

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17302 of 2018

1. Ramesh Kumar S/o Indrasan Ram Vill - Ramanagari, P.O. - P.S. - Mainatand, Dist - West Champaran, Pin - 845306, Roll No. - 3110340288.
2. Vidya Bhushan Singh S/o Osiar Singh Vill - Mushahari, Post - Arvind Nagar, P.S. Dariyapur, Dist. - Saran, Pin Code - 841221, Roll No. 3110150251.
3. Abhinay Keshri S/o Om Prakash Keshri Vill - Matihar, P.O. + P.S. - Katihar, Dist. - Katihar, Pin No. 834105, Roll No. 3110290256.
4. Saurabh Kumar S/o Pawan Kumar Singh H/no. 33, Indira Nagar, Rajapur Pul, P.S.Patliputra, Patna Bihar, Roll No. 731101205213.
5. Rahul Kumar S/o Keshav Singh Vill - Chauthar Chak, P.O. Anandpur, P.S. - Karpi, Dist. - Arwal - 804419, Bihar, Roll No. - 3110290133.
6. Suraj Kumar Gupta S/o Shrawan Kumar Moh - Chitrakut Nagar, Bas P.S. - Danapur, P.O. - Digha, District - Patna (Bihar) - 800012, Roll No. - 3110320596.
7. Bir Prakash S/o Shyam Babu Yadav Vill - Narpur Patna City, P.O. - Madhavmilling, P.S. - Malsalami, Dist. - Patna, State - Bihar, Roll No. 3110280517.
8. Bhawana Bharti D/o Dev Narayan Prasad Add.- Punjabi Colony Gali No. 1, Ward No. 1 Dharampur Samastipur, P.O. Samastipur, P.S. Samastipur, Dist. - Samastipur, State - Bihar, Roll No. 3110280206.
9. Akshay Kumar S/o Saroj Kumar Vill - Mohiuddinpur, P.O. Bishunpura, P.S. - M.U. Bodhgaya, Dist. - Gaya, State - Bihar, Roll No. - 3110310177.
10. Susmit Kumar S/o Sudhishachandra Roy Address - Cheriya Town Vill - Cheriya, Anchal - Bhagwanpur, P.S. - Bhagwanpur, Distt. - Begusarai, Pin - 851133, Roll No. - 3110190459.
11. Muskan Kumar S/o Ravindra Singh Vill Sahur, District Lakhisarai, P.S. Surajdha, Pin - 811310, Roll No. 3110060859.
12. Chandan Kumar S/o Rajkumar Singh Village + P.O- Dheodha, P.S.Pakribawan, Dist. - Nawada, Pin - 805132, Mob - 7563907763, Roll No. 3110400329.
13. Prince Kumar S/o Jhulan Prasad Vill - Neemchak, P.O. + P.S. Belaganj, Dist. Gaya (Bihar) Pin Code 804403, Roll No. 3110361126.
14. Supriya Rani D/o Jawahar Mishra Rampur, Bhagalpur, P.S. Nathnagar, 812006, Roll No. 3110310011, Bhagalpur.
15. Fula Kumari D/o Munna Prasad Beldarichak Kensri P.S. Gaurichak Patna, Roll No. 3110100167.



16. Manish Prakash S/o Ishwar Dayal Singh Add - Sri Krishna Nagar, Airtel Tower Gali, P.S. Town P.S. Motihari, East Champaran, (Bihar), Roll No. 3110200424.
17. Lalbabu Kumar S/o Jaykishor Sahani Add - Vi Shital Pur, P.O. Mali, P.S. Sugauli, Dist - East Champaran, Bihar (845456) Roll No. 3110170494.
18. Sumant Kumar S/o Prakash Prasad Vill - Padmaal, P.O. Baryawn, P.S. Sirdala, Dist - Nawada (805122) Roll No. - 3110420495.
19. Niraj Kumar S/o Rajendra Prasad Yadav Vill - Janni, P.O. + P.S. Bihar, Dist. - Banka, Pin - 813202, Roll No. - 3110420495.
20. Satyavan Kumar S/o Dharmdev Choudhary Vill + P.O. + P.S. - Nagarmausf, Dist - Nalanda, Pin Code 801305, Roll No. 3110180234.
21. Abhijit S/o Lalbabu Prasad Vidyarthi Add. - Om Sai Medical Front of Govt. Hospital Rampurwa, P.O. + P.S. - Mainatand, Dist. - West Champaran (Bihar) PIN - 845306, Roll No. - 31102240935, Mob No. - 913480783.
22. Idrish Ahmad S/o Mustakeem Miyan Add. - At - Rampurwa, P.O. + P.S. - Mainatar, Dist. - West Champaran (Bihar) Pin - 845306, Mob No. - 947331784, Roll No. - 3110280114.
23. Jyoti Shankar Prasad S/o Premchandra Prasad Add - 62 Tola Chapariya, Rampurwa, P.S. - Mainatand, Dist - West Champaran (Bihar) Pin - 845306 Roll No. - 3110150154, Mob No. - 7340529399.
24. Tarkeshwar Prasad S/o Lakshmi Narayan Vidyarthi Add. - 140, Tola, Chapariya, Rampurwa, P.O. + P.S. - Mainatand, Distt. - West Champaran (Bihar), PIN - 845306, Roll No. 3110100183, Mob No. - 8789552386.
25. Amit Kumar Ram S/o Munnial Prasad Vill - Chanpur Mishrauli, Post - Shanpur, P.S. - Nautand, Distt. - Siwan, Pin Code - 841243 Roll No. 3110140785.
26. Shashikant Kumar S/o Birendra Kumar Vill - Agandha Tali, P.O. Kachanama, P.S. Belaganj, Dist - Gaya, Pin 804403, Roll No. 3110100076.
27. Bijay Kumar Singh S/o Dineshwar Singh Vill + P.O. - Basantpur, P.S. - Muffasil, Ara, District - Bhojpur, Ara, Pin Code - 802156, Roll No. 3110351265.
28. Gautam Kumar S/o Lakhikant Singh Address - Masarhi, Near Dargah Masarhi, P.S. Guarichak, Dist - Patna, Pin - 803201, Roll No. - 311090282, Mobile No. - 7004382117.



29. Upendra Kumar Sharma Father's Name - Lalbabu Sharma Vill - Fardahiya, P.O. - Dumarsan Bangra, P.S. - Mashrak, Dist. - Saran, State - Bihar, Roll No. 3110361445, Mob - 9507209078.
30. Md. Shams Alam S/o Md. Abul Kalam P.S. - Banjariya, Motihari, Vill - Ajgarwa, P.O. Khairi, Dist - East Champaran (Motihari), Pin - 845401, Roll No. 3110180282, Mob - 7739764792.
31. Vinay Kumar S/o Ganesh Pawan Add.- Vill Nainchalk, P.O. + P.S. - Khagaul, Dist - Patna (Bihar), Roll No. 311039539.
32. Rajeev Kumar Paswan S/o Kuldeep Paswan Roll - 3110440034 Vill - Jagatpur, P.O. + P.S. - Banka, Dist. - Banka, Bihar, Pin - 813102.
33. Rajeev Kumar S/o Ramchandra Singh 58, Rajwara, Bhalar, P.S. Dharhara, Munger, Bihar, Roll - 3110240397.
34. Abhishek Kumar S/o Arvind Kumar Vill + P.O. - Murouwtipur, P.S. Deshri, Pin - 844506, Roll No. - 3110400550.
35. Sumit Kumar Ashish S/o Krishna Kant Mishra Vill + P.O. - Rohibi, P.S. - Jaisidih, Deoghar, Jharkhand, Pin - 814152, Roll - 3110010711.
36. Chandra Shekhar Choudhary S/o Shyam Chaudhary Vill - Chilkawar, P.O. - Manjaomi, P.S. Rajoun, Dist - Banka, Pin - 813109, Roll No.- 3110340170.
37. Manish Kumar S/o Ram Bhasan Singh House No. 2, Pakadi Punpun, P.O. + P.S. - Punpun, Dist. - Patna 804453, Roll No. 3110370892.
38. Babita Kumari D/o Mohan Prasad Mo. - New Aikapuri, P.S. Gardanibagh P.O. Anishabad, Dist - Patna, Pin - 800002, Roll No. - 3110420613.
39. Chhote Lal Giri S/o Shankar Giri Village - Meghjar, P.O. - Ladhiri Sarvari P.S. Jamo Bazar, Dist. - Siwan, Pin - 842434, Roll No. 3110080653.
40. Basuki Kumar S/o Nawal Kishor Yadav Vill + P.O. Khutaha, P.S. - Lodipur, Dist - Bhagalpur, Pin - 8120005, Roll No. 311360330.
41. Vikash Kumar S/o Shankar Yadav Roll No. 3110400400, At - Fatehpur, Post - Mali P.S. Sonbarsa, Dist - Sanarsa Pin - 852129 (Bihar).
42. Sanjeev Kumar S/o Dinesh Prasad Roll No. 3110220282, Add - Vill - Baisa, P.O. - Jat Dumari, P.S. Punpun, Dist. - Patna, Pin - 804453.
43. Ravi Raj Father's name - Lal Babu Batiha Add - Vill + Post - Sankhi, P.S. Riga, Dist - Sitamarhi, Pin - 843302.



44. Ravi Kumar S/o Nand Kishor Chaudhary Vill - Bundeltoli Nawabganj P.O. Madhaumill, P.S. Malsalami, Dist - Patna, State - Bihar, Pin - 800008, Mob No. - 9504434861.
45. Chandan Kumar Das S/o Ram Chandra Das At - Sikandarpur, Post - Lalapur (Bhader), P.S. - Kahalgawn, Dist - Bhagalpur, Bihar - 813203, Roll No. - 3110170156.
46. Munna Kumar S/o Shambhu Sharan Yadav Vill + P.O. Amari, P.S. Khaira, Post - Jamui, Pin - 811317 (Bihar) Vat No. 7542941944, Roll No. 3110410376.
47. Rita Kumari C/o Mahan Singh Vill + P.O. - Pawa Dist Nalanda (Bihar) Mob - 9708115894, Roll No. 3110351009.
48. Prajesh Kumar S/o Balkishor Prasad Singh At - Jagatpur, Post - Jagatpur, P.S. - Panjwara, Dist - Banka, State - Bihar, Pin Code - 8131303 Mob - 8877222692, Roll No. 3110361000.
49. Chandan Kumar S/o Jagdish Prasad Yadav Vill - Durga Nagar, P.S. - Giri Yak, P.O. - Raitar, Dist - Nalanda, State - Bihar, Pin - 803109, Roll No (MFIJS) - 3110010631.
50. Sandeep Kumar S/o Rajendra Kumar Vill - Dariya Saray Post - Raitar, P.S. Sialo, Dist - Nalanda, State - Bihar, Pin Code - 803109, Mobile No. - 8539846155, Bihar, Rol No. 3110240707.
51. Ajit Kumar Singh S/o Sudarshan Prasad Singh Roll No. 3110361191, Address Present - Piperpanti Sthan, Kali Sthan Lane, District Bhagalpur, Bihar, P.S. Nathnagar, 812006.
52. Krishna Kumar Yadav S/o Gopal Yadav Vill + P.O. - Banahi, Police Station - Shahpur, District - Bhojpur, State - Bihar, Pin Code - 802183, Roll No. 9110030395.
53. Kundan Kumar S/o Shyam Dev Rai Vill - Dostiya, P.S. Lakhouri, P.O. Barwa, Dist - East Champaran, Pin No. 845302, Roll No. 3110220393.
54. Animesh Kumar Mishra S/o Niranjan Mishra Vill - Amwa, P.O. - Rajhara, P.S. - Bishrampur, Dist. - Palamu, Jharkhand, Pin - 822124, Roll - 311039281.
55. Md. Saddam Hussain S/o Md. Yahiya Vill - Kurthdih, P.O. + P.S. - Kurtha, Dist - Arwal, Pin - 804421, Roll No. 3110430196.
56. Navin Kumar Saini S/o Shankar Shaw Vill + P.O. - Piri Bazar, Dist - Lakhisarai - 811112, Roll No. - 3110340299.
57. Vikash Kumar S/o Mukhdeo Yadav Vill - Potahi, P.O. - Basunar, P.S. - Punpun, Dist. - Patna (Bihar), Pin - 804453, Roll No. - 3110060284.
58. Mayank Kumar S/o Uday Shankar Mishra Vill - Basudeopur, P.O. - Korta, P.S. - Muffasil, Dist. - Begusarai, Pin - 851127, Roll No. - 3110140746.



