

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 2490 of 2008**

1. Miss Reema Mahobia, Advocate, Aged 33 years, (Enrollment No. CG 2940/1998) B.Com., M.A., L.L.B., D/o Shri B.K. Mahobia, R/o Lohar Chowk, Purani Basti, Raipur (C.G.) PIN-492001
2. Sharad Prakash Yadav, Advocate, Aged 32 years, (Enrollment No. M.P. 3713/2000) B.A., L.L.B., S/o Shri L.P. Yadav, R/o Opposite N.C.C. Office, Kailashpuri, Raipur (C.G.)

---- Petitioners**Versus**

1. State of Chhattisgarh, Through- Principal Secretary, Law Department, Govt. of Chhattisgarh, D.K.S. Bhawan, Raipur (C.G.)
2. High Court of Chhattisgarh Through- Registrar General, High Court of Chhattisgarh, Bilaspur (C.G.)

Respondents

For Petitioners : None.

For State/Respondent No.1 : Shri Yashwant Singh Thakur, Deputy Advocate General

For Respondent No. 2 : Smt. Anubhuti Marhas, Advocate

Hon'ble Shri Deepak Gupta, Chief Justice

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board**08/08/2016**

1. This case has been called for twice but on both the occasions no one appeared for the Petitioners. Therefore, we proceed to decide the writ petition on merits.
2. By means of this writ petition, the Petitioners have challenged Clause (b) of Sub-Rule (i) of Rule 7 of Chhattisgarh Higher Judicial Service

(Recruitment and Conditions of Service) Rules, 2006 on the ground that the same is *ultra vires* to the Constitution of India.

3. It is the contention of the Petitioners that the minimum age of 35 years fixed for appointment to Higher Judicial Service is *ultra vires* to the Constitution of India. We are unable to accept this contention.

4. This Court can take judicial notice of the facts that if a child joins school at the age of 5 years and studies upto XIIth Standard, he attains the age of 17 years. Thereafter, when he studies a 5 years B.A.LL.B. integrated course, he attains the age of 22-23 years. Thereafter, when he enrolls himself in the Bar for practicing as an Advocate and gains experience of practice as an Advocate for a minimum requisite period of 7 years, he attains the age of 30 years. Therefore, there can be no person below 30 years of age, who can be eligible to apply for appointment in the Higher Judicial Service. Not only this, when recruitment for Higher Judicial Service is conducted, it is expected that a candidate seeking appointment in the said service should not only have minimum experience of 7 years as an Advocate, but should be mature and able to deal with serious issues. Another aspect of prescribing the minimum age of 35 years for the said appointment is to maintain parity between members of Lower Judicial Service who are eligible for appointment in Higher Judicial Service after putting-in long years of service in Lower Judicial Service and the members of Bar who are directly appointed to Higher Judicial Service. The minimum age of 35 years is the normal rule in almost every State of the country. Therefore, 35 years of minimum age is reasonably prescribed for appointment to Higher Judicial Service.

5. We find no substance in the instant petition seeking reduction of minimum age from 35 years to 21 years for appointment in Higher Judicial Service. Consequently, the writ petition, being without merit, is dismissed.

Sd/-

(Deepak Gupta)
Chief Justice

Sd/-

(Sanjay K. Agrawal)
Judge