mr. Sahaj Garg, Mr. Amit Gupta, Mr. Neeraj, Mr. R.V. Prabhat and Mr. Anil Dabas, Advocates for R-1/UOI.
Mr. Naresh Kaushik with Mr. Vardhman Kaushik, Advocates for R-2

\+ **W.P.(C) 1365/2020**

VIKAS AGARWAL ..... Petitioners

Through: Mr. J. Sai Deepak, Mr. G. Nataraj and Mr. Avinash K. Sharma, Advocates

Versus

UNION OF INDIA AND ANR. ..... Respondents

Through: Mr. Chetan Sharma, ASG with Mr. Sahaj Garg, Mr. Amit Gupta, Mr. Neeraj, Mr. R.V. Prabhat and Mr. Anil Dabas, Advocates for R-1
Mr. Naresh Kaushik with Mr. Vardhman Kaushik, Advocates for R-2

\+ **W.P.(C) 4623/2020 & CM APPL. 16719/2020**

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UNION OF INDIA ..... Petitioners

Through: Mr. Chetan Sharma, ASG with Mr. Neeraj, Mr. Sahaj Garg, Mr. R.V. Prabhat and Mr. Amit Gupta, Advocates

versus

ABHIJEET ALKESH AND ORS ..... Respondents

Through: Mr. Salman Khurshid, Senior Advocate with Mr. Arpit Shukla, Ms. Gargi Srivastava and Ms. Mitali Chauhan, Advocates for R-1
Mr. Naresh Kaushik and Mr. Vardhman Kaushik, Advocates

CORAM:
HON'BLE MR. JUSTICE SIDDHARTH MRIDUL
HON'BLE MR. JUSTICE TALWANT SINGH

ORDER

% 26.08.2020

The present matters have been taken up for hearing by way of Video Conferencing on account of COVID-19 pandemic.

Arguments have been heard.

Judgement is reserved.

SIDDHARTH MRIDUL, J

TALWANT SINGH, J

AUGUST 26, 2020/dn/pa

Click here to check corrigendum, if any

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment Reserved on: 26.08.2020
Judgement pronounced on: 11.09.2020

\+ **W.P.(C) 1158/2020 & CM APPL. 3855/2020**

UNION PUBLIC SERVICE COMMISSION ..... Petitioner
Through: Mr. Naresh Kaushik and Mr.Vardhman Kaushik, Advocates

versus

SAUMYA PANDEY & ORS. ..... Respondents
Through: Mr. Salman Khurshid, SeniorAdvocate with Mr. Arpit Shukla,Ms. Gargi Srivastava and Ms. MitaliChauhan, Advocates.

Mr. Chetan Sharma, ASG and Mr.Anil Dabas, Advocate for R-22.

Mr. Arunav Patnaik and Mr.Anandini Kumar, Advocates forR-23.

\+ **W.P.(C) 4623/2020 & CM APPL. 16719/2020**

UNION OF INDIA ..... Petitioner
Through: Mr. Chetan Sharma, ASG with Mr.Neeraj, Mr. Sahaj Garg, Mr. R.V.Prabhat and Mr. Amit Gupta,Advocates

versus

ABHIJEET ALKESH AND ORS ..... Respondents
Through: Mr. Salman Khurshid, SeniorAdvocate with Mr. Arpit

Shukla,Ms. Gargi Srivastava and Ms. MitaliChauhan, Advs for R-1.

Mr. Naresh Kaushik and Mr.Vardhman Kaushik, Advocates.

\+ **W.P.(C) 701/2020, CM APPL.16064/2020, CM APPL.17669/2020 & CM APPL.18643/2020**

SATABDI MAZUMDER AND ORS. ..... Petitioners

Through: Mr. J. Sai Deepak, Mr. G. Nataraj, Mr. Avinash K. Sharma and Mr. RAbhishek, Advocates for P-1.

Mr. Salman Khurshid, SeniorAdvocate with Mr. Arpit Shukla,Ms. Gargi Srivastava and Ms. MitaliChauhan, Advocates for P-2, P-4,P-6 and P-8.

versus

UNION OF INDIA AND ANR. ..... Respondents

Through: Mr. Chetan Sharma, ASG with Mr.Sahaj Garg, Mr. Amit Gupta, Mr.Neeraj, Mr. R.V. Prabhat and Mr.Anil Dabas, Advocates for R-1.

Mr. Naresh Kaushik with Mr.Vardhman Kaushik, Advocates forR-2.

\+ **W.P.(C) 1195/2020**

PRINCE GARG ..... Petitioner

Through: Mr. J. Sai Deepak, Mr. G. Nataraj, Mr. Avinash K. Sharma and Mr. R. Abhishek, Advocates.

versus

UNION OF INDIA AND ANR. ..... Respondents

Through: Mr. Chetan Sharma, ASG with Mr. Sahaj Garg, Mr. Amit Gupta, Mr. Neeraj, Mr. R.V. Prabhat and Mr.Anil Dabas, Advocates for R-1/UOI.

Mr. Naresh Kaushik with Mr.Vardhman Kaushik, Advocates forR-2.

\+ **W.P.(C) 1365/2020**

VIKAS AGARWAL ..... Petitioner

Through: Mr. J. Sai Deepak, Mr. G. Natarajand Mr. Avinash K. Sharma,Advocates

versus

UNION OF INDIA AND ANR. ..... Respondents

Through: Mr. Chetan Sharma, ASG with Mr.Sahaj Garg, Mr. Amit Gupta, Mr.Neeraj, Mr. R.V. Prabhat and Mr.Anil Dabas, Advocates for R-1.

Mr. Naresh Kaushik with Mr.Vardhman Kaushik, Advocates forR-2.

JUDGMENT

TALWANT SINGH, J.

1. In all these writ petitions, the petitioners have challenged the order of learned Central Administrative Tribunal (CAT) dated 13th January, 2020 in a batch of Original Applications (OAs) filed by candidates belonging to the Economically Weaker Sections (EWS) of society attempting the Civil Services Examination-2019 (CSE-2019). The UPSC and Union of India, who are the petitioners in W.P.(C) No.1158/2020 and W.P.(C) No.4623/2020 respectively,were the respondents before the

CAT; and the respondents in these two writ petitions as well as the petitioners in the other writ petitions bearing W.P.(C) Nos.701/2020, 1195/2020 and 1356/2020 were the original applicants before the CAT.

2. Broadly speaking, the present matters relate to theCSE-2019 and the applicants before CAT were the candidates for the said examination belonging to EWS category. It is to be noticed here that for the first time in the history of India, reservation for the EWS category was provided in the CSE examination, on the basis of the Constitution (103rd) Amendment. The provision for reservation was notified vide OM dated 31st January, 2019 and the notification for holding CSE-2019 was issued on 19th February, 2019, on the basis of the Rules framed by Department of Personnel & Training (DoP&T) which were published on the same day, i.e., 19th February, 2019. The detailed Rules provide forthe scheme of examination, the qualification which the candidates should possess and the important dates in relation to the preliminary examination, main examination and interview etc. as well as the different stages at which the essential documents and their eligibility were to be submitted by the candidates. As per the Rules notified by DoP&Tand the notification issued by UPSC, all the candidates were required to possess the necessary documents to claim the exemptions/relaxations/educational qualification etc., on the last date of applying for preliminary examination, i.e., 18th March, 2019. However, in the case of candidates who had already appeared or were appearing in their final academic examination, the result should have been in the candidate's possession before filling the Detailed Application Form-1 (DAF-1). Moreover, for candidates claiming EWS status, the UPSC noticed that the reservation was notified through Office Memorandumissued on 31st January, 2019;hence it was

provided that the said candidates may obtain the necessary certificate in the prescribed format from the concerned authorities before 1st August, 2019 and the same was to be uploaded along withDAF-1. Broadly, all the applicants had approached the CAT with the grievance that, since the concerned authorities were not aware about the procedure to be followed for issuing the requisite EWS certificates, there were administrative difficulties, and resultantly they were unable to obtain the said EWS certificates, before the prescribed date i.e. 1st August, 2019.

3. After hearing both the sides and on the basis of detailed arguments addressed by learned counsel appearing for the contestants, CAT was pleased to partially allow the OAs thereby extending the stipulated date till by which the candidates/applicants could have obtained the EWS certificate to the 16th August, 2019, being the last date to upload DAF-1. There was a class of candidates/applicants who could not obtain the said certificates even by 16th August, 2019 and, therefore, their prayer for extension of the last date for submission of EWS certificates, till the time of final scrutiny after the mains examination, was rejected by CAT. The operative paragraph of the impugned order dated 13th January, 2020 of the CAT is reproduced hereunder:

> "32. For the foregoing reasons, we partly allow these OAs, directing that the UPSC shall treat the EWS certificates issued up to 16.08.2019 as valid, and accept the claims of such candidates. Necessary steps in this behalf shall be taken for the purpose of declaration of results. We further direct that the relief in this batch of OAs is restricted only to such candidates who have taken part in the final Examination, and not those who did not take part in it".

4. Feeling aggrieved, not only the affected candidates, who were the original applicants before the CAT, but also the UPSC and Union of India

have filed these writ petitions. The prayer of UPSC and Union of India is that the order of CAT dated13th January, 2020 extending the date for obtaining the EWS certificates from 1st August, 2019 to 16th August, 2019 is contrary to law and the same is liable to be set aside.

5. On the other hand, the candidates/applicants who did not benefit from this extension of approximately 15 days given by the impugned order, for obtaining the EWS certificateshave approached this Court mainly praying for allowing their original applications, and seeking modification of the said order dated 13th January, 2020 passed by CAT, to treat their EWS certificates obtained even after 16th August, 2019 as valid.

6. Notices were issued in the writ petitions and after completion of pleadings, the matters were heard at length. There were also certain intervention applications, filed in the meantime, in the lead writ bearing W.P.(C) No.1158/2020; the said applications were allowed and amended memos of parties were filed. The memo of parties available as on date on record have been reproduced in the title of the present order. After much discussion, broadly the following three categories of candidates have emerged:

> **Category No.1**: The candidates who had obtained correct EWS certificates on or after 1st August, 2019 upto 16th August, 2019 and they had uploaded the said certificates along with their DAF-1 forms.
>
> **Category No.2**: The candidates who could not obtain EWS certificates before 16th August, 2019 but they had obtained the

necessary certificates before the final scrutiny after the mains examination.

Category No.3: The candidates who had not obtained the EWS certificates in the prescribed format before 1st August, 2019 (and as such these certificates were faulty) but who had obtained the certificates in the prescribed format thereafter and submitted the said certificates in correct format to UPSC later on.

7. As far as the third category is concerned, two candidates mainlySatabdiMazumderand Sridhar Limbikai fall in that category and UPSC had graciously agreed to consider their correct certificates submitted after 16th August, 2019 as they had earlier submitted the EWS certificates obtained before 1st August, 2019 although not in the prescribed format. The claim of these two candidates stands satisfiedon the basis of concession given by UPSC, leaving behind the candidates broadlyin the first two categories, i.e. the candidates who had obtained the certificates in prescribed format after 31st July, 2019 but before 16th August, 2019 and the candidates who have obtained the EWS certificates in prescribed format after 16th August, 2019. The candidates who had obtained the EWS certificates in correct format before 16th August, 2019 are the beneficiaries of the impugned order dated 13th January, 2020 passed by the CAT and the said candidates are NavneetKaur, RavneetKaur, ShreyaSinghal and KhajanTiwari.