59. Amarendra Kumar Singh S/o Dewnath Singh Vill + P.O. - Sonauli, Dist - Chapra, P.S. Mashrakh, Pin No. 841421, State - Bihar, Phone No. 7808570183, Roll No. 3110400427.
60. Rakesh Kumar S/o Vaishast Prasad Gupta Add + P.O. Maharaj Ganj, P.S. Tilouthu, Dist - Rohtas, State - Bihar, Pin - 821312, Mob - 9162027315, Roll Number - 3110050231.
61. Rishabh Kumar S/o Hiralal Paswan Vill Hario, P.O. Balwant, P.S. Simri Bakhtiyarpur, Dist. - Saharsa, Pin Code - 852106, Mob - 9570573659, Roll No. - 3110350408, Aadhar No. 57282890612.
62. Tirth Raj S/o Bhim Mehta Address - House No. 8, Mehta Lane, Ward No. 8, Rajganj, P.S. Bihariganj, District Madhepura, Bihar - 852101, Mob - 8081105945.
63. Varunesh Vaibhav Mishra S/o Veerenda Prasad Mishra Address - House No. 107, Ramwagpur, Shravasti, Uttar Pradesh, Shikari Chawra - 271803.
64. Praveen Kumar S/o Shivanandan Chaurasia Address - Madharpur, Madarpur, P.S. Maheshkhunt, Khagaria, Bihar - 881213.
65. Sangam Kumar S/o - Krishna Prasad Add + P.O. Maharaj Ganj, P.S. Tilouthu, Dist - Rohtas, State - Bihar, Mob - 9122414483, Roll Number - 3110360319.
66. Rakesh Kumar S/o Muni Lal Mandal Vill - Letabaran, Post - Fulli Dumar, P.S. - Fullidumar, Dist - Banka, Pin No. 813207, Roll No. 3110061135.
67. Arun Kumar S/o Shyama Prasad Vill + P.O. - Lai, P.S. - Bihta, Dist - Patna (BihaR) Pin - 801112, Roll - 3110351440.
68. Kumar Virendra son of Satyendra Kumar Yadav Neal Ideal Coaching Centre Ward No. 23, Bapu Nagar, Baluahi, P.S. - Khagaria, Distt. - Khagaria, Pin - 851204, Roll No. 3110050340.
69. Uma Bharti S/o Narendra Sharma At + P.O. + P.S. - Naugar, Jehanabad (Bihar) Pin - 804425, Roll No. 3110200124.
70. Purshottam Kumar S/o Basant Kumar At - Bhitthi, Post-Jogdish, P.S. + Dist-Banka, Pin-813102, Roll No. 3110420515.
71. Shankar Choudhary S/o Ramdev Choudhary Vill - Baliya Bigha, P.O. - Barawdi, P.S. - Rahui, Distt - Nalanda (Bihar) Roll No. 3110320235.
72. Ritesh Kumar S/o Ambika Paswan Address - Vill + P.O. - Ilara, P.S. - Cerki, Dist - Gaya (Bihar, Pin - 824237, Roll No. - 3110130107, Mobile No. - 9304798447.
73. Anupam D/o Anik Kr. Sharma Address - Ramdash Path B - Area Mithapur Patna - 1, Mob No. 9534515081, Roll No. 3110360460.



74. Sonu Kumar S/o Sadh Sharan Prasad Vill - Barhauna, P.O. - Konandpur, P.S. - Pakriwaramn, Dist - Nawada (Bihar) Pin - 805124, Roll No. 3110100015.
75. Vikash Kumar S/o Dev Nandan Tiwari Mateshwari Bhawan Behind of Ara Machine, Vill - Tarbangla, P.O. & P.S. Dehri-On-Sone, Dist - Rohtas, State - Bihar, Pin - 821307, Roll No. 3110280106.
76. Kumari Vijaya Lakshmi Satya Narayan Prasad Add - Ravi Shankar Pd. Ravi (Manager Tech) 174 - Kotilya Nagal, P.S. - Behenary College, Near Idgah, Pin - 800014, Roll No. 3110140444.
77. Surya Kamal Nirala Roll No. 31104000395 Shyam Bihari Singh Address - House/Plot No. 3797, Ward No. 10, Vill - Sansa, P.O. - Sansa, P.S. Daudnagar, Distt - Aurangabad, State - Bihar, Pin Code - 824143, Aadhar No. 508728903778.
78. Ratnesh Kumar S/o Chandraketu Rai Vill - Chak Sho, Post + P.S. Mahnar, Dist - Vaishali, Pin - 844506, Roll No. 3110351318.
79. Nisha Kumari Daughter of Uma Kant Singh Resident of Kotwali Campus, P.S. - Kotwali, District - Patna.
80. Md. Asgar Imam son of Md. Ijharul Haque Pin - 841506, Roll No. 3110330529, Address - Bharatpur Siwan Mohalla - Bharatpur, P.S. - Gautambudh Nagar, (Tarwara), District - Birpur (U.P.), Pin No. 9162461302.
81. Ravi Shankar Prasad S/o Devendra Prasad Nalanda Colony Kankarbagh, Patna - 800020, Mob - 9386897727.
82. Abhay Arya S/o Brhamchari Bharat Singh Village - Mokimpur, Post - Suitha, P/s - Parsa Bazar, Dist - Patna.
83. Reetikesh Kumar S/o Bijendra Choudhari Roll No. 3110010698, Vill - Jamuhara, P.O. Chechadhi, P.S. Obra, Dist. - Aurangabad, Pin - 824124, Pin - 824124.
84. Chandrawati Kumari D/o Nagendra Prasad Roll No. 3110410259, Vill - Meerchak, P.O. - Moshma, P.S. Warsaliganj, Dist. - Nawada.
85. Gautam Kumar S/o Aditya Kumar Roll No. 3110050087, At + P.O. - Maniappa, P.S. - Matihahi, Dist - Begusarai, Pin No. 851129.
86. Santosh Pandey S/o Satyavrat Pandey Roll No. 3110060830, Add - Lakhibag Gaya, P.O. Buniyadganj, P.S. - Muffasil, P.S. Gaya, Pin Code - 823003.
87. Ram Krishan Kumar S/o Birendra Kumar Singh Vill + P.O. Kandap, P.S. - Gaurichak, Patna - 80445, Roll No. 3110370207.



88. Mithilesh Kumar Gupta S/o Buddhi Ram Sah Roll No - 3110170008, Add - Sarangpur, P.S. - Kochas, Pin - 821112, Dist. - Rohtas, Bihar.
89. Deepa Sharma D/o Manju Sharma Roll No. 3110360637, Add - C/o - Manju Sharma Moh - Suipuri Near Raj Medical Hall, P.S. + Distt. - Buxar - 802101.
90. Anand Raj Ram Ayodhya Pd. Gupta Add - Sonpur Minabazar Chowk, P.O. + Thana - Sonpur, Dist. - Saran, Pin - 841101, Roll No. 3110340520.
91. Stalin Kumar S/o Ashok Kumar Vimal Address - Vill + P.O. - Pusaho, P.S. Bitha, Dist - Samastipur, Roll No. 3110060897.
92. Vikrant Kumar Upadhyay S/o - Vinod Upadhyay House No. 1, Near Devi Sthan, Vill - Muudihan, P.O. Brawan Pala, P.S. - Darihat, Rohtas, Bihar, Pin - 821306, Roll No. 3110260255.
93. Dhananjay Kumar S/o Ramakant Ray Roll No. 3110410176, Add. - W - 01, Pravezabad, Bihar, P.S. Sonpur, Dist - Saran, Pin 841101
94. Ashutosh Kumar S/o Ram Sudhma Choudhary Vill - Telahara, Post - Telhara, P.O.- Telhara, P.S. - Telhara, Dist. - Nalanda (Bihar) Pin - 80136, Roll No. 3110370173, Mob No. 7992346147.
95. Vinay Kumar S/o Kedar Mahto Vill - Jananpur, Post - Bachhwara, P.O. + P.S. Bachhwara, Dist - Begusarai, Pin - 851111, Roll No. 3110190450, Mob No. 957071652.
96. Jainendra Kumar S/o Radheshyam Mehta Vill - Rajnjara, P.O. - Rajeshwari, P.S. Chhatapur, Dist. - Supaul, Pin - 852214, Roll No. 3110030158.
97. Shashi Ranjan S/o Gyan Dutta Sharma Vill. - Shastri Colony Jamui, Post - Jamui, Dist. - Jamui, Pin - 811307, Roll No. 3110330341.
98. Kunal Kumar Sharma S/o Shakti Lal Sharma Vill. - Shastri Colony Jamui, Post - Jamui, Dist. - Jamui, Pin - 811307, Roll No. 3110330341.
99. Suman Kumar S/o Ramnandan Singh Vill.- Hirdanbigha, Post - Barahiya, P.S. - Barahiya, Dist. - Lakhisarai, Pin - 811302, Roll No. 3110120339.
100. Amit Kumar S/o Sagar Malakar At - P.H.E.D. Colony, Rajgir, P.O. + P.S. Rajgir, Dist. - Nalanda (Bihar), Pin - 803116, Roll No. 3110040025.
101. Ravi Kumar S/o Rama Shankar Raman at Ghoghi, P.O. + P.S.- Piribazar, Dist.- Lakhisarai (Bihar, Pin - 811112, Roll No. - 3110390151.



102. Madhulika S/o Dharmendra Kumar Sinha Road No. - 8, House No. - 24, Patel Nagar, P.S. Shastri Nagar, Dist. - Patna, Roll No. - 3110240193.
103. Vikash Kumar Singh S/o Ravindra Singh Vill + Post - Atims, P.S. - Nasriganj, Dist. - Rohtas (Bihar), Pin - 821310, Roll No. - 3110260242.
104. Dharmraj Kumar Vitragi S/o Singeshwar Paswan Vill - Budhpuraiya, P.O. + P.S. - Paraiya, Dist. - Gaya (Bihar), Pin - 824209, Mobile No. 8294761817, Roll No. 3110361280.
105. Abhishek Kumar S/o Dilip Kumar Vill. + P.O. - Sarbahoa, P.S. Khizersarai, Dist. - Gaya, Pin - 824233, Roll No. 3110370281.
106. Shashi Ranjan Kumar S/o Uday Kumar Vill. - Nagwan, P.O. Nagwan Pathra, P.S. - Imamganj, Dist. - Gaya, Pin - 824210, Roll No. - 3110420919.
107. Amit Kumar S/o Surendra Singh Vill. - Pachrukha, P.O. - Sonauli, P.S. - Mashrak, Dist. - Saran, Pin - 841421, Roll No. - 3110280186.
108. Sakina Khatun S/o Rustam Ansari Vill. + P.O.- Amanon, P.S. - Narhi, Dist. - Balia (U.P.), Pin - 277501, Roll No. 3110030396.
109. Saroj Kumar S/o Rajaram Prasad Vill. - Kotwara, P.O. - Jakhim, P.S. - Raphiganj, Dist. - Aurangabad (Bihar), Pin - 824122, Roll No. - 3110080114.
110. Raghwendra Kumar Rai S/o Rajbahadur Ray At Nataraon, Taraom, P.S. Nasariganj Rohtas (Bihar, Pin - 821310, Roll No. 3110360458.
111. Gulshan Kumar Singh S/o Sanjay Kumar Singh At - Narayanpur, Dehri Sone, P.S. + District - Jamui, Pin - 811307, Roll No. - 311240719.
112. Ranjit Kumar S/o Arjun Ram At Kulharia, P.S. Koilwar, Bhojpur (Bihar) Pin - 802160, Roll No. 3110100518.
113. Hari Shankar Kumar S/o Binodram Vill + P.O. - Lahthan, P.S. - Agiaon Bazar, Dist- Bhojpur, Pin - 802202, Roll No. 3110160452.
114. Gagan Kumar S/o Suresh Prasad R/o Sahu Store, Main Road, Amiyawar P.S. Nasriganj, Rohtas, Bihar, Pin - 821310, Roll No. 3110040306.
115. Chandan Kumar S/o Ganesh Ram Vill - Rampur Launa, P.O. Rampur Launa, P.S. - Bhagwanpur Hat, Dist. Siwan, Pin Code - 8411507 Roll No. 3110170235.



116. Krishna Kumar Father - Sant Sah Vill + P.O. - Lilwanchh, P.S. - Dinara, Dist. - Rohtas, P.Code - 802218, Roll No. 3110290379.
117. Manisha Jha D/o Kapileshwar Jha Vill + P.O. - Manik Chouk, P.S. Runnisaidpur, Dist. - Sitamarhi, Pin - 843323, Roll No. 3110350824.
118. Anshu Kumari D/o Ashok Kumar Singh At + P.O. - Bahwal, P.S. Gorari, Dist - Rohtas (Bihar), Pin - 802214, Roll - 3110010537.
119. Manjesh Kumar S/o Dinesh Prasad At - Basahi, P.O. Churamanchak, P.S. - Bhagwanpur, Dist. - Begusarai, Pin No. 851133, Roll No. 3110060064.
120. Anjesh Kumar S/o Dinesh Prasad At - Basahi, P.O. Churamanchak, P.S. - Bhagwanpur, Dist. - Begusarai, Pin No. 851133, Roll No. 3110160479.
121. Raviraj Soni S/o Rash Bihari Prasad Vill + P.O. - Gorari, P.S. Karakat, Gorari, Dist. - Rohtas, Bihar - 802214, Roll No. 3110040249.
122. Rahul Kumar S/o Deepnarayan Yadav Vill - Brahakurva, P.O. Bhatni Bazar, P.S. - Kumarkhand, Dist. - Madhepura, Pin - 852112, Roll No. 3110351564.
123. Gajendra Kumar S/o Gopal Prasad Bhagat Behind Prachin Devi Mandir Purani Bijli Colony, P.S. + Distt Jehanabad, Bihar, Pin - 804408, Roll - 3110030509..
124. Mintu Kumar Vill - Mataso, P.O. Akamba, P.S. - Fatehpur, Dist. - Gaya, Pin - 824232, Roll No. 3110060382.
125. Raushan Raj S/o Sheo Narayan Singh at Narsani, P.O. - Itwan, P.S. Haspura, Dist. - Aurangabad (Bihar), Pin - 824120, Roll No. 3110090215.
126. Aakash Kumar Pandey S/o Shashikant Pandey At - Pandey Bhawan Near UCO Bank, Mohan Bazar, P.O. Mohan Bazar (Jharkhand), Pin - 828119, Roll No. 3110100611.
127. Sandeep Kumar Rishikesh S/o K.P. Singh Adarsh Bihar Colony H. No. 403, Gola Road P.O. - Danapur Cant., P.S. - Danapur, Dist - Patna (Bihar), Pin - 801503, Roll No. 3110010251.
128. Ranjit Kumar S/o Sanjivan Prasad Rai Vill - Nazarmeera (Sohad Rai Ke Tola), P.O. - Sonpur, P.S. - Sonpur, Dist. - Saran (Bihar), Pin 841101, Roll No. 3110240093.
129. Subodh Kr. Yadav S/o Jagdev Yadav Vill - Israhata, P.O. - Lahta, P.S. - Manigachi, Dist - Darbhanga, Pin - 847423, Roll No. 3110400065.



130. Manikesh Kumar S/o Ramanand Paswan Vill - Saidpur, P.O.Karauta, P.S. Salimpur, Dist. - Patna, State - Bihar, Pin Code - 803202, Roll No. 3110370003.
131. Amit Kumar S/o Birendra Prasad Sah At - Choura Parwaha, Post Majhua, P.S. - Forbesganj, Dist - Araria, Pin 854318, Roll No. 3110140438.
132. Gautam Kumar S/o Chandradeo Prasad Vill + P.O. Dahiya, P.S. - Khire More, Dist - Patna, Pin Code - 801110, Roll No. 3110040230.
133. Sujit Kumar S/o Vijay Paswan Vill - Simaru, P.O. - Gurua, P.S. - Gurua, Dist. - Gaya (Bihar), Pin - 824205, Roll No. 3110280430.
134. Azad Ali S/o Saddik Ali Vill + Post - Ami, P.S. - Dighwara, Dist - Saran (Chapra), Pin - 841207, Roll No. 3110070343.
135. Rahul Kumar Singh S/o Prem Nath Singh Vill - Kalani, P.O. - Thakura, P.S. - Ramgarh, Dist. - Kaimur, Pin Code - 802132, Roll No. 3110380002.
136. Ajay Kumar S/o Rambinay Prasad At + P.O. - Narkatia, P.S. Darpa, District - East Champaran, Pin - 845301, Roll No. 3110190369.
137. Rajni Kant Piyush S/o Anjani Kumar Siwan Vill + P.O. - Kahanpur Mal, P.S. - Bath, Dist. - Bhagalpur, Pin - 813113, Roll No. 3110140855.
138. Rakesh Kumar S/o Ram Kumar Singh Vill - Kobwa, P.O. - Sakarwa, Nawada, Dist. - Gaya, Bihar - 805131, Roll No. 3110340201.
139. Vikash Kumar S/o Vijay Paswan Vill - Dighe Moula Ganj, P.O. - Dighe, P.S. - Konch, Dist. -Gaya (Bihar), Pin Code - 824118, Roll No. 3110320458.
140. Vinay Vimal S/o Deo Narayan Roy At Main Road, P.S. Madhepura, W.N. 20, Dist. - Madhepura, Pin - 852113, Roll No. 3110360631.
141. Amit Verma S/o Ashok Kumar Vill Hilsa, P.O. - Hilsa, P.S. - Hilsa, Dist - Nalanda, Pin - 801302, Roll No. - 311040473.
142. Chhotu Kumar S/o Shiv Prasad Ram Vill - Bharkuriya, P.O. Belwan, P.S. Agrer, Dist - Rohtas, Pin - 802217, Roll No. 3110220114.
143. Urmila Kumari S/o Baleshwar Paswan Vill - Bharkuriya, P.O. Belwan, P.S. Agrer, Dist - Rohtas, Pin - 802217, Roll No. 3110140703.



144. Sunita Kumari D/o Jai Prakash Sharma Vill - Dhobdihan, P.O. Taron, P.S. Nasriganj, Dist - Rohtas, Pin - 821310, Roll - 3110340439.
145. Rahul Kumar S/o Arvind Verma At - Hardash Chak, P.O. - Koshi College, P.S. - Muffasil, Pin - 851205, Dist - Khagaria (Bihar) Roll No. 3110420812.
146. Vijay Kumar Gupta S/o Gupteshwar Gupta Vill - Indrath Kala, P.O. - Kastar, Mahadev, P.S. Bikramganj, Dist - Rohtas (Bihar), Pin Code - 802212, Mob - 9122859489, Roll Number - 3110160387.
147. Rajesh Kumar S/o Bisheshwar Prasad Yadav Vill - Kandopur, P.O. Adampur, P.S. - Giriyak, Dist - Nalanda (Bihar), Pin - 803109, Mob - 8409052193, Roll No. 3110350317.
148. Sanjay Kumar Singh S/o Kanhaiya Singh Nehru Nagar, P.S. - Buxar, P.O.- Buxar, Pin - 802101, Roll No. 311020097.
149. Arun Kumar S/o Yodhi Mistry Vill - Bhellu Bigha, P.O. + P.S. - Kako, Distt - Jehanabad, Pin - 804418, Mobile No. 7004592465, S.I. (Mains) Roll No. 3110180326.
150. Pramod Kumar S/o Rajkumar Paswan At - Manpur Gandhi Nagar, P.O. - Buniyadganj, P.S. - Muffasil, Dist - Gaya (Bihar), Pin - 823003, Mob - 9122136878, Roll No. 3110040432.
151. Avinash Rajranjan S/o Bhagwan Singh At - Khatiba, P.O. + P.S. - Itarhi, Dist. - Buxar, Pin - 802123, Roll No. 3110120500.
152. Vicky Kumar S/o Anui Kumar Sah At - Shankarpuri Sadpura, P.O. Ramna, P.S. - Kazimohammadpur, Dist. - Muzaffarpur, State - Bihar, Pin - 842002, Roll No. 9110220190.
153. Ranjeet Kumar S/o Alakhdeo Singh Vill - Koni, P.O. + P.S. - Tandwa, Dist - Aurangabad (Bihar), Pin - 824302, Roll No. 3110011364.
154. Subhash Kumar S/o Ramshwaarath Yadav Add - 130, Block A - Nehru Vihar, Unthu (824101), Roll No. 3110300445.
155. Vinita Father's Name - Krishna Kumar Address - Near Girls High School, Mohalla - Kashipur, Ward No. 14, P.O. + P.S. Samastipur, Dist - Samastipur, State - Bihar, Roll No. 3110250348.
156. Navin Kumar S/o Ram Kailash Singh R/o Harsingpur, Harsingpur Manik Chauk, Sitamarhi, Bihar - 843323, Roll No. 3110040233.
157. Jitendra Kumar Tiwari son of Amardev Tiwari Resident of village - Chhitouni Dhanwan, P.S. Baniapur, District - Saran.
158. Naulesh Kumar son of Baleshwar Yadav Resident of Village - Tetariya Nadira, P.S. Khizersarai, District - Gaya.



159. Himanshu Kumar son of Daniklal Das Resident of Village - Fatehpur, P.O. Jamalpur Gogri, P.S. Gogri Fatehpur, District - Khagaria.
160. Vikash Kumar Gupta son of Kapil Deo Gupta Resident of Mahajan Toli, Ward No. 14, P.S. Brahampur, District - Buxar.
161. Bantu Kumar son of Rajaram Singh Resident of Village - Chatar Gat, P.O. Chatarghat Badhchatar, Khagaria Mukhiya Dakghar, P.S. Alauli, District - Khagaria.
162. Dharmveer Kumar Choudhary son of Vijay Choudhary Resident of Nisad Tola Gali, Lal Darwaja, Munger, Bariyarpur, P.S. Kotwali (Munger), District - Munger.
163. Ramu Kumar son of Janeshwar Singh Resident of Rampur Waina, Rampur Waina, P.S. Parasi, District Arwal.
164. Vishal Kumar son of Om Prakash Shah Resident of Bagsadhoram, P.O. Begampur, P.S. Chowk, District - Patna.
165. Rajeev Ranjan son of Madan Prasad Singh Resident of New Sabajpura, P.O. Khagaul, P.S. Phulwarisharif, District - Patna.
166. Anil Kumar son of Rampukar Ray Resident of village - Sherpur Jalal, P.O. Ababakarpur, P.S. Goraul, District - Vaishali.
167. Kumar Ujjwal son of Lal Mohan Prasad Resident of Tilak Nagal, Mali Tola, P.S. Begusarai, District - Begusarai.
168. Manish Kumar son of Om Prakash Sinha Resident of 28, Behind Head Office, Indrapuri, P.S. Gopalganj, District - Gopalganj.
169. Shambhu Kumar son of Rajkumar Sah Resident of Sher Gopalganj, P.S. Sidhwalia, District - Gopalganj.
170. Prem Roshan Kumar son of Virendra Kumar Resident of Bathana, P.O. Bijdhari, P.S. Keshariya, District-East Champaran.
171. Anjana Kumari wife of Babulal Prasad Resident of Dharmshala Chowk, Mahuwa Shahid, Near Gandhi Maidan, P.S. Aurangabad, District - Aurangabad.
172. Pramod Kumar son of Kanhaiya Singh Resident of Jatuli Dera, P.S. Dhansoi, District - Buxar.
173. Aman Kumar Srivastava son of Rana Pratap Lal Resident of Sohani Patti Gauri Shankar Mandir, House No. 75, Buxar.
174. Dhiraj Kumar Choudhary son of Shashi Bhushan Choudhary Resident of P.P. Road, Ward No. 13, District - Buxar.
175. Amarjit Kumar son of Awadhesh Singh Resident of Village - Malichak, P.O. Schoraya, P.S. Parasbigha, District - Jehanabad.



176. Jitendra Rajak son of Kartik Rajak Resident of Quarter No. B3/CD, B - Type Colony, Hariharpur, P.S. Dhanbad, District - Jharkhand.
177. Brijesh Kumar son of Satyavir Singh Resident of 255, Kalu Ki Dhikoli, District - Baghpat, Uttar Pradesh.
178. Ravindra Kumar son of Basudeo Prasad Yadav Resident of Darha, P.S. Darha, District - Jamui.
179. Dharmbeer Chaudhary son of Ramdev Chaudhary Resident of Mai Laxmi Temple, P.S. Farida, District Nalanda.
180. Akhilesh Kumar son of Baleshwar Prasad Singh Resident of Bholsar, P.O. Ekchari, P.S. Rasalpur (Kahalgaon), District - Bhagalpur.
181. Jangvir Bahadur Son of Surya Narayan Yadav Resident of Ladma, Kahalgaon, P.O. Maheshamunda, P.S. Kahalgaon, District - Bhagalpur.
182. Md. Wakil Ahmad son of Md. Abdul Ganni Resident of Sikathi, P.O. Dinara, P.S. Sikkathi, District - Buxar.
183. Tripurari Sharan Mishra son of Dhaneshwar Mishra Resident of Villag5e - Mushehari, P.O. + P.S. - Kateya, District - Gopalganj.
184. Deepak Kumar son of Mithilesh Kumar Singh Resident of B 36, Prabhunath Nagar, Near Shiv Mandir, P.S. -Thawe, District - Gopalganj.
185. Dinesh Kumar son of Jagunnath Prasad Resident of 48 Muda Chhapra Road, P.S. Shripur, District East Champaran.
186. Sanjeet Kumar Mahto son of Ram Prasad Mahto Resident of Malkichak Dilawarpur, P.O. Malkichak, P.S. Bahadurpur, District - Darbhanga.
187. Mukesh Kumar son of Balbodh Thakur Resident of Village - Bhairupati, Bank Colony, P.O. Milkichak, P.S. - Bahadurpur, District - Darbhanga.
188. Sandeep Kumar son of Yamuna Prasad Resident of Village Sahabad, P.S. Pirpanti, P.S. Mirza, District - Bhagalpur.
189. Chetan Kum5ar son of Rambabu Yadav Resident of Village - Saraipur, Ward No. 4, P.S. Ganga Bridge, District - Vaishali.
190. Amrita Kumari daughter of Madan Mohan Prasad Singh Resident of Village - Shankar Bigha, P.S. Sakurabad, District Jehanabad.
191. Poonam Kumari daughter of Ajay Kumar Singh Resident of Lakhipur Koli, P.O. Fatehpur, P.S. Gaurichak, District - Patna.
192. Rahul Kumar son of Mahesh Prasad Singh Resident of 09 Chancho Kali Asthan, P.S. Nariyana, District Jamui.



193. Rajesh Kumar Mahto son of Laxman Mahto Resident of Village - Kuyri Bigha, P.O. Pakri, P.S. Gurwa, District - Gaya.
194. Sumit Kumar son of Baku Mahto Resident of Ballia, P.S. Kamalpur, District Begusarai.
195. Vinod Kumar Son of Yamuna Prasad Yadav resident of Rajendra Nagar, Road No. 1, P.S. Kadamkuan, District - Patna, Roll No. 3110120084.

... .. Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Department of Home, Government of Bihar, Patna.
2. The Principal Secretary, Department of Home, Government of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Inspector General of Police (Head Quarter), Patna.
5. The Bihar Public Sub-Ordinate Service Commission through its Secretary, Santosh Manson, B - Block, Raghunath Path, Danapur, Patna.
6. The Secretary, Bihar Police Sub-Ordinate Service Commission, Santosh Manson, B - Block, Raghunath Path, Danapur, Patna.
7. The Officer on Special Duty, Bihar Police Sub-Ordinate Service Commission, Santosh Manson, B - Block, Raghunath Path, Danapur, Patna.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Chakrapani, Advocate Mr. Dipak Kumar, Advocate
For the State	:	Mr. Md. Nadeem Seraj- GP-5
For the B.P.S.S.C.	:	Mr. Ashok Kumar Singh, Senior Advocate Mr. Kunal Tiwary, Advocate

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

C.A.V. JUDGMENT

Date : 31-10-2018

Heard learned counsel appearing for the respective parties.

2. In this case, the petitioners are challenging the result of



the mains examination issued by the Bihar Police Subordinate Service Commission, further prayer has been made, the Commission should be directed to upload the question paper of mains examination along with model answers on its website, on the basis of which the answer has been evaluated, giving opportunity to raise objections, after disposal of objection direction be issued to the Commission to re-publish/modify the result after making necessary corrections. Further prayer has been made to publish the cut-off marks of each category for both male and female and direct the Commission to supply the carbon copy of OMR sheets to the respective petitioners to enable them to verify the correctness of marks awarded to them on the basis of model answers published or modified on the official website of the Commission. In nutshell, the petitioners are challenging the procedure adopted for selection and publication of result of mains examination, putting emphasis that the procedure which is being followed by the Commission is completely *dehors* to the standard practice for selection of the candidates by the Commission and as such, it requires interference by this Court for the rectification of the procedural irregularities committed by the Commission.

3. This case was first taken up on 05.09.2018, on that day, the Court had allowed the Commission to proceed with the process of



selection, but would not publish the final result till further orders of this Court. Thereafter, the Commission filed Interlocutory Application No.7195 of 2018 for vacating the order of the stay, which remained pending and the same will be treated to have been disposed of by the present order.

4. This matter relates to recruitment on the post of Police Sub-Inspector in the State of Bihar, for that the Bihar Police Subordinate Service Commission (for short “the Commission”) has issued an advertisement no. 01 of 2017, notifying 1717 vacancies, providing break-up earmarked for different categories of applicants. As per the advertisement, the recruitment and selection is to be made in three stages viz. the candidates will have to appear in the preliminary test, whoever will be succeeded in the preliminary test will be allowed to appear in the mains examination and those qualified in the mains examination will have to clear the Physical Efficiency Test (P.E.T.). The break-up of the vacancies for the said posts is in the following manner;- for Scheduled Caste, 300 posts have been earmarked, out of that 95 posts have been reserved for the female candidates, for Scheduled Tribes 9 posts have been earmarked, out of that 3 posts have been reserved for the female candidates, for Extremely Backward Class 296 posts have been earmarked, out of



that 103 posts have been reserved for female, for Backward Class 172 posts have been earmarked, out of that 58 posts have been reserved for female candidates, for Backward Class female (3%) 48 posts have been earmarked, for unreserved category i.e. general 892 posts have been earmarked, out of that 280 posts have been reserved for female candidates. Out of total posts of 1717, 539 posts have been reserved for the female candidates. In the preliminary test, altogether 4,28,200 candidates had appeared, out of that 29,359/- candidates were declared to be successful for mains examination. The mains examination was conducted on 22.07.2018, whereafter the result of the mains examination has been published on 05.08.2018, declaring 10161 candidates to be successful and they have to appear for the Physical Efficiency Test. The main hurdle is the mains examination, those who qualified in the mains examination have to only clear the Physical Efficiency Test and the marks obtained in the Physical Efficiency Test will not be included in deciding the merit of the candidates.

5. Learned counsel for the petitioners submits that after publication of result of mains examination when the petitioners were not selected, they downloaded the various materials for their understanding as to why they were not selected. Basically, learned



counsel for the petitioners has confined his argument around the female candidates. As per learned counsel for the petitioners, 6783 female candidates from various categories had appeared in the mains examination. He pointed out the anomalies in the break-up mentioned in the counter affidavit vis-a-vis the document which has been downloaded by the petitioners. In paragraph no.11 of the counter affidavit, it has been averred that in the preliminary examination total 6783 female candidates were selected. The break up has been given in following manner:- 2416 (B.C. Female), 1330 (E.B.C. Female), 620 (S.C. female), 102 (S.T. Female) and 2315 (General Female) candidates were selected. In the mains examination out of total 6783 female candidates, total 3452 female candidates have been selected for Physical Efficiency Test, out of which 1298 B.C. female, 954 EBC female, 466 S.C. female, 39 S.T. female and 695 General female candidates have been selected. Whereas, in the downloaded documents attached with Annexure-4 following break-up has been mentioned:-

Following table shows no. of candidates selected for PET as per their category.

	Scheduled Caste		Scheduled Tribe		Extremely Backward Caste		Backward Caste		Women belonging to Backward Castes (3%)	General		Total
	Men/Woman	Woman	Men/Woman	Woman	Men/Woman	Woman	Men/Woman	Women		Men/Woman	Woman	



	en	(35%)	en	(35%)	en	(35%)	omen	(35%)		men	(35%)	
Vacancy	205	95	6	3	193	103	114	58	48	612	280	1717
Minimum No. of candidates to be selected for PET (6 times)	1230	570	36	18	1158	618	684	348	288	3672	1680	10302
Ward of freedom fighters selected	3	0	0	0	26	3	64	2		105	1	204
Remaining No. of candidates to be selected category wise for PET	1227	570	36	18	1132	615	620	346	288	3567	1679	10098
No. of candidates selected category wise for PET	1231	378	37	18	1136	616	627	352	291	3585	1686	9957
Total												10,161

6. If the figure of both the statement i.e. Annexure-4 and the counter affidavit are compared, it is found that in the counter affidavit it has been stated that in the mains examination out of total 6783 female candidates who were crossed the hurdle of preliminary test, total 3452 female candidates have selected for Physical Efficiency Test, out of which, Backward category female is 1298, Extremely Backward category female is 954, Scheduled Caste female is 466, Scheduled Tribes female is 39 and General category female is 695. However, as per the downloaded document (Annexure-4) the



break-up shows otherwise that scheduled caste female candidate is 378, but as per paragraph no.11 of the counter affidavit it is 466. Similarly, as per Annexure-4 Scheduled Tribe female candidate is 18, whereas as per the counter affidavit it is 39. Further, as per Annexure-4 Extremely backward category female is 616, but per the counter affidavit it is 954. As per Annexure-4 Backward caste female is 352 whereas as per counter affidavit it is 1298. As per Annexure-4 general category female is 1686, whereas as per counter affidavit it is 695. As per Annexure-4 total candidates comes to 3341, but as per counter affidavit it comes to 3452, so there is a difference of 111 candidates.

7. It has further been stated by learned counsel for the petitioners that in Annexure-3 it has been mentioned that the woman belonging to the backward class female 3%, inference has been given not selected due to unavailability of woman candidate, but in the main result i.e. Annexure-4, it has been mentioned that the candidates belonging to backward class female 3% is 291. It has been submitted that there is a difference of 291 candidates in the break-up mentioned in Annexure-3 and in the break-up mentioned in paragraph no.11 of the counter affidavit. It has also been pointed out from Annexure-4, wherein it has been mentioned that minimum number of candidates selected for the Physical Efficiency Test six times of total number of



vacancies and total number of persons have been declared for Physical Efficiency Test is 10302 and if the vacancy is multiplied by six times then there is a deficit of 150 candidates, who are required to be called.

8. Submission has been made by the petitioners that before publishing the result of the mains examination, the Commission should have uploaded the model question and answer on its website, inviting objection and after receipt of the objection, the Expert Committee should be constituted to examine the objection and dispose of the same, which has not been done in the present case. Further submitted that the Commission has not provided the carbon copy of the O.M.R. sheet, that has crippled the petitioners from raising the objection even if the model answer is published along with the questions, they would be unable to raise the objection with regard to correctness of the model answer and as such, the Commission should be directed to supply carbon copy of the O.M.R. sheet in terms of the standard practice. He has further submitted that as per the understanding of the Commission with respect to the rule, one copy of the O.M.R. sheet is to be kept by the Commission and the original copy of the O.M.R. sheet will be sent for evaluation of the marks and the prayer has been made that carbon copy of the O.M.R. sheet be



given to them so that they can verify the correctness of the model answer, if it is published, otherwise it will be of no use and redundant.

9. Learned counsel for the petitioners further submitted that the result should be published in category wise, providing the cut-off marks for different categories of candidates who would appear in the Physical Efficiency Test. It has been submitted that the selection has to be made on the basis of the marks obtained in the mains examination as the persons who have cleared the mains examination have only to pass the Physical Efficiency Test and the persons have to be selected as per the merit list of mains examination prepared by the Commission. It has further been submitted that while publishing the result the Commission has applied the principle rendered in the case of *Union of India vs. Ramesh Ram and Others* reported in **2010(7) S.C.C. 234** is a misplaced application, it can only be applied at the stage of final selection. Further submitted that the entire selection process is completely opaque, bereft of transparency and as such, it violates the fairness and led to arbitrary exercise of power, violating the Article 14 of the Constitution of India.

10. In support of his submission, learned counsel for the petitioners have placed reliance on the following judgments:-

(i) *National Institute of Mental Health & Neuro Sciences*



vs. Dr. K. Kalyana Raman and Others reported in
A.I.R. 1992 S.C. 1806.

(ii) *Swadeshi Cotton Mills vs. Union of India* reported in
1981 S.C.C. 818.

(iii) *Municipal Council, Ratlam vs. Vardhichand and
Others* reported in *AIR 1980 SC, 1662.*

(iv) *Union of India vs. Mohan Singh Rathore and
Another* reported in *A.I.R. 1997 S.C. 2328.*

11. Learned counsel for the petitioners has concluded his argument by submitting that the procedure which has been applied in the matter of selection of Police Sub Inspector is completely perverse and *dehors* to the standard practice for conducting process of selection, hence, requires interference by this Court.

12. Learned counsel for the Commission, in reply, has submitted that unless the foundational facts are stated in the writ petition, the petitioners cannot be allowed to make submission on points which have no basis to substantiate. It has further been submitted that in the writ proceeding while considering issue raised by the parties, the Court will have to consider the pleadings and proof together, in case of failure to adhere to the principle of pleadings as well as proof, the Court would out-rightly refuse to consider the



issues raised in the petition. In support of his submission, he has placed reliance on the decisions in the case of ***Bharat Singh and Others vs. State of Haryana and Others*** reported in ***1988 SC 2181***; ***Hemaji Waghaji Jat vs. Bhikhabhai Khengarbhai Harijan and Others*** reported in ***(2009 (16) SCC 517***; ***Krishan Singh vs. the Executive Engineer, Haryana State Agriculture Marketing Board*** reported in ***2010 (3) SCC 637*** and ***K.S.B. Ali vs. State of Andhra Pradesh and Others*** reported in ***2018(11) SCC 277***.

13. As per the Commission, if the pleadings are missing in the writ petition, the writ petition is required to be dismissed. It has further been stated that the Commission for the first time has come into existence by the Act of the Legislature in the name and style of the Bihar Police Subordinate Service Commission Act (herein after mentioned as “Commission Act”) and the Commission is at nascent stage and this is the first competitive examination has been conducted by it, in course of time, it would gain maturity. He has placed reliance on Section 9 and 10 of the Commission Act, which prescribes the selection procedure, which are as follows:-

“9. Selection Procedure- (1) The Commission shall select the candidates for appointment to cadre posts, enumerated in the appended schedule according to the prescribed procedure under the service cadre rules of



respective posts/departments;

Provided that in absence of service cadre rules for any posts, the Commission shall select the candidates for such post according to the prescribed procedure adhered in the examination rules for selection by the commission with prior approval of the State Government.

(2) The Commission may hold a Combined Competitive Examination for posts with similar eligibility criterion.

10. Transfer of pending selection process relates to cadre posts of Group C- *Selection process shall be completed by the “Bihar Police Sub-ordinate Services Commission” for the appointment to all such cadre posts as mentioned in the appended schedule of this Act, in respect of which the advertisement has not been issued or published by the Bihar Staff Selection Commission or Bihar Technical Staff Selection Commission or any other Commission or Board;*

Provided that the selection process shall be completed by such other respective commission or Board for appointment to all such cadre posts as mentioned in the appended schedule of this Act in respect of which the advertisement has been issued or published by any other Commission or Board till the date of commencement of this Act.”

14. It has further submitted that the amendment has been made in the Police Manual by making addition to Rule 653 by which



elaborate process and procedure of selection has been prescribed. It has further been stated that what will be the qualification and what procedure has to be followed has been mentioned. It has further been stated that the number of candidates to be called to face the mains examination would vary on the basis of availability of the candidates, but in the event of availability of sufficient number of candidates the ratio has been provided. It will be relevant to quote relevant portion of Clause- (2) a, b, c, d and e of the Amended Provision of Bihar Police Manual, 1978.

“(2) Sub-rule (a), (b), (c), (d) and (e) of P.M. Rules 654 shall be substituted by the following:-

(a) Bihar Police Sub-ordinate Services Commission shall advertise the number of vacancies in widely circulated newspapers and through website as per requisition received from the Director General of Police, Bihar. The candidates shall abide by the directions and conditions contained in the advertisement. Examination fees shall be charged from the candidates, which may be fixed by the commission. The candidates shall submit their application forms in the prescribed proforma online thorough the website of the Bihar Police Sub-ordinate Services Commission as per the terms and conditions contained in the advertisement.

(b) The Bihar Police Sub-ordinate Services Commission shall hold written competitive



examination. Written examination shall be conducted in two phases i.e. preliminary and main examination. All the examination papers of written examination shall be based on multiple choice questions. Preliminary examination shall be conducted in the first phase. In the preliminary examination, there will be one paper of 100 questions of 200 marks and the duration of examination shall be of two hours. Candidates securing less than 30% (percent) marks in this paper shall be declared unfit to appear for the main examination. In this paper, questions shall be based on General Knowledge and Current Events. 20 times candidates of the existing vacancies shall be selected category wise on the basis of marks obtained in the preliminary examination. In case of unavailability of sufficient number of eligible candidates for the main written examination, the Commission can reduce the above mentioned proportion suitably.

(c) The successful candidates in the first phase of preliminary examination shall be provided an opportunity to appear in the main written examination. Main written examination shall comprise of two papers. Ist paper will be of General Hindi, having 100 questions of 200 marks, in which it will be compulsory to secure minimum qualifying 30% (percent) marks otherwise they will be declared unfit. The duration of examination of General Hindi paper shall be of two hours. The marks obtained in General Hindi paper shall not be added in the determination of



merit. Questions in 2nd paper shall be related to General Studies, General Science, Civics, Indian history, Geography of India, Mathematics and Mental Ability Tests. It will have 100 questions of 200 marks and the duration of examination shall be of two hours. 0.2 marks shall be deducted for each and every wrong answer in both phases of examinations. Answer-sheets shall be in two copies, in which one copy shall be kept as reserve in the Commission.

(d) In 2nd phase candidates shall be selected six times of the existing vacancies in each category as per merit for physical eligibility test (PET) on the basis of main written examination. The Bihar Police Sub-ordinate Services Commission shall conduct the Physical Eligibility Tests itself which will be qualifying only. In case of unavailability of eligible candidates for Physical Eligibility Tests, said proportion may be reduced by the commission. For physical measurements and other required tests in PET, transparent procedure based on electronic and computerized methods based on modern technology will be adopted. Videography of the entire procedure will also be done. The Commission shall inform all the candidates regarding their success and failure in PET everyday and the unsuccessful candidates shall be required to put their signature on the Master-Chart. Any candidate, dissatisfied with the result of PET, shall place his objections before the Commission within 03 days. The Commission shall hear the representations and dispose the representations the



same day.

(e) Category wise merit list of candidates successful in all test will be prepared on the basis of marks obtained in main written examination. If two or more than two candidates secure equal marks in the written examination their inter-se rank in the merit list shall be decided on the basis of their date of birth. Thus, elder candidate shall remain above in order in the merit list. In case of similar dates of birth of two or more than two candidates, their rank shall be decided on the basis of their educational qualifications. It means the candidate having higher educational qualifications, shall remain above in the merit list. But besides all these, if more than one candidate are on same footage their inter-se ranks shall be decided as per English alphabet of their names as mentioned in their matriculation certificate.”

15. It has further been submitted that in the advertisement (Annexure-D) detailed procedure for selection has verbatimly been quoted, it is nothing but re-quotation of Rule in the advertisement and stated that now they cannot make complain that they were not knowing the procedure for selection to the posts mentioned in the advertisement. They were knowing the terms and conditions and the procedure to be followed by the Commission in the matter of selection of candidates. The Commission conducted the examination



as per the procedure and the petitioners have participated in the tests without any demur, now the petitioners cannot turn round and challenge the procedure mentioned in the advertisement and the rules framed thereunder.

16. Learned counsel for the Commission has placed reliance on Admit Card (Annexure-H), is a part of the supplementary counter affidavit, in which the detailed guidelines has been provided in what manner the candidates has to act in the examination hall during the test and before leaving the examination hall the entire documents related to the Commission will be required to be returned to the Commission as all papers including O.M.R. is the property of the Commission. It has further been submitted that the guidelines which have been provided is an information given to each candidate that what they have do and not to do, in case a candidates found involved in impersonation, it would constitute a criminal offence and other misdemeanour committed during the test will be dealt with under the Bihar Conduct of Examination Act, 1981. It has also been provided that in the examination hall entry of electronic gadget was prohibited and any person carrying the electronic gadget will be expelled from the examination hall and his candidature will be rejected. It has further been mentioned that the candidate should not put any sign or



any mark in the OMR sheet and they should not de-attach any page from the question paper. It has further been stated that after the closure of the examination, the candidates will be allowed to leave from the examination hall only after submission of the question paper and OMR sheet as those are the property of the Commission. He further placed reliance on letter no.11 dated 15.02.2016 (Annexure-F), wherein it has been mentioned that in what manner the horizontal reservation policy for the women has to be followed and acted upon at the time of recruitment of candidate.

17. Learned counsel for the Commission has drawn the attention of paragraph no.16, 17, 18 and 19 of the counter affidavit and submitted that right from the beginning the petitioners have been knowing in detail in what manner the examination is to be conducted but they have not challenged the process and now they cannot be allowed to turn round and challenge the procedure prescribed for selection of the candidates. It has further been submitted that it is a new Commission and it is the first selection is being conducted by this Commission and they have followed the rules and regulations strictly which have been mentioned in the Police Manual as well as quoted in the advertisement, in fact there is no infraction or any deviation in following the procedure of conducting the examination.



It has further been stated that the contents of the chart mentioned in Annexure-1 has been explained in paragraph no.7 of the supplementary counter affidavit and the implemented reservation policy for female candidates has been explained in paragraph no.9 of the supplementary counter affidavit. It has further been stated that in paragraph nos. 16 and 17 of the first counter affidavit, speaks the procedure which was followed in the preliminary examination and the same procedure has also been followed in the mains examination, at the preliminary stage of examination, the petitioners have not raised any objection, refusing to take away the OMR sheet, but at present juncture raised the objection when they failed to succeed, now they are estopped to challenge the procedure.

18. In support of his submission, learned counsel for the Commission has relied upon the decision of the Hon'ble Supreme Court in the case of *Ashok Kumar and another vs. State of Bihar and Others*, reported in (2017) 4 SCC 357.

19. Learned counsel for the Commission has submitted that in paragraph nos. 19, 20 and 21 of the counter affidavit of the Commission explained that they have acted in terms of the procedure mentioned in the advertisement in the matter of selection and Rule does not postulate of uploading of question paper and model answer



sheet for the purposes of raising objection, further submitted that they have followed the Circular (Annexure-F) issued by the Government of Bihar, wherein it has been prescribed in what manner the horizontal reservation has to be acted upon. It has further been stated that in the admit card itself it has been mentioned that the OMR sheet used by the candidates were obliged to be handed over to the Commission as the OMR sheets are the property of the Commission. If any candidate would try to take away the same, it would constitute a criminal offence. Further stated that the list of female candidates selected in the preliminary test and the mains examination as well as the break-up and grand total of the respective categories of female selected candidates has been mentioned. It has further been submitted that the petitioners have made several prayers such as, for quashing the result of the mains examination, publication of question papers of mains examination on its website along with model answer sheet on the basis of which the answer has been evaluated, issuance of *mandamus* to modify the result after making necessary correction, publication of the cut off marks category wise for female and male candidates, supply the carbon copy of the OMR sheet to enable them to know in what manner marks have been awarded to them on the basis of model answer to be published on the website of the



Commission, but in support of the prayers the foundational facts are missing and as such, without foundational fact the writ petition is fit to be dismissed at the threshold.

20. It has further been stated by learned counsel for the Commission that if a particular procedure has been provided, the authority has to act in that particular procedure on the principle if a thing has to be done in a particular manner that thing has to be done in that manner alone. In support of his submission, he has placed reliance on the decision of the Hon'ble Supreme Court in the case of ***Ran Vijay Singh and Others vs. State of Uttar Pradesh and Others*** reported in ***(2018) 2 SCC 357***, this judgment deals with the issue of misplaced sympathy. He has further submitted that publication of question paper and model answer sheet would dilute the efficacy of selection process and placed reliance on the decision of the Hon'ble Supreme Court in the case of ***Union Public Service Commission and Others vs. Angesh Kumar and Others*** reported in ***(2018) 4 SCC 530***. It has further been stated that the terms of the advertisement has been followed in true letter and spirit, now cannot be a basis for challenging the procedure that has been followed for the purposes of selection of the candidates, placed reliance on the decision of the Hon'ble Supreme Court in the case of ***N.T. Bevin Kath Etc vs***



Karnataka Public Service Commission reported in **1990 AIR 1233.**

21. It has further been submitted that the advertisement itself provide the mode and manner of selection and that has been followed and as such, it cannot be said that wrong has been done in the matter of recruitment of candidates, placing reliance on the decision of the Hon'ble Supreme Court in the case of ***Ashok Kumar Sharma and Others vs. Chander Shekhar and another*** reported in **(1997) 4 SCC page 18.**

22. In reply, learned counsel for the petitioners submits that in his main argument he has already explained the anomalies existing in the preliminary test as well as the mains examination, is evident from Annexure-3 and 4. It has further been stated that they should provide the OMR sheet so that if the question paper and model answer is uploaded they will be able to raise objection. It has further been stated that the Commission must publish the cut-off marks of each category so that they can understand their position in the merit list. It has further been stated that when the petitioners are able to show that the wrong has been done with them then onus is upon the Commission to come forward and discharge the onus and show that the selection has been done in fair, proper and transparent manner.



23. In support of his submission, he has placed reliance on the decision rendered in the case of *T. Muralidhar Rao and Others vs. State of Andhra Pradesh and Others* reported in *2010(2) ALT, page 357*, this judgment is on the issue of reservation of religion background. Further stated that the manner the horizontal reservation has to be acted upon upon has been explained in the decision of the Hon'ble Supreme Court in the case of *Public Service Commission, Uttaranchal vs. Mamta Bisht and Ors.* reported in *2010(3) PLJR, 100 (S.C.)*.

24. Having considered the rival contentions of the parties, in the present case the basic issue which has to be decided on the issue of incongruity of downloaded materials with regard to break-up of female candidates appeared in the preliminary test and mains test vis-a-vis the details have been given by the Commission in its counter affidavit, as has been submitted, basically the number mentioned in the downloaded materials from the website of the Commission does not reflect the true picture on comparing material facts mentioned in the counter affidavit of the Commission. Further the issue has to be decided about the fairness and transparency in the matter of recruitment process. Third issue which has been raised that the reservations of the female candidates in the ratio of 35% has wrongly



been implemented by the Commission, in such a manner as if the benefit of reservation has been given as vertical reservation, the reservation is based on the caste reservation as postulates in Article-16(4) of the Constitution of India, whereas the horizontal reservation is a class of reservation emanates from Article 16(1) of the Constitution of India and both reservations have different facet, are quite different to each other and as such, the Commission is not implementing the reservation policy in proper manner in the matter of recruiting the persons as per the law applicable for the horizontal reservation. Fourth issue that has to be decided is that as per the practice, precedent and the law laid down by this Court, wherein the steps has been provided in what manner the recruitment process is to be conducted as has been submitted that as per the principle, after completion of the mains examination, in the matter of multiple choice answer test, the Commission would upload the questions and model answers, seeking objection from the candidates and on receipt of the same, would be examined by the team of expert and in the event of correction required, the proper correction would be made in the model answer which would give a correct result and proper persons would be selected. As submitted, but in the present case, the Commission has followed the procedure, which cannot be said to be fair,



transparent in terms of the procedure enunciated by this Court.

25. Learned counsel for the petitioners has tried his best to show that the number of selected candidates in the Preliminary test in the category of female is in lower side then the number of female candidates mentioned in the result of the mains examination, whereas it should be otherwise as example has been given after making comparison with the result of the Preliminary test (Annexure-3) the women in 35% who have been selected for the mains examination is shown as 149 in scheduled caste female category, but in paragraph no.11 of the counter affidavit it has been shown as 620. Similarly, in the category of scheduled tribes female who have been selected for preliminary examination is shown as 23 whereas in the counter affidavit it has been mentioned as 102. In the case of Extremely Backward Class female in Annexure-3 it has been shown as 222 whereas in paragraph no.11 it has been shown as 1330. In the category of Backward Caste female it has been mentioned as 401 in Annexure-3, but in the counter affidavit it has been mentioned as 2416 and in the category of women belonging to backward castes (3%) in Annexured-3 (result sheet) it has been mentioned “not selected” due to unavailability of women candidates, but in the mains examination 291 (Annexure-4) candidates have been identified.



Similarly the number of candidates selected in mains examination as per the record vis-a-vis paragraph no.11 of the counter affidavit, are also not compatible to each other as in paragraph no.11 of the counter affidavit the backward category female selected in mains shows 1298, but the record i.e. Annexure-4 shows 352. In paragraph no.11 it has been averred that 954 female under EBC category have been selected in the mains examination, whereas Annexure-4 shows 616 candidates. For scheduled tribe female shows 39 in paragraph no.11 of the counter affidavit, but in Annexure-4 it shows 18, for scheduled caste female candidates in the counter affidavit it shows 466, but Annexure-4 shows 378. Annexure-3 and 4 of the writ petition are the downloaded result of the preliminary test and mains examination respectively. Learned counsel for the petitioners has only confined his examples with respect to the female candidates, has not shown any example with respect to the male candidates.

26. The reply has been given by the learned counsel for the Commission that they have not committed any illegality in making selection and further stated that so far the reflection of break up of different categories of female is a result of vertical reservation as in the reserved category it is male and female constitutes one category and those female candidates who were selected on merit have been



placed in merit list apart from 35% reservation has been given who could not find place in the merit list, in final selection for Physical Efficiency Test, those would not find place in merit they are adjusted in 35% female quota and the same ratio has been followed in 3% backward female quota.

27. This Court, at this stage, is not deciding the veracity of the break up of different reserved categories females and does not intend to enter into the jugglery datas of different categories of female candidates in the respective category, will be decided after the final selection. If this Court interferes in the matter at this stage, in such circumstance, it will create stumbling block in finalization of the result, inasmuch as finality of the selection will not be materialized in near future.

28. It has also been submitted by the Commission that though the submission has been made by the petitioners but without foundational facts in the writ petition though the petitioners have filed supplementary affidavit mentioning the details but the mathematical analysis will not be a proper exercise of power under the judicial review at this stage. But, this Court directs that the Commission must examine the aforesaid facts as apparently clear that there are some incongruities reflecting from the downloaded record, attached as



Annexure-3 and 4 of the writ petition and the statement made in paragraph no.11 of the counter affidavit. Both are not compatible to each other and if any error is there it is expected from the Commission that they will make necessary correction and the anomaly would be rectified.

29. Learned counsel for the petitioners has submitted that as per the practice, the respondents should have provided the carbon copy of the OMR sheet, but they have taken away and even if the question and model answer is uploaded they would not be able to give any proper objection as it is very difficult for them to remember the answers given by them during the mains examination.

30. Learned counsel for the Commission has submitted that the process which has been adopted in the preliminary test and in the mains examination are the same and they have not challenged the procedure or have not made any complain that carbon copy of the OMR sheet of Preliminary test was not given to them, but when they have been declared unsuccessful now they cannot turn round and challenge the procedure and submitted that in what manner the recruitment process would be done has elaborately mentioned in the Rules as well as the advertisement, in which it has been informed to



them they one copy of the OMR sheet will be kept by the Commission and original will be given for the purposes of evaluation of the marks, so they are very much knowing that they will not be given the carbon copy of the OMR sheet and when they have not selected now they cannot turn round and complain that they have wrongly been deprived for being giving the OMR sheet.

31. In support of his submission, learned counsel for the Commission has relied upon the decision of the Hon'ble Supreme court in the case of *Ashok Kumar and another vs. State of Bihar and Others* reported in (2017) 4 S.C.C. 357, wherein the Hon'ble Supreme Court has elaborately dealt with the issue placing reliance on earlier judgments and specifically held that in the case the candidate has participated and in the event he is not selected he cannot be allowed to turn round and challenge the process adopted for the recruitment of the candidates, unless it appears that the procedure followed by the Commission shows grave irregularity in the process, in that circumstance, the principle of estoppel by conduct or acquiescence had no application. It will be relevant to quote paragraph nos. 14 to 21 of the said judgment, which are as follows:-

“14. The same view was reiterated in Amlan Jyoti Borroah wherein it was held to be well settled that



candidates who have taken part in a selection process knowing fully well the procedure laid down therein are not entitled to question it upon being declared to be unsuccessful.

15. In Manish Kumar Shahi v. State of Bihar, the same principle was reiterated in the following observations : (SCC p.584, para 16)

"16. We also agree with the High Court that after having taken part in the process of selection knowing fully well that more than 19% marks have been earmarked for viva voce test, the Petitioner is not entitled to challenge the criteria or process of selection. Surely, if the petitioner's name had appeared in the merit list, he would not have even dreamed of challenging the selection. The Petitioner invoked jurisdiction of the High Court under Article 226 of the Constitution of India only after he found that his name does not figure in the merit list prepared by the Commission. This conduct of the petitioner clearly disentitles him from questioning the selection and the High Court did not commit any error by refusing to entertain the writ petition. Reference in this connection may be made to the Judgments in Madan Lal v. State of J & K., Marripati Nagaraja v. Government of Andhra Pradesh and Ors., Dhananjay Malik and Ors. v. State of Uttaranchal, Amlan Jyoti Borooah v. State of Assam and K.A. Nagamani v. Indian



Airlines and Ors. "

16. *n Vijendra Kumar Verma v. Public Service Commission*, candidates who had participated in the selection process were aware that they were required to possess certain specific qualifications in computer operations. The appellants had appeared in the selection process and after participating in the interview sought to challenge the selection process as being without jurisdiction. This was held to be impermissible.

17. *In Ramesh Chandra Shah v. Anil Joshi*, candidates who were competing for the post of Physiotherapist in the State of Uttrakhand participated in a written examination held in pursuance of an advertisement. This Court held that if they had cleared the test, the respondents would not have raised any objection to the selection process or to the methodology adopted. Having taken a chance of selection, it was held that the respondents were disentitled to seek relief under Article 226 and would be deemed to have waived their right to challenge the advertisement or the procedure of selection. This Court held that : (S.C.C. p.318, para 18)

"18. It is settled law that a person who consciously takes part in the process of selection cannot, thereafter, turn around and question the method of selection and its outcome."

18. *In Chandigarh Admn. v. Jasmine Kaur*, it was held



that a candidate who takes a calculated risk or chance by subjecting himself or herself to the selection process cannot turn around and complain that the process of selection was unfair after knowing of his or her non-selection. In Pradeep Kumar Rai v. Dinesh Kumar Pandey, this Court held that : (S.C.C. p.500, para 17)

"17. Moreover, we would concur with the Division Bench on one more point that the appellants had participated in the process of interview and not challenged it till the results were declared. There was a gap of almost four months between the interview and declaration of result. However, the appellants did not challenge it at that time. This, it appears that only when the appellants found themselves to be unsuccessful, they challenged the interview. This cannot be allowed. The candidates cannot approbate and reprobate at the same time. Either the candidates should not have participated in the interview and challenged the procedure or they should have challenged immediately after the interviews were conducted."

This principle has been reiterated in a recent judgment in Madras Institute of Development v. S.K. Shiva Subaramanyam.

19. In the present case, regard must be had to the fact that the appellants were clearly on notice, when the fresh selection process took place that written



examination would carry ninety marks and the interview, ten marks. The appellants participated in the selection process. Moreover, two other considerations weigh in balance. The High Court noted in the impugned judgment that the interpretation of Rule 6 was not free from vagueness. There was in other words no glaring or patent illegality in the process adopted by the High Court. There was an element of vagueness about whether Rule 6 which dealt with promotion merely incorporated the requirement of an examination provided in Rule 5 for direct recruitment to Class III posts or whether the marks and qualifying marks were also incorporated. Moreover, no prejudice was established to have been caused to the appellants by the 90:10 allocation.

20. The decision in Raj Kumar v. Shakti Raj (which was relied upon by the appellants) involved a case where government was found to have committed glaring illegalities in the procedure. Hence, it was held that the principle of estoppel by conduct or acquiescence had no application. The decision is distinguishable.

21. In this view of the matter, the Division Bench cannot held to be in error in coming to the conclusion that it was not open to the appellants after participating in the selection process to question the result, once they were declared to be unsuccessful. During the course of the hearing, this Court is informed that four out of six candidates, who were



ultimately selected figured both in the first process of selection as well as in the subsequent selection. One candidate is stated to have retired.”

32. Learned counsel for the Commission has further placed reliance on the judgment in the case of *Angesh Kumar (supra)* which relates to Civil Services Preliminary Examination 2010, under the R.T.I. the petitioners were not provided the information of cut-off marks for every subject, model answers and complete result of all candidates. In that context, the Hon'ble Supreme Court says that if it will be given it will completely delayed the process of selection and confidentiality would be compromised. In paragraph no.9 it has held that the information sought with respect to Civil Services Examination cannot be directed to be provided mechanically. Situation in connection with other academic bodies may stand on different footings. Furnishing cut off marks at the level of preliminary test will cause problem, which will not be in the public interest. However, if a case is made out, where the Court finds that that public interest requires furnishing of information, the Court certainly is entitled to issue proper direction in this regard. If rules or practice so required, certainly such rule or practice can be enforced. It will be relevant to quote paragraph nos. 7 to 9 of the said judgment, which are as follows:-



“7 The problems in showing evaluated answer sheets in the UPSC Civil Services Examination are recorded in Prashant Ramesh Chakkarwar v. UPSC. From the counter affidavit in the said case, following extract was referred to: (SCC pp.497-98, para 12)

“12. ... ‘6. ... (B) Problems in showing evaluated answer books to candidates.—(i) Final awards subsume earlier stages of evaluation. Disclosing answer books would reveal intermediate stages too, including the so-called ‘raw marks’ which would have negative implications for the integrity of the examination system, as detailed in Section (C) below.

(ii) The evaluation process involves several stages. Awards assigned initially by an examiner can be struck out and revised due to (a) totalling mistakes, portions unevaluated, extra attempts (beyond prescribed number) being later corrected as a result of clerical scrutiny, (b) The examiner changing his own awards during the course of evaluation either because he/she marked it differently initially due to an inadvertent error or because he/she corrected himself/herself to be more in conformity with the accepted standards, after discussion with Head Examiner/colleague examiners, (c) Initial awards of the Additional Examiner being revised by the Head Examiner during the latter’s check of the former’s work, (d) the Additional Examiner’s work having been found erratic by the Head Examiner, been rechecked entirely by another examiner, with or without the Head 1 (2013) 12 SCC 489 Examiner again



rechecking this work.

(iii) The corrections made in the answer book would likely arouse doubt and perhaps even suspicion in the candidate's mind. Where such corrections lead to a lowering of earlier awards, this would not only breed representations/grievances, but would likely lead to litigation. In the only evaluated answer book that has so far been shown to a candidate (Shri Gaurav Gupta in Gaurav Gupta v. UPSC dated 6.7.2012) on the orders of the High Court, Delhi and that too, with the marks assigned masked; the candidate has nevertheless filed a fresh WP alleging improper evaluation.

(iv) As relative merit and not absolute merit is the criterion here (unlike academic examinations), a feeling of the initial marks/revision made being considered harsh when looking at the particular answer script in isolation could arise without appreciating that similar standards have been applied to all others in the field. Non-appreciation of this would lead to erosion of faith and credibility in the system and challenges to the integrity of the system, including through litigation.

(v) With the disclosure of evaluated answer books, the danger of coaching institutes collecting copies of these from candidates (after perhaps encouraging/inducing them to apply for copies of their answer books under the RTI Act) is real, with all its attendant implications.



(vi) With disclosure of answer books to candidates, it is likely that at least some of the relevant examiners also get access to these. Their possible resentment at their initial awards (that they would probably recognise from the fictitious code numbers and/or their markings, especially for low-candidature subjects) having been superseded (either due to inter-examiner or inter-subject moderation) would lead to bad blood between Additional Examiners and the Head Examiner on the one hand, and between examiners and the Commission, on the other hand. The free and frank manner in which Head Examiners, for instance, review the work of their colleague Additional Examiners, would likely be impacted. Quality of assessment standards would suffer.

(vii) Some of the optional papers have very low candidature (sometimes only one), especially the literature papers. Even if all examiners' initials are masked (which too is difficult logistically, as each answer book has several pages, and examiners often record their initials and comments on several pages with revisions/corrections, where done, adding to the size of the problem), the way marks are awarded could itself be a give away in revealing the examiner's identity. If the masking falters at any stage, then the examiner's identity is pitilessly exposed. The 'catchment area' of candidates and examiners in some of these low-candidature papers is known to be limited. Any such possibility of the examiner's identity getting revealed in such a high-stakes examination



would have serious implications, both for the integrity and fairness of the examination system and for the security and safety of the examiner. The matter is compounded by the fact that we have publicly stated in different contexts earlier that the paper-setter is also generally the Head Examiner.

(viii) UPSC is now able to get some of the best teachers and scholars in the country to be associated in its evaluation work. An important reason for this is no doubt the assurance of their anonymity, for which the Commission goes to great lengths. Once disclosure of answer books starts and the inevitable challenges (including litigation) from disappointed candidates starts, it is only a matter of time before these examiners who would be called upon to explain their assessment/award, decline to accept further assignments from the Commission. A resultant corollary would be that examiners who then accept this assignment would be sorely tempted to play safe in their marking, neither awarding outstanding marks nor very low marks, even where these are deserved. Mediocrity would reign supreme and not only the prestige, but the very integrity of the system would be compromised markedly.”

8. This Court thereafter approved the method of moderation adopted by the UPSC relying upon earlier judgment in Sanjay Singh v. U.P. Public Service Commission and U.P. Public Service Commission v. Subhash Chandra Dixit.

9. Weighing the need for transparency and



accountability on the one hand and requirement of optimum use of fiscal resources and confidentiality of sensitive information on the other, we are of the view that information sought with regard to marks in Civil Services Exam cannot be directed to be furnished mechanically. Situation of exams of other academic bodies may stand on different footing.

Furnishing raw marks will cause problems as pleaded by the UPSC as quoted above which will not be in public interest. However, if a case is made out where the Court finds that public interest requires furnishing of information, the Court is certainly entitled to so require in a given fact situation. If rules or practice so require, certainly such rule or practice can be enforced. In the present case, direction has been issued without considering these parameters.”
(emphasis supplied)

33. On reading of the aforesaid judgment, it is very much clear that it was the stage of preliminary examination and the Hon'ble Supreme Court has formed an opinion that it will not be in public interest to provide the information as sought by the candidates. But in the concluding portion, the Court has only given his opinion with respect to the examination of Civil Services conducted by the UPSC, but it will not be same situation with respect to the different examinations conducted by the different bodies of Commission and if it is found that it is in public interest the Court would pass necessary



direction for issuance of information to the candidates.

34. Learned counsel for the Commission has relied upon another judgment of ***Ran Vijay Singh and Others vs. State of Uttar Pradesh and Others (supra)***, is with respect to review and the Court has held that unless there is a rule, the Court could not order for revaluation of the answer sheet but can only be directed for re-totalling of the marks awarded by the examiner for different questions. The Court has further held that sympathy and compassion does not play any role in the matter of directing or not directing re-evaluation of an answer sheet. If an error is committed by the examination authority, the entire body of the candidates suffer. The entire examination process does not deserve to be derailed only because some candidates are disappointed or dissatisfied or perceive some injustice having been caused to them by an erroneous question or an erroneous answer. All candidates suffer equally though some might suffer more but that cannot be helped since mathematical precision is not always possible. It will be relevant to quote paragraph no.31 of the said judgment, which is as follows:-

“31. On our part we may add that sympathy or compassion does not play any role in the matter of directing or not directing re-evaluation of an answer sheet. If an error is committed by the examination



authority, the complete body of candidates suffers. The entire examination process does not deserve to be derailed only because some candidates are disappointed or dissatisfied or perceive some injustice having been caused to them by an erroneous question or an erroneous answer. All candidates suffer equally, though some might suffer more but that cannot be helped since mathematical precision is not always possible. This Court has shown one way out of an impasse – exclude the suspect or offending question.”

35. Recruitment is a very serious matter, fairness and transparency is required to be maintained so that the person who has participated may not have any grievance on fairness on the part of the administrative body. In the matter of selection, transparency and fairness is inbuilt as is a part of equality clause of Article-14 of the Constitution of India, in case of default, it will lead to arbitrariness and opaqueness in the matter of selection of candidates. Article 14 and 16 embodies in the chapter the fundamental right, which provides equality of opportunity for all citizens in matter relating to employment or appointment to any office under the State. Though they have been enacted distinctly and independently as two fundamental right, looking to the great importance as a principle ensuring equality of opportunity in public employment which is so vital to the building up of the new classless egalitarian society



envisaged in the Constitution. Article 16 is an instance of the application of the concept of equality enshrined in Article 14 of the Constitution of India, in other words, Article 14 is the genus while Article 16 is a species. The equality is the antithesis of arbitrariness, equality and arbitrariness are sworn enemies; one belongs to the rule of law in a republic while the other, to the whim and caprice of an absolute monarch. Article 14 and 16 of the Constitution of India strike at arbitrariness in State action and ensure fairness and equality of treatment. The action should not be based upon any extraneous or irrelevant considerations as the result would be denial of equality.

36. This principle has been laid down in the case of ***E. P. Royappa vs State Of Tamil Nadu & Anr.*** reported in ***1974 AIR 555***. It will be relevant to quote paragraph no.85 of the said judgment, which is as follows:-

“85. The last two grounds of challenge may be taken up together for consideration. Though we have formulated the third ground of challenge as a distinct and separate ground, it is really in substance and effect merely an aspect of the second ground based on violation of 14 and 16. Art. 16 embodies the fundamental guarantee that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. Though enacted as a distinct and independent



fundamental right because of its great importance as a principle ensuring equality of opportunity in public employment which is so vital to the building up of the new classless egalitarian society envisaged in the Constitution, Art. 16 is only an instance of the application of the concept of equality enshrined in Article 14. In other words, Art. 14 is the genus while Art. 16 is a species, Article 16 gives effect to the doctrine of equality in all matters relating to public employment. The basic principle which, therefore, informs both Arts. 14 and 16 is equality and inhibition against discrimination. Now, what is the content and reach of this great equalising principle? It is a founding faith, to use the words of Bose J., "a way of life", and it must not be subjected to a narrow pedantic or lexicographic approach. We cannot countenance any attempt to truncate its all-embracing scope and meaning, for to do so would be to violate its activist magnitude. Equality is a dynamic concept with many aspects and dimensions and it cannot be "cribbed cabined and confined" within traditional and doctrinaire limits. From a positivistic point of view, equality is antithetic to arbitrariness. In fact equality and arbitrariness are sworn enemies; one belongs to the rule of law in a republic while the other, to the whim and caprice of an absolute monarch. Where an act is arbitrary it is implicit in it that it is unequal both according to political logic and constitutional law and is therefore violative of Art. 14, and if it affects any matter relating to public employment, it is also violative of Art. 16. Arts. 14 and 16 strike at



arbitrariness in State action and ensure fairness and equality of treatment. They require that State action must be based on valent relevant principles applicable alike to all similarly situate and it must not be guided by any extraneous or irrelevant considerations because that would be denial of equality. Where the operative reason for State action, as distinguished from motive inducing from the antechamber of the mind, is not legitimate and relevant but is extraneous and outside the area of permissible considerations, it would amount to mala fide exercise of power and that is hit by Arts. 14 and 16. Mala fide exercise of Power and arbitrariness are different lethal radiations emanating from the same vice: in fact the latter comprehends the former. Both are inhibited by Arts. 14 and 16.”

37. In the case of ***National Institute of Mental Health & Neuro Sciences (supra)***, the Hon’ble Supreme Court has held that the the procedural fairness is the main requirement in the administrative action to be observed. The Selection Committee cannot be an exception to this principle. It must take a decision reasonably without being guided by extraneous or irrelevant consideration. It will be relevant to quote relevant paragraph no.8 of the said judgement, which is as follows:-

“8. As to the first point we may state at the outset that giving of reasons for decision is different from, and in principle distinct from, the requirements of procedural



fairness. The procedural fairness is the main requirement in the administrative action. The 'fairness' or 'fair procedure' in the administrative action ought to be observed. The Selection Committee cannot be an exception to this principle. It must take a decision reasonably without being guided by extraneous or irrelevant consideration. But there is nothing on record to suggest that the Selection Committee did anything to the contrary. The High Court however, observed, that Dr. Kalyana Raman did not receive a fair and reasonable consideration by the Selection Committee. The inference in this regard has been drawn by the High Court from the statement of objections dated 18 February, 1980 filed on behalf of the Selection Committee. It appears that the Selection Committee took the stand that Dr. Kalyana Raman did not satisfy the minimum requirement of experience and was not eligible for selection. The High Court went on to state that it was some what extraordinary for the Selection Committee after calling him for the interview and selecting him for the post by placing him second, should have stated that he did not satisfy the minimum qualifications prescribed for eligibility. According to the High Court the stand taken by the Selection Committee raises serious doubts as to whether the deliberations of the Selection Committee were such as to inspire confidence and re-assurance as to the related equality and justness of an effective consideration of this case. It is true that selection of the petitioner and the stand taken by the Selection Committee before the High Court that he was not



eligible at all are, indeed, antithetical and cannot co-exist. But the fact remains that the case of Dr. Kalyana Raman was considered and he was placed second in the panel of names. It is not shown that the selection was arbitrary or whimsical or the Selection Committee did not act fairly towards Dr. Kalyana Raman. The fact that he was placed second in the parcel, itself indicates that there was proper consideration of his case and he has been treated fairly. It should not be lost sight of that the Selection Committee consisted of experts in the subject for selection. They were men of high status and also of unquestionable impartiality. The Court should be slow to interfere with their opinion.” (Emphasis supplied)

38. So the result of analysis of the above discussion is that the conduct of the Commission should be fair and transparent, reflect lucidly that they have not adopted any extraneous or irrelevant consideration as the recruitment on Government post is a public property it should be given in a manner which is embodied in Article-16 of the Constitution of India.

39. Let us examine as to whether the Commission has conducted the examination fairly and properly after following a proper procedure or it requires certain remedial action to be taken for the purposes of correct result of the entire process of selection. In the



Rule elaborate procedure has been provided under the Bihar Police Sub-ordinate Commission Act, 2016 as well as in the amendment made in the Bihar Police Manual, 1972. In the advertisement (Annexure-D) where the procedure in detail has been mentioned with the specification of the physical configuration of the body as well as different yardstick to be followed in the matter of recruitment to cross the hurdle for different categories of the candidates. In that regard, there is nothing wrong with the Commission but this Court is very much concerned about the manner the selection process has to be conducted and application of horizontal reservation. During the argument it has been informed to this Court that the method adopted in the matter of grant of 35% reservation to female in compartment wise, as has been stated, those who are selected on their merit are outside 35% reservation, as female of 35% quota are those who could not be selected on merit. The entire process of reservation reflects the procedure which has been followed for woman class is vertical reservation. The reservation in vertical is a caste based reservation as per the principle postulates in Article- 16(4) of the Constitution of India whereas the reservation for women, handicapped and ex-army is a class based reservation arising from Article-16(1) of the Constitution of India. Vertical reservation is a caste based reservation



whereas horizontal reservation is class based, both are different and distinct. This principle has been enunciated in the case of **Anil Kumar Gupta and Others vs. State of U.P. and Others** reported in (1995) **SCC 173**, wherein in what manner the reservation under vertical vis-a-vis horizontal has to be applied has been explained. It will be relevant to quote paragraph nos. 18 and 19 of the said judgement, in which it has been clarified that both cannot be similar type of reservation, but it is quite different, which are as follows:-

“18. Now, coming to the correctness of the procedure prescribed by the revised notification for filling up the seats, it was wrong to direct the fifteen per cent special reservation seats to be filled up first and then take up the O.C. (merit) quota (followed by filling of O.B.C., S.C. and S.T. quotas). The proper and correct course is to first fill up the O.C. quota (50%) on the basis of merit; then fill up each of the social reservation quotas, i.e., S.C., S.T. and B.C; the third step would be to find out how many candidates belonging to special reservations have been selected on the above basis. If the quota fixed for horizontal reservations is already satisfied - in case it is an over-all horizontal reservation - no further question arises. But if it is not so satisfied, the requisite number of special reservation candidates shall have to be taken and adjusted/accommodated against their respective social reservation categories by deleting the corresponding number of candidates therefrom. (If,



however, it is a case of compartmentalised horizontