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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition No. 4028 of 2006**

Judgment Reserved on: 07.07.2016

Judgment delivered on: 26.08.2016

Ku. Varsha Dongre D/o Shri Sukhiram Dongre, Aged About 23
Years R/o Civil Lines Kawardha, District- Kabirdham, Chhattisgarh

---- **Petitioner****Versus**

1. State Of Chhattisgarh Through The Chief Secretary D.K.S. Bhawan, Raipur, Chhattisgarh.
2. The Chhattisgarh Public Service Commission, Through Its Secretary Shankar Nagar, Raipur, Chhattisgarh.
3. The Chairman, Chhattisgarh Public Service Commission, Shankar Nagar, Raipur, Chhattisgarh
4. Usha Kiran Barai R/o Harvinder Readymade Stores, 27 Kholi Vikas Nagar, Bilaspur, Chhattisgarh 495001
5. Sarika Ramtake R/o C/o Shri N. Ramteke 23/3, Nehru Nagar, East Bhilai Nagar, District- Durg, Chhattisgarh 490020
6. Ajay Sharma R/o Q/no. 19/ E Street No. 16, Sector-2, Bhilai Nagar, District- Durg, Chhattisgarh 490001
7. Manoj Kumar Larorker R/o Sanichari Bazar, Appapura, Near Police Line Durg, District- Durg, Chhattisgarh 491001
8. Ku. Padmini Bhoi R/o Nav Durga Chowk, Ravi Nagar, Behind Pujari School, Raja Talab, Raipur, Chhattisgarh 492001
9. Ku. Jayshree Jain R/o Shree Mahamaya General Store, Main Road, Bishrampur, District- Surguja, Chhattisgarh 497226
10. Smt. Chandan Sanjay Tripathi R/o Shri Sanjay Tripathi, Forest Colony R.O. Lormi, District- Bilaspur, Chhattisgarh 495001
11. Priyanka Thawait R/o C/o Mr. Manharan Lal Thawait, Village Man Road Pamgarh, District Janjgir-Champa, Chhattisgarh 495554
12. Fariya Aalam R/o Smt. Lmlsat Siddiquie Street Civil Line, Link Road, Bilaspur, District Bilaspur, Chhattisgarh 495001
13. Roktima Rai C/o Ravindra Nath, D.P. Rai Bhawan, New Sarkanda, Bengali Para, Bilaspur, District Bilaspur, Chhattisgarh 495001

14. Deepak Kumar Agrawal R/o C/o Mittal General Store, Village-Pondi Uprora, Tehsil- Katghora, District- Korba, Chhattisgarh
15. Sanjay Kannoje R/o Ward No.02, Garibabandh, P.O. Gariyabandh, District- Raipur, Chhattisgarh 493889
16. Ku. Tulika Prajapati R/o Near Government Hospital Manipur Ward 26, Bathupara, Ambikapur, District Surguja, Chhattisgarh 497001
17. Sukhnath Mochi R/o Janak Cycle Store P.O. Lormi Block- 0, Bilaspur, District Bilaspur, Chhattisgarh 495001
18. Bhagwan Singh Uiky C/o Smt. Saroj Dubey Village Dubatiya Bilaspur, 495119
19. Ku. Leena Dhruv R/o D/o I.R. Dhruv Telephone Exchange,Bhatapara, District Raipur, Chhattisgarh 493118
20. Ku. Santan Devi Jangde, R/o M I G-60 Nehru Nagar, Bilaspur, District Bilaspur, Chhattisgarh 495001
21. Nivedita Pal R/o Rajeev Vihar Seepat Road, Behind Kiesri Complex, Bilaspur, District Bilaspur, Chhattisgarh 495001
22. Illa Tiwari R/o C/o R.L.Pandey, C M O Nagar Palika, Akaltara, District Janjgir-Champa, Chhattisgarh
23. Om Prakash Sharma R/o House No. A1/29 Irrigation Colony Darri Korba, District Korba, Chhattisgarh
24. Neeraj Kumar Chandrakar C/o Shri B.B.Likhar, D-37 Pt. R.S.S.U. Rohini Puram, Raipur, Chhattisgarh
25. Gayatri Singh R/o C/o Mumtaz Ali, In Front Of Surya Bhawan, Juna-Bilaspur, District Bilaspur, Chhattisgarh
26. Kamleshwar Prasad Chandel R/o D-11, Aashirwad Bhawan, Adarsh Nagar, Durg, District Durg, Chhattisgarh 491001
27. Neeha Pandey R/o House No. B-11, Priyadarshani Nagar, Bilaspur, District Bilaspur, Chhattisgarh 495001
28. Megha Temburker R/o A.D.J. Civil Line, Balod-Durg, Chhattisgarh
29. Manisha Thakur R/o Housing Board Colony, Lal Bagh, Rajnandgaon, District Rajnandgaon, Chhattisgarh 491441
30. Jyoti Singh R/o Near Police Station, Post- Khadgaman Chirmiri, District- Koriya, Chhattisgarh, 497449
31. Prashant Lal R/o Q.No. F-12, Civil Lines Gandhi Chowk, Ambikapur, District- Surguja, Chhattisgarh, 497001
32. Diwakar Singh Rathor R/o S/o D.S. Rathore, Ward No. 10, Nagar Panchayat Lormi, District Bilaspur, Chhattisgarh 495115

33. Suomya Chourisya R/o At- 2a/2 Pump House Colony, Korba, District- Korba, Chhattisgarh 495677
34. Bhavesh Kumar Dubey R/o C/o Smt. Saroj Dubey, Village- Dubatiya, District Bilaspur, Chhattisgarh 495119
35. Minikashi Shukla R/o At- Jorapara, New Sarkanda, Bilaspur, District Bilaspur, Chhattisgarh 495001
36. Shradha Trivedi R/o C/o S.N.Trivedi H-2/50 Narmada Nagar, Bilaspur, District Bilaspur, Chhattisgarh 495001
37. Mohammad Imran Khan R/o M.Q. Khan, Near Chhattisgarh College, Byron Bazar, Raipur, District Raipur, Chhattisgarh 492001
38. Ku. Jotsana Tiwari R/o 56 Kadambani Nagar, Dhamdha Road Durg, District Durg, Chhattisgarh 491001
39. Neeraj Kumar Mishra R/o House No. A-11, Basera Colony, Bhartiya Nagar, Biaspur, District Bilaspur, Chhattisgarh 495001
40. Sushil Kumar Gajbheya R/o Pappu Aata Chakki Koorin-Bhatha Stadium Raod, Rajnandgaon, District Rajnandgaon, Chhattisgarh
41. Rajeev Singh Chouhan R/o C/o S.S. Sengar Profees, T.C.B. College Of Agriculture & Research State Sarkanda Form Bilaspur, Chhattisgarh 495001
42. Shardha Thaiwait R/o C/o S.K. Chourasiya Near Old Bus Stand, Janjgir, District Janjgir-Champa, Chhattisgarh 495668
43. Satendra Shah R/o Beside Patwari Office, Shanti Lodge Road, Juna Bilaspur, District Bilaspur, Chhattisgarh 495001
44. Chandra Prabha R/o Qtr. No. 11/ C Street No.-16, Sector-2 Bhilai, District- Durg, Chhattisgarh
45. Deepak Singh R/o C/o Dau Singh Rai, Near Old Bus Stand, Behind Of Old Rojgar, Karyalaya Purani Basti, Korba, District Korba, Chhattisgarh 495678
46. Ravi Netam R/o Near New Jain Temple Civil Lines No.7 Jagdalpur District Bastar, Chhattisgarh 494001
47. Sushama Thakur R/o 262-B/11 S.A. Type, North Avenue Dalli Rajhara, District Durg, Chhattisgarh 491228
48. Gandhilal Bharadwaj R/o Village P.O. Hasad, Via- Birna- Near Electric Office, Hasod, Janjgir, District Janjgir-Champa, Chhattisgarh 495661
49. Vijay Sen Sharma R/o Besera Colony, Bharti Nagar, Bilaspur, District Bilaspur, Chhattisgarh 495001

50. Sonal Khanduja R/o Dr. Sanjeev Khanduja, Gandhi Chowk, Bilaspur, District Bilaspur, Chhattisgarh 495001
51. Soniya Nayak C/o Tuteja Tutorials Punjabi Colony, Dayalband, Bilaspur, District Bilaspur, Chhattisgarh 495001
52. Gopal Verma R/o Village P.O. Bhainsa, Via- Hathband, Raipur, District- Raipur, Chhattisgarh 493113
53. Rakhi Goyal R/o Pragati Enterprises Near S.B.I. Gandhiganj, Raigarh, Chhattisgarh 496001
54. Chhatram Mhilong R/o Village Faraswani, District Janjgir-Champa, Chhattisgarh 495688
55. Ajay Kumar Dewangan R/okesarpara, Uttar Chkradhar Nagar, Raigarh, District Raigarh, Chhattisgarh 496001
56. Yachana Tambe R/o Street No. 26, Qr. No. 7/ B Nandani Nagar, Durg, District Durg, chhattisgarh 490036
57. Bhawana Netam R/o D/o Dr. Anand Netam, Dak Banglow Ward, Dhamtari, District- Dhamtari, Chahttisgarh 493773
58. Karuna Minj R/o New Basti-1, Raja Talab, Raipur, District Raipur, Chhattisgarh 492001
59. Ratan Kumar Aaich R/o C/o Shitali Vestralya, Post Kapsi, District Kanker, Chhattisgarh 494771
60. Arvind Kumar Patle R/o H I G R/ B 15, Parijat Extension, Nehru Nagar, District Bilaspur, Chhattisgarh 495001
61. Neetu Notani R/o Jai Santoshi Maa Niwas, Old Power House Main Road, Torwa, District- Bilaspur, Chhattisgarh 495001
62. Nohar Singh Thakur R/o Plot No. 70, Borsi Road, New Adarsh Nagar, Durg, District Durg, Chhattisgarh
63. Balmukund Tamboli R/o Post Village- Chhatona, District- Bilaspur, Chhattisgarh 495222
64. Gurpreet Kaur Hora R/o Post Sargaon, Via Bilha, District Bilaspur, Chhattisgarh 495224
65. Sunil Kumar Singh R/o Duttarcade Phase 2, Second Floor, Plot No.7, South Civil Line, Jabalpur (M.P.) 482001
66. Seema Agrawal R/o C/o Shri Shiv Kumar Agrawal, Near Ram Mandir, Sakti, District Janjgir-Champa, Chhattisgarh, 495539
67. Pawan Kumar Gupta R/o Khanuja Colony, Tahsil Dindori (M.P.) 481880

68. Ismat Jahangdani R/o D/o Mansur Ahmed Dani, Basna General Store, Basna, District Mahasamund, Chhattisgarh 493554
69. Heralal Dewangan R/o li/18 C.M.P.F. Colony, Near Telephone Exchange, Rajkishore Nagar, District Bilaspur, Chhattisgarh 495001
70. Jitendra Nagesh R/o C/o Radha Dewangan, Mahadev Ghat Road, Shiv Mandir Ward-3, Jagdalpur, District- Bastar, Chhattisgarh 494001
71. Anju Nayak R/o Block Colony, Bastar, District- Bastar, Chhattisgarh 494223
72. Kiran Markam R/o Dindyal Updhaya Nagar, Sector-3, M I G 114 A, Raipur, District Raipur, Chhattisgarh 492010
73. Chandresh Singh Shishodiya R/o Civil Line, Qr. No. 18, Near Bharat Talkies, Dharamjaigarh, District Raigarh, Chhattisgarh
74. Kiran Kaoshal Old Pipe Factory Road, New Shanti Nagar, Raipur, Chhattisgarh
75. Sunil Choudhary R/o C/o K.L. Choudhary, Dy. Commissioner, Land Record, Bilaspur, District Bilaspur, Chhattisgarh 495001
76. Vivek Kumar Upadhaya R/o 555 C, Baghambari Gaddi, Allahpur, Allahbad (U.P.) 211006
77. Muktanand Khuten R/o C/o Dewangan Bhawan, Nayapara, Titurdih, Durg, Chhattisgarh
78. Ramesh Kumar Sahu R/o S/o B.Sahu, Vice Principal, Government Girls Higher Secondary School, District Bilaspur, Chhattisgarh 495001
79. Renu Prakash R/o Qtr. No. 2/ B St. No. 23, Sector-2, Bhilai Nagar, District- Durg, Chhattisgarh
80. Priyanka Thakur R/o Dr. No. C-19, Awanti Vihar, Sector-1, Telibandha, Raipur, Chhattisgarh
81. Shaile Thakur R/o Laxmi Nagar, Near Nahar Dawda Colony, Raipur, Chhattisgarh
82. Suodagar Singh Tandey R/o Block No.-4, Karamchari Awas, Damakheda, Via-Simga, District- Raipur, Chhattisgarh 492101
83. Ajay Birthare R/o Kedia Colony- Pendra Road, District- Bilaspur, Chhattisgarh
84. Bharti Singh Rajput R/o Rajapara, Post Office Chhuri, Tahsil- Katghora, District- Korba, Chhattisgarh

85. Govind Singh Kumti R/o Government Higher Secondary School, Sukma, District- Dantewada, Chhattisgarh
86. Vikas Maheshwari R/o Kachhari Chowk, Near Co-Operative Bank, Manjhapara, District Kanker, Chhattisgarh 494334
87. Sunita Kesharwani R/o Jagatram Chhabra, Punjabi Colony, Dayalband, Bilaspur, Chhattisgarh
88. Mahesh Singh Rajput R/o Village Manjgaon, Post Lormi, District- Bilaspur, Chhattisgarh
89. Amit Kumar Gupta R/o Khanooja Colony, Dindori (M.P.) 481880
90. Shailendra Kumar Bandoniya R/o M I G 27, Dr. S.P.M. Nagar, Damoh (M.P.) 470661
91. Sudhanshu Saxena R/o E6/97 Arrera Colony, Bhopal (M.P.)
92. Smt. Poonam Mishra R/o Shivaji Chowk, Santoshi Nagar, Raipur, Chhattisgarh
93. Jageshwar Prasad Kaushal R/o C/o N.K. Patel, Near Jain Kirana Store, Pt. Ravishakar Nagar, Kukurbeda, Raipur, Chhattisgarh
94. Prakash Kumari Tondon R/o 296/ K Vishali Sector, Bhilai Nagar, District- Durg, Chhattisgarh
95. Kumari Rajani Bhagat R/o In Front Of Prince Of Peas School, Bhojpur, District Janjgir-Champa, Chhattisgarh, 495671
96. Geeta Rajput R/o Awantika Colony, Qr. No. D-11, Jagdalpur, District- Bastar, Chhattisgarh
97. Ban Singh R/o Vivekanand Ashram, Raipur, Chhattisgarh
98. Prakesh Gupta R/o Ram Kund, Raipur, Chhattisgarh
99. Meena Mishra R/o In Front Of Convent School, Bishrampur, Satpata, District- Surguja, Chhattisgarh 497226
100. Prashant Shukla Mungeli Road, Village- Pandariya, District- Bilaspur, Chhattisgarh 495337
101. Rajendra Ku. Jaiswal R/o Mungeli Road, Nahar Ke Paas, Lormi, District- Bilaspur, Chhattisgarh
102. Gyatri Kumar Sarthi R/o Brahmanpara, Bhatgaon, District- Raipur, Chhattisgarh 493222
103. Nilmani Toppo R/o Postal Colony, Kotra Road, Raigarh, Chhattisgarh
104. Bharat Singh R/o C/o Mr. Lakhan Singh Dhruve, Village- Aurabandha, Post- Beghakapa, Tehsil- Lormi, District- Bilaspur, Chhattisgarh, 495115

105. Nitin Kumar Khanduja R/o Mannu Chowk, Tikrapara, In Front Of Matriya Chhahya, Bilaspur, Chhattisgarh
106. Ajay Kumar Agrawal R/o M.G.Road, Bazar Ward, Mahasamund, Chhattisgarh 493445
107. Ashok Kumar R/o C/o Mukesh Electrical Shop, Main Road Banki Mongara, Korba, Chhattisgarh 495447
108. Amit Kumar Shrivastava R/o C/o N.L. Shrivastava, Gaya Vihar, Sarkanda, Bilaspur, Chhattisgarh
109. Aditya Sharma R/o Subhadra Sadan, Opp. Tripura Medicos, Vidya Nagar, Bilaspur, Chhattisgarh
110. Ajay Kumar Pandey R/o C/o M.D. Sharma, Qr. No. 54/2074, Shanti Vihar Colony, Daganiya, Raipur, Chhattisgarh
111. Ravendra Ku. Pandey R/o S/o R.C.Pandey, Post- Jarve Hardi, Bilaspur, Chhattisgarh
112. Rakesh Kumar Singh Rathor R/o C/o Shri O.P.Rathor, Sindhi Colony, Champa, District Janjgir-Champa, Chhattisgarh
113. Vimla Devi Dixit R/o F-20 Near, Panchsheel, Nagar, Behind C.G. Club, Raipur, Chhattisgarh
114. Ganga Upadhya R/o Behind Balaji Mandir, Jashpur Nagar, District Jashpur, Chhattisgarh 496331
115. Anjali Shrivastava R/o House No. 350, Gandhi Nagar, Bilaspur, Chhattisgarh
116. Richa Mishra R/o C/5 Ratan Nagar, Madan Mahal, Jabalpur (M.P.)
117. Nishtha Pandey R/o Qr. No. Nb-2, C.S.E.B. Colony (Old) Tifra Bilaspur, Chhattisgarh 495001
118. Sirajuddin Kureshi R/o L I G-14, Indrawati Colony, Raja Talab, Raipur, Chhattisgarh
119. Dindayal Patel R/o Village Post- Tundra, Via- Katangi, Tahsil- Kashdol, District Raipur, Chhattisgarh 493344
120. Samidha Pandey R/o Ram Temple Road, Tilak Nagar, In Front Of Bharat Press, Tilak Nagar Bilaspur, Chhattisgarh 495001
121. Janardan Singh Kaurav R/o Kaurav Sadan, House No.66, River View Colony, Morar, Gwalior (M.P.) 474006
122. Pankaj Kumar Shukla R/o Shukla Kirana Store, Belghana, District- Bilaspur, Chhattisgarh
123. Suryakiran Tiwari R/o C/o Dinesh Tiwari, Nayab Tehsildar, Champa, District- Janjgir-Champa, Chhattisgarh