8. The main line of argument of all the candidates/applicants is that the reservation for EWS category was introduced for the first time in January, 2019; the certificate issuing authorities were not aware about the formalities to be completed for issuing the said certificates, which

required them to not only assess the income of the candidate and his family members but also the assets held by them. This was a very cumbersome procedure which required a long time to complete. It was not possible to complete all the formalities by the concerned authorities to issue the certificate before 1st August, 2019 and as such they ought to have been given time till final scrutiny to submit the said EWS certificates, because for all other concessions and reservations, the final scrutiny is required to be done only after mains examination stage.

9. On the other hand, the consistent stand of UPSC and Union of India is that they themselves had realized that the reservation for EWS category was provided for the first time in January, 2019, so instead of ensuring that the candidates ought to have been in possession of the said certificate on 18th March, 2019 itself, they had extended the time for submission of the same till 1st August, 2019. Moreover, the Central Government had informed all the State Governments to notify the concerned authorities about the format in which the EWS certificate was to be issued, the formalities to be completed and the conditions to be fulfilled for obtaining the said certificate immediately after 31st January, 2019. Hence, there was no occasion for the CAT to extend the date for obtaining the said certificates from 1stAugust, 2019 to 16th August, 2019. Moreover, the other candidates, who had not obtained the said certificates till 16th August, 2019, have no legal or cogent ground in their favour to claim that they can obtain and submit these certificates till the stage of the final scrutiny. It has also clarified on behalf of UPSC and Union of India that although the final scrutiny takes place after the final examination but it has been specifically mentioned in the notification that the applicants should possess the qualifications and the certifications on the date when

they file the form for preliminary examination of CSE-2019 and the said date was 18thMarch, 2019. It was extended only as a one-time measure for EWS candidates to 1st August, 2019. It has also been argued that the cut-off dates and different milestone in conducting the civil services examination cannot be tinkered with by the courts or tribunals as the said dates are based upon the Rules framed by DoP&T and duly publicised vide examination notification issued by UPSC and if those dates are not taken as sacrosanct, the entire process of civil services examination will go haywire and UPSC will not be in a position to fulfill its obligation of conducting the examination and the interviews on time for the filling of the posts of the civil services of the Government.

10. On behalf of the candidates, the major thrust has been on the argument that the EWS category being introduced for the first time and a candidate and his family belonging to this category being required to be assessed for a particular period – in this case for the financial year 2017-18 – it does not matter as to whether the said certificate was issued before 1st August, 2019 or thereafter because the date of the said certificate will not alter the economic status of the candidate and his family for the financial year 2017-18. Since the concerned authorities not only had to assess the income during the said financial year, i.e., 2017-18 but they also have to take into account all the assets held by the candidate and his family members during the said financial year and the verification process itself is very tedious, so naturally it would take more time and in some cases it has been mentioned that the concerned authorities were not available due to strikes etc. and that has resulted in delay in issuing the EWS certificates to the candidates.

11. The CAT has considered all these grounds in detail and have gone into the basis as to why the goalpost to have EWS certificate was changed from 18thMarch, 2019 to 1st August, 2019 and the rationale behind the change of the last date to obtain the EWS certificate and why the EWS certificate could not have been obtained before submitting the same along with DAF-1 form on 16th August, 2019. The conclusion arrived by CAT is that UPSC and Union of India have not been able to substantiate the reason for fixing the cut-off date to obtain the EWS certificate before 1st August, 2019 whereas the said certificate was to be submitted only with DAF-1 form by the 16thAugust, 2019. The CAT has given reference to the cut-off date of 18thMarch, 2019 being the date on which all the candidates should have obtained the certificates as required for claiming the reservations/relaxations. The second stage in this regard or second goalpost established by UPSC is only on 16th August, 2019, that is the date on which the candidates who have qualified in the preliminary examination have to submit their DAF-1 form, so creating an artificial goalpost in-between, i.e.,on 1st August, 2019 has no rational basis. The CAT has also kept in view that it is not interfering or changing the dates on which the forms have to be submitted or the examinations have to be held or scrutiny of documents has to take place.

12. To discuss the various aspects of the matter, it is necessary to have a glimpse of the circumstances under which the controversy arose. A brief history of the dispute in hand is detailed in the following paragraphs.

13. On 8th January, 2019, to comply with the mandate of Article 46 of the Constitution of India to give a fair chance to economically weaker

sections of society to participate in gaining higher education and employment, the State Bill no.3 of 2019 or the Constitution (103rd) Amendment Bill, 2019 was introduced in Parliament by Union Government for providing reservation for economically weaker sections of society in educational institutions as well as in initial appointments in services under the Government.

14. The Constitution (103rd) Amendment Act, 2019 was enacted by the Parliament, which provided for insertion of Clause (6) in Article 15 and Clause (6) in Article 16 of the Constitution of India to enable the State to make provision for reservation in admission to educational institutions and in public employment for persons belonging to economically weaker sections of society. The notification of the said Amendment is reproducedhereinbelow:

"Notification dated 12.01.2019

An Act further to amend the Constitution ofIndia.
BE it enacted by Parliament in the Sixty-ninthYear of the Republic of India as follows: —

1. (1) This Act may be called the Constitution(One Hundred and Third Amendment) Act, 2019.
(2) It shall come into force on such date as theCentral Government may, by notification in theOfficial Gazette, appoint.

2. In article 15 of the Constitution, after clause(5), the following clause shall be inserted, namely: —
'(6) Nothing in this article or sub-clause (g) of clause (1) of article 19 or clause (2) of article 29 shallprevent the State from making, -

(a) any special provisionfor the advancementof any economically weaker sections ofcitizens other than the classes mentioned inclauses (4) and (5); and

(b) any special provision for the advancement of any economically weaker sections ofcitizens other than the classes mentioned inclauses (4) and'(5)' insofar as such specialprovisions relate to their admission toeducational institutions including privateeducational institutions, whether aided or unaided by State, other than the minority educational institutions referred toin clause (1) of article 30, which in the caseof reservation would be in addition to the existing reservations and subject to amaximum of ten per cent of the total seats ineach category.

Explanation: For the purposes of this articleand article 16, economically weaker sections"shall he such as may be notified by the Statefrom time to time on the basis of family incomeand other: indicators. - of economicdisadvantage,'.

3. In article 16 of the Constitution, after clause(5), the following clause shall be inserted, namely; -

"(6) Nothing in' this-article shall prevent theState from making any provision for the reservationof appointments or posts in favour of anyeconomically weaker sections of citizens other thanthe classes mentioned in clause (4), in addition to theexisting reservation and subject to a maximum of tenper cent of the posts in each category".

15. In pursuance thereto, the Department of Social Justice andEmpowerment, Ministry of Social Justice and Empowerment, Government of India issued Memorandum no.F.20013/01/2018-BC-II dated 17th January, 2019 in order to enable persons from economically weaker sections of society to receive the benefits of reservation in admissions in educational institutes as well as in appointments to civil posts and services under the Government of

India. The reservation for EWS was capped at 10%, provided the said persons are not covered under the existing scheme of reservation for the Scheduled Castes. The said OM dated 17th January, 2019 is reproduced herein:

"(For Internal Circulation only)
F.No. 20013/01/2018-BC-II
Government of India
Ministry of Social Justice and Empowerment
Department of Social Justice and Empowerment

17th January, 2019

ShastriBhawan, New Delhi

OFFICE MEMORANDUM

Sub: Reservation for Economically Weaker Sections (EWSs) in civil posts and services in the Government of India and Admission in Educational Institutions

In pursuance of insertion of clauses 15 (6) and 16 (6) in the Constitution vide the Constitution (One Hundred and Third Amendment) Act, 2019 and in order to enable the Economically Weaker Sections (EWSs) who are not covered under the existing scheme of reservations for the Scheduled Castes, the Scheduled Tribes and the Socially and Educationally Backward Classes, to receive the benefits of reservation on a preferential basis in civil posts and services in the Government of to provide 10% reservation to EWSs in civil posts and services in Government of India and admission in Educational Institutions.

2. Persons who are not covered under the existing scheme reservations for the Scheduled Castes, the Scheduled Tribes and the Socially and Educationally Backward Classes and whose family has gross annual income below Rs. 8.00 lakh are to be identified as EWSs for the benefit of reservation. Family for this

purpose will include the person who seeks benefit of reservation, his/her parents and siblings below the age of 18 years as also his/her spouse and children below the age of 18 years. The income shall include income from all sources i.e. salary, agriculture, business, profession etc. and it will be income for the financial year prior to the year of application. Also, persons whose family owns or possess any of the following assets shall be excluded from being identified as EWSs, irrespective of the family income:

(i) 5 acres of Agricultural land and above;
(ii) Residential flat of 1000 sq. ft. and above;
(iii) Residential plot of 100 sq. yards and above in notified municipalities;
(i) Residential plot of 200 sq. yards and above in areas other than the notified municipalities.

3. The income and assets of the families as mentioned in para 2 would be required to be certified by an officer not below the rank of Tehsildar in the States/UTs. The officer who issues the certificate would do the same after carefully verifying all relevant documents following due process as prescribed by the respective State/UT.

4. Every Educational Institution shall, with the prior approval of the appropriate authority, increase the number of seats over and above its annual permitted strength in each branch of study or faculty so that the number of seats available, excluding those reserved for the persons belonging to the EWSs, are not less than the total seats available in the academic session immediately preceding the date of coming into force of this OM.

5. Instructions regarding reservation in employment and admission to educational institutions will be issued by DoP&T and Ministry of HRD respectively.

B.L. Meena
Joint Secretary to Government of India"

16. Since the concerned Department to look after the recruitment is Department of Personnel and Training, Ministry of Personnel, Public Grievances, Pensions, Government of India, so this Department issued OM No.36039/1/2019-Estt.(Res.) dated 19th January, 2019, providing 10% reservation for EWS in Central Government posts and services in direct recruitment w.e.f. 1st February, 2019.

17. A detailed notification in this regard was issued by DoP&T dated 31st January, 2019 in which the contents of the earlier notification dated 19th January, 2019 were reiterated and details were given as to how the status of an economically weaker person shall be determined on the basis of income in a particular year and the assets owned by the said person and his family; the authorities were prescribed for issuing the said certificate and format of the said Income & Assets Certificate was also enclosed with this OM. It was also provided that the said certificate issued for the previous financial year would be valid for a period of one year and the unfilled seats reserved for EWS will not be carried forward to the next year. The relevant portions of OM dated 31st January, 2019 along with the performa of the Income & Assets Certificate are reproduced hereunder:

"No. 36039/1/2019-Estt (Res)
Government of India
Ministry of Personnel, Public Grievances &
PensionsDepartment of Personnel & Training
North Block, New Delhi
Dated the 31st January, 2019
OFFICE MEMORANDUM

Subject:Reservation for Economically Weaker Sections (EWSs)in direct recruitment in civil posts and services in the Government of India

In continuation of the Department's Office Memorandum of even number dated 19.01.2019, the following instructions are issued in consultation with Ministry of Social Justice and Empowerment and Department of Legal Affairs regarding reservation for EWSs not covered under the reservation scheme for SCs/STs/OBCs in respect of direct recruitment in civil posts and services in the Government of India.

2. **QUANTUM OF RESERVATION**

The persons belonging to EWSs who are not covered under the scheme of reservation for SCs, STs and OBCs shall get 10% reservation in direct recruitment in civil posts and services in the Government of India.

3. EXEMPTION FROM RESERVATION

3.1 "Scientific and Technical" posts which satisfy all the following conditions can be exempted from the purview of the reservation orders by the Ministries/Departments.

(i) The posts should be in grades above the lowest grade in Group A of the service concerned.

(ii) They should be classified as "scientific or technical' in terms of Cabinet Secretariat [OM No. 85/11/CF-6(1) dated 28.12.1961], according to which scientific and technical posts for which qualifications in the natural sciences or exact sciences o applied sciences or in technology are prescribed and the incumbents of which have to use that knowledge in the discharge of their duties.

(iii) The posts should be 'for conducting research' or 'for organizing, guiding and direct research'.

3.2 Orders of the Minister concerned should be obtained before exempting any posts satisfying the above condition from the purview of the scheme of reservation.

4.CRITERIA OF INCOME & ASSETS

4.1 Persons who are not covered under the scheme of reservation for SCs, STs and OBCs and whose family has gross annual income below Rs. 8.00 lakh (Rupees eight lakh only) are to be identified as EWSs for benefit of reservation, Income shall include income from all sources i.e. salary, agriculture, business, profession etc. for the financial year prior to the year of application.

Also, persons whose family owns or possess any of the following assets shall be excluded from being identified as EWS, irrespective of the family income.

i. 5 acres of agricultural land and above;
ii. Residential fat of 1000 sq. ft. and above;
iii. Residential plot of 100 sq. yards and above in notified municipalities;
iv. Residential plot of 200 sq. yards and above in areas other than the notified municipalities.

4.2 The property held by a "Family" in different locations or different places /cities would be clubbed while applying the land or property holding test to determine EWS status.

4.3 The term **"Family"**for this purpose will include the person who seeks benefit of reservation, his/her parents and siblings below the age of 18 years as also his/her spouse and children below the age of 18 years.

5. INCOME AND ASSET CERTIFICATE ISSUING AUTHORITY AND VERIFICATION OF CERTIFICATE

5.1 The benefit of reservation under EWS can be availed upon production of an Income and Asset Certificate issued by a Competent Authority. The income and Asset Certificate by any one of the following authorities in the prescribed format as given in Annexure-I shall only be accepted as proof of candidate's claim as belonging to EWS:-

(i) District Magistrate/Additional District Magistrate/Collector/Deputy Commissioner/Additional Deputy Commissioner/1st Class StipendiaryMagistrate/Sub-Divisional Magistrate/Taluka Magistrate/Executive Magistrate/Extra Assistant Commissioner

(ii) Chief Presidency Magistrate/Additional Chief Presidency Magistrate/Presidency Magistrate

(iii) Revenue Officer not below the rank of Tehsildar and

(iv) Sub-Divisional Officer or the area where the candidate and/or his family normally resides.

5.2 The officer who issues the certificate would be the same after carefully verifying all the relevant documents following the due process as prescribed by the respective State/UT.

5.3 The crucial date for submitting income and asset certificate by the candidate may be treated as the closing date for receipt of application for the post, except in cases where crucial date is fixed otherwise.

5.4 The appointing authorities should, in the offer of appointment to the candidates claiming to be belonging to EWS, include the following:-

"The appointment is provisional and is subject to the Income and asset certificate

being verified through the proper channels and if the verification reveals that the claim to belong to EWS is fake/false the services will be terminated forthwith without assigning any further reasons and without prejudice to such further action as may be taken under the provisions of the Indian Penal Code for production of fake/false certificate."

5.5 Instructions referred to above should be strictly followed so that it may not be possible for an unscrupulous person to secure employment on the basis of a false claim and if any person gets an appointment on the basis of such false claim, her/his services shall be terminated invoking the conditions contained in the offer of appointment".

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"10. **LIAISON OFFICER**

Ministries/Departments/Attached and Subordinate Offices shall appoint Liaison Officer to monitor the implementation of reservation for EWSs.

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"Annexure-I

Government of ....
(Name & Address of the authority issuing the certificate)

INCOME & ASSET CERTIFICATE TO BE PRODUCED BY ECONOMICALLY WEAKER SECTIONS

Certificate No._____ Date_____

VALID FOR THE YEAR_____

This is to certify that Shri/Smt./Kumari_____son/daughter /wife of _____ permanent resident of

_____, Village/Street_____ Post Office_____ District_____ in the State/Union Territory_____ Pin Code_____ whose photograph is attested below belongs to Economically Weaker Sections, since the gross annual income * of his/her "family"** is below Rs.8 lakh (Rupees Eight Lakh only) for the financial year _____. His/her family does not own or possess any of the following assets***:

I. 5 acres of agricultural land and above;
II. Residential flat of 1000 sq. ft. and above;
III. Residential plot of 100 sq. yards and above;
IV. Residential plot of 200 sq. yards and above;

2. Shri/Smt./Kumari _____ belongs to the _____ caste which is not recognised as a Scheduled Caste, Scheduled Tribe and Other Backward Classes (Central List)

Signature with seal of Office_____
Name_____
Designation_____

Recent Passport size attested photograph of the applicant

* **Note 1**: Income covered all sources i.e. salary, agriculture, business profession etc.

** **Note 2:** The term "Family" for this purpose include the person, who seeks benefit of reservation, his/her parents and siblings below the age of 18 years as also his/her spouse and children below the age of 18 years.

*** **Note 3**: The property held by a "Family" in different locations or different places/cities have been clubbed while applying the land or property holding test to determine EWS status."

18. DoP&T issued notification no.F.13018/07/2018-ASl (I) dated 19th February,2019 framing Rules for Civil Services Examination-2019. For the present discussion,Rule2 of this notification is relevant which is reproduced hereunder:

"2. (1) For the Main Examination, a Candidateshall be required to submit online; DetailedApplication Form-I (DAF-I) along with scanned documents/certificates in support of date of birth,category [viz. SC/ST/OBC (without OBC Annexure)/EWS: [Economically Weaker Section] (without EWS Annexure)/PwBD/Ex-Serviceman)and educational qualification withrequired Examination Fee.

(2) A candidate shall be required to mandatorily indicate order of preferences only for those servicesparticipating in the Civil Services Examination for the year, for which he is interested to be allocated to,in the online Detailed Application Form-II (DAF-II), before the commencement of Personality Test (Interviews) of the examination. With this Form, a candidate will also be required to uploaddocuments/certificates for higher education, achievements in different fields, service experience,OBC Annexure (for OBC category only), EWSAnnexure (for EWS category only), etc.

(3) In case of recommendation of his name byUPSC for service allocation, the candidate shall beconsidered for allocation to one of those services bythe Government for which he shall indicate hispreference subject to fulfilment of other conditions.No change in preferences of services once indicatedby a candidate would be permitted.

(4) A candidate who wishes to be considered forIndian Administrative Service or Indian PoliceService shall be

required to indicate in his on-lineDetailed; Application Form-II his order ofpreferences for various Zones and Cadres for whichhe would like to be considered for allotment in casehe is appointed to the Indian Administrative Serviceor Indian Police Service and no change in preferenceof Zone and Cadre once indicated by a Candidatewould be permitted.

Note 1: The candidates are advised to be very careful while indicating preferences for various services or posts. In this connection, attention is also invited toclause (i) of rule 19;

Note 2: The candidates are advised to visitDepartment of Personnel and Training website www.dopt.gov.in for information or details aboutservice allocation, Cadre allotment and serviceprofile.

Note 3: The candidates who wish to indicateIAS/IPS as their Service preference are advised toindicate all the Zones and Cadres in the order ofpreference in their on-line Detailed ApplicationForm-n as per the extant Cadre Allocation Policyapplicable for the Civil Services Examination, 2019."

19. On the basis of Rules framed by DoP&T, UPSC issued examination notice no.04-2019-CSP dated 19th February, 2019 intimating the general public regarding holding the examination for Civil Services and providing for the detailed guidelines for the examination. The relevant portions of these guidelines are reproduced hereunder:

"(III) Minimum Educational Qualifications:The candidate must hold a degree of any ofUniversities incorporated by an Act of the Central or State Legislature in India or other educational institutions established by an Act of Parliament or declared to be deemed as a University Under Section-3 of the University Grants Commission Act, 1956, or possess an equivalent qualification.

Note I:—Candidates who have appeared at an examination the passing of which would renderthem educationally

qualified for the Commission's examination but havenot been informed of theresult as also the candidates who intend to appear at such a qualifying examination will also beeligible for admission to the Preliminary Examination.

All candidates who are declared qualified by the Commission for taking the Civil Services [Main] Examination will be required to produce proof of passing the requisite examination alongwith their application (i.e.; Detailed Application Form-1] for the Main Examination, failing which such candidates will not be admitted to the Main Examination. Such proof of passing the requisiteexamination should be dated earlier than the due date [closing date] of Detailed ApplicationForm-1 of the Civil Services [Main] Examination."

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"NOTE 6: Candidates are notrequiredto submit alongwith their applications any certificate insupport of their claims regarding Age, Educational Qualifications, Scheduled Castes/ ScheduledTribes/Other Backward Classes/ Economically Weaker Sections and Persons with BenchmarkDisability etc. which will be verified at the time of the Main examination only. The candidatesapplying for the examination should ensure that they fulfill all the eligibility conditions foradmission to the Examination. Their admission at all the stages of examination for which they areadmitted by the Commission viz. Preliminary Examination, Main [Written] Examination and Interview Test, will be purely provisional; subject to their satisfying the prescribed eligibilityconditions. If on verification atany time before or after the Preliminary (written) Examination, and Interview Test, it is found that they do not fulfil any of the eligibility conditions; their candidature for the examination will be cancelled by the Commission".

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"9. A candidate will be eligible to get the benefit of community reservation only in case theparticular caste to which the candidates belong is included in the list of

reserved communitiesissued by the Central Government. The candidates will be eligible to get the benefit of theEconomically Weaker Section reservation only in case the candidate meets the criteria issued bythe Central Government and in possession of such eligibility certification. If a candidate indicatesin his/her application form for Civil Services [Preliminary] Examination that he/she belongs toGeneral category but subsequently writes to the Commission to change his/her category to areserved one, such request shall not be entertained by the Commission. Further, once a candidatehas chosen a reserved category, no request shall be entertained for change to other reservedcategory viz.,SC to ST, ST to SC,OBC to SC/ST or SC/ST to OBC, SC to EWS; EWS to SC, ST to EWS,EWS to ST, OBC to EWS, EWS to OBC. No reserved category candidates otherthan thoserecommended on General Merit shall be allowed to change his/her category from Reserved toUnreserved or claim the vacancies [Service/Cadre] for UR category after the declaration of finalresult by UPSC."

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"10. Candidates seeking reservation/relaxation benefitsavailableforSC/ST/OBC/EWS/PwBD/Ex-servicemen must ensure that they are entitled to suchreservation/relaxation as per eligibility prescribed in the Rules/Notice. They should also be inpossession of all the Requisite certificates in the prescribed format in Support of their claim asstipulated in the Rules/Notice for such benefits, and these certificates should be dated earlier thanthe due date [closing date] of the application of Civil Services [Preliminary] Examination, 2019.

Provided further that EWS Candidates can Submit their Income and Assets Certificate (certificate ofeligibility) at the time of submission of online Detailed Application Form; [DAF-I]. The Income andAsset Certificate must be dated earlier than 1st August, 2019. Since reservation for EWS categorycandidates has been notified recently, therefore this extension for submission of certificate

forEWS category candidates is a one-time relaxation applicable for CSE 2019 only".

20. On the basis of the advertisement issued by UPSC, the aspirants were called upon to fill the forms for preliminary examination till 18th March, 2019 and the preliminary examination was accordingly held throughout the country on 2nd June, 2019; the result of the preliminary examination was declared by UPSC and the same was duly published on its website on 12thJuly, 2019.

21. It was provided in the notification dated 19th February, 2019 that the EWS candidates, who were successful in preliminary examination should have an Income and Asset Certificate (EWS certificate) issued prior to 1st August, 2019. The relevant rules being Rule nos.24 and 25 are quoted hereunder:

> "24. Candidates seeking reservation/relaxationbenefits available for SC/ST/OBC/EWS/PwBD/Ex-servicemenmust ensure that they are entitled tosuch reservation/relaxation as per eligibilityprescribed in the Rules/Notice. They should also be in possession of all the requisite certificates in theprescribed format in support of their claim asstipulated in the Rules/Notice for such benefits, andthese certificates should be dated earlier than the duedate (closing date) of the application of Civil Services(Preliminary) Examination, 2019.
>
> Provided further that EWS Candidates shallsubmit their 'Income and Asset Certificate'(certificate of eligibility) at the time of submission ofonline Detailed Application Form (DAF-I). 'TheIncome and Asset Certificate' must be dated earlierthan 1st August, 2019. Since reservation for EWScategory candidates has been notified recently,therefore this extension for submissionof certificatefor EWS category candidates is a one-time relaxationapplicable for CSE 2019 only."

25. The closing date fixed for the receipt of theapplication will be treated as the date fordetermining the OBC status(including that of creamy layer) of the candidates".

22. It is pertinent to note here that all the candidates ought to have the educational qualifications and certification of their castes etc. to claim reservation as on the last date of filling the preliminary examination forms, i.e., on 18th March, 2019 but keeping in view the fact that the EWS reservation was provided for the first time, an exception was carved out and the candidates belonging to this category were given time till 31st July, 2019to obtain the Income and Assets Certificate and file the same along with Detailed Application Form (DAF-1). One point to be noted here is that as per the said rules dealing with educational qualifications, if a candidate had appeared or was going to appear in the examination, but his result was not declared before the last date of filling the application form i.e. on 18th March, 2019, the said candidate was given the option to obtain the necessary certificate of educational qualification till the closing date of DAF-1, i.e., 16th August, 2019.

23. The UPSC, therefore, opened a window from 01.08.2019 to 16.08.2019 for the successful candidates in the preliminary examination to fill up the DAF-1 form online and to upload the requisite certificates in support of their claims made in the online preliminary application.

24. On 5th August, 2019, one of the applicants (who later on approached CAT) filled the DAF-1 form stating that although he had EWS certificate but the same was issued after 31stJuly, 2019. On 9th August, 2019, some of the applicants filed representations before DoP&T to allow them to appear in the main examination as they had obtained the

EWS certificates after 31st July, 2019. On 12th August, 2019, the applicants submitted a representation to UPSC not to reject their candidature on this ground. On 23rd August, 2019, UPSC issued show cause notices to all the applicants who claimed in their DAF-1 form to be in possession of Income and Assets Certificate dated 31st July, 2019 or earlier but they indicated the date of their Income and Assets Certificate was 1st August, 2019 or later. They were asked to explain as to why action be not taken against them as per Rule 14 of the Rules for Civil Services Examination.

25. The UPSC rejected the candidature of applicants vide e-mail dated 30th August, 2019 on the basis that applicants did not possess the Income and Assets Certificate issued on or before 31st July, 2019, hence their candidature for Civil Services (Mains) Examination 2019, was cancelled. The affected applicants again gave representations to DoP&T on 2ndSeptember, 2019 to allow them to appear in the examination as they had obtained the Income and Assets Certificates after 31st July, 2019.

26. The writ petition bearing no.9751 of 2019 was filed by the applicantsbefore this Court challenging the cancellation of their candidature by UPSC on the ground that the Income and Assets Certificates filed by them were dated after 31st July, 2019. This writ petition was dismissed; however, liberty was given to the affected persons to approach CAT for appropriate relief and accordingly the applicants had filed their respective OAs before CAT on 12th September, 2019.

27. Vide interim order dated 18th September, 2019, the CAT directed UPSC that applicants be permitted to appear in the mains examination if

the only dis-qualificationis that their EWS certificates were issued beyond 1st August, 2019. UPSC contested the said OA by filing counter reply on 13th November, 2019, to which rejoinder was filed on 28th November, 2019. Vide order dated 09th December, 2019, CAT directed that the results of the mains examination of the applications be declared subject to outcome of the OAs. Detailed arguments were heard by CATon 6th January, 2020and vide impugned order dated 13th January, 2020, the CAT directed UPSC to treat the EWS certificates issued upto the last date of submission of DAF-1 form, i.e., 16th August, 2019 as valid. The relevant portion of the impugned order dated 13th January, 2020 is reproduced hereunder:

> "24.A semblance of distinction needs to be maintained between the reservations based on the social status, on the onehand, and the economic status, on the other hand. While the former is static in nature, the later is dynamic. To be precise, acandidate belonging to a particular social category, continues tobe so, even with the passage of time, whereas the economicstatus keeps on changing, and is required to be certified for therelevant period. A person who is certified to be EWS for aparticular year, may cease to be so in the next year andconversely, a candidate who was otherwise ineligible to claimthe benefit of EWS in a particular year, may become eligible inthe subsequent year. While the law that provides forreservation in favour of a particular category, is 'constitutive' inits nature, the certificate issued to a candidate enabling him toclaim reservation is 'cognitive' in its purport. Though, acandidate may actually belong to a social or economic category,he comes to be recognized only on being issued a certificate.Therefore, the date of issuance has its own significance.
>
> 25. Whatever may have been the circumstances underwhich theHon'ble Supreme Court or the High Court held thattheclaim of a SC, ST or OBC candidate can be accepted even ifa certificate in that behalf is issued long

after the last date forsubmission of the application, we are of the view that thestipulation madeby the UPSC that a certificate claiming thebenefit of reservation must be the one obtained before the dateof submission of the relevant application, cannot be ignored.Once the EWS certificate is permitted to be submitted alongwith DAF-1, the stipulation of 01.08.2019 as the relevant date,would virtually become self-contradictory and redundant. Rule 24 of the Rules has already been taken note of. In additionto that, the notification issued by the UPSC contains clause 10,which reads as under:

"10. Candidates seeking reservation/relaxation of benefits available forSC/ST/OBC/EWS/PwBD/Ex-servicemenmust ensure that they are entitled to suchreservation/relaxation as per eligibility prescribed in theRules/Notice. They should also be in possession of all therequisite certificates in the prescribed format in support oftheir claim as stipulated in the Rules/Notice for suchbenefits, and these certificates should be dated earlier thanthe due date (closing date) of the application of CivilServices (Preliminary) Examination, 2019.

Provided further that EWS Candidates can submit their Income and Asset Certificate (certificate of eligibility) at the time of submission of online Detailed Application Form (DAF-I) The Incomeand Asset Certificate must be dated earlier than 1st August,2019. Since reservation for EWS category candidates hasbeen notified recently, therefore this extension forsubmissionof certificate for EWS category candidates is aone-time relaxation applicable for CSE 2019 only."

26. The first sentence of the proviso to clause 10 makesthe things clear and categorical. EWS certificate can be filedalong with DAF-1. The next sentence, however, virtuallynegatesand waters down the very facility created under thefirst sentence.

27. The Hon'ble Supreme Court in Hirandra Kumar'scase took note of quite a large number of judgments on thesame subject, particularly the judgment in ***Council of Scientific***

and Industrial Research v Ramesh Chandra Agarwal [(2009) 3SCC35], wherein it was held as under:

> "29. "State" is entitled to fix a cut-off date. Such a decision can be struck down only when it isarbitrary. Its invalidation may also depend uponthe question as to whether it has a rational nexuswith the object sought, to be achieved. 2-5-1997was the date fixed as the cut-off date in terms ofthe Scheme. The reason assigned therefore wasthat this was the date when this Court directedthe appellants to consider framing of aregularisation scheme. They could havepickedup any other date. They could have even Pickedup date of the judgment passed by theCentral Administrative Tribunal. As rightlycontended by Mr Patwalia, by choosing 2-5-1997as the cut-off date, no illegality was committed.Ex facie, itcannot be said to be arbitrary.
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> 30. The High Court, however, proceeded on the basisthat the cut-off date should have been the date ofissuance of the notification. The employer in thisbehalf has a choice. Its discretion can be held to bearbitrary but then the High Court only with a view toshow sympathy to some of the candidates could nothave fixed another date, only because according to it,another date was more suitable. In law it was notnecessary. The Court's power of judicial review inthis behalf although exists but is limited in the sensethat the impugned action can be struck down onlywhenit is found to be arbitrary. It is possible that byreason of such a cut-off date an employee misses hischance very narrowly. Such hazards would be therein all the services. Only because it causes hardship toa few persons or a section of the employees may notby itself; be a good, ground for directing fixation of another cut-off date."

Their Lordship observed as under:

"...We are adverting to this aspect only to emphasisethat the validityof the Rule, cannot be made todepend on cases of individual hardship whichinevitably arise in applying a principle of generalapplication. Essentially, the determination of cut-offdates lies in the realm of policy. A court in theexercise of the power of judicial review does not takeover that function for itself. Plainly, it is for the rule making authority to discharge that function while framing the Rules."

We are not referring to in detail the observations made by theHon'ble Supreme Court in various other judgments, only toavoid repetition of what is already clear and glaring.

28. We are not at all making any effort to meddle with the scheme of the Examination or the calendar thereof. But for the fact that the Government as well as the UPSC have recognized that the reservation in favour of EWS was introduced in the recent past, and have created the facility of submission of the certificates in relation thereto, at a comparatively later stage, we would not have gone into the aspect in detail, at all. Once the submission of certificates claiming benefit of reservation is linked to the last date of submission of the application, at whatever stage, stipulation of an intermediary date, especially, for EWS certificate, has no meaningful purpose to serve. On the other hand, permittingthe certificates obtained up to the last date of submission of theconcerned applications would ensure uniformity, consistencyand fairness.

29. Things would have been different altogether had itbeen a case where the date 01.08.2019 stipulated in the later partof the proviso to Rule 24 of the Rules, or clause 10 of thenotification issued by the UPSC, had a rational nexus with anylogical, objective to be achieved. In spite of our best efforts toverify from the learned counsel for the respondents, we are notable to get any definite answer as to the relevance of that date.Segregation of the certificates referable to EWS from the rest ofthe certificates was on

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account of the requisite machinery beingnot in place, by the time the notification was issued by theUPSC. The next date, for submission of the same wasinvariably, the one stipulated for DAF-1, and accordingly it wasidentified. It is not as if the candidatescould have filed EWScertificates separately and independent of the DAF-1. Once theonly method for filing them is by enclosing with DAF-1, there isno reason why a certificate issued up to that date cannot betaken into account.

30.The statistics placed before us do disclose that while in some States, the facility and mechanism was made ready within a few months; from the date of issuance of thenotification in this behalf, i.e., 31.01.2019, other States laggedbehind. This is not a case in which one social group was addedto the existing category of reservation. In such cases, the machinery which is already in place, can handle the situation.What is introduced is an altogether new category ofreservation. The verification is also somewhat complicated.Not only the income but also the assets of the candidates andtheir parents are to be verified. For this purpose, the certifyingauthority has to depend upon the ground staff. Theprocess isbound to take some time. Therefore, we are of the view that itwould be proper, reasonable and just to treat the EWScertificates issued up to the last date of submission of DAF-1,i.e., 16.08.2019, as valid.

31. Though extensive arguments are advanced toconvince us to take a view that the EWS certificates issued up tothe final stageof the selection, i.e., personal interview, can betaken into account, we are not inclined to agree. The reason is that such a concession would disturb the entire process whichis in vogue for the past several decades.

32. For the foregoing reasons, we partly allow theseOAs, directing that the UPSC shall treat the EWS certificatesissued up to 16.08.2019 as valid, and accept the claims of such candidates. Necessary steps in this behalf shall be taken for thepurpose of declaration of the results. We further direct that therelief in this batch of OAs is restricted only to such candidateswho have taken part in

the final Examination, and not thosewho did not take part in it".

28. The UPSC and the Union of India have challenged the impugned order on the grounds that the Tribunal did not refer to the plea of estoppel raised by UPSC and Union of India specifically relying on the decision of the Hon'bleSupreme Court in the matter of ***Madras Institute ofDevelopment Studies &Anr. vs. Dr. K. Sivasubramaniyan&Ors., (2016) 1 SCC 454***and the OAs were not maintainable because all the candidates had applied under CSE Rules, 2019 and later on they cannot turn around and challenge the said Rules itself. It has been further submitted that the Tribunal erred in not adverting to the settled principle of law that rules of game notified at the time of initiation of examination/selection process cannot be changed midway. The Tribunal also did not consider the plea of infringement of Article 14 and 16 of the Constitution as privileged treatment was given only to those candidates who had approached CAT causing gross injustice to other candidates, who have been discriminated against by the order of the Tribunal. The Tribunal also did not adhere to the principle laid down by Hon'ble Supreme Court in respect of maintaining the sanctity of the cut-off date, which is a policy matter under the domain of the employer. The Tribunal also did not consider that rules and instructions have to be applied uniformly without any deviation therefrom as held by Hon'ble Supreme Court from time to time andindividual hardships cannot be considered to be relevant ground to carve out an exception as the same would result in nullification of entire process and derailment of larger public interest of conducting time bound examination/selection process. It is further submitted that the Tribunal did not consider that cut-off date fixed to obtain qualification was same for all the candidates, i.e., the last date of

submission of online application and it was only by way of one time relaxation that extra period of about four and a half months was allowed to EWS category candidates to obtain Income and Assets Certificates, which was quite reasonable and sufficient. It has also been submitted that the learned CAT has wrongly relied upon the decision of Hon'ble Supreme Court in the matter of ***Ram Kumar Gijroya vs. DelhiSubordinate Services Selection Board & others(2016) 4 SCC 754*** as the same was not applicable to the facts of this case as in the said case the recruitment was for Group 'C' employees, which is not held annually and the cut-off date was declared while declaring the results and in the absence of cut-off dates it was not considered that the examination/selection process cannot be completed in time bound manner. Moreover, the Hon'ble Supreme Court had not adverted to the principles laid down in ***Ashok Kumar Sharma vs.Chandra Shekhar 1997(4)SCC18***and ***Ashok Kumar Sonkar vs. Union of India (2007) 4 SCC 54*** wherein it was specifically laid down that the 'certain'cut-off date is *sine qua non* for completing any examination/selection process. Moreover, the said decision in ***Ram Kumar Gijroya's*** casehasalready been referred to alarger bench by the Hon'ble Supreme Court vide its order dated 24thJanuary, 2020. It has been further submitted on behalf of UPSC that the Tribunal did not consider that the larger public interest and larger public equity have to prevail over individual interest/individual equity and any interference caused midway in examination process would cause substantial harm to the larger public interest.

29. On behalf of Union of India, it has been submitted that the limited challenge to the Rules and the notice of examination based on the CSE Rules had not been supported by any valid ground. Further,participating in the recruitment process on the basis of Rules 25, the candidates are

estopped from challenging the already settled norms mainly because they did not qualify the required standards with reference to the possession of valid EWS certificate by the cut-off date.Sympathy itself cannot be the ground to be entertained by the court of law and compliance of rules is to be enforced including the instructions detailed in the advertisement issued by UPSC. The sanctity of the cut-off date is to be maintained, which is a matter of policy and any interference by the Tribunal midcourse in the examination process concerns larger public interest as against individual interest of the applicants. Moreover, the candidates had participated in examination knowing well the rules which cannot be challenged midway as the plea of estoppel comes in their way. No reason has been assigned by CAT for interfering with the rules in question and any such interference is not conducive in maintaining the integrity, transparency, predictability and fairness of the examination process.

30. The candidates, who are petitioners in their respective petitions and are respondents in the writ petitions filed by UPSC and Union of India,have supported the impugned order dated 13th January, 2020 to the extent it extended the date for obtaining the EWS certificates till 16th August, 2019, but have assailed the rejection by the impugned order of their claim to extend the same benefit to the candidates who obtained their EWS certificates after 16th August, 2019; and submitted that the Tribunal failed to appreciate that the EWS scheme is a new policy which was launched only in January2019, and there was lack of awareness about the procedural formalities to be completed on the part of State authoritiesempoweredto issue EWS certificates. Moreover, moral code of conduct was imposedby the Election Commission of India dueto general elections held in 2019 and the concerned officials were pre-occupied in election duties, which caused delay in issuance of the said certificates.

Since there were no clear instructions,sothe concerned State authorities refused to take any action for issuing EWS certificates. On the other hand, UPSC itself had acknowledged that there would be delay in issuance of such certificates and had granted extension of time as provided in proviso to Rule 24 but UPSC failed to consider that there was no delay being caused by the candidates and the entire delay was attributed to the administrative difficulties on the part of the State authorities who were given the task to issue said certificates. It has been further submitted by the candidates that guidelines were issued by different States at different times as to how the EWS certificates were to be issued. In Tamil Nadu,the notification was issued only on 4th May, 2019; in Delhi, the notification was issued on 4th June, 2019 and in Punjab, the amended notification was issued as late as on 15th July, 2019. The Tribunal has granted the relief only to the candidates, who had obtained certificates till 16th August, 2019, butit failed to consider that around 327 candidates,i.e., 33% of the total candidates, could not obtain the EWS certificates although they had applied and had made sincere efforts within time to obtain the said certificates. There was systematic failure on the part of the competent authorities who were assigned the task of issuing the said certificates. It is further submitted that even extending this benefit of belonging to EWS category to the candidates who had obtained their certificates later on will not affect the results as the cap of 10% of the seats is already fixed for the EWS category candidates in the examination but the Tribunal did not acknowledge this fact in its impugned order. The candidates have reiterated that law regarding issue of recognition of status by means of a certificate has been clearly laid down by Hon'ble Supreme Court in the matter of ***Ram Kumar Gijroya***(supra), which referred to the judgment of this Court in

Ms.Pushpa vs. Government of NCT of Delhi and others 2009, SCC OnLine Del 281. As per them, an EWS certificate merely recognise the existing financial status of the applicant, which is valid for a single financial year and this certificate is in essence cognitive in nature, although the general principle of reservation is broadly constitutive in nature. The certificate does not bestow any status to the holder. It is further submitted that the Tribunal has wrongly drawn a distinction between the social status and economic status of the candidate. The finding of the learned Tribunal that social status is static is untenable as a particular caste can be delisted from the reserved category at any point of time. Since the EWS certificate is valid for one year from the last date of the financial year for which it was issued then in that case the date of the certificate is not relevant and there is no rationale in fixing a date before which the said certificate is to be obtained. It has also been submitted that the reservation for EWS category is a beneficial policy and administrative andtechnical difficultiesshould not come in its way. The judgments cited by UPSC are not applicable as the examination schedule fixed by the authorities was not departed from.

31. The submissions made by the intervenersarealso on the same lines. It has been reiterated that the EWS certificate was to be uploaded along with DAF-1, which is similar to the education qualification certificate of the graduates whose result was awaited and they were to file the educational qualification certificates obtained upto the date of DAF-1,i.e., 16th August, 2019. Hence, fixing the date of 1stAugust, 2019 for obtaining the EWS certificate is arbitrary and the time period of four and half months is grossly inadequate as totally a new policy of reservation was formulated for issuing the said certificates by authorities at District

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and Tehsil levels. The EWS certificates are issued for a particular financial year and there is no ground to fix a date by which the said certificate should be issued keeping in view the technical problems being faced while issuing the said certificates. Since the difficulties to be faced while getting the EWS certificates were not known at the time of filling of CSE- 2019 form, so the UPSC cannot take the stand that the candidates are estopped from challenging the cut-off date mentioned in the examination notice issued by UPSC. Moreover, UPSC cannot take the ground that the relief confined only to the candidates who had approached the CAT will prejudice other equally placed candidates as thesettled law of the land is that no relief needs to be given to the persons who failed to approach the court in time and seek parity only after similarly placed persons have been granted relief by the Court.

32. It has also been argued on behalf of the candidates that UPSC is giving time to other candidates to rectify the mistakes in their certificates at scrutiny stage after the final results and before holding the interviews, hence the same facility should be extended to the candidates who had approached CAT and their EWS certificates were issued upto the date when result of the final examination was declared and the said certificates be accepted as proof of them belonging to EWS category. The response of UPSC in this regard, when two instances were brought to its notice, was formulated and submitted to the Court in the form of a letter dated 27th July, 2020 addressed to ShriNareshKaushik, learned counsel for the UPSC. The said letter is reproduced hereunder:

"F. No. 7/13/2019-E-III
Union Public Service Commission
Dholpur House, Shahjahan Road
New Delhi - 110069

Dated: 27th July, 2020

To
ShriNareshKaushik, Advocate,
Supreme Court of India,
703, 7th Floor, Nilgiri Apartment,
9, Barakhamba Road,
New Delhi - 110 001.

Sub.:WP (C) No. 701/2020 titled "SatabdiMazumdar vs.UOI&Ors." before Hon'ble High Court of Delhi - reg.

Sir,

I am directed to refer to the above mentioned case, in which theHon'ble High Court of Delhi has expressed its views on the two EWScertificates relied upon by the Petitioner Ms.SatabdiMazumdar duringthe course of hearing on 23.07.2020 and to say that the Commission hashighest regards for the Hon'ble Court's said views and has taken seriousnote of the same.

2. So far as the two EWS certificates relied upon by the Petitioner Ms.SatabdiMazumdar are concerned, the Commission, in deference to theviews expressed by the Hon'ble Court, has given due focus to the issueand is respectfully inclined to take a fair reasonable and flexibleapproach in the matter. Given the views of the Hon'ble Court, followingtwo options are available before the Commission in this case:

(a) Either by issuing Show Cause Notice for cancellation of thecandidature of the said two candidates (the candidature beingprovisional); or

(b) By extending similar benefit to similarly placed petitioners, whohad submitted faulty/incorrect certificates issued to them priorto 01st August, 2019 and uploaded the said certificates alongwith their respective DAFs-I by indicating "Yes" in the relevantcolumn with regard to the availability of the certificates withthem.

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3. The Commission has decided to take a fair, positive, reasonableand flexible approach in the matter and, thus, it intends to implementthe aforesaid option (b) in this case. However, the Commission willrespect and implement the decision of the Hon'ble Court on the aboveavailable two options.

4. It may also be submitted before the Hon'ble Court that thecandidature of all the candidates is kept provisional by the Commissionat all stages by clearly specifying in its instructionsto the Notice so thatthe errors/mistakes, if any, can be reviewed at any stage even after thecompletion of the selection process.

5. So far as the main important aspect/issue of the cut-off date isconcerned, it is not feasible for the Commission to depart from the cut-off date fixed by the Rules of the Examination notified by theGovernment of India (Department of Personnel & Training) in the Gazetteof India. It would also not be in consonance with the settled principlelaid down by the Hon'ble Supreme Court on the relevance andimportance of the cut-off date as well as its sanctity. The far-reachingimplications/consequences that may result by tinkering with the cut-offdate have duly been explained by the Commission in its applicationmoved before the Hon'ble Tribunal by explaining in detail that the veryexamination process and its integrity would be derailed if the sanctity ofthe cut-off date is not maintained. Therefore, the Hon'ble Court mayplease be requested to consider to retain the cut-off date mentioned inthe Rules of the Examination of the Civil Services Examination, 2019 forthe Income and Asset Certificate in respect of the EWS claim i.e. datedprior to 1st August, 2019.

6. It may further be mentioned that the conduct of the Civil ServicesExamination is governed by the aforesaid Rules, notified by theGovernment of India and which is a pre-stage process with therequirement of determination of exact number of candidates to qualify ateach stage as a factor which goes to the very root of the process. Theother application which was filed by the Commission before the

Hon'bleTribunal has been placed on record of the Hon'ble High Court also inW.P.(C) No.1138/2020 (UPSCVs. SoumyaPandey&Ors.). The sameapplication may be placed for considerationby the Hon'ble High Court toexplain the peculiar nature and structure of the Civil ServicesExamination to enable the Hon'ble Court to take considered view in thematter.

7. At the cost of repetition, the Commission reiterates its deference tothe Hon'ble Court and is obliged to the Hon'ble Court for showing dueindulgence to the Commission in the larger public interest and in theinterest of justice.

8. It is requested that the Hon'ble Court may be apprised about theabove position/stand of the Commission on the next date of hearing i.e.27th July, 2020. It is also requested that the Commission may be keptposted about the developments in the case.

Yours sincerely,

(ParamjeetChadha)
Under Secretary (CSM)"

33. On the basis of this letter, the UPSC,while relying upon clause 2 (b), extended the benefit provided thereby only to two candidates namely SatabadiMazumdar and Sridhar Limbikaiin these petitions as they had sought parity with other candidates who were given option of submitting EWS certificate in correct form because they had submitted the EWS certificates in wrong form at the time of submitting DAF-1. Since these two candidates were similarly placed,i.e., they had also submitted certificates in wrong format obtained before 1stAugust, 2019 and later on they had submitted the EWS certificates in correct format, hence they were extended the benefit of EWS category.

34. At this stage, questions to be decided by this Court can be divided in two parts as under:

Question no.1: Whether learned CAT was right in extending the date for obtaining EWS certificates from 1st August, 2019 to 16th August, 2019?

Question no.2: Whether learned CAT was wrong in not extending the period for obtaining and submitting the EWS certificate from 16th August, 2019 till the date when result of the final examination was announced and the scrutiny of the documents submitted by the successful candidates started?

35. Let us discuss these two questions separately.

36. As far as question no.1 is concerned, in our view the CAT has given detailed reasons for extending the date for obtaining the EWS certificates from 1st August, 2019 to 16th August, 2019. It is to be noted here that apart from reasons given in the impugned order as detailed above, there is an additional ground for extending the said date from 1st August, 2019 to 16th August, 2019:

(a). It is an admitted fact that the Central Government had notified the rules for grant of EWS certificates in late January, 2019 and detailed instructions in this regard were issued only in February, 2019. The last date for submission of the form for preliminary examination for CSE-2019 was 18th March, 2019 and all the candidates should have the certificates regarding education

qualification and being belonging to a reserved class (if applicable) with them as on that date. The exceptions were carved out only for two categories,i.e., the candidates claiming EWS reservation and the candidates who have appeared or likely to appear in final examinations and their results werenot declared. Thereafter, betweenthese two categories, the UPSC intentionally or unintentionally created a distinction as it fixed the date of 1st August, 2019 as the cut-off date for obtaining the EWS certificate, in view of the difficulties being faced by the candidates to obtain the same, as one-time measure but on the other hand the candidates who had appeared or were going to appear in their final examinations in 2019, they were given time till 16th August, 2019 for obtaining the final certificates certifying their educational qualifications. It is pertinent again to note here that the last date for submission of the EWS certificates as well as the educational qualification certificates is the same,i.e., 16th August, 2019.

(b) In case of educational qualifications, there is no cut-off date for obtaining the said certificates meaning thereby that if the University had issued the said certificate on 16thAugust, 2019 itself, the said educational qualification certificate is valid whereas in case of EWS candidates an artificial date,without any basis, was introduced as 1st August, 2019. Hence benefit was extended to one class of candidates but hardship was caused to other class of candidates belonging to EWS category without any

reasonable ground. It is not a case of reasonable classification.

(c) The CAT has rightly observed that the learned counsel appearing for UPSC and UOI were unable to give any justification for fixation of date, i.e., 1st August, 2019 as the date before which candidates should have obtained the EWS certificates pertaining to the financial status of the applicant for the financial year 2017-18. The said artificial cut-off date, which is not grounded in reality and which has no justification but it deprives many eligible candidates from availing the benefit given under the beneficial Constitution provision is unreasonable, unwarranted and is liable to be set aside.

37. In both the cases, i.e. submission of the educational qualifications as well as submission of EWS certificates, the last date for uploading these certificates along with DAF-1 form was 16th August, 2019, hence the certificates issued between 1st August, 2019 to 16th August, 2019 certifying the financial status, i.e., income and assets of the candidates and his family for the financial year 2017-18 areproper and legal and judicial intervention by CAT was warranted and as such the order of the CAT in this regard is upheld. It is to be reiterated here that neither the dates for submission of any form, i.e., the application form for preliminary examination, DAF-1 or DAF-2 have been interfered with by CAT nor the dates of preliminary examination or the final examination or the subsequent interviews have been postponed. These dates are sacrosanct as per various pronouncements of Hon'ble Supreme Court and the different High Courts and CAT while passing the impugned order has

followed the said mandate. Neither the process of holding the examinations nor the process of conducting the interviews has been interfered with and the said examinations and interviews have taken place as per the schedule fixed by the Rules propagated by DoP&T as well as the notification issued by UPSC. Hence, we do not find any infirmity or illegality in the order of learned CAT to that extent.

38. As far as the second question is concerned, the learned CAT has specifically observed as under:

> "28. We are not at all making any effort to meddle with the scheme of the Examination or the calendar thereof. But for the fact that the Government as well as the UPSC have recognized that the reservation in favour of EWS was introduced in the recent past, and have created the facility of submission of the certificates in relation thereto, at a comparatively later stage, we would not have gone into the aspect in detail, at all. Once the submission of certificates claiming benefit of reservation is linked to the last date of submission of the application, at whatever stage, stipulation of an intermediary date, especially, for EWS certificate, has no meaningful purpose to serve. On the other hand, permitting the certificates obtained up to the last date of submission of the concerned applications would ensure uniformity, consistency, and fairness".

39. It is nobody's case that all the dates can be left open and candidates can submit the EWS certificates or other certificates as and when they wish. Throughout the case, stand of UPSC and Union of India is that,all

the dates fixed stipulated in the subject notification, including that of 1st August, 2019 are sacrosanct, so the EWS certificates ought to have been obtained before this date.On the other hand, the petitioners who are not covered in the CAT's order of extending the date of 16thAugust, 2019 for submission of EWS certificates, have pleaded their case throughMr. Salman Khurshid, learned Senior Advocate and other learned counsel to the effect that since the scrutiny of all the certificates and documents has to take place after declaration of final results of the written examinations, therefore, the candidates should be given opportunity to submit their EWS (Income and Assets) Certificate till that time. It has been also vehemently argued on behalf of this group of candidates that even at the scrutiny stage, theUPSC is permitting successful candidates to rectify the mistakes in their certificates by submitting fresh certificates; and therefore,no prejudice would be caused if the candidates who had failed to upload their certificates alongwith DAF-1 form, are given a further opportunity to submit their certificates till that stage. Learned counsel appearing for UPSC has submitted that at the final stage after declaration of results of the final written examination, the candidates are given opportunity to rectify the mistakes in their documents,which are found to be non-compliant in terms of format during scrutiny,but the stage of filing of the documents cannot be extended to the said date as it will cause disarray and disturb the entire schedule of the conduct of CSE Examination,2019. It has been specifically pleaded that none of the candidates has been given the concession of submitting their EWS certificate for the first time at the scrutiny stage and only the opportunity has been given to candidates to formally correct mistakes in their certificates already submitted, and in terms of the said concession, the same opportunity has been extended to the two candidates as mentioned

hereinabove since the UPSC has taken a sympathetic view of the situation where certificates in the wrong format were submitted at DAF-1 stage but certificates in correct format were submitted after 16th August, 2019. Mr. Salman Khurshid, learned Senior Advocate has argued that the financial status of a person in a financial year will remain same and any change in the date of issuing of the said certificates and late submission of the said certificates will not change the financial status of the candidate. The delay in their submission,was caused due to the administrative difficulties faced by the certificate issuing authorities and the said certificates could not be issued in time, so the opportunity to submit the same as one-time option may be granted to all the candidates. This plea has been again strongly opposed by the learned ASG and the counsel appearing for UPSC.

40. In our view, the dates fixed for the stages at which the documents can be submitted, the dates on which examinations have to be held as well as the prescribed qualifications enabling the candidates to sit in a particular examination, may be for admission in an educational institution or for appointment in civil posts under the State, are sacrosanct and the said dates cannot be interfered with by the learned CAT or by this court in judicial review. It is clarified that by extending the date from 1st August, 2019 to 16th August, 2019 for obtaining the Income and Assets Certificate(EWS Certificate), the CAT has not extended the date for submission of the said certificate, which is sacrosanct as fixed by UPSC for submission of DAF-1 form, being 16th August, 2019 and the certificates were to be uploaded along with DAF-1 form. The remaining petitioners are now praying to this court for shifting of the goalpost and to interfere in the conduct of civil services examination by tinkering with the schedule or dates for submission of documents, which in our

considered view is not permissible and this court refrains itself from doing so. The candidates have also challenged the distinction pointed out by learned CAT between the social status of a candidate and economic status of a candidate,who claim reservations based upon castes and reservations based upon the economic criteria. We are in agreement with CAT that the casteor the social criteria for reservation remains same as a person cannot be overnight changedofhis or her caste or the social criteria. But as far as the economic status is concerned, it may change from year to year and that is the reason that the Income and Assets Certificate is to be obtained year-wise and once a certificate is issued, it remains valid only for the period one yearfrom the end of the financial year to which it relates. The arguments on behalf of the candidates that even reservation for a particular caste may be withdrawn and thus the social status of a person may change which may disentitle a candidate to claim reservation based upon the social status is a far-fetched argument without any logical basis and the same cannot be accepted. The statutory rules have provided for validity of the income certificate for one year and it recognises that the said certificate has a fixed validity because there are chances of change in the economic status of a person. For example, if any of the candidates belonging to the EWS category is selected in civil services examination and is appointed toone of the cadres, his social status will change immediately and stating that even after change in the economic status one can claim the benefit of belonging to EWS category for a period of one year is neither logical nor correct nor ethical. This beneficial legislation by way of the Constitutional amendment was axiomatically brought about with a view to help the downtrodden and economically weaker sections of society,for which no reservation was provided earlier and accordingly this benefit is to be enjoyed only by the

candidates who actually belong to the economically weaker sections and as soon as they come out of this economic condition, there is no justification for them to claim benefit of reservation based upon their historical deprivation of income or lack of assets, which wasprevalent at the time when the said certificate was issued.

41. Mr. Salman Khurshid, Senior Advocate for the candidates urged this Court to differentiate between cognitive and constitutive recognition and referred to para no.24 of the impugned order where the CAT has observed that while the law that provides for reservation in favour of a particular category, is 'constitutive' in its nature; the certificate issued to a candidate enabling him to claim reservation is 'cognitive' in its purport. He relied upon a judgment of this Court in W.P.(C) 5492/2019 titled ***Amrit Singh vs. Union of India&Anr.***decided on 23rd August, 2019 in this behalf. The relevant paragraphs are 13 and 17 of this judgment which are reproduced hereunder:

> 13. Learned counsel for the Petitioner has relied upon a Division Bench judgment of this Court W.P.(C) No.5364/2015 titled ***Ravinder Kumar v. Union of India and Anr.*** dated 31st May, 2017, wherein this Court has referred to judgments titled ***Ram Kumar Gijroya v. Delhi Subordinate Services Selection Board &Anr., (2016) 4 SCC 754; ManjushaBanchhore v. Staff Selection Commission &Anr.*** W.P.(C) No.7304/2010 decided on 06.05.2013; ***Delhi Subordinate Services Selection Board &Anr. v. Anu Devi &Anr.*** W.P.(C) No.13870/2009 dated 17.02.2011; ***Anil Kumar v. Union of India*** W.P.(C) No.405/2013 and ***Rakesh Kumar v. Union of India and Ors***. W.P.(C) No.5416/2012 and held as under:
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> "13. The Petitioner, in the present case, submitted the OBC certificate dated 21.05.2002 along with the application form. This certificate was not in the prescribed format. The second OBC certificate dated 13.07.2010 was furnishedat the time

of the interview, before the preparation of the final merit list and was as per the prescribed format. Identical undertakings have been adversely commented upon in ***ManjushaBanchhore*** (supra) and rejected on the ground of force and coercion. When a candidate is informed that unless an undertaking is furnished, he/she would be treated as disqualified, the same amounts to leaving the candidate with no choice or option. It would be unjust and unfair to pin down the Petitioner for the said reason, for consent to such an undertaking would not be free, having been obtained under the threat of disqualification. Hence, the same, cannot be said to have any legal and binding effect to negate the legal claim and right. Entitlement for consideration for appointment under the reserved categories is by virtue of the said status being by birth, and when the status and certificate is not in dispute, relief should be granted as held in ***Anu Devi &Anr.*** (supra). The certificate issued by the competent authority, to this extent, is thus only an affirmation and declaration of the status already in existence.

14. Accordingly, we allow the present Writ Petition and set aside the impugned order of the Tribunal. The Respondents are directed to take into account the marks obtained by the Petitioner, treating him as an OBC candidate and thereafter accordingly process his candidature as per the order of preference, subject to character and antecedent verification. The Petitioner, on appointment, would be entitled to consequential benefits with regard to seniority, notional increments counting of period for further promotion etc. The Petitioner, however, would not be entitled to back wages. Compliance shall be made within 8 weeks from the date of this judgement. The parties are left to bear their own costs."

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17. It is admitted case of the Respondents that even as on date, out of 23 total vacancies of generator operator, only 11 vacancies have been filled up and specifically in OBC category 11 vacancies were notified and only 5 vacancies were filled up. During the arguments, it has been also noticed that these vacancies have not been re-advertised till

date. The Petitioner fulfils the eligibility criteria and he has passed the written examination, physical endurance test, and medical examination and has obtained a fresh OBC certificate dated 26thFebruary, 2019 which specifically mentions that he is still not covered under the creamy layer prescribed for OBC candidates and in view of the judgement of this Court in ***Ravinder Kumar's case*** (supra), this Court is of the view that the Petitioner is entitled to his appointment as Constable (Generator Operator) in Border Security Force under the OBC category".

42. In our view, the ratio of this judgment is not applicable to the facts of this case as the said judgment is in relation to a candidate who was belonging to other backward class (OBC), which envisages a static state of affairs throughout, as caste of a person will not change with the passage of time, whereas the present writ petitions in hand deal with the financial status of the candidates and their families, which is dynamic in nature and it may change from year to year and as such the candidates cannot take any benefit of the said judgment.

43. Mr. Salman Khurshid, Senior Advocate reiterated that the judgment in the case of ***Ram Kumar Gijroya***(supra)isrelevant to decide the present dispute in hand and the CAT has rightly relied upon the said judgement. The relevant extract of the said judgment is as under:

"In our considered view, the decision rendered in the case of Pushpa(supra) is in conformity with theposition of law laid down by this Court, which havebeen referred to supra. The Division Bench of theHigh Court erred in reversing the judgment andorder passed by the learned single Judge, withoutnoticing the binding precedent on the question laiddown by the Constitution Benches of this Court inthe cases of IndraSawhney and Valsamma Paul(supra) wherein this Court after interpretation ofArticles 14, 15,16 and 39A

of the Directive Principlesof State Policy held that the object of providingreservation to the SC/ST and educationally andsocially backward classes of the society is to removeinequality in public employment, as candidatesbelonging to these categories are unable to competewith the candidates belonging to the generalcategory as a result of facing centuries of oppressionand deprivation of opportunity. The constitutionalconcept of reservation envisaged in the Preamble ofthe Constitution as well as Articles 14, 15, 16 and39A of the Directive Principles of State Policy is toachieve the concept of giving equal opportunity toall sections of the society. The Division Bench, thus,erred in reversing the judgment and order passed bythe learned single Judge. Hence, the impugnedjudgment and order passed by the Division Bench inthe Letters Patent Appeal No. 562 of 2011 is not onlyerroneous but also suffers from error in law as it hasfailed to follow the binding precedent of thejudgments of this Court in the cases of IndraSawhney and Valsamma Paul (supra). Therefore, theimpugned judgment and order passed by theDivision Bench of the High Court is liable to he setaside and accordingly set aside. The judgment andorder dated 24.11.2010 passed by the learned singleJudge in W.P. (C) No. 382 of 2009 is herebyrestored."

44. Countering the submission made on behalf of the candidates, Mr. Naresh Kaushik, Advocate appearing on behalf of UPSC has submitted that the decision in ***Ram Kumar Gijroya***(supra) has been referred to a larger bench, hence the candidates cannot take any benefit of the same. Even reference to a larger bench does not take away the guiding precedent of a judgment, unless and until the larger bench has either stayed the operation of the said judgment or it has set aside or varied the decision of the case, which was referred to it. None of such conditions have been brought to our notice. Hence, we reiterate that the learned CAT has rightly relied upon the judgment in the case of ***Ram Kumar Gijroya***(supra).

45. Mr. Naresh Kaushik, learned counsel appearing for UPSC has submitted a long list of judgments, specifically 14 in number, but he has particularly referred to the judgment in the case of ***Hirandra Kumar vs. High Court of Judicature at Allahbad&Anr.*** *[(2019) (2) SCALE 752]* wherein it was held as under:

> "24. In **Sudhir Kumar Jaiswal** (supra), the date with reference to which the ageeligibility of a person desirous of sitting in the competitive examination forrecruitment to the Indian Administrative Service/Indian Foreign Service was fixed as 1 August of every year. The preliminary exam would normally be held annuallybefore 1 August. Rejecting the contention that that the cut-off dateis arbitrary and hence *ultra vires*, a two judge Bench of this Court held thus:
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> 5. As to when choice of a cut-off date can be interfered was opined byHolmes, J. In *Louisville Gas & Electric Co. v. Clell Coleman* [277 US 32: 72 Led. 770 (1927)] by stating that if the fixation be "very wide of any reasonablemark, the same can be regarded arbitrary. What was observed by Holmes, J.was cited with approval by a Bench of this Court in *Union of India v. ParameswaranMatchWorks*[MANU/SC/0094/1974 : (1975) 1 SCC 305: AIR1974SC 2349] (in paragraph 10) by also stating that choice of a date cannotalways be dubbed as arbitrary even if no particular reason is forthcoming forthe choice unless it is shown to be capricious or whimsical in thecircumstances. It was further pointed out where a point or line has to be,thereis no mathematical or logical way of fixing it precisely, and so, thedecision of the legislature or its delegate must be accepted unless it can besaid that it is very wide of any reasonable mark.
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> 6. The aforesaid decision was cited with approval in *D.G. Gouse and Co. v. State of Kerala* [MANU/SC/0330/1980 : (1980) 2 SCC 410 : AIR 1980 SC271]; so also in *State, of*

Bihar v. Ramjee Prasad [MANU/SC/0418/1990 : (1990) 3 see 368] ...

7. Inthis context, it would also be useful to state that when a court is calledupon to decide such a matter, mere errors are not subject to correction inexercise of power of judicial review; it is only its palpable arbitrary exercisewhich can be declared to be void...

8. ...As to why the cut-off date has not been changed despite the decision tohold preliminary examination, has been explained in paragraph 3 of thespecial leave petition. The sum and substance of the explanation is thatpreliminary examination is only a screening test and marks obtained in thisexamination do not count for determining the order of merit, for whichpurpose the marks obtained in the main examination, which is still beingheld after 1st August, alone are material. In view of this, it cannot be held that continuation of treating 1st August as the cut-off date, despite the UnionPublic Service Commission having introduced the method of preliminaryexamination which is held before 1st August, can be said to be "very wide off any reasonable mark"or so capricious or whimsical as to permit judicial interference".

46. We have gone through this judgment. In our view, the observations made in the above judgment are not relevant to the dispute in hand as the said matter pertains to the Higher Judicial Service in the State of Uttar Pradesh and the specific question to be decided was in respect of a number of attempts a candidate could get as per the rules in the Higher Judicial Service and the said number of attempts were to be determined on the basis of the respective age of the candidates and the category to which they belong. The present dispute is in respect of submission of EWS certificates, which were obtained after the cut-off date notified by UPSC. Hence the ratio of the above judgment is not applicable to the facts of the present case.

47. Mr. Naresh Kaushik, Advocate has also relied upon the judgment of the Hon'ble Supreme Court in ***Rakesh Bakshi&Ors. vs. State of Jammu & Kashmir*** *(2019) 3 SCC 511* and specifically referred to para 13. which is reproduced hereunder:

> "13. Having heard learned Counsel for the parties, we are inclined to grant relief tothe Appellants against their being ousted after serving for nearly two decades. We arenot for a moment doubting the correctness of the reasoning of the Division Bench in this case, that eligibility of the candidates must be decided with reference to the qualification possessed as on the cut-off date and the qualification acquired later in point of time cannot make a candidate eligible. However, having regard to the factsobtaining in this case, which we have set out and also the manner in which this Courthas decided the matter culminating in MANU/SC/1130/1997 : 1997 (4) SCC 18 theinterests of justice would require the interference with the judgment of the Divisionbench. We particularly note that as far as the writ Petitioner is concerned more thanthe effluxof time, the fact is that he cannot possibly secure selection. Thus,havingalso regardto the fact that the writ Petitioner would not stand to gain if we oustedthe Appellants having regardto his position in the selection, we allow Civil Appeal @SLP (C). No. 7843-7844/2014 and the judgment of the Division Bench will stand setaside and the writ petition will standdismissed. Civil Appeal @ SLP(C) No.14660/2014 filed by the State will also stand allowed. There shall be no order as to costs".

48. Again, the matter before the Hon'ble Supreme Court was in respect of eligibility of the candidates regarding qualifications on a cut- off date. It is not in doubt that in the present case the eligibility of the candidates belonging to EWS category is to be seen for the year 2017-18, which ended on 31st March, 2018 and the said date remains as it is and the relevant question to be decided in the instant case,is the date on which the

certificate from the concerned authorities certifying the financial status of the candidate was required to be obtained.

49. In the above cited case, the candidates obtained the necessary qualifications for examination/interview after the cut-off date. That is not the case here because EWS status was to be verified for the period which was more than one year old and the cut-off date is relevant only because the certificates were issued after the cut-off date.

50. Similarly, Mr. Kaushik has relied upon the judgment in the matter of ***Ashok Kumar Sonkar vs. Union of India(2007) 4 SCC 54***;thiscase again discusses the matter regarding essential educational qualification but the present case relates to EWS certificates to be obtained from the relevant authorities. The matter of ***Zonal Manager, Bank of India, Zonal Office, Kochi &Ors. vs. Aarya K. Babu&Ors., (2019) 8 SCC 587***also deals with the minimum qualification for applying for the post, whereas in the present case EWS certificate cannot be equated with essential educational qualification required for qualifying for the said post. The certificate stating an educational qualification is constitutive in nature and it certifies the date when a particular candidate has acquired the minimum education qualification required to sit for an exam but on the other hand, EWS certificate is only cognitive in nature which certifies financial status of a person within a given financial year. In ***Madras Institute of Development Studies &Anr. vs. Dr.K. Sivasubramaniyan&Ors.(2016) 1 SCC 454***the Courtdealt with the selection process whereas the present writ petitions are with respect to dates of procuring EWS certificates. Hence, this judgment again is not applicable to the facts of this case. The judgment in ***Municipal Corporation of Delhi vs. Surender Singh &Ors., (2019) 8 SCC 67,*** deals with the merits of the candidates and not with the

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issuance of valid EWS certificates after the cut-off date. ***Union of India vs. AnuKumari&Anr.*** *Civil Appeal No.3877/2019* dated 11.04.2019, dealt with the non-uploading of cadre preference by the candidate online before certain date, which is nowhere related to the submission of EWS certificate which was obtained after the cut-off date. Again, in ***Praveen Sharma vs. the Secretary, UPSC,*** *W.P.(C) No.4569/2008 dated 16.12.2008,*issue in hand was the eligibility of a candidate based on age or number of attempts;whereas in the present case dispute is regarding EWS status, which is not related to the age or number of attempts. The case of ***Satish Kumar vs. UPSC &Anr.*** *W.P.(C) 8319/2014* dated 28.11.2014 did not deal with the sanctity of cut-off dates in respect of obtaining the EWS certificate. In the matter of ***The Secretary, M/o Personnel, Public Grievances and Pensions vs. TanuKashyap&Ors.*** *W.P.(C) 16191/2006* dated05.10.2007 the Court dealt with the creamy layer of OBC and the relevant cut-off date for determining the same,whereas the present matter deals with the date of obtaining the EWS certificate; hence this judgment has no relevance. In the matter of ***Dr.Shamim vs. Union Public Service Commission &Ors.*** *OA No.1301/2019 dated* 21.10.2019,issue was regarding possession of requisite educational qualification and the last date in the matter for submission of applications but here in this case the issue is regarding date of obtaining the EWS certificate for the period 2017-18. In ***Jyoti Hankey vs. Union Public Service Commission &Ors.*** *W.P.(C) No.2342/2012* dated 17.07.2013, the candidate was dismissed on the basis that the Scheduled Tribe certificate was not in the prescribed format. However, the surviving issue in the present case is not the faulty format of the EWS certificate,as UPSC has already given concession to two such candidates, who earlier had submitted faulty certificates and later on submitted the

certificates in proper format, hence the said issue does not survive. Mr. Kaushik has also referred to ***Union of India &Ors. vs.Unicorn Industries,(2019) 10 SCC 575***,whereinthe court observed that the public interest is superiorequity, which can overwrite an individual equity. By extending date of obtaining EWS form 1st August, 2019 to 16th August, 2019, the superiority of the public interest has not been undermined as the selection process or the dates of submission of forms or the dates of holding the exams or the interviews has not been interfered with. The superior public interest demands that the exams should be held on time and the forms, duly filled along with documents, should have been submitted on the dates prescribed by UPSC so that no delay is caused in holding the said exams. This Court as well as the learned CAT has not interfered in the dates mentioned for submission of DAF-1 and DAF-2 as well as the examination calendar and the schedule of interview to be held in CSE-2019 in the true sense of the acceptance of superior equity in public interest as held in ***Union of India &Ors. vs.Unicorn Industries***(supra).

51. The Hon'ble Supreme Court has time and again reiterated that the process of examination or selection, once set in motion, is not to be interfered with and accordingly we are not inclined to do so by allowing the petitioners,who did not claim EWS status by submitting their certificates of Income and Assets along with DAF-1 form, to submit their certificates till the scrutiny stage after the final examination. It is true that there may be difficulties at individual level in obtaining the EWS certificates but the common public interest demands that the dates fixed for any important examinationlike CSE-2019 should not change and the same should be respected, otherwise it will open flood gates for

candidates to approach the learned CAT or higher courts at the drop of a hat at every stage ofcivil services examination to interfere with or to postpone the dates of submission of formsor examinations and to claim other related reliefs and no finality can be attached to the said examination process or the dates prescribed for the same till the last moment, which will jeopardise careers of hundreds of young men and women, who aspireto join this service and work hard to attain their life-cherished goal. Moreover, the allocation ofcadres and training of the selected candidates has to start and it cannot be kept in limbo, hence the dates for submission of forms, certificates and the datesfixed for scheduling the examinations/ interviews are not to be interfered on any pretext, which does not servethe larger public interest.

52. In view of the above, we agree with the findings arrived at by the learned CAT and we are not inclined to extend the date of submission of the requisite Income and Assets Certificates (EWS certificates) beyond 16th August, 2019.

53. Keeping in view the above discussion, we do not find any perversity, illegality orirregularity in the impugned order dated 13th January, 2020 of the learned CAT so as to warrant interference in the present writ petitions and the said order is accordingly upheld. As a result, all the writ petitions filed by the candidates as well as UPSC and Union of India are hereby dismissed.

54. It is to be noted that the benefit given to two candidates i.e. SatabadiMazumdar and Sridhar Limbikai in terms of para 2 (b) of letter of UPSC dated 27th July, 2020 shall remain as it is and their candidature

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hereby is directed to be considered for all intent and purposes as if they had submitted their EWS certificates in time.

55. The pending applications are also disposed of.

TALWANT SINGH
(JUDGE)

SIDDHARTH MRIDUL
(JUDGE)

SEPTEMBER 11, 2020
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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **W.P.(C) 4623/2020**

UNION OF INDIA ..... Petitioner

Through: Mr. Ankit Raj, Advocate with Mr. Neeraj, Mr. Sahaj Garg, Mr. Piyush Beriwal, Ms. Damini Garg and Ms. Vandana Dewan, Advocates

versus

ABHIJEET ALKESH AND ORS. ..... Respondents

Through: Mr. Salman Khurshid, Senior Advocate with Mr. Arpit Shukla, Advocate for R-1
Mr. Naresh Kaushik, Advocate for R-2

CORAM:
HON'BLE MR. JUSTICE SIDDHARTH MRIDUL
HON'BLE MR. JUSTICE TALWANT SINGH

ORDER

% 07.10.2020

The present matter has been taken up for hearing by way of Video Conferencing on account of COVID-19 pandemic.

CM APPL.25145/2020 (Directions)

The present application under Section 151 of the Code of Civil Procedure, 1908 has been instituted on behalf of the applicant/respondent No.1 praying as follows:-

> "a) Issue a direction to UPSC and DoPT to comply with the judgment dated 11.09.2020 and declare the results of the applicant herein.
> b) Pass any other order as may deem fit.

Mr. Salman Khurshid, learned Senior Advocate appearing on behalf of the applicant/respondent No.1, on instructions, seeks leave to withdraw this application with liberty to institute appropriate proceedings, as may be advised, in accordance with law, in relation to our judgment dated 11.09.2020 in W.P.(C) 1158/2020, titled as '*Union Public Service Commission* vs. *Saumya Pandey & Ors.*' and other connected petitions.

Leave and liberty granted.

The application is dismissed as withdrawn and disposed of accordingly.

SIDDHARTH MRIDUL, J

TALWANT SINGH, J

OCTOBER 07, 2020/*dn*

Click here to check corrigendum, if any

Final Order
Disposed of

IN THE HIGH COURT OF DELHI AT NEW DELHI

No._____/DHC/WRITS/D-9/2021
Dated_____
NDOH: _____

From
The Registrar General
High Court of Delhi
New Delhi

To

The Principal Registrar, Central Administrative Tribunal, Principal Bench, Copernicus Marg, New Delhi 110001

Petition against order dated 13/01/20. in O. A. No. 2796/2019.

WRIT PETITION (CIVIL) NO. 4623/20.

AND

CM No. 16719/20.

Please see Memo of Parties

....Petitioner/s

Vs.

Please see Memo of Parties

....Respondent/s

Sir,

I am directed to forward herewith a copy of order dated 11/09/20 passed by **Hon'ble Division Bench** of this Court in the above noted case along with a copy of Memo of Parties for information and immediate compliance/necessary action.

Please acknowledge receipt.

Yours faithfully,

12/4/21

Administrative Officer (Writs)
For Registrar General

12/4