124. Gopal Prasad Sharma R/o C/o Bhishambhar Yadav, Near Of Soil Survey Office, Barchhapara, Sarkanda, Bilaspur, Chhattisgarh
125. Raksha Nadha Seikh R/o Income Tax Office, College Road, Baitul (M.P.) 460001
126. Nilesh Jain R/o M I G-29 Anand Nagar, Adhartal, Jabalpur (M.P.)
127. Umesh Kumar Agrawal R/o S/o Shri Shyam Murti Agrawal, Agrawalpara, Tehsil- Arang, District- Raipur, Chhattisgarh 493441
128. Rajendranath Tiwari R/o C/o A.K.Tripathi, L I G-28, Indrawati Colony, Raipur, Chhattisgarh
129. Roshani Tiwari R/o C/o Dr. G.N.Tiwari, Jawahar Nagar, Kharsiya, District- Raigarh, Chhattisgarh 495663
130. Arvind Kumar Vani R/o Behind Block Colony, Pamgarh, District- Janjgir-Champa, Chhattisgarh 495554
131. Vijay Kumar Tamboli R/o S/o Shri B.P.Tamboli, Village- Chhatarna, Post- Hiri Mines, Chhatarna, Bilaspur, Chhattisgarh
132. Ravikant Jaiswal R/o C/o Paresh Rajput, Chandani Chowk, Kududand, Bilaspur, Chhattisgarh
133. Vidya Kashyap R/o Katiya Para, Bajrang Chowk, Juna Bilaspur, Bilaspur, Chhattisgarh
134. Gulapa Sahu R/o C/o M.R.Sahu, Lucky Provision Store, Dhamtari Road, Deopuri, Raipur, Chhattisgarh 492015
135. Thakur Ram Ratre R/o Village- Mulle, Post- Jeetam Gaon, Via- Kurud, District- Dhamtari, Chhattisgarh 493663
136. Mahendra Kumar Kuldeep R/o Behind Police Station, Bhanupratappur, District- Kanker, Chhattisgarh 494669
137. Sunil Kumar R/o House No.2/1435, Keshav Singh Marg, Chandani Chowk, Kududand, Bilaspur, Chhattisgarh
138. Deep Masih R/o Post- Bhainso, Tehsil- Ramgarh, District- Janjgir-Champa, Chhattisgarh 495553
139. Nirupama Lonhare R/o Kunjvihar Colony, Qr. No. 6, Kmala College Road, Rajnandgaon, Chhattisgarh
140. Nidhi Kumar Soni R/o L I G-260, Veer Swarnkar Nagar, Tatiband Raipur, Chhattisgarh
141. Tapan Kumar Sori R/o 195/ A Rua Bandha Sector, Bhilai Nagar, District- Durg, Chhattisgarh
142. Nirmala Thakur R/o House No. 5r, M I G-774, Sector-2, Pt. Dindayal Upadhaya Nagar Raipur, Chhattisgarh

143. Sarika Bode R/o C/o Smt. R. Bode, Block Colony, Janjgir, District Janjgir-Champa, Chhattisgarh
144. Madanlal Thakur R/o Qr. No. 5-B, St-27, T.S. Sector-4, Bhilai, District- Durg, Chhattisgarh
145. Vimla Tirki R/o Ganesh Nagar, Silpahari Road, Mariyamtoli, Bilaspur, Chhattisgarh, 495004
146. Shashikala Paikara R/o C/o M.K.Paikara, Post Jila Panchayat, Ambikapur, District Surguja, Chhattisgarh
147. Chandra Pratap Singh R/o D-6, D-5, Compund Civil Line Raipur, Chhattisgarh
148. Sheela Bara R/o A-14, Rajeev Nagar, Post- Shankar Nagar, Raipur, Chhattisgarh
149. Sanjay Kumar Dhruw R/o Project Hotel-3, Sunder Nagar Raipur, Chhattisgarh
150. Renuka Shrivastava R/o Qr. No. 8/ B Street No. 29, Sector-4 Bhilai, District- Durg, Chhattisgarh

---- Respondents

And

Writ Petition No. 3028 of 2006

1. Chaman Lal Sinha S/o Late Shri Keshav Ram Sinha, Aged About 31 Years R/o 7/G/38 Sector-6 Bhilai Nagar, District- Durg, Chhattisgarh
2. Ravindra Singh S/o Late Shri B.R.Singh, Aged About 32 Years R/o New Shiv Colony, Kaurinbhata, Rajnandgaon, Chhattisgarh

---- Petitioners

Vs

1. State Of Chhattisgarh Through The Chief Secretary, D.K.S. Bhawan, Raipur, Chhattisgarh
2. The Chhattisgarh Public Service Commission, Through Its Secretary, Shankar Nagar, Raipur, Chhattisgarh
3. The Chairman, Chhattisgarh Public Service Commission, Shankar Nagar, Raipur, Chhattisgarh
4. Mrs. Chandan Sanjay Triphati W/o Shri Sanjay Triphati, Aged About 32 Years Presently Posted As Deputy Collector, Ambikapur,

Chhattisgarh, R/o Manendragarh Road, Rekhankar Lal, House No.9, Ambikapur, Distt. Sarguja, Chhattisgarh

5. Ms. Tulika Prajapati Late Shri Praveen Kumar Prajapati, Aged About 25 Years Presently Posted As Deputy Collector, Jashpur, Chhattisgarh, R/o Near Government Hospital, Ambedkar Ward No.39, Ambikapur, Distt. Sarguja, Chhattisgarh
6. Ms. Priyanka Thawait D/o Shri M.L.Thawait, Aged About 30 Years Presently Posted As Deputy Collector, Ambikapur, Chhattisgarh R/o Thawait Medical Stores, Main Road Pamgarh, Distt. Janjgir-Champa, Chhattisgarh
7. Mr. Arvind Kumar Patley S/o Shri Nawal Singh Patley, Aged About 32 Years Presently Posted As District Excise Officer, Raipur, Chhattisgarh, R/o C/o Dr. D.R.Patley, Narmada Nagar, Bilaspur, Chhattisgarh.
8. Mr. Bhagwan Singh Uikey S/o Shri Lacchihiram, Aged About 41 Years Presently Posted As Deputy Collector, Dantewada , Chhattisgarh, R/o Qr. No. F /5, New G A D Colony, Awrabhata, Dan, Chhattisgarh
9. Mr. Sanjay Kannoje S/o Shri R.L.Kannoje, Aged About 27 Years Presetly Posted As Deputy Collector, Bijapur, Chhattisgarh, R/o Ward No.02, Gariaband, Distt. Raipur, Chhattisgarh
10. Ms. Ismat Jehan Dani D/o Shri Mansoor Ahmed Dani, Aged About 29 Years Presently Posted As Assistant Director Public Relations D P R, Raipur, Chhattisgarh, R/o Basna General Store, Basna, Distt. Mahasamund, Chhattisgarh
11. Ms. Gurpreet Kaur Hura D/o Shri Narrendra Singh Hura, Aged About 26 Years Presently Posted As District Women And Child Development Officer, Raipur, Chhattisgarh, R/o C/o Shri Narendra Singh Hura, Sargaon, Distt. Bilaspur, Chhattisgarh
12. Mrs. Anju Nayak W/o Shri Raju Nayak, Aged About 32 Years Occupation Assistant Director, Public Relation, Directorate, Raipur, Chhattisgarh
13. Jitendra Nagesh S/o Shri K.L.Nagesh, Aged About 29 Years Occupation Assistant Director, Public Relation, Directorate, Raipur, Chhattisgarh
14. Mrs. Kiran Markam W/o Shri Kamleshwar Markam, Aged About 27 Years Occupation Assistant Director, Public Relation, Directorate, Raipur, Chhattisgarh
15. Dr. Usha Kiran Baraik D/o Shri Aditya Ram Baraik, Aged About 29 Years Occupation Public Relation Officer, Rajbhawan, Raipur, Chhattisgarh

16. Nohar Singh Thakur S/o Shri Gautam Singh Thakur, Aged About 28 Years District Excise Officer, Durg, R/o Plot No.70, Borsi Durg, Distt. Durg, Chhattisgarh
17. Sunil Kumar Singh S/o Shri N.B.Singh, Aged About 28 Years Assistant Director Public Relation, Jashpur, R/o P R O Officer, Collectorate, Jashpur, Chhattisgarh
18. Rajendra Nath Tiwari S/o Late Shri C.B.Tiwari, Aged About 30 Years Excise Sub Inspector, Bilaspur, Chhattisgarh R/o Chandra T.V.S. Tifara Railway Crossing, Bilaspur, Chhattisgarh
19. Satyendra Shah S/o Late Shri Arjunlal, Aged About 32 Years Assistant Director, Treasury Accounts Raipur, R/o Anjani Vihar, Chantidih, Bilaspur, Distt. Bilaspur, Chhattisgarh
20. Vikas Maheshwai S/o Late Shri Gopilal Maheshwari, Aged About 28 Years Assistant Director, Local Form Audit, R/o Manjahapara, Kanker, Distt. Kanker, Chhattisgarh
21. Ramesh Kumar Sahu S/o Shri Biranchi Sahu, Aged About 28 Years District Women & Child Development Officer, R/o Village Palsapali, Post- Navagarh, Tahsil Saraipali, Distt. Mahasamund, Chhattisgarh
22. Jageshwer Kumar Kaushal S/o Shri V.D.Kaushal, Aged About 29 Years Naib Tahsildar, R/o Village Ghathula, Tahsil- Nagari, District Dhamtari, Chhattisgarh
23. Sukhnath Ahirwar S/o Shri Amritlal Ahirwar, Aged About 28 Years Deputy Collector, R/o Village- Bithalda, Post & Tahsil Lormi, Distt. Bilaspur, Chhattisgarh
24. Neeraj Chandrakar S/o Arun Chandrakar, Aged About 32 Years Presently Posted As Deputy Superintendent Of Police, Surguja, R/o Shankar Nagar, Kurud, District- Dhamtari, Chhattisgarh
25. Ku. Jyoti Singh D/o Late Shri S. Singh, Aged About 30 Years Deputy Superintendent Of Police Jashpur, R/o Khadgawan, Chirmiri, Behind Police Thana, District- Korba, Chhattisgarh
26. Mrs Fariha Alam Siddiqui W/o Shri Mateen Siddiqui, Aged About 30 Years Presently Posted As Deputy Collector, Korba, Chhattisgarh, R/o C/o Mateen Siddiqui, Near Collector Bunglow, Link Road, Bilaspur, Chhattisgarh
27. Ku. Padmini Bhoi D/o Shri Amrit Lal Bhoi, Aged About 26 Years Presently Posted As Deputy Collector, Korba, District- Korba, Chhattisgarh

28. Chandrawesh Sisodia S/o Shri H.S. Sisodia, Aged About 31 Years District Women And Child Development Welfare Officer, Distt. Dantewada, South Bastar, Chhattisgarh
29. Miss Neha Pandey D/o Late Dr. R.K.Pandey, R/o C/o Dr. Maya Pandey, B/11, Priyadarshini Nagar, Bilaspur, Chhattisgarh
30. Omprakash Sharma S/o Late Prem Lal Sharma, R/o A1/29 Irrigation Colony, Darri Korba, Distt. Korba, Chhattisgarh
31. Miss Gayatri Singh D/o Shri M.S. Thakur, R/o Village Pacharboda, P.O. Bawali, Thana Patharia, Distt. Bilaspur, Chhattisgarh
32. Sonal Khanduja D/o Shri Rajendra Khanduja, Aged About 28 Years C/o Dr. Sanjeev Khanduja, Gandhi Chowk, Bilaspur, Chhattisgarh
33. Ku. Seema Agrawal D/o Shri Shiv Kumar Agrawal, Aged About 29 Years Occupation- Service, Presently Posted As Assistant Director (Public Relations) In The Public Relations Department Of The State Of Chhattisgarh Baikunthpur, Distt. Korea, Permanent Address: C/o Shri Shiv Kumar Agrawal, Near Ram Mandir, Sakti, District Janjgir-Champa, Chhattisgarh
34. Arvind Kumar Vani S/o Shri S.S.Vani, R/o Village Post Pamgarh, Distt. Janjgir-Champa, Chhattisgarh
35. Dr. Rakesh Kumar Singh Rathore S/o Shri K.N.Rathore, R/o Devnandan Nagar, Phase-1, Seepat Road, Bilaspur, Chhattisgarh
36. Mahesh Singh Rajput S/o Shobha Singh Rajput, R/o Village Manjgaon, Post & Tahsil- Lormi, Distt. Bilaspur, Chhattisgarh
37. Ku. Shashi Kala Paikra D/o Shri J.L.R.Paikra, R/o Tahsil Office, Manendragarh, Chhattisgarh
38. Anjali Shrivastava D/o B.N.Shrivastava, Qr.No. 350 Gandhi Nagar (Nearby Nehru Nagar), Bilaspur, Chhattisgarh.
39. Soniya Nayak C/o Tuteja Tutorials, Panjabi Colony, Dayalbandh Bilaspur, Distt. Bilaspur, Chhattisgarh.
40. Nitu Notani R/o Jai Maa Santoshi Niwas, Old Power House, Main Road, Torwa, Bilaspur, Chhattisgarh.
41. Nistha Pandey D/o Shri Ramsharan Pandey, Qr. No. N B-2, C S E B Colony, (Old) Tifra, Bilaspur, Chhattisgarh.
42. Gopal Prasad Sahu, C/o Shri Vishambhar Yadav, Nearby Mudra Survey Officd, Barchhapra, New Sarkanda, Bilaspur, Chhattisgarh
43. Nirmla Sahu D/o Shri Jait Ram Sahu, R/o Ward No.6, Lalpur Bagbahara, Distt. Mahasamund, Chhattisgarh

44. Smt. Sheela Bara W/o Ravindra Tigga, R/o Distt. Excise Office, Surguja, Chhattisgarh
45. Ashok Kumar Agrawal S/o Shri K.C.Agrawal, Aged About 29 Years Working As Excise Sub-Inspector, Office Of Assistant Commissioner, Excise, Raigarh, Chhattisgarh
46. Richa Mishra D/o Shri R.K. Mishra, Aged About 32 Years Working As Excise Sub-Inspector, Office Of Assistant Commissioner, Excise, Bilaspur, Chhattisgarh
47. Vijay Sen Sharma S/o Shri P.C.Sen Sharma, Aged About 30 Years Working As Excise Sub-Inspector, Office Of Assistant Commissioner, Excise, Raigarh, Chhattisgarh
48. Amit K. Shirvastav S/o Shri Narendra Shirvastav, Aged About 29 Years Working As Nayab Tahsildar, Raigarh, Chhattisgarh
49. Janardan Singh Kaurav S/o Shri P.S.Verma, Aged About 33 Years Working As Excise Sub-Inspector, Office Of Assistant Commissioner, Excise, Rajnandgaon, Chhattisgarh
50. Nilesh Jain S/o Shri Ashok Jain, Aged About 31 Years Working As Excise Sub-Inspector, Office Of Assistant Commissioner, Excise, Surguja, Chhattisgarh
51. Neelam Kiran Singh D/o Shri Gulzar Singh, Aged About 28 Years Working As Excise Sub-Inspector, Office Of Assistant Commissioner, Excise, Korba, Chhattisgarh
52. Miss Bharti Singh Rajpoot D/o Shri Budeshwar Singh Rajpoot, Aged About 33 Years R/o B-7, Maruti Homes, Baba Bazar, Raipur, Chhattisgarh
53. Miss Sunita Kesharwani D/o Shri Jethuram Kesharwani, Aged About 35 Years R/o Hatri Road, Champa, Distt. Janjgir-Champa, Chhattisgarh
54. Miss Rajni Bhagat D/o Shri Dilsai Bhagat, R/o Opposite Prince Of Peace English School, Bhojpur, Champa, Distt. Janjgir-Champa, Chhattisgarh
55. Miss Geeta Rayast D/o Shri C.S.Rayast, Aged About 25 Years R/o Qtr. No. D-11, Awantika Colony, P.S. Bodhghat, Tah. Jagdalpur, Distt. Bastar, Chhattisgarh
56. Samidha Pandey D/o Shri S.N.Pandey, Aged About 33 Years Working As Assistant Inspector (Excise), Department Of Excise, Durg, Distt. Durg, Chhattisgarh, R/o Ram Temple Road, Tilak Nagar, In Front Of Bharat Press, Tilak Nagar, Bilaspur, Chhattisgarh

57. Smt. Jaishri Jain W/o Shri Jayant Bhura, Aged About 31 Years Working As Deputy Collector, Koriya, Distt. Koriya, Chhattisgarh
58. Smt. Manisha Thakur D/o Shri Gopi Singh Thakur, Aged About 26 Years R/o M I G-15, Housing Board Colony, Lal Baugh, Rajnandgaon, Chhattisgarh
59. Ms. Leena Dhruv D/o Shri I.R.Dhruv, Presently Posted As Deputy Collector, Jagdalpur, Chhattisgarh, R/o Telephone Exchange, Bhatapara, Raipur, Distt. Raipur, Chhattisgarh
60. Gandhilal Bhardwaj S/o Shri Resham Lal Bhardwaj, Aged About 29 Years R/o Village- Hasaud Tahsil- Jaijaipur, Distt. Janjgir-Champa, Chhattisgarh
61. Prashant Lal S/o Shri Rameshwar Lal, Aged About 31 Years R/o In Front Of Dr. Khatri, Municipal Corporation Lane, Implipara, Ambikapur, Distt. Sarguja, Chhattisgarh
62. Ku. Sushma Thakur D/o Shri Mannu Lal Thakur, Aged About 30 Years R/o Village Manaod, Tahsil Balod, Distt. Durg, Chhattisgarh
63. Ravi Netam S/o Shri S.S.Netam, Aged About 27 Years R/o Near New Jain Temple, Civil Line No.7, Jagdalpur, Distt. Bastar, Chhattisgarh
64. Ku. Minakshi Shukla D/o Late Shivpratap Shukla, Aged About 27 Years R/o Jorapara, New Sarkanda, Bilaspur, Chhattisgarh
65. Sushil Kumar Gajbhiye S/o Shri C.L.Gajbhiye, Aged About 31 Years R/o Basantpur, W.No.38, Rajnandgaon, Chhattisgarh
66. Ku. Shraddha Thawait D/o Shri Satyendra Kumar Chourasia, Aged About 28 Years R/o Behind Co-Operative Bank, Gandhi Chowk, Janjgir, Distt. Janjgir-Champa, Chhattisgarh

---- Respondents

For Petitioners	: In person.
For Respondents	: Dr. N.K. Shukla, Senior Advocate with Shri B.D. Guru, Advocate, Shri Jugal Kishore Gilda, Advocate General, Shri Kishore Bhaduri, Shri Awadh Tripathi, Shri Sunil Otwani, Shri Rajeev Shrivastava, Shri Ashish Shrivastava, Shri Prafull N. Bharat, Shri H.C. Shukla, Shri Manoj Paranjpe, Shri Prateek Sharma, Shri Ashok Kumar Shukla, Shri Atanu Ghosh, Shri Abhishek Sinha, Shri

Parag Kotecha, Shri Anand Shukla, Shri Sandeep Dubey, Shri Jitendra Pali, Shri Aditya Tiwari, Shri Mateen Siddiqui, Ms. Hamida Siddiqui, Shri Sourabh Dangi, Shri Utkal Pradhan, Shri Arvind Dubey, Shri Ravindra Agrawal, Shri Anant Bajpai, Shri Pawan Kesharwani, Shri Vivek Shrivastava, Shri Aman Kesharwani, Shri Vivek Bhakta and Shri Shailesh Puriya, Advocates for the respective Respondents.

Hon'ble Shri Deepak Gupta, Chief Justice

C.A.V. Judgment

1. Both the writ petitions are being disposed of by a common judgment because in both the petitions, challenge is to the selection made by the Chhattisgarh Public Service Commission (hereinafter called 'the Commission') in the Public Service Commission Examination for the year 2003 on various grounds.

2. The undisputed facts are that the Commission issued an advertisement on 04.07.2003 inviting applications for 177 posts in the said Civil Services ranging from Deputy Superintendent of Police to Sub Inspector (Excise Department). The test was to be conducted in three parts viz. preliminary examination, main examination and interview. The preliminary examination consists of two papers of objective type. The main examination consists of seven papers of conventional type questions and the interview was to carry 250 marks. The preliminary examination was conducted on 21.12.2003. Thereafter, the main examination was conducted. The Petitioners were called for interview but their names did not find place in the final merit list. They sought certain

information from the Commission and thereafter filed the present writ petitions.

3. The allegations of the Petitioners in a nutshell are that the selection process of the Commission is full of irregularities, corruption and mistakes. At every stage of the examination, there has been bungling and corruption, and as such, the entire selection process needs to be quashed. The Petitioners firstly submit that the question papers of the main examination were not properly marked and they have attempted to show that the marking is highly improper. By drawing the attention of this Court to certain answer-papers, it is submitted that since the marking at this stage is improper, the answer sheets of all the candidates who appeared in the main examination should be got evaluated again.

4. The second submission is that the Commission followed a system of scaling. It outsourced scaling to some other agency namely Noybl Lab. According to the Petitioners, the scaling has not been done properly. They have pointed out various instances where the persons having the same raw marks have been given different marks after scaling. Scaling has to be done according to a mathematical formula and if the raw marks are same, the marks after scaling cannot be different.

5. The next submission is that the scaling was also improper because if a particular paper was attempted by a candidate as a first option and he got 'x' number of marks before scaling, after scaling he was given 'y' number of marks. However, if any candidate attempted the same paper in the same subject not as first option but as second option and got the same marks i.e. 'x' then he was not given 'y' marks and was totally given different marks i.e. 'z' marks. This according to the Petitioners, clearly shows that scaling was improper.

6. The Petitioners also submit that in the subject of Anthropology, two different methods were followed for evaluating the same paper. The Petitioners have placed reliance on the statement of charges of misconduct Dr. B.P. Kashyap, Examination Controller of the Commission in this regard. In the paper of Anthropology, papers of some candidates were evaluated by only evaluating 4 answers with each carrying a value of 75 marks and in case of some other candidates, five answers were evaluated out of which two were evaluated against 75 marks and other three were evaluated against 50 marks. In the second paper of Anthropology, question No. 8 was found fit to be cancelled. In some cases, despite question No. 8 being found fit to be cancelled, marks were awarded against question No. 8 and in some cases, no such marks were awarded.

7. Further allegation of Ku. Varsha Dongre is that Scheduled Caste candidates who had got selected on their own merits without taking benefit of reservation were wrongly adjusted in the Scheduled Caste category list. Her prayer is that they should have been given appointment out of general category.

8. The Petitioners have also pointed out various interpolations and manipulations in the selection process and prayed that the entire selection process be quashed.

9. The writ petitions were contested by the State Government, Chhattisgarh Public Service Commission and the selected private Respondents on various grounds. However, at the time of arguments, it was not disputed that the scaling was highly improper. Virtually, most of the averments made by the Petitioners were admitted by the Commission.

10. Mainly, the stand of the Respondents is that both the writ petitions are belated and in the second petition i.e. Writ Petition No. 3028 of 2006 filed by Shri Chaman Lal Sinha and Ravindra Singh, all the selected candidates have not been arrayed as party-Respondents and therefore, the writ petitions deserve to be rejected.

11. It is next contended that one petition being Writ Petition No. 4852 of 2006 arising out of the same selection process, filed by Santosh Kumar Kunjan, has been rejected by the learned Single Judge on 16.7.2013 and the appeal being Writ Appeal No. 592 of 2013 has also been rejected, and as such, no relief can be granted to the present Petitioners.

12. Few of the private Respondents have half-heartedly challenged the allegations made by the Petitioners, especially Petitioner- Ku.Varsha Dongre, but it is apparent from the latest written submissions made by the Commission that it stands virtually admitted that the selection process was totally illegal and full of errors. The stand of the private Respondents is that they are working for almost 10 years now and therefore no relief should be granted against them.

13. At the outset, I may first deal with the preliminary objections.

Are the Writ Petitions belated?

14. The first preliminary objection is that the writ petitions are belated. At the outset, reference may be made to Rule 18 of the State Service Examination Rules which reads as follows:

"The Commission shall not provide the list of marks for preliminary examination because that is only a screening examination. No correspondence in this regard will be entertained. However, the marks obtained in the main

examination shall be provided to the candidates after the final result is declared."

15. Reliance placed by the Respondents on *G.C.Gupta & Others v. N.K.Pandey & Others* {(1988) 1 SCC 316}; *S.S. Balu & Another v. State of Kerala & Others* (AIR 2009 SC 1994) and *Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy & Others* {(2013) 12 SCC 649} is totally misplaced. In my view, there is no delay in filing the writ petitions. It is the Respondents who are guilty of trying to delay the matter and derail the judicial process. *G.C.Gupta (supra)* was not a case of gross illegality or criminal activity. In this regard reliance has also been placed on *State of M.P. and Others v. Nandlal Jaiswal & Others* (AIR 1987 SC 251) in which the Apex Court observed as follows:

"23. Now, it is well settled that power of the High Court to issue an appropriate writ under Article 226 of the Constitution is discretionary and the High Court in the exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there is inordinate delay on the part of the petitioner in filing a writ petition and such delay is not satisfactorily explained, the high Court may decline to intervene and grant relief in the exercise of its writ jurisdiction. The evolution of this rule of laches or delay is premised upon a number of factors. The high Court does not ordinarily permit a belated resort to the extraordinary remedy under the writ jurisdiction because it is likely to cause confusion and public inconvenience and bring in its train new injustices. The rights of third parties may intervene and if the writ jurisdiction is exercised on a writ petition filed after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. When the writ jurisdiction of the High Court is invoked, unexplained delay coupled with the creation of third party rights in the meanwhile is an important

factor which always weighs with the High Court in deciding whether or not to exercise such jurisdiction. We do not think it necessary to burden this judgement with reference to various decisions of this Court where it has been emphasised time and again that where there is inordinate and unexplained delay and third party rights are created in the intervening period, the High Court would decline to interfere, even if the State action complained of is unconstitutional or illegal. We may only mention in the passing two decisions of this Court one in *Ramanna Dayaram Shetty v. International Airport Authority of India* (1979) 3 SCR 1014 : (AIR 1979 SC 1628) and the other in *Ashok Kumar v. Collector, Raipur* (1989) 1 SCR 491 : (AIR 1980 SC 112). We may point out that in *R.D.Shetty's* case (*supra*) even though the State action was held to be unconstitutional as being violative of Article 14 of the Constitution, this Court refused to grant relief to the petitioner on the ground that the writ petition had been filed by the petitioner more than five months after the acceptance of the tender of the fourth respondent and during that period, the fourth respondent had incurred considerable expenditure, aggregating to about Rs. 1.25 lakhs, in making arrangements for putting up the restaurant and the snack bar. Of course, this rule of laches or delay is not a rigid rule which can be cast in a straitjacket formula, for there may be cases where despite delay and creation of third party rights the High Court may still in the exercise of its discretion interfere and grant relief to the petitioner. But such cases where the demand of justice is so compelling that the High Court would be inclined to interfere in spite of delay or creation of third party rights would be their very nature be few and far between. Ultimately it would be a matter within the discretion of the Court; *ex hypothesi* every discretion must be exercised fairly and justly so as to promote justice and not to defeat it. ”

16. In the present case, the interviews were conducted on 17.06.2005 and the final result was declared on 24.08.2005. However, the marks were not provided to the candidates. In fact, writ petitioner-Ku. Varsha Dongre was compelled to file Writ Petition No. 6256 of 2005 in which one of the grounds raised by her was that marks have not been provided/published. During pendency of this petition, the mark-sheet was provided to the Petitioner-Ku. Varsha Dongre on 23.06.2006 and thereafter, she withdrew the writ petition on 5.7.2006 and filed the present writ petition on 29.07.2006. The writ petition has been filed within a month of the mark-sheet being provided. The second writ petition i.e. Writ Petition No. 3028 of 2006 was also filed on 26.6.2006 itself. Therefore, in my view, both the writ petitions were filed well within time and cannot be said to be belated and the preliminary objection is overruled.

All the Selected Candidates have not been arrayed as party-Respondents

17. The second preliminary objection is that all the selected candidates have not been arrayed as party-Respondents, especially in Writ Petition No. 3028 of 2006. As far as Writ Petition No. 4028 of 2006 filed by Ku. Varsha Dongre is concerned, all the selected candidates were arrayed as party-Respondents at the initial stage itself. As far as Writ Petition No. 3028 of 2006 is concerned, all the selected candidates were not arrayed as party-Respondents at the initial stage. However, it would be pertinent to mention that on 18.07.2007, this Court passed a detailed order, which reads as follows:

"The respondents No. 2 and 3/Public Service Commission (for short 'the PSC') states in its reply dated 4.5.2007, as under:

"In the preliminary enquiry after receipt of the complaints it is found that the computer agency has

adopted a defective scaling pattern because the computer agency has scaled the marks obtained in 4 questions papers of optional subjects separately and on the basis of options chosen by the candidates. This defect in scaling has taken place because different candidates may opt one particular subject either as first option or as second option, therefore, in view of the method of scaling adopted by the computer agency candidates securing similar marks in question paper of a given subject but as option one or two has been awarded different scaled numbers. The value obtained by this method of scaling for different values - like M, S, m, s has been calculated in a wrongful manner."

It is further case of the respondents No. 2 and 3 that the PSC has recommended 147 candidates for appointment in the service and they have been wrongly appointed.

In view of the fact that the irregularities committed in the selection process has been admitted by the PSC, it is, therefore, necessary to issue to all the selected candidates, who, as a result of this examination, have been recommended for appointment and thereafter have been appointed.

The PSC is directed to issue notice to all the selected candidates, stating that the dispute with regard to their selection, involving irregularity in the examination, is pending consideration before this Court and the selected candidates may file their reply in the pending matter within a period of three weeks. The needful be done within a period of one week.

Respective respondents/Interveners are granted two weeks time as a last opportunity to file return/reply,

failing which it may be presumed that they have nothing to say in the petition.

List it on 22nd August, 2007 for final hearing."

18. The following authorities, *Prashant Ramesh Chakkarwar v. Union Public service Commission & Others* {(2013) 12 SCC 489}; *Jiten Kumar Saho & Others v. Chief General Manager, Mahanadi Coalfields Limited & Others* {(2011) 11 SCC 520}; *Ku. Rashmi Mishra v. M.P Public Service Commission & Others* {(2006) 12 SCC 724}; *K.H. Siraj v. High Court of Kerala and Others* {(2006) 6 SCC 395} relied upon by the Respondents are not relevant since this Court has come to the conclusion that all the relevant parties are arrayed as Respondents in this case.

19. This Court had directed that notices be issued to all the selected candidates and they were informed that the writ petition relating to irregularities in the examination is pending consideration before this Court and they were given time to file reply to the petition. Therefore, this preliminary objection is without any basis and is also rejected.

Writ Petitions are hit by the principles of res-judicata

20. The third preliminary objection is that the writ petitions are hit by the principles of *res-judicata*. In this behalf, it would be pertinent to mention that one other person namely Santosh Kumar Kunjan had filed Writ Petition No. 4852 of 2006 in which also he has challenged the selection made but at that stage, he had not impleaded all the selected candidates as party-Respondents. The said writ petition was rejected on 16.07.2013 on the ground that the successful candidates, who have been in service for long time, had not been impleaded as party-Respondents despite sufficient opportunity granted to the Petitioner. Writ Appeal filed against the said order was also dismissed on similar grounds. It would be

pertinent to mention that in the appeal, the Appellant had sought to implead two other persons as party-Respondents but the Court did not allow the prayer since more than seven years had already elapsed since they had been appointed. In my view, this is not a judgment in rem and this is a judgment in personem. No issue has been decided on merits and all that has been held is that since all the selected candidates have not been impleaded, no relief can be granted to the Petitioner. That is not the situation in the present writ petitions and as such, the preliminary objection is overruled.

21. Some of the Respondents have taken hyper technical objection that there are no pleadings against the private Respondents and the challenge is only to the select list and not to the appointment issued. In my view, this objection has been taken only for the purpose of being rejected. In a case where gross irregularities have been brought to light, the Court cannot shirk its constitutional duty to ensure that rule of law is followed. Reliance placed on *Amlan Jyoti Borooah v. State of Assam & Others* {(2009) 3 SCC 227} and *State of Madhya Pradesh v. Narmada Bachao Andolan and Another* {(2011) 7 SCC 639} is totally misplaced.

Factual Matrix

22. Coming to the merits of the case, before going into detailed discussion of the matter, it would be pertinent to mention certain facts. Petitioner-Ku. Varsha Dongre had been complaining to all the authorities that there had been large scale corruption and bungling in this examination. As usual, she did not receive any response from most of the authorities. It would be pertinent to mention that even before she was given the mark-sheet, on 16.07.2006, she had filed complaints to many authorities including His Excellency the Governor, Hon'ble the Chief

Minister, Chhattisgarh Public Service Commission and the Inspector General of Police, Anti Corruption Bureau, Raipur alleging large scale of bungling and corruption in the selection process. She had clearly mentioned that the mark-sheets are not being provided to the candidates. She alleged that though she belonged to the Scheduled Caste category, and even as per the Commission, she had been given 1290 marks but she had not been offered appointment though Scheduled Caste candidates below her in merit had been offered appointment. She also complained that whenever she applied for information to the Commission under the Right to Information Act, 2005, the same was refused on one pretext or the other. She also alleged that Shri Khela Ram Jangde was acting as head of the Commission and his daughter Santan Devi had been selected as Deputy Collector. She also raised many other issues. On 29.05.2006, she was informed by the Commission that after enquiry, it was found that there was no merit in her allegations and the matter was closed. Similar reply was sent by the Commission to the office of Hon'ble Chief Minister. It appears that Petitioner-Ku. Varsha Dongre also made a complaint to the Hon'ble President of India. It is apparent from the record that the Secretary to the Hon'ble President of India sent the complaint of the Petitioner to the State on 23.02.2006 and the State Government was asked to look into the matter. The Petitioner kept applying to the Commission for information under the Right to Information Act but on one excuse or the other, her request was rejected. The answer given by the Commission to her was that there were no mistakes or irregularities in the selection process.

23. However, the Anti Corruption Bureau carried out detailed investigation and in its investigation report dated 02.06.2007 found a lot of irregularities. These irregularities were brought to the notice of His

Excellency the Governor who asked the State to take further action in the matter. Reference in this behalf may be made to the letter sent by the Secretary to the His Excellency the Governor of Chhattisgarh to the Secretary, General Administration Department, Government of Chhattisgarh, Raipur on 12.06.2007, which reads as follows:

"To,

The Secretary,
General Administration Deptt.,
Government of Chhattisgarh,
Mantralaya,
Raipur.

Sub: Investigation report of ACB on CPSC Exam 2003

Ref: IG, ACB Raipur's confidential letter No. IG/ACB/
323/2007 dated June 2, 2007.

In view of the discrepancies pointed out by the ACB in its investigation report dated 2.6.2007, pendency of the case in the Court which may take time to conclude and the fact that the petitioner has a strong case in her favour, HE. the Governor is of the view that the PSC could approach the Court and make a prayer that in the light of the ACB's findings and their own internal audit bringing out some flaws, they would like to revise the entire result within a time frame of three months and shall adopt such measures to undergo the wrongs and thereafter fix responsibility. H.E. also believes that merely awaiting the outcome of the Court case will only result in undue delay and cost to the petitioners.

I have been directed to communicate the above views of H.E. the Governor for consideration and decision taken in this regard may be communicated to us accordingly.

Sd/-

Joint Secretary to Governor."

24. The aforesaid letter clearly indicates that the His Excellency the Governor had found the complaint of the Petitioner to be genuine and directed the Commission to approach the Court with a prayer that in light of the Anti Corruption Bureau's report, they themselves should correct their wrong doings.

25. The report of the Anti Corruption Bureau was made available to the Petitioner only in the year 2013. This report is a very detailed report. It would be pertinent to make reference to certain portions of the report. The first relevant portion of the report is as follows:

"(1) Non selection of 3 candidates obtaining higher marks. The final selection list of Civil Services Exam 2003 conducted by C.G.P.S.C. was published on 24.07.2005. Despite obtaining higher marks, 1. Ku. Varsha Dongre 2. Shri Pradeep Kumar Bhoi and 3. Ku. Manisha Daheriya were not selected whereas candidates who obtained marks less than them were selected. This is prima facie proved from the joint merit list prepared by C.G.P.S.C. The joint merit list (Annexure-1) with respect to all 3 candidates is quoted as follows in the table below:-

Ku. Varsha Dongre

Sl. No.	Name of candidate	No. of joint merit list	Roll No.	Total obtained marks	Post for which selected	Category
1.	Varsha Dongre	183	53443	1290.41	Not Selected	S.C
2.	Mahendra Kuldeep	209	55730	1277.35	Excise Sub-Inspector	S.C.
3.	Manoj Laroker	210	41697	1267.88	Excise Sub-Inspector	S.C.
4.	Usha kiran Barai	214	27187	1274.51	Asst. Director, Public Relation	S.C.
5.	Sarika Ramteke	217	41275	1273.23	Nayab Tahsildar	S.C.
6.	Sunil Kumar	237	20953	1268.03	Excise Sub-Inspector	S.C."

26. With regard to the allegations of the Petitioner that her preference form has been manipulated, forged and tampered at the level of the Commission and that she had given a preference for being appointed as Excise Sub Inspector, the relevant portion of the Anti Corruption Bureau's report is as follows:

"In the case of candidates who have cut the column of posts after filling them, no determined code number have been mentioned by the Commission in those columns of posts, where as code AEXI has been mentioned in the column of post of Excise Sub Inspector in agramanyata patrak of Ku. Varsha Dongre. From the above evidence it is prima facie proved that Ku. Varsha Dongre did not cut this post in agramanyata patrak but any or some of the public servants of the Commission itself later cut this post in furtherance of some criminal conspiracy.

(iii) Agramanyata patrak of 29 candidates, who all appeared for interview of Scheduled Caste Category, were duly seized and sent to Government Disputed Documents Examiner, Government of C.G., on the basis of report received from whom, it is proved that hand writing of Ku. Varsha Dongre and the tint as well as texture of line drawn by herself is different from the line cut on the column of post of Excise Sub-Inspector.

It is also mentioned in the report of Government Disputed Documents Examiner that impression of cut on this post has also appeared in agramanyata patrak of other candidates kept below which is only possible on keeping all agramanyatapatrak together. Appearance of same cutting impression in the sheets of some other candidates is not possible if a candidate cuts only on his sheets. Report of

Government Disputed Documents Examiner Government of
C.G. is annexed as Annexure- 4."

27. The Anti Corruption Bureau also reported that the Petitioner- Ku. Varsha Dongre had met Hon'ble the Chief Minister to complain about the irregularities, but when the Hon'ble Chief Minister asked the Commission to enquire into the same, the reply given was that there were no irregularities. The Hon'ble Chief Minister was informed that Ku. Varsha Dongre had less marks. The Anti Corruption Bureau in its report found that this communication of the Commission was totally false and reference may be made to the relevant portion of the report, which reads as follows:

"Ku. Varsha Dongre sent the complaint in same matter to His Excellency the President and the Government of India, Personnel Public Grievances and pension Ministry, New Delhi sent letter to the Secretary of the Commission on 03.10.06 for appropriate action (Annexure 8).

The said letter has been dealt in page no. 3 to 7 of File no. 65/05/P on the note-sheet of C.G. P.S.C. In this note sheet, it is admitted in point no. 01 and 02 of the Official comment of Commission that obtained marks of Ku. Varsha Dongre is higher than Ku. Usha Kiran Borai, selected for the post of Asst. Director Public Relation, and Ku. Sarika Ramteke, selected for the post of Nayab Tehsildar, and this female candidate has even given preference in the 'agra manyata patrak' for these posts. It is even clearly mentioned in point no. 2 of said note-sheet of commission that possibly Ku. Varsha Dongre was to be selected on the post of Nayab Tehsildar, but Smt. R. Shandilya, Examination Controller on 31.10.06, advised the commission not to do so as is evident from her not which reads as follows:

“Complainant Ku. Varsha Dongre has filed writ petition before the High Court of C.G. regarding irregularity in the result of State Civil Services Exam 2003. The matter being pending no action can be taken at the Commission level as per rule.”

28. The Anti Corruption Bureau's report also makes the following startling revelations, which reads as follows:

"(5) Selection of candidate of unreserved category showing him as candidate of Scheduled Caste Category.

10 Posts have been reserved in State Accounts Services. In the Selection list, at Sl. No. 11, Shri Rajeev Singh Chouhan, Roll No. 31106 who belongs to unreserved category, selection was not possible but showing him as SC category, he has been selected in this category though Shri Rajeev Singh has mentioned himself as candidate of unreserved category. Thus, the candidate of unreserved category has been selected against the post reserved for SC candidate instead of the candidate belonging to SC category(Annexure 23). According to Supplementary list, Shri Jeetendra Nagesh should have been selected."

29. With regard to errors in scaling, the report of the Anti Corruption Bureau is very clear that the scaling was highly improper and to highlight these facts, reference may be made to the chart prepared by the Anti Corruption Bureau, which is as follows:

No	Roll no.	Name	Subject Code	Actual Obtained mark in the subject prior to scaling	Marks obtained after scaling
1.	16834	Jitendra Nagesh	23	200	170.01
2.	40912	Chaman Lal	23	200	205.68
3.	77632	Durgesh Diwedi	23	200	196.74
4.	52522	Avanti Gupta	23	200	201.28

5.	102564	Sumit Kumar	23	200	210.22
6.	97129	Harendra Singh Ghuraiya	23	200	196.76
7.	102526	Sanjay Kumar Gautam	23	200	239.22
8.	20290	Rajesh Kumar Dewangan	23	200	201.28
9.	21115	Deep Mahish	17	169	185.24
10.	21020	Ajay Kesharwani	17	169	172.60
11.	83649	Prakhar Sharma	18	140	144.44
12.	97641	Smita Kumari	18	140	134.47

30. From the aforesaid chart, it is apparent that all the candidates who had appeared in one paper having code No. 23 had obtained 200 marks from the examiner and after scaling their marks should have been same. However, the marks ranged from 170.01 to 239.22. Therefore, though, the raw marks i.e. marks awarded by the examiner were 200, after scaling, one candidate at Roll No. 16834 was awarded only 170.01 marks whereas a candidate having Roll No. 102526 was awarded 239.22 marks. This shows that scaling was done in an unscientific and illegal manner. It appears marks were granted after scaling at the whims and fancies of officials in the Commission. The Anti Corruption Bureau found that there is corruption and bungling at all the stages. However, the Commission did not correct its own mistakes which are admitted and this raises doubts with regard to working of the Commission itself. The Anti Corruption Bureau also found that the Commission was aware about these large scale irregularities in the scaling for a long time but it has not taken any action. Reference may be made to the following portion of the report of the Anti Corruption Bureau:

"The aforesaid irregularities are clear from the naked eyes. Approval of such results even then by the commission itself put question marks on the procedure of commission.

It is in the knowledge of C.G. Public Service Commission since long that irregularities of large scale has been committed in scaling due to which they have played with the future of eligible candidates. The commission had issued direction to the company who prepared result, in respect of irregularities occurred in scaling, to correct the irregularities in scaling. Thereafter, the Commission in its letter dated 20/07/2006 written to company has admitted that in a fresh scaling, change has been occurred in marks of almost all candidates. (Annexure-26), but this pious constitution body inspite of being bounded by Constitution and law has not initiated proceeding to provide justice to the candidates even after 9 months."

31. The Anti Corruption Bureau found that there were 17 such candidates who were not entitled to be selected. It also found that there were 17 candidates who were entitled to be selected but were not selected. It also found that if proper scaling is done, then 56 candidates who were selected would be given a post in some other service. It also found that there were 52 candidates who were eligible for being called for interview but were not called for interview. Instead of 52 candidates who were not eligible and were lower in merit were called for interview. In this behalf, reference may be made to the relevant portion of the report of the Anti Corruption Bureau, which reads as under:

"(I) 17 such candidates, who have been selected in various post by C.G. Public Service Commission are not eligible for selection (Annexure-A)

(II) 17 such candidates are eligible for selection but they were not selected earlier in any post by C.G. PSC (Annexure B).

(III) Posts of 56 such candidates, who have been selected by C.G. Public service commission will change on the basis of

merit due to difference of marks occurred by new scaling (Annexure C).

(IV) 52 such candidates have been found, who were not called for interview by CGPSC and 52 ineligible candidates were called for interview in place of them (Annexure-D)."

32. At this stage, it would be pertinent to mention that after the letter was sent from the Secretariat of His Excellency the Governor that the Commission itself should rectify its own mistakes and should approach the High Court for permission to do so, the Commission filed an application being IA No. 1 in Writ Petition No. 3028 of 2006. The relevant portion of the application reads as follows:

"2. In the return filed by the respondents No. 2 & 3, it has been stated that the scaling formula applied by the Commission is correct, however there were mistakes committed by the Computer Agency engaged by the Commission for conducting the scaling work. It has also been stated that in case a detailed enquiry is conducted and the results are declared afresh, it will have wide implications, therefore, Public Service Commission is awaiting result of the instant writ petition.

3. That, the CG Public Service Commission, in order to remove any suspicion from the minds of candidates who have appeared in the examination, is willing to conduct re-totaling, decoding, data entry, scaling preparation of list for interview in the ratio of 1:3 by observing reservation rules, identifying the fresh eligible and ineligible candidates, submission of list before the Hon'ble Court, conduct of interview of such candidates who will become eligible afresh, preparation of overall merit list, allotment of post on the basis of

preference and merit and lastly submission of revised select list before this Hon'ble Court, as detailed in the particulars of proceedings filed herewith as Annexure D/1.

4. That, for the above quoted proceedings the CG Public Service Commission needs at least 4 months time, however, since the matter is pending before this Hon'ble Court, CG Public Service Commission is seeking permission before this Hon'ble Court to take up the proceedings as per Annexure D-1 and inform this Hon'ble Court accordingly, in the interest of justice and in public interest. "

33. From the reply filed by the Commission on 04.05.2007 and the application IA No. 1, filed on 19.06.2007, it is apparent that the Commission itself had admitted as far back as June 2007 that there were mistakes in the selection process which it wanted to rectify. However, the Commission made no reference to the report of the Anti Corruption Bureau. On this application (IA No. 1), this Court passed the following order on 26.10.2007, which reads as under:

"This is an application on behalf of Chhattisgarh Public Service Commission seeking direction to rectify the mistakes committed.

We are of the considered opinion that no permission is required from this Court to rectify the mistakes. It would be open to the Chhattisgarh Public Service Commission to rectify any inherent mistake committed. However, the same would be subject to final decision of this petition."

34. This Court held that the Commission was entitled to correct its own mistakes and therefore left it to the Commission to rectify the same.

Unfortunately, instead of rectifying its mistakes, the Commission after having admitted, as far back as in the year 2007, that major mistakes have been committed, it continued to contest the petition and took no steps to correct the mistakes. This Court also passed no orders and the case, for one reason or the other and the case was not taken up for final hearing for more than 9 years.

35. Thereafter, this matter came up before this Court on 24.06.2016 and keeping in view the nature of dispute, this Court directed that the matter be taken up on 01.07.2016 for hearing. On the said date, arguments were heard in part and the Petitioners concluded their arguments. After conclusion of the arguments of the Petitioners, this Court had directed the Commission to clarify certain issues. On 04.07.2016, the Commission submitted a short note to this Court and the translated version of the said note reads as follows:

"State Public Services Exam, 2003

Point wise information for the litigation of Ku. Varsha Dongre.

(1) Total marks obtained by Ku. Varsha Dongre in the State Services Exam is 1290.91. As per her mark sheet obtained from Noybl Lab, it has been mentioned that she scored 399.06 marks in Anthropology, which is not correct. Marks obtained by her in the first paper of Anthropology unscaled is 184 and in second paper unscaled is 199. Thus, total marks obtained in Anthropology is 383. As per scaling detail, in first paper of Anthropology 205 marks were scored and scaled marks in second paper is 209.

(2) On 02/06/2007, the Preliminary Report of Anti Corruption Bureau was sent to GAD, which was received by Ayog (Commission) by the letter dt. 29/06/2007 of GAD. In this regard, by the letter dt. 29/06/2007 of Commission its report was sent to GAD.

(3) With respect to wrong scaling in the optional subjects of main exam, the Secretary GAD of State of C. G. was informed by the D. O. letter 23/03/2007 of the Commission. For rectifying the discrepancies, errors an application was submitted before Hon'ble High Court of C.G., Bilaspur on 09/06/2007.

(4) The Agency has made wrong entry about this subject code of the candidates. For all the four question papers of both the optional subjects, separate scaling was done subject wise and option wise. This procedure of scaling is erroneous, as one student can opt same subject as first or second optional subject and thus, on such scaling, for the same question paper for the same subject, candidate obtaining similar raw marks score different scaled mark on taking the said subject as first optional subject and is different on taking the said subject as second optional subject. The calculation of various value (M, m, S, s) of scaling is erroneous. The entire selection procedure of exam of State Public Service Exam, 2003 is vitiated due to grave error committed by the computer agency in scaling of optional subjects of main exam of State Public Service Exam, 2003.

(5) In compliance of Interim Order dated 26/10/2007 of Hon'ble High Court of C. G., on the 10 point meeting dated 12/11/2007 of the Commission, the Commission taking decision no.168 for action on following 1 to 5, prepared list of candidates. With respect to point no. 6 to

10 of the decision, further proceedings shall be done as per directions of Hon'ble High Court. The information regarding aforesaid proceeding have been submitted before the Hon'ble High Court by the application dated 25/12/2008 for directions.

(6) As per Sl. No. 11 of the main list Shri Rajeev Singh Chauhan, Roll No. 31106 has been selected to the post of Accounts Officer as S. C. Candidate. The Commission, considering it erroneous, has asked the department through its letter no. 2119, dt. 22/02/2007 not to appoint Shri Rajeev Singh Chauhan. By the letter no. 263 dt. 02/06/2007 of Commission, consent for appointment was not given by the Commission.

(7) One of the candidates viz. Kundan Kumar, Roll No. 79001 appeared in main exam of State Public Service Exam, 2003. This candidate scored 472 marks in the compulsory subject and 921 in optional subject. For the scored 921 marks in optional subject he has been scaled 712.19. Thus, total of 472 marks obtained in the compulsory subject of main exam and the scaled marks 712.19 scored in optional subject is 1184.19 total marks obtained.

(8) Petitioner viz. Ku Varsha Dongre in the *Agramanyata Patrak* at paint no. 10 wrote Asst. Excise Sub Inspector and then struck the same. No initial made by the person who struck off and in the column for the office use, code of post AEXI has been filled. In this regard the then Examination Controller Dr. B.P. Kashyap may better reply, as *Agramanyata Patrak* is one of the important confidential documents of the Examination results, which was kept in the custody of Shri Kashyap.

With respect to the irregularity charge sheet (No. 2300 dt. 20/03/2007) has been issued to Dr. B.P. Kashyap.

9. In the preliminary enquiry of the final select list of State Public Services Exam 2003, for some posts of the reserved category the candidates were in the merit list yet were not shown in the Unreserved category, which is erroneous.

Sd/-
(B.S.Dhruv)
Sub Divisional Officer (Selection)
C.G.Public Service Commission"

From the aforesaid submission of the Chhattisgarh Public Service Commission, it is more than apparent that the Commission received the report of the Anti Corruption Bureau on 29.06.2007. It is also obvious that Petitioner-Ku. Varsha Dongre should have been awarded 414 marks in Anthropology against 399 marks awarded to her, which will make a substantial difference. The Commission itself admits that Petitioner-Ku. Varsha Dongre was eligible to be appointed to the post of Deputy Superintendent of Police. The Commission also admits that there has been total wrong application of scaling formula. It is very important to note that the Commission has stated that the entire selection process of the Examination, 2003 is vitiated due to grave errors in scaling of optional subjects of main examination. The Commission also admits that Shri Rajeev Singh Chauhan was a general category candidate and was never recommended for the post of reserved category. The Commission also admits that after the year 2007, it took no action in the matter. It is in the background of the aforesaid facts that this case has to be decided.

Errors in Scaling

36. In the Public Service Commission Examination for the year 2003, the Commission had applied scaling system. The purpose of applying the

scaling system was to rationalize the marks given in different subjects. None of the parties is objecting to application of scaling system, the objective of which is to ensure rationalization of marks so that if the marking is strict in a particular subject or lesser marks are awarded to all the candidates in one subject, then by applying a mathematical formula, marks of the candidate in that subject would be increased. There could also be downward scaling where marks were given very liberally in one subject, the same could be reduced by applying mathematical formula of scaling.

37. This scaling system was not to apply to the compulsory subjects but only to the optional subjects. The purpose was to ensure that in the optional subjects, some candidates may opt for subjects in which marks are awarded more liberally and therefore, the candidates in other subjects suffer and by applying the scaling formula parity and rationalization is brought about. The formula provides that scaled marks shall be arrived at by applying the following formula:

$$\text{"Scaled Number} = M + (X - m)S/s"$$

There were 23 optional subjects offered by the Commission. 'M' represents overall mean of the raw marks (unscaled) obtained by the candidates in these 23 optional subjects. 'X' stands for the raw marks (unscaled) obtained by the candidate in the optional subject i.e. marks obtained without scaling. 'm' represents mean of raw marks (unscaled) obtained by all the candidates in that optional subject. 'S' stands for standard deviation in the raw marks in all 23 optional subjects. 's' stands for standard deviation in raw marks (unscaled) in a particular optional subject. This is a mathematical formula where the values of 'M', 'm', 'S', and 's' will remain same and only value of 'X' i.e. raw marks obtained by a

candidate in a particular paper will vary. Therefore, if 'X' is the same, the final scaled marks have to be the same. This fact is now not disputed by the Commission also, which in its reply and in various documents has admitted that the Computer Agency (Noybl Lab) engaged by it to carry out the process of scaling has committed glaring mistakes.

38. In this regard, as pointed out earlier, in the subject of Anthropology many candidates had obtained 200 raw marks. After scaling their scaled marks ranged from 170.01 and 239.22 and therefore, there was a huge variation in the marks, which could not have happened if the scaling formula had been applied correctly.

39. I fail to understand that that while applying the mathematical formula, how could such a mistake occur. This gives strength and credence to the allegations of the Petitioners that there was a large scale corruption and while scaling the marks, certain officers in the Commission helped some of the candidates by ensuring that such undeserving candidates got selected or they got much higher posts than they deserved and the candidates who did not have connections in high places were not given proper marks. Even in the latest submissions made by the Commission on 04.07.2016, it is admitted that scaling was done in a highly improper manner and there are serious mistakes which vitiate the selection process. It would be pertinent to mention that the Commission in para 4 of its submission had itself stated that in the main examination of the said Civil Services Examination, 2003, the scaling in the optional subjects done by the Computer Agency (Noybl Lab) is full of serious mistakes and therefore, the entire selection process is vitiated. Once the Commission itself admits that the entire selection process is tainted, I do not think that anything further is required to be said by this Court. In fact,

none of the counsel for the Respondents argued that the scaling has been properly done. Therefore, this Court is clearly of the view that the process of scaling was full of mistakes and as now fairly admitted by the Commission, the entire selection process is tainted and vitiated and has to be rectified.

40. The Commission in its reply has admitted the mistakes in scaling and has stated that a charge-sheet has been issued to the Examination Controller, Dr. B.P.Kashyap. Taking action against the Examination Controller will not be of any use to the candidates who have been deprived of their genuine right to get the posts.

41. Shri Ravindra Singh, Petitioner No. 2 in Writ Petition No. 3028 of 2006 also appeared in person and he has again pointed out the anomalies in the marks given after scaling. He points out that in History Paper II, one candidate who had raw marks of 158 had been awarded 205 marks after scaling and in the same History Paper II, another candidate who had 188 marks was awarded only 150 marks in the same paper after scaling. This on the face of it clearly shows that the entire process of scaling was illegal and improper. This fact having been accepted by the Commission, it is not necessary to deal with this issue in detail. It would however be necessary to mention that the judicial conscience of the Court is shocked by the manner in which the scaling has been done. It is apparent that scaling was used as ruse for benefiting some candidates and harming some candidates. As pointed out in the report of the Anti Corruption Bureau, the officials in the Commission helped those who had connection in the right places at the cost of much more meritorious candidates who had no such connections.

Error in the Actual Marks Awarded to Ku. Varsha Dongre

42. Petitioner-Ku. Varsha Dongre has pointed out that in the merit list (Annexure P/7) she has been awarded 1290.41 marks. She had obtained 184 raw marks in Paper I and 199 raw marks in Paper II in the subject of Anthropology. Therefore, she had obtained a total marks of 383 in Anthropology. She has been awarded 399.06 marks in the Anthropology after scaling, whereas on applying the formula of the Respondent-Commission itself, she would have got 414 marks. The Commission now in its latest submission admitted that Ku. Varsha Dongre was entitled to 205 marks in Paper I of Anthropology and 209 marks in Paper II which would mean that her total marks would raise to 414. Therefore, her total marks would raise to 1305.85. This would mean that she would be placed much higher in the merit list. Since she belongs to Scheduled Caste category, she would have been eligible to be appointed as Deputy Superintendent of Police in the year 2006. The Commission now admits that Ku. Varsha Dongre was eligible to be appointed to the Police Service as Deputy Superintendent of Police and are now willing to recommend her name to the said post. The State is also willing to give said post to Ku. Varsha Dongre.

43. The further allegation with regard to scaling is that either the Commission or the Computer Agency engaged by it has totally misunderstood and misapplied the formula. As pointed out above, a candidate has to appear in the compulsory subjects, i.e. General Studies and General Hindi alongwith two other optional subjects. In the case of Ku. Varsha Dongre, her first optional subject was Zoology and second optional subject was Anthropology. There could be some other candidates who may have chosen Anthropology as their first option and any other subject as their second option. By totally misapplying the formula, if a

person has obtained 200 marks in Paper I of Anthropology, he has been given different marks after applying the method of scaling if Anthropology was his first option and different scaled marks have been awarded who has obtained identical raw marks i.e. 200 but in his case, Anthropology is the second option. This fact is admitted in writing to this Court wherein the Commission has said that the process of scaling is full of mistakes because it is immaterial whether the candidate has chosen the subject as first option or second option.

44. The Commission now also admits that after this Court passed an order on 26.10.2007 permitting the Commission to correct its mistakes, a meeting of the Commission was held on 12.11.2007 wherein after considering all these factors the following decisions were taken:

**"CHHATTISGARH PUBLIC SERVICE
COMMISSION, RAIPUR**

Decision No. - 168 File No. 54/2006

In the meeting dated 12.11.2007, in the light of Interim Order dated 26.10.2007 passed by Hon'ble High Court of Bilaspur in Writ Petition No.3028/2006 Chamman Lal Sinha and others versus State of C.G. another, the Commission has decided to proceed as per follows:-

1. All the students of the Main Exam of year 2003 after decoding the answer sheets of all the subjects, roll number flaps be again affixed in answer sheets and thereafter compared with the total obtained marks mentioned in original tabulation sheets and main page of answer sheets, the data entry work will be done properly. As a result of this proceeding if any difference occurs in

the mark of candidate, separate list of such candidate shall be prepared and list of such candidates be kept before the Commission for perusal/examination along with the answer sheets.

2. The scaling of optional subject will be done Subject wise and paper-wise of the total obtained marks.

3. For interview after scaling, three times of vacant post and following the reservation rules, the category-wise list shall be prepared.

4. So far as possible, the list of unqualified candidates from the qualified list, shall be prepared prior to the interview.

5. In a fresh qualification list such a new candidate shall be marked whose interview were not conducted earlier.

6. The said list be produced before the Hon'ble High court and as per order of Honorable High Court as for as possible the interview of the candidates included in fresh list shall be taken.

7. That after interview, as per marks of written examination and interview a combined merit list shall be prepared.

8. On the basis of Agramanatya Patrak, in the merit sequence, the post will be allotted to the candidates.

9. The revised selection list be produced before the Hon'ble High Court and further direction shall be taken.

10. After preparation of revised list, a list of candidates shall be prepared whose earlier allotted post has been changed. The candidate who were

selected earlier but whose name has not in revised selection list, the separate list shall be prepared. Separate list shall also be prepared whose name is not in earlier selection list but his name is in revised list.

Sd/-
N.S.Bhadoriya
Chairman
CGPSC
Raipur

Sd/-
Dr. Durgasharan Chandra
Member
CGPSC
Raipur"

45. It is apparent from the aforesaid minutes of the Commission itself that the Commission as far back as in the year 2007 had taken a decision to ensure proper scaling of marks and to virtually restart the selection process after re-scaling is done. No explanation has been given as to why the Commission on its own did not take any steps to correct these mistakes which were known to it. I am also constrained to observe that in the last 9 years, the Commission filed many affidavits but did not feel it proper to bring these minutes to the notice of this Court.

46. On 19.11.2007, a letter was written by the Commission to the Secretary, Government of Chhattisgarh in this regard, relevant portion of which reads as follows:

"Substantially, extensive mistake/irregularities occurred in public Service Examination 2003 in which considerable are:- Erroneous scaling of marks received in optional subjects of public service written examination 2003. Due to which the result itself of public service main Examination, 2003 is erroneous and the list of eligible candidates prepared for interview on this basis is also erroneous. The proceedings of post distribution to the candidates on the basis of further preference and total marks obtained after interview is

erroneous in itself. In this way, entire selection process is vitiated.

xxx xxx xxx

(1) Not selecting 3 candidates getting higher marks

» It is true that the then examination Controller committed mistake. In post determination in accordance with *Agramanyata* (Further preference). From the preliminary examination by the commission in March, 2007 in respect of post determination in accordance with *Agramanyata* (Further preference) this facts is clear that Varsha Dongre was to be selected on the post of Assistant Director, Public relations. Pradeep kumar Bhoi was to be selected on the post of commercial tax inspector and the place of Rajendra Kumar Jaiswal was to be on the post of commercial Tax Inspector, in supplementary list of other backward classes and on getting higher marks Miss Manisha Dahariya was to be selected on the post of Excise Sub Inspector before Miss Nirupma Lohare

(2) Fraudulently doing alteration in agramanyata patrak (further preference sheet) of Miss Varsha Dongre. In combined merit list Mahendra Kuldeep's merit number is 210, Usha Kiran Badaek's merit number is 214, Sarika Ramteke's merit number is 217 and Sunil kumar's merit number is 237. It is true that on 05/04/2006 C.G. P.S.C. sent letter to Human Rights Commission. It is also true that the applicant Varsha Dongre has mentioned ten posts out of twelve posts in *Agramanyata patrak* and on 10th number the entry of the post of Excise Sub-Inspector is cut. It is also true that the candidates of SC category who obtained marks lower to her were selected on different posts.

xxx xxx xxx

Substantially for the error in determination of posts as per *agramanyata*, the then Examination Controller Dr. B.P. Kashyap is completely responsible.

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... With a view to put the case of Commission in the case pending before the High Court, on preliminary examination of the proceedings with respect to the determination of posts as per *agramanyata* regarding State Services 2003, it was found that there were considerable errors in *agramanyata* determination for the posts of (Deputy Superintendent of Police), State Accounts Services (Accounts Officer), Assistant Director Public Relation, District woman and child Development Officer, Assistant Director Local fund Audit, Subordinate Civil Services (Nayab Telshildar), Commercial Tax Inspector and Excise Sub-Inspector, due to which, recommendation for selection of certain non-eligible candidates has been made in place of certain eligible candidates for various posts. Thus, including Varsha Dongre, many other eligible candidates have not been selected.

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3. Depriving 5 candidates of their selection violating reservation rules.

> It is true that Neha Pandey should not have been selected on the post of Deputy Superintendent of Police, Shri Heeralal Dewangan Roll No. 23140 from OBC category should have been selected.

> It is true that at 6th No. of District woman and Child Development Officer, Shri Saudagar Singh (SC) Roll no. 68551 should have been selected at the place of Ajay Sharma. As, it is mentioned above that the then Examination Controller has not prepared the proceeding details regarding

distribution of posts on the basis of agramanyata. Present Sub-Divisional Officer (Selection) has erred in understanding the facts, due to which, information of para 4 is wrongly shown in the reply sent to the Human Rights Commission.

> For the post of Asst. Director Local fund Audit, except selection of Govind Singh Kumeti (S.T.), selection of rest 3 namely Saudagar Singh Tandey (S.C.), Ajay Birthare and Bharti Singh Rajput are erroneous.

> It is true that for the 23 unreserved posts of excise Sub-Inspector, candidate of any category could be selected on the basis of merit. In this list, on the basis of merit, Roll no. 22322 Rajendra Kumar Jaiswal (OBC) finds a place in unreserved category selection of Roll no. 72985 Umesh Kumar Agrawal, Roll no. 66937 Rajendra Nath Tiwari is erroneous as their marks are lower. Roll no. 59467 Santram Kurmi and Roll no. 26676 Ramakant Dewangan should have been selected from OBC Category. Roll no. 90448 Ghasi Ram Adey and Roll no. 66577 Manisha Daheriya should have been selected in category of Scheduled Castes. There has been error in following the reservation rules.

> There is no error in the selection of Neetu Notani at the post of District Excise Officer, her selection has been made under unreserved (female) category.

(4) Discrimination in the case of temporary Caste Certificate regarding 1 candidate of reservation category.

> According to the note sheet regarding selection result of the State Services Mains Examination, prepared by the then Examination Controller, Roll no. 22790 Navodita Para and Roll no. 23576 Hasan Lal Gohiya have been selected under unreserved category as they have not produced the permanent Caste Certificate of S.T. and S.C. respectively. Factual

situation with respect to not producing Caste Certificate by rest five candidates is as follows:-

1. Muktanand Khute- Caste Certificate issued by Tehsildar Nagari (Revenue Case no. 376/B 121 Year 95-96)
2. Renu Prakash:- Caste Certificate no. 14470/2837/93 issued by the Collector (Caste Certificate Section) Durg.
3. Arvind Kumar Vani – Temporary Caste Certificate Case no. 515/2003-04 issued by Tehsildar Pamgarh.
4. Saudagar Tandey- Certificate no. 927 Dt. 10.08.89 (only for education and scholarship) issued by Area-Co-ordinator for District Co-coordinator, Harijan Development Raipur.
5. Sushma Thakur- has produced the permanent Caste Certificate issued by sub-Divisional officer Balod, Durg regarding scheduled Tribes.

The above makes it clear that error has been committed in examination of Certificates and accordingly determination of category regarding no. 3 and 4.

(5) Selection of 1 candidate of unreserved category in reserved category.

> That Shri Rajeev Singh Chauhan Roll no. 31106 is the candidate of unreserved category. Showing Rajeev Singh Chauhan in Scheduled Caste Category, he has been selected against that post, which is erroneous.

(2) Irregularity in Scaling

Brief Comment, with respect to the irregularity in scaling and conclusion drawn by Anti-Corruption Bureau in this regard, is as follows:-

After information provided under RTI Act, 2005 to various candidates regarding State Services Examination, 2003,

certain candidates made complaint to the commission regarding error in scaling. On receipt of Complaint, it was found on preliminary enquiry that the computer Agency appointed by the Commission had made considerable errors.

Errors are as follows:-

1. Agency has done erroneous entry of subject codes chosen by the candidates.
2. Scaling of all four question papers of both optional subjects has been done option wise and subject wise separately. This method of Scaling is erroneous, because a candidate may choose only one subject as first or second optional subject and on scaling in said manner, the candidate who has obtained similar raw marks in the same question paper of same subject, receives different scaled marks on choosing first optional subject and second optional subject.
3. Calculation of various measures (M,m,S,s) of scaling are also erroneous.

Since, the computer Agency has made considerable errors in scaling of optional subjects of State Services Examination, 2003 entire selection process of State Services Examination 2003 has vitiated.

Thus since the scaling work of obtained marks of optional subject is erroneous, result of State Services Mains Examination 2003 has also become erroneous and list of candidates, qualified for interview, prepared on the basis of (on the basis of said scaling) also becomes erroneous. And thus, since the proceeding of post distribution on the basis of agramanyata after interview itself becomes erroneous therefore entire selection process has been vitiated. ... "

47. The aforesaid communication clearly indicates that the Commission had admitted most of the mistakes. The Commission had admitted that there was extensive irregularities in the examination. It had also admitted that Petitioner-Ku. Varsha Dongre was deprived of her selection and action should be taken against the officers who prepared and declared a vitiated result depriving her from selection. With regard to the allegations made by the Anti Corruption Bureau, the Commission admitted that three candidates who had higher marks were not selected. It also admitted that reservation rules were not applied properly depriving five candidates of selection. It also admitted that there was discrimination and in one case, a person without permanent caste certificate was appointed whereas in other cases, the candidates similarly situated were not appointed. It also admitted that one general category candidate was appointed against the post of reserved category. With regard to interpolation in the preference form of Ku. Varsha Dongre, there is no clear cut admission, but it is not disputed that there is some element of bungling. It is indeed surprising that despite the mistakes being admitted by the Commission, no action was taken to rectify the same.

48. In the reply filed by the Commission to the application for amendment filed by the Petitioner-Ku. Varsha Dongre, the Respondents admitted that she should be awarded 205.6053 in the first paper of Anthropology and 209.3309 marks in the second paper of Anthropology.

49. In view of the aforesaid discussion, it is actually not necessary to decide all other issues, however, large scale bungling is not limited to scaling only and there are other aspects also and therefore, I propose to deal with them.

Was the Preference Form of Ku. Varsha Dongre Interpolated?

50. As pointed earlier, the examination was conducted to fill up various services under the State. A candidate at the time of interview is required to fill a preference form to show what is his/her order of preference for the post to be filled up. In the preference form of Ku. Varsha Dongre, her first preference was the post of Deputy Superintendent of Police, second preference was Deputy Collector, third preference was for Accounts Officer, fourth preference for Sales Tax Officer, fifth preference was for District Women and Child Development Officer, sixth preference was for Assistant Public Relation Officer, seventh preference was for District Registrar, eighth preference was for Naib Tahsildar, ninth preference was for Sales Tax Inspector and the disputed entry is entry No. 10 against which Ku. Varsha Dongre, in her handwriting, has written 'Excise Sub Inspector'. The word 'Excise Sub Inspector' has been scored off in her form. The case of the Petitioner- Ku. Varsha Dongre is that this was not done by her but it was done at the level of the Commission. In support of this submission, she states that all other corrections in the form have been initialed by her. She also submits that the words 'Excise Sub Inspector' are clearly visible and a line has been put across these words but according to her, she has not put that line and this was done at the level of the Commission to deprive her right to get a job at least as Excise Sub Inspector. In support of her plea, she has drawn the attention of the Court to a column in this form which has to be filled in by the Office and the code of the post had been filled in by the office of the Commission. Against the words 'Excise Sub Inspector' AEXI has been filled in. If this scoring off had existed when she submitted the form with the Commission, then no coding would have been done. In this regard, she has drawn the attention of this Court to similar forms of other candidates

who had scored off the post and there are initials of the candidates against the scored off posts and the office has not filled the code of such scored off posts. We find merit in the submission of Ku. Varsha Dongre. Even in the report of Anti Corruption Bureau quoted hereinabove, it has been clearly found that this scoring off has been made by some official in the Commission only with a view to deprive Ku. Varsha Dongre of her right to get a job. It would also be pertinent to mention that the Anti Corruption Bureau has found that the scoring which has been done in Ku. Varsha Dongre's preference form has left its imprint on the other forms just below her form. If Ku. Varsha Dongre had scored off the words 'Excise Sub Inspector', then as pointed out by the Anti Corruption Bureau, there would be no imprint on the other forms. The imprint is on the other forms because those forms were in the possession of some officials of the Commission and when the words 'Excise Sub Inspector' was scored off in Ku. Varsha Dongre's form, an imprint was left in the forms below that. Furthermore, the Anti Corruption Bureau has found the pen and ink used in scoring off is different from one which Ku. Varsha Dongre had used to fill up the form. It is an admitted case of the parties that this form is filled in only at the time when the candidate goes to face interview. Therefore, question of Ku. Varsha Dongre having used two pens does not arise. Therefore, I have no hesitation in coming to the conclusion that the 10th preference for the post of 'Excise Sub Inspector' was scored off by some official of the Commission and not by Ku. Varsha Dongre. Though, the Commission has denied this allegation, but it has failed to answer the submission made by Ku. Varsha Dongre in this regard. Only one counsel tried to argue that in fact Petitioner- Ku. Varsha Dongre had scored off all the posts except Deputy Superintendent of Police. However, on going through the preference form, I find that this allegation is totally incorrect.

Therefore, I have no hesitation in coming to the conclusion that her preference form was interpolated at the level of Commission itself, for extraneous reasons just to deny her her post.

Meritorious Reserved Category Candidates Not Adjusted Against General Category.

51. Another point urged by the Petitioner-Ku. Varsha Dongre is that when the candidates belonging to the reserved category get selected on their own merit, they had to be treated as unreserved category candidates. However, the Commission has not done this. This fact is admitted by the Commission itself. The law is well settled that if a candidate belonging to the reserved category gets a position on the merit list which entitled him to selection/appointment without taking the aid of the crutches of reservation, he has to be treated as a general category candidate. Resultantly, no reduction is made from the number of candidates entitled from the reserved category. To give an example, if 10 posts are reserved for Scheduled Castes and seven scheduled caste candidates get selected on their own merit, then total number of scheduled candidates who have to be appointed is 17 because seven candidates will be treated as unreserved category since they have not taken the benefit of reservation. It is virtually admitted that the Commission has not followed this system and therefore, the entire selection process will be affected.

Injustice Done to Petitioner-Ku. Varsha Dongre

52. Petitioner-Ku. Varsha Dongre has pointed out that even if she had 1290 marks as were originally awarded by the Commission, people who were much below her have been selected. Respondent No. 7-Manoj Kumar Larorker had obtained 1277.35 marks which is much below Petitioner-Ku. Varsha Dongre, but has been appointed as Excise Sub

Inspector. Similarly, Petitioner No. 137-Sunil Kumar had obtained only 1262 marks but was also appointed as Excise Sub Inspector. With regard to these two candidates, the version of the Respondent-Commission is that Petitioner-Ku. Varsha Dongre has scored off the post of Excise Sub Inspector and therefore, she was not considered against this post. As already held above, the scoring off has not been done by her but it was done later by somebody in the Commission with a view to deprive Ku. Varsha Dongre of her right to get the post. The matter does not end here. Assuming for the sake of deciding this issue that the Petitioner had scored off the post of Excise Sub Inspector, Respondent No. 4-Usha Kiran Barai was appointed as Assistant Public Relations Officer whereas she had only 1274.41 marks and Respondent No. 5-Sarika Ramteke, who had only 1273.23 marks, has been appointed as Naib Tahsildar. There is no reply on behalf of the Commission or the State to explain how these two ladies who were lower than the Petitioner-Ku. Varsha Dongre even in the marks as have been awarded by the Commission, have been offered appointment without offering appointment to Petitioner-Ku. Varsha Dongre.

Different Yardstick Applied for Evaluation of Anthropology Paper

53. In this behalf, Petitioner No. 2-Ravindra Singh has drawn the attention of the Court to the statement of charge of misconduct framed by the Commission against Dr. B.P.Kashyap, Examination Controller of the Chhattisgarh Public Service Commission and the charge reads as follows:

"1. Different yardsticks have been adopted in evaluation of the first paper of Anthropology in Provincial Service Examination 2003 by the Chief Examiner, evaluator and checker. In some cases 4 answers of the candidates are checked and all are evaluated 75-75 against each.

Whereas, in some cases 5 answers of the candidates are checked out of which 2 are evaluated against 75-75 and others 3 are evaluated 50-50 marks against each (Exhibit point No. 6, 7 and 8).

The direction regarding the solving of first paper of Anthropology (subject code 23), provincial service main examination 2003 were defected. In this paper 5 questions are solved by every candidate. According to office advertisement part 1 of the first paper of Anthropology was mandatory. And they could have take A of part 2 or B of part 2. For the each part 1 and 2, 150 marks were fixed. Chief examiner of first paper of Anthropology forwarded to evaluate it as per advertisement to you. On the basis of that you obtained permission by the Chairman to evaluate it on the basis of advertisement it is also clear from the perusal of asked erstwhile note that on the basis of report of subject expert question No. 2A of first part of first paper and question no. 4A of second part, question No. 8 of second part was found fit to be cancelled and you supplied the copy of that to the evaluator, checker and chief examiner. In this way, evaluator, checker and chief examiner received 2 different directions instead of clear direction - first evaluate according to advertisement and second on the basis of representation given by subject expert for evaluation, because of this first paper of Anthropology was evaluated in 2 different ways.

Roll No. 91884 and roll no. 40912 of the candidates answer sheet were evaluated deeming each 4 question of 75 marks, both candidates have solved the question No. 4 the marks were not given on those answers by treating them cancelled. Roll No. 38329 is evaluated 5 questions but question No. 8 is not cancelled. The marks evaluated

of the same subject of the questions are shown differently. Though evaluation of every candidate has been done against 300 marks and they have obtained the marks accordingly. It has diminished the image of Commission because of different grounds taken in the one paper of one subject in the important examination of Public Service Commission. It is clear that you failed to issue clear direction regarding evaluation of first paper of Anthropology in provincial service main examination 2003 to evaluator, checker and chief examiner as examination controller."

54. The aforesaid charge itself clearly proves that two separate yardsticks were applied while evaluating paper of Anthropology. The paper was to carry 300 marks. In some cases, four answers were evaluated with each carrying a value of 75 marks and in some cases, five answers were evaluated out of which two were evaluated against 75 marks and other three were evaluated against 50 marks. There cannot be two systems of evaluation for the same paper and therefore, this evaluation goes to the very root of the matter and has to be corrected. The other aspect is that question No. 8 of second paper of Anthropology paper was found fit to be cancelled as two different directions have been received for evaluation of the paper in Anthropology. It was also pointed out that in some answer papers, question No. 8 was marked, but in some it was not marked. It may also be pointed out that in this very charge-sheet with regard to Petitioner-Chaman Lal Sinha, the charge-sheet reads as follows:

"2. There were total 30 marks for question no. 8 in second question paper of General Study. Candidate Chaman Lal Sinha, roll no. 40912 has obtained 10 marks but in preparing the mark sheet fault has been

permitted by evaluator, checker and chief evaluator. 8 marks are shown in place of 10 marks. In this case, it shows laxity in side of you. Each marks has importance in provincial service main examination, it is natural to rise discontentment in the candidates because of such faulty evaluation. "

55. Thus, the Commission has admitted that Petitioner-Chaman Lal Sinha was entitled to at least 2 more marks. If the papers are marked in such a cursory manner where mistakes abound there can be no reliance placed on such assessment of marks.

56. The Petitioners also pointed out that there is wrong checking of certain questions and they have tried to show that even in the main paper, checking is improper. The Petitioners have obtained a lot of answer papers and have pointed out that in some cases, even the totalling is not proper.

57. Shri Chaman Lal Sinha-Petitioner No. 1 in Writ Petition No. 3028 of 2006, has argued in person and states that he has been awarded 2 marks less in General Knowledge paper which in fact is more than apparent and this fact is also proved from the second charge against Dr. B.P.Kashyap, quoted hereinabove. He also states that if the formula was properly applied, he would have got 217.43 marks in the first paper of Anthropology and 184.3 marks in the second paper, whereas he has been awarded 151.07 and 163.95 marks. The total marks awarded to him in the subject of Anthropology is 315.02, whereas they should have been 401.73 marks. Therefore, the difference is 86.71 marks, adding 2 marks i.e. less 2 marks awarded to him earlier, the difference would come to 88.71 marks and his total would be 1369.12 as against 1280.41 marks awarded

to him. This clearly shows that the difference has become too large to be ignored.

58. Petitioner-Chaman Lal Sinha, who is an OBC candidate also points out that persons from the OBC category who had less marks than 1369.12 have been appointed. He has also pointed out other errors in scaling etc.

59. The Petitioners have also pointed out that the person who topped the Civil Services Examination at Roll No. 79001, had obtained 1523 raw marks but after scaling his marks have come down to 1314.19. He belongs to general category and has not been offered any post whatsoever. On the contrary, it is pointed out that one of the Respondents having Roll No. 23560 had only 1200- raw marks but his marks have been increased to 1484.01. I had asked the Respondent-Commission to answer this query also. The Commission has only given a reply that Shri Kundan Kumar in his optional subject was awarded 921 marks but after scaling they have been reduced to 712.19 marks and therefore, his total marks came down. No explanation has been given as to how his marks would fall so drastically. There is no answer given with regard to the other persons.

Appointment of Shri Rajeev Singh Chouhan Against Scheduled Caste Category, Whereas He Had Applied Under General Category

60. The allegation raised in the complaint of Ku. Varsha Dongre and in this petition is that one candidate Shri Rajeev Singh Chouhan had applied as a general category candidate but was appointed against Scheduled Caste category. In the report submitted by the Anti Corruption Bureau, it has been clearly stated that the appointment of Shri Rajeev Singh Chouhan by showing him to be reserved category candidate is totally

illegal. Not only this, even in the initial report prepared by the Commission on 19.11.2007, it was mentioned that it is correct that Shri Rajeev Singh Chouhan, Roll No. 31106 is a general category candidate. In the select list, he has been shown as selected against reserved category which is a mistake. This mistake was known to the Commission in the year 2007. Even now in the reply filed by the Commission, it has admitted that Shri Rajeev Singh Chouhan was wrongly appointed as against reserved category. It is pointed out that the Commission issued a letter on 02.06.2007 in this regard. However, Shri Rajeev Singh Chouhan continues to be in job. This clearly shows that despite having found the allegations made by the Petitioners to be correct, the Respondent-Commission took no steps to correct the list.

Finding

61. In view of the above discussion, I have no hesitation in holding that there were large number of irregularities in the selection process for the Civil Services Examination, 2003. It is also more than apparent that these are not minor mistakes, but mistakes which totally vitiate the entire selection process. As pointed out above, there are mistakes in totalling of marks. There are mistakes in applying the scaling formula. Even after the formula has been applied, there are mistakes in calculating and totalling the marks. Interpolations have been made by officials of the Commission. The candidates who were not eligible for being called for interview have been called for interview. Those candidates who were eligible to be called for interview, have not been called for the same. The candidates who belong to general category have been given undue benefit by appointing them against the reserved category. All these amongst other mistakes have been pointed out by the Anti Corruption Bureau in June, 2007 but no steps were taken to rectify the same even though an application was filed

before the High Court seeking permission to rectify the mistakes. This Court almost 9 years back told the Commission that it should rectify the mistakes, but unfortunately that has not been done.

What Relief Should be Granted?

62. At this stage, it would be pertinent to mention that the arguments of all counsel for the Respondents revolved around the issue as to what relief should be granted. Both the learned Advocate General as well as learned counsel for the Commission urged that Ku. Varsha Dongre will be given her due and if necessary, she will be appointed as Deputy Superintendent of Police with retrospective effect. It is prayed that since all other Respondents have worked for almost 10 years, now their appointments should not be set aside.

63. On behalf of the private Respondents, it is urged that they are not at fault, there is no way of finding out who are the tainted candidates and who are the candidates entitled to get selected on their own merits and therefore since now the State has agreed to give the benefit to Ku. Varsha Dongre, the matter should be closed.

64. On the other hand, the Petitioners including Petitioner-Ku. Varsha Dongre have urged this Court to reopen the entire process right from the checking of examination papers themselves. They urged that to maintain the purity of selection process, let the entire papers be rechecked under the directions and supervision of a sitting High Court Judge. They also urged that grave injustice has been done not only to the three Petitioners, but to many others including the person who actually topped the Civil Services Examination.

65. After going through the entire records, especially the report of the Anti Corruption Bureau, I have no doubt in my mind that the errors were not mistakes as has now been pointed out. One error can be a mistake. Two or three errors may be termed to be mistakes, but in the present case, there are systematic errors on the record, which clearly shows that even after wrong marks were awarded by the Commission, it appointed those candidates who had lower marks even as per its own merit list, but did not appoint many candidates including the Petitioner Ku. Varsha Dongre, who had much higher marks. It is also found that different yardsticks were applied and some candidates who were higher in merit in the Scheduled Caste and Scheduled Tribe category, were not treated to be reserved category candidates on the ground that they failed to produce the permanent caste certificates. However, five other candidates who did not produce such certificates but were lower in merit to Ku. Navodita were selected in the Scheduled Caste and Scheduled Tribe category. This Court has also come to the conclusion that a deliberate attempt was made to alter the preference form of the Petitioner-Ku. Varsha Dongre at the level of the Commission and this is an act of forgery. It is also found that the Commission gave false and wrong replies to His Excellency the Governor, the Hon'ble Chief Minister etc. As far back as year 2006, the Commission had realised that there are errors and it filed an application before this Court in the year 2007 seeking permission to correct the mistakes. Even after the permission was granted, its mistakes were not corrected. This clearly shows that there was a *mala fide* intention and therefore relief has to be granted taking into consideration these facts.

66. On behalf of the Respondents, it was urged that there are no allegations of *mala fides* and there are not specific allegations against the selected candidates. When this Court had found that the entire selection

process is tainted and vitiated and is based not only on incorrect scaling but a conscious attempt on behalf of the Commission to recommend the names of those candidates who were not eligible and in fact a criminal attempt was made in the case of Petitioner-Ku. Varsha Dongre to somehow deny her appointment, *mala fides* are writ large.

67. While dealing with the issue of relief, I cannot help but comment on the role of the Public Service Commission. The Public Service Commission is a constitutional body constituted under Article 315 of the Constitution. The Chairman and Members of the Commission enjoy high status and emoluments. It is the duty of the Commission to ensure that its conduct is of an exemplary manner and it should ensure that the selections are made in a totally impartial fashion. Reference may be made to the observations of the Apex Court in *Ashok Kumar Yadav & Others v. State of Haryana & Others* {(1985) 4 SCC 417} wherein the Apex Court held as follows:

"30. Before we part with this judgment we would like to point out that the Public Service Commission occupies a pivotal place of importance in the State and the integrity and efficiency of its administrative apparatus depends considerably on the quality of the selections made by the Public Service Commission. It is absolutely essential that the best and finest talent should be drawn in the administration and administrative services must be composed of men who are honest, upright and independent and who are not swayed by the political winds blowing in the country. The selection of candidates for the administrative services must therefore be made strictly on merits, keeping in view various factors which go to make up a strong, efficient and people oriented administrator. This can be achieved only if the Chairman and members of the Public Service

Commission are eminent men possessing a high degree of caliber, competence and integrity, who would inspire confidence in the public mind about the objectivity and impartiality of the selections to be made by them. We would therefore like to strongly impress upon every State Government to take care to see that its Public Service Commission is manned by competent, honest and independent persons of outstanding ability and high reputation who command the confidence of the people and who would not allow themselves to be deflected by any extraneous considerations from discharging their duty of making selections strictly on merits. Whilst making these observations we would like to make it clear that we do not for a moment wish to suggest that the Chairman and members of the Haryana Public Service Commission in the present case were lacking in caliber, competence or integrity."

68. The foremost duty of the Commission is to ensure fair selection. When the Commission finds that it has committed certain mistakes, then a duty is cast upon the Commission to correct the mistakes. The Commission or its officials cannot take shelter that since judicial proceedings are pending, it will not even correct its own mistakes. As far as the present case is concerned, in the year 2007 itself, this Court had clearly told the Commission that it can go ahead and rectify its mistakes. Thereafter, the Commission held a meeting and in the meeting a decision was taken to rectify the mistakes. A communication was also sent to the State Government in this regard. But thereafter, the Commission for reasons only known to it and which have not been set forth in this writ petition, decided to keep mum, do nothing and virtually let unfairness and injustice to go on. I hope and expect that in future, the Commission will not behave in such a manner. The Commission also did not produce the

records of its meetings or its communication before this Court and it is only in the year 2016 when this Court asked pointed questions that the Commission filed these documents on record.

69. At the stage of final hearing, an offer was made by the Commission as well as by the State that Petitioner-Ku. Varsha Dongre was entitled to be selected as Deputy Superintendent of Police, which is the highest post available. It was submitted that she would be given her rightful place and the matter be closed. I am afraid that this Court cannot become a party to a clandestine operation to bury the misdeeds of the Commission which is a constitutional body. This Court cannot be a party to cover up such criminal acts. This Court cannot join hands with the Respondents to give a quietus to the case. The need of the hour is to ensure that justice is not only done but also seems to have been done.

70. In large number of cases, cited by the Respondents, the relief was not given to the Petitioner because it was found that the private Respondents had been working for a long period of time and the Apex Court therefore held that it would be unjust and harsh to quash their selection at that stage. In most of these cases, the Petitioner succeeded on technical grounds where the selection was made by misinterpretation of the rules or more candidates were appointed from a feeder category than their entitlement. These are not cases where there is a criminality involved. These are also not cases where there is a rank corruption and dishonesty and an obstinate attitude on the part of the Commission, which refused to correct its own mistakes despite knowing the same.

71. In *State Dy. Executive Engineers' Association v. State of Gujarat & Others* {(1994) Supp 2 SCC 591} the Apex Court, refused to grant benefit to the Petitioners since the Respondents had been working for more than five years. It would however be pertinent to mention that the selection of

the Respondents was held to be invalid only because they were appointed after expiry of the period of waiting list. Similarly, in *Asha Kaul (Mrs.) & Another v. State of Jammu & Kashmir & Others* {(1993) 2 SCC 573} the Apex Court refused to interfere in the matter. In this case, the Petitioners had approached the Court after more than 20 months and the persons who were appointed had worked as Judicial Officers during that period and there was no malpractice involved in the selection of the candidates. In *Buddhi Nath Chaudhary & Others v. Abahi Kumar & Others* {(2001) 3 SCC 328}, the Apex Court only held that if any improper appointments were made long time back, they need not be disturbed.

72. The observations of the Apex Court in *Union of India & Others v. Rajesh P.U. Puthuvalnikathu & Another* {(2003) 7 SCC 285} are relevant and read as follows:

“6. On a careful consideration of the contentions on either side in the light of the materials brought on record, including the relevant portions of the report said to have been submitted by the Special Committee constituted for the purpose of inquiring into the irregularities, if any, in the selection of candidates, filed on our directions – which report itself seems to have been also produced for the perusal of the High Court – there appears to be no scope for any legitimate grievance against the decision rendered by the High Court. There seems to be no serious grievance of any malpractices as such in the process of the written examination – either by the candidates or by those who actually conducted them. If the Board itself decided to dictate the question on a loudspeaker in English and Hindi and none of the participants had any grievance in understanding them or answering them, there is no justification to surmise at a later

stage that the time lapse in dictating them in different languages left any room or scope for the candidates to discuss among them the possible answer. The posting of invigilators for every ten candidates would belie any such assumption. Even that apart, the Special Committee constituted does not appear to have condemned that part of the selection process relating to conduct of the written examination itself, except noticing only certain infirmities only in the matter of evaluation of answer-sheets with reference to correct answers and allotment of marks to answer some of the questions. In addition thereto, it appears that the Special Committee has extensively scrutinized and reviewed situation by re-evaluating the answer sheets of all the 134 successful as well as the 184 unsuccessful candidates and ultimately found that except 31 candidates found to have been declared successful though they were not really entitled to be so declared successful and selected for appointment there was no infirmity whatsoever in the selection of other successful candidates than the 31 identified by the Special Committee. In the light of the above and in the absence of any specific or categorical finding supported by any concrete and relevant material that widespread infirmities of an all pervasive nature, which could be really said to have undermined the very process itself in its entirety or as a whole and it was impossible to weed out the beneficiaries of one or the other irregularities, or illegalities, if any, there was hardly any justification in law to deny appointment to the other selected candidates whose selections were not found to be, in any manner, vitiated for any one or the other reason. Applying a unilaterally rigid and arbitrary standard to cancel the entirety of the selections despite the firm and positive

information that except 31 of such selected candidates, no infirmity could be found with reference to others, is nothing but total disregard of relevancies and allowing to be carried away by irrelevancies, giving a complete go-by to contextual considerations throwing to the winds the principle of proportionality in going farther than what was strictly and reasonably to meet the situation. In short, the competent authority completely misdirected itself in taking such an extreme and unreasonable decision of cancelling the entire selections, wholly unwarranted and unnecessary even on the factual situation found to, and totally in excess of the nature and gravity of what was at stake, thereby virtually rendering such decision to be irrational. ”

It is important to note that in this case the Apex Court itself came to the conclusion that there is no serious grievance of any malpractices in the process of written examination. The observations of the Apex Court have to be read in this context. It found that there were certain infirmities with regard to 31 candidates but no infirmity could be found with reference to others, therefore, the Apex Court held that the extreme decision of cancelling the entire selection process was not warranted.

73. In *Inderpreet Singh Khalon & Others v. State of Punjab & Others* {(2006) 11 SCC 356}, the Apex Court held as follows:

“40. ...An appointment made in violation of Articles 14 and 16 of the Constitution of India would be void. It would be a nullity. {See *Secy. State of Karnataka v. Umadevi (3)*¹}. But before such a finding can be arrived at, the appointing authority must take into consideration the foundational facts. Only when such foundational facts are established, the legal principles

can be applied.

41. If the services of the appointees who had put in few years of service were terminated, compliance with three principles at the hands of the State was imperative viz. (1) to establish satisfaction in regard to the sufficiency of the materials collected so as to enable the State to arrive at its satisfaction that the selection process was tainted; (2) to determine the question that the illegalities committed go to the root of the matter which vitiate the entire selection process. Such satisfaction as also the sufficiency of materials were required to be gathered by reason of a thorough investigation in a fair and transparent manner; (3) whether the sufficient material present enabled the State to arrive at a satisfaction that the officers in majority have been found to be part of the fraudulent purpose or the system itself was corrupt.

42. Once such findings were arrived at, all appointments traceable to the officers concerned could be cancelled....”

74. Strong reliance has been placed by some of the Respondents on *Sanjay Singh & Another v. UP Public Service Commission, Allahabad & Another* {AIR 2007 SC 950 = (2007) 3 SCC 720} in which the Apex Court observed as follows:

“41. The petitioners have requested that their petitions should be treated as being in public interest and the entire selection process in regard to Civil Judge (Junior Division) Examination, 2003 should be set aside. We are unable to accept the said contention. What has been made out is certain inherent defects of a particular scaling system when applied to the selection process of the Civil Judges (Junior Division) where the problem is

one of examiner variability (strict/liberal examiners). Neither *mala fides* nor any other irregularities in the process of selection is made out. The Commission has acted *bona fide* in proceeding with the selection and neither the High Court nor the State Government had any grievance in regard to selections. In fact, the scaling system applied had the seal of approval of this Court in regard to the previous selection in *S.C.Dixit (supra)*. The selected candidates have also been appointed and functioning as Judicial Officers. Further as noticed above, the scaling system adopted by the Commission has led to irrational and arbitrary results only in cases falling at the ends of the spectrum, and by and large did not affect the major portion of the selection. We, therefore, direct that our decision holding that the scaling system adopted by the Commission is unsuited in regard to Civil Judge (Junior Division) Examination and directing moderation, will be prospective in its application and will not affect the selections and appointments already made in pursuance of the 2003 Examination.”

In my view, this judgment is not applicable because the Apex Court has held that no irregularity in the process of selection were made out but only scaling system was wrongly applied which led to certain irrational and arbitrary results only, but by and large, did not affect the major portion of the selection. As far as the present case is concerned, the scaling is so grossly improper that it affects the entire selection process, as admitted by the Commission itself.

75. In *Tridip Kumar Dingal & Others v. State of West Bengal & Others* {(2009) 1 SCC 768}, the Apex Court held as follows:

“53. In our considered opinion, the law laid down by this Court in aforesaid and other cases applies to the present situation also. We are of the considered view that it would be inequitable if we set aside appointments of candidates selected, appointed and are working since 1998-1999. We, therefore, hold that the Tribunal and the High Court were right in not setting aside their appointments.

54. It is undisputed that by the time we are called upon to decide the matter, the selected and appointed candidates have completed ten years. They are thus having rich experience in the field. There are several vacancies. The stand of the State Government is equally fair and reasonable. It was stated that those candidates who had grievance against the selection and had not waived their right to get similar treatment and had approached the Tribunal, the High Court and this Court, may be granted similar relief. We are also of the view that such relief can be granted in favour of the appellants who were agitated and had raised voice against the selection of candidates before the Tribunal, before the High Court and before us.

It would be pertinent to mention that in this case, there were 4000 candidates for 80 posts of Medical Technologists and the State decided to conduct a written test wherein cut off marks was fixed at 40%. 1070 candidates were left in the field and they were interviewed and a select list was prepared. The issue was whether shortlisting could be done by holding a written test and whether the select list would be prepared solely on the basis of interview. The Apex Court held that the written test could be conducted but it affirmed the judgment of the High Court that for drawing up the merit list, marks of both written test and the interview

should be counted and not the only marks in the interview. That was a case where marks of the written tests were not added while computing the merit list. It was not a case of gross irregularity or corruption and the observations have to be read in this context.

76. In *Ramesh Chandra Sankla etc. v. Vikram Cement etc.* {AIR (2009) SC 713}, the Apex Court held as follows:

“89. From the above cases, it clearly transpires that powers under Article 226 and 227 are discretionary and equitable and are required to be exercised in the larger interest of justice. While granting relief in favour of the applicant, the Court must take into account balancing interests and equities. It can mould relief considering the facts of the case. It can pass an appropriate order which justice may demand and equities may project. As observed by this Court in *Shiv Shankar Dal Mills v. State of Haryana* (1980) 1 SCR 1170, Courts of equity should go much further both to give and refuse relief in furtherance of public interest. Granting or withholding of relief may properly be dependent upon considerations of justice, equity and good conscience.”

It would be pertinent to mention that in this case also, the appointment of the Respondents were not quashed on equitable grounds. Again this was case where there were no gross irregularities or malpractices or corruption.

77. In *Rajesh Kumar & Others v. State of Bihar & Others* {(2013) 4 SCC 690} the Apex Court while dealing with a case where there was erroneous evaluation because of use of wrong answer key, the Apex Court held that even though those examinees who succeeded on the basis of such erroneous evaluation may not be at fault, the proper

direction is to direct re-evaluation. It did not approve the order of the High Court setting aside the entire examination, however held that re-evaluation must be done. The relevant portion of the judgment reads as follows :

“15. There is, in our view, no merit in that contention of Mr Rao. The reasons are not far to seek. It is true that the writ petitioners had not impleaded the selected candidates as party-respondents to the case. But it is wholly incorrect to say that the relief prayed for by the petitioners could not be granted to them simply because there was no prayer for the same. The writ petitioners, it is evident, on a plain reading of the writ petition questioned not only the process of evaluation of the answer script by the Commission but specifically averred that the “model answer key” which formed the basis for such evaluation was erroneous. One of the questions that, therefore, fell for consideration by the High Court directly was whether the “model answer key” was correct. The High Court had aptly referred that question to experts in the field who, as already noticed above, found the “model answer key” to be erroneous in regard to as many as 45 questions out of a total of 100 questions contained in 'A' series question paper. Other errors were also found to which we have referred earlier. If the key which was used for evaluating the answer sheets was itself defective the result prepared on the basis of the same could be no different. The Division Bench of the High Court was, therefore, perfectly justified in holding that the result of the examination insofar as the same pertained to 'A' series question paper was vitiated. This was bound to affect the result of the entire examination qua every candidate whether or not

he was a party to the proceedings. It also goes without saying that if the result was vitiated by the application of a wrong key, any appointment made on the basis thereof would also be rendered unsustainable. The High Court was, in that view, entitled to mould the relief prayed for in the writ petition and issue directions considered necessary not only to maintain the purity of the selection process but also to ensure that no candidate earned an undeserved advantage over others by application of an erroneous key.

16. The decisions of this Court in *Bharat Amratlal Kothari v. Dosukhan Samadkhan Sindhi*⁵ and *State of Orissa v. Mamata Mohanty*⁶, relied upon by Mr Rao are clearly distinguishable. The power of the court to mould the relief, according to the demands of the situation was never the subject-matter of dispute in those cases. That power is well recognized and is available to a writ court to do complete justice between the parties. The first limb of the argument advanced by Mr Rao fails and is accordingly rejected.

19. The submission made by Mr Rao are not without merit. Given the nature of the defect in the answer key the most natural and logical way of correcting the evaluation of the scripts was to correct the key and get the answer scripts re-evaluated on the basis thereof. There was, in the circumstances, no compelling reasons for directing a fresh examination to be held by the Commission especially when there was no allegation about any malpractice fraud or corrupt motives that could possibly vitiate the earlier examination to call for a fresh attempt by all concerned. The process of re-evaluation of the answer script with reference to the correct key will in addition

be less expensive apart from being quicker. The process would also not give any unfair advantage to anyone of the candidates on account of the time lag between the examination earlier held and the one that may have been held pursuant to the direction of the High Court. Suffice it to say that the re-evaluation was and is a better option, in the facts and circumstances of the case.

20. That brings us to the submission by Mr Rao that while re-evaluation is a good option not only to do justice to those who may have suffered on account of an erroneous key being applied to the process but also to the writ petitioners, Respondents 6 to 18 in the matter of allocating to them their rightful place in the merit list. Such evaluation need not necessarily result in the ouster of the appellants should they be found to fall below the “cut-off” mark in the merit list. Mr Rao gave two reasons in support of that submission. Firstly, he contended that the appellants are not responsible for the error committed by the parties in the matter of evaluation of the answer scripts. The position may have been different if the appellants were guilty of any fraud, misrepresentation or malpractice that would have deprived them of any sympathy from the court or justified their ouster. Secondly, he contended that the appellants have served the State efficiently and without any complaint for nearly seven years now and most of them, if not all, may have become overage for fresh recruitment within the State or outside the State. They have also lost the opportunity to appear in the subsequent examination held in the year 2007. Their ouster from service after their employment on the basis of a properly conducted competitive examination not itself affected

by any malpractice or other extraneous consideration or misrepresentation will cause hardship to them and ruin their careers and lives. The experience gained by these appellants over the years would also, according to Mr Rao, go waste as the State will not have the advantage of using valuable human resources which was found useful in the service of the people of the State of Bihar for a long time. Mr Rao, therefore, prayed for a suitable direction that while re-evaluation can determined the inter se position of the writ petitioners and the appellants in these appeals, the result of such re-evaluation may not lead to their ouster from service, if they fell below the cut-off line.

21. There is considerable merit in the submission of Mr Rao. It goes without saying that the appellants were innocent parties who have not, in any manner, contributed to the preparation of the erroneous key or the distorted result. There is no mention of any fraud or malpractice against the appellants who have served the State for nearly seven years now. In the circumstances, while inter se merit position may be relevant for the appellants, the ouster of the latter need not be an inevitable and inexorable consequence of such a re-evaluation. The re-evaluation process may additionally benefit those who have lost the hope of an appointment on the basis of a wrong key applied for evaluating the answer script. Such of those candidates as may be ultimately found to be entitled to issue of appointment letters on the basis of their merit shall benefit by such re-evaluation and shall pick up their appointments on that basis according to their inter se position on the merit list."

78. In *Vikas Pratap Singh & Others v. State of Chhattisgarh & Others* {(2013) 14 SCC 494} erroneous and incorrect answer key was used and some candidates were selected. This was not done with a bad intention but it was a pure and simple mistake. The relevant observations of the Apex Court are as follows:

“22. The pristine maxim of *fraus et jus nunquam cohabit* (fraud and justice never dwell together) has never lost its temper over the centuries and it continues to dwell in spirit and body of service law jurisprudences. It is settled law that no legal right in respect of appointment to a said post vests in a candidate who has obtained the employment by fraud, mischief, misrepresentation or mala fide. (See *Vizianagaram Social Welfare Residential School Society v. M. Tripura Sundari Devi*⁵, *S.P.Chengalvaraya Naidu v. Jagannath*⁶ and *Union of India v. M. Bhaskaran*⁷.) It is also settled law that a person appointed erroneously on a post must not reap the benefits of a wrongful appointment jeopardising the interest of the meritorious and worthy candidates. However, in cases where wrongful or irregular appointment is made without any mistake on the part of the appointee and upon discovery of such error or irregularity the appointee is terminated, this Court has taken a sympathetic view in the light of various factors including bona fide of the candidate in such appointment and length of service of the candidate after such appointment. (See *Vinodan T. v. University of Calicut*⁸; *State of U.P. v. Neeraj Awasthi*⁹).

23. In *Girijesh Shrivastava v. State of M.P.*¹⁰, the High Court had invalidated the rule prescribing selection procedure which awarded grace marks of 25 per cent and age relaxation to the candidates with three years'

long non-formal teaching experiences as a consequence of which several candidates appointed as teachers at the formal education institutions under the said rule stood ousted. This Court while concurring with the observations made by the High Court kept in view that upon rectification of irregularities in appointment after a considerable length of time an order for cancellation of appointment would severely affect economic security of a number of candidates and observed as follows: (SCC p. 714, para 31)

31. ...Most of them were earlier teaching in non-formal education centres, from where they had resigned to apply in response to the advertisement. They had left their previous employment in view of the fact that for their three-year long teaching experiences, the interview process in the present selection was awarding them grace marks of 25%. It had also given them a relaxation of 8 years with respect to their age. Now, if they lose their jobs as a result of the High Court's order, they would be effectively unemployed as they cannot even revert to their earlier jobs in the non-formal education centres, which have been abolished since then. This would severely affect the economic security of many families. Most of them are between the age group of 35-45 years, and the prospects for them of finding another job are rather dim. Some of them were in fact awaiting their salary rise at the time of quashing of their appointment by the High Court.”

Therefore, mindful of the aforesaid circumstances this Court directed non-ouster of the candidates appointed under the invalidated rule.

27. Admittedly, in the instant case the error committed by the respondent Board in the matter of evaluation of the answer script could not be attributed to the appellants as they have neither been found to have committed any fraud or misrepresentation in being appointed qua the first merit list nor has the preparation of the erroneous model answer key or the specious result contributed to them. Had the contrary been the case, it would have justified their ouster upon re-evaluation and deprived them of any sympathy from this Court irrespective of their length of service.

28. In our considered view, the appellants have successfully undergone training and are efficiently serving the respondent State for more than three years and undoubtedly their termination would not only impinge upon the economic security of the appellants and their dependents but also adversely affect their careers. This would be highly unjust and grossly unfair to the appellants who are innocent appointees of an erroneous evaluation of the answer script. However, their continuation in service should neither give any unfair advantage to the appellants nor cause undue prejudice to the candidates selected qua the revised merit list.”

In this case, the Apex Court held that fraud and justice can never dwell together. The Apex Court also held that no legal right in respect of appointment to a said post vests in a candidate who has obtained the employment by fraud, mischief, misrepresentation or *mala fide*. The Apex Court also held that it was settled law that a person appointed erroneously

on a post must not reap the benefits of wrongful appointment jeopardising the interest of the meritorious and worthy candidate.

79. The judgment delivered by the Apex Court in *Joginder Pal and Others v. State of Punjab & Others* {(2014) 6 SCC 644} is very important and it would be relevant to refer the following observations:

“10.3 A distinction exists between a proven case of mass cheating for a board examination and an unproven imputed charge of corruption where the appointment of a civil servant is involved. Only in the event it is found to be impossible or highly improbable that the tainted cases can be separated from the non-tainted cases could en masse orders of termination be issued. Both the State Government as also the High Court in that view of the matter should have made all endeavours to segregate the tainted from the non-tainted candidates.

10.4 Cases which may arise where the selection process is perceived to be tainted may be categorised in the following manner;

- (i) Cases where the “event” has been investigated.
- (ii) Cases where CBI inquiry took place and was completed or a preliminary investigation was concluded.
- (iii) Cases where the selection was made but appointment was not made.
- (iv) Cases where the candidates were also ineligible and the appointments were found to be contrary to law or rules.

If the services of appointees who had put in a few years service were terminated, compliance with three principles at the hands of the State was imperative viz. (1) to establish satisfaction in regard to the sufficiency of the materials collected so as to enable the State to arrive at its satisfaction that the selection process was tainted; (2) to determine the question that the illegalities committed went to the rot of the matter, which vitiated the entire selection process. Such satisfaction as also the sufficiency of materials were required to be gathered by reason of a thorough investigation in a fair and transparent manner; (3) whether the sufficient material present enabled the State to arrive at a satisfaction that the officers in majority had been found to be part of the fraudulent purpose or the system itself was corrupt.

10.5 Once the necessary factual findings as enumerated above are arrived at, or it is found impossible or highly improbable to separate tainted from untainted cases, all appointments traceable to the officers concerned could be cancelled. But admittedly, in the present case, although there had been serious amputations against Ravinderpal Singh Sidhu being at the helm of the affairs of the State Public Service Commissions, all decisions made by the Commission during his tenure are yet to be set aside.”

80. As far as the present case is concerned, the facts clearly depict corruption and large scale manipulation at all levels. This Court has no doubt that there was a conspiracy to appoint certain candidates who were not within the field of choice and were less meritorious or were not even eligible to be called for interview. With this criminal intent in mind, certain candidates who were unfit were selected. This is obvious from the fact that not only scaling was improper but marks and forms have been

interpolated. The candidates with lower marks have been offered appointment. The candidates who belonged to the general category were appointed against the reserved category post and certain candidates in the reserved categories were granted appointment though they had not produced any permanent caste certificate but some who were in the same boat and were more meritorious were denied appointment. The present case is not a case of mistakes but as is apparent from the report of the Anti Corruption Bureau, is a case of criminal conspiracy.

81. On behalf of some of the Respondents, it was urged that the amendment in the writ petition with regard to scaling was brought out in the year 2014. That may be true but the fact remains that from the very beginning, the claim of the Petitioners was also that scaling is improper. The Commission itself had moved an application in the year 2007 seeking permission of the Court to correct its own mistakes even with regard to scaling. Therefore, in my view, the Respondents cannot derive any benefit from the same.

82. In *Secretary, State of Karnataka & Others v. Umadevi (3) & Others* {(2006) 4 SCC 1} the Apex Court held that those who had been appointed irregularly and whose appointment affects the rights of others had no right to be claimed equity that they should be regularised without following the rules. The case of the Petitioners stand on better footing because in the present case it is more than amply proved that the selection process was tainted with gross irregularities, criminal acts of forgery, wrong information being given to the higher authorities and a constitutional body like Public Service Commission not being ready to rectify its mistakes even after those mistakes were pointed out to it and the Commission admitted and knew that those mistakes have been committed. The manner in which the Commission has behaved itself

leads to the conclusion that highest official of the Commission were not only aware of the mistakes of scaling but were aware of other irregularities and condoned the errors in scaling with ulterior and extraneous motive.

83. The following judgments relied upon by the Respondents are not at all relevant to this case, namely – *Managing Committee, Sayed S. High School v. State of Orissa & Others* {(1995) Supp. 4 SCC 546}, *Rungta Engineering College, Bhilai & Another v. Chhattisgarh Swami Vivekanand Technical University & Another* {(2015) 11 SCC 291}, *Richa Mishra v. State of Chhattisgarh & Others* {(2016) 4 SCC 179 : AIR (2016) SC 753}; *Rajesh Kumar Daria v. Rajasthan Public Service Commission & Others* {(2007) 8 SCC 785}; *Calcutta Gas Company (Proprietary) Ltd. v. State of West Bengal & Others* {AIR 1962 1044 (V 49 C 141)}; *Pranshu Indurkha v. State of M.P. & Others* (AIR 2005 MP 152); *Vinod Kumar v. State of U.P. & Others* {(2001) 4 SCC 734}.

84. Though not strictly *germane* to the case, it would be pertinent to mention that Shri Ashok Darbari, who was Chairman of the Public Service Commission was subjected to proceedings under Clause (1) of Article 317 of the Constitution of India. In that case, it was the stand of the State that ever-since Shri Ashok Darbari had been working in the Commission, there were complaints in respect of working ability and impartiality of the Chairman of the Commission. Though specific charges against Shri Ashok Darbari were not proved, it is apparent that working of the Commission where he was Chairman was not proper. The judgment rendered in the matter of Shri Ashok Darbari, Chairman, Chhattisgarh Public Service Commission is reported in AIR 2009 SC 3028.

85. In view of the aforesaid discussion, it is apparent that this Court has to balance the claims and rights of the Petitioners against the equity

claimed by the private Respondents. In my view, the main guidelines in the aforesaid judgments is that a pragmatic approach has to be taken. I am of the considered view that though there are serious irregularities, the entire examination process cannot be set aside. I am also not in agreement with the Petitioners that the original papers of all the candidates be also got revalued. That cannot be done. This Court is also unable to grant a general relief because other than the Petitioners no other persons are before this Court. Only one person, namely, Santosh Kumar Kunjan had filed a petition and his petition has been dismissed and the said order had also been affirmed by a Division Bench of this Court. This Court cannot reopen the order passed against him. Therefore, it is not possible to grant relief to others. As such, this Court is unable to accede to the request of the Petitioners that papers of all the candidates be checked afresh.

86. At the same time, this Court is of the considered view that it cannot overlook the crass corruption, dishonesty and *mala fides* which are apparent from the facts of this case.

87. In light of the aforesaid observations, I am clearly of the view that this is a fit case where relief must be granted to the Petitioners.

88. Corruption is a disease which is threatening the very existence of the country. Corruption is a malaise which affects each and every citizen of this country. This case reeks of corruption and it would not be proper to condone corruption. When a person feels unwell, administering him a placebo sometimes works. When more symptoms of illness erupt, a palliative dose is needed. If things do not improve, analgesics are administered. If these also do not help, then antibiotics are administered. But if the wound keep festering and threatening the existence of entire body, then amputation is also resorted to. This is a case where

amputation may have to be resorted to in respect of those candidates who were not even entitled to be called for interview and have been called for the same. These candidates are holding their posts not because they were meritorious and selected on merits, but they are holding their posts because somebody in the Public Service Commission was guilty of nepotism, favouritism and corruption in helping such candidates. These candidates, who have not been selected on merit, but due to an unholy nexus which has unfortunately been tried to be covered up by the Commission itself, cannot be given any benefit. It is not at all difficult to find out who are tainted candidates and who are not. This can easily be done only after re-scaling the marks in the optional subjects and ensuring that the mistakes which are known to the Commission are corrected and rectified. Therefore, the writ petitions are disposed of with the following directions:

- (i) The State shall take immediate steps to remove Shri Rajeev Singh Chauhan from service since he was a general category candidate and was illegally appointed against Scheduled Caste category. This be done within two weeks.
- (ii) Petitioner-Ku. Varsha Dongre has not asked for re-assessment of her answer paper. The main answer paper of Petitioners in Writ Petition No. 3028 of 2006 only shall be re-totalled. It is clarified that there shall be no re-evaluation, but re-totalling shall be done to ensure that the marks have been correctly added.
- (iii) The Commission is also directed to issue one instruction with regard to checking of the papers of Anthropology and shall ensure that one yardstick is applied. The papers need not be re-evaluated again, but the marks can be proportionately

increased or decreased. In case, the Commission decides that only four questions are to be evaluated, then answers in the best four questions of all the candidates shall only be taken into consideration. In case, previously some questions have been evaluated out of 60 and 40 marks have been awarded, and now question shall be taken to be of 75 marks then 50 marks can be awarded. Similarly, if question No. 8 is excluded, it shall be excluded for all the candidates. In a nutshell, the Commission shall ensure that only one yardstick is applied in the papers of Anthropology.

- (iv) That the scaling of answer papers in the optional subject of all the persons, who had appeared in the main examination including those who are not before this Court, shall be done afresh on the basis of formula as approved by the Public Service Commission. This scaling is only mathematical in nature and can be done by any reputed organisation. The Public Service Commission may itself get this scaling done all over again. The process of fresh scaling be completed by 31st October, 2016. Thereafter, the merit on the basis of written test shall be drawn up and if it is found as alleged by the Anti Corruption Bureau that 52 candidates, who were not eligible to be called for interview, have been called for interview, then those 52 candidates or any number of candidates may be less or more than 52, who were not even entitled to be qualified for interview cannot be retained in service and their services shall be terminated within one month thereafter.

- (v) Since these persons were not eligible to be called for interview, they cannot claim that their appointment is merely irregular and they should continue as such. The only equitable relief which can be granted to these persons, who have been illegally appointed, is that the State shall not recover the pay and perks which these persons have illegally enjoyed for almost ten years.
- (vi) Thereafter, in case any of the three Petitioners are entitled to be placed in any particular service, they shall be placed in the said service and they shall be given all the benefits of being placed in service including seniority, promotion, monetary benefits etc.
- (vii) It is clarified that since nobody has challenged the marks in the interview, after re-scaling is done no fresh interviews shall be conducted. Only the marks already awarded for viva voce shall be added to the marks given after re-scaling and fresh final seniority list will be drawn up after excluding the persons who were not entitled to be called for interview.
- (viii) The Petitioners have fought a long drawn out battle. It is only because of the persistence and tenacity of the Petitioners, especially Ku. Varsha Dongre that these irregularities, acts of corruption, nepotism, favouritism etc. have been brought out. Therefore, Chhattisgarh Public Service Commission is burdened with costs of Rs.5,00,000/- in the writ petition of Petitioner Ku. Varsha Dongre, which shall be paid to her and Rs. 2,00,000/- in the other writ petition where both the Writ Petitioners will get Rs.1,00,000/- each. Exemplary costs have been awarded because of the totally false stand taken by the

Chhattisgarh Public Service Commission earlier and its obstinacy in not correcting the mistakes for which permission was granted to it on its own application by this Court vide order dated 26.10.2007. The costs be paid on or before 31st October, 2016.

- 89.** The writ petitions are disposed of with the aforesaid directions.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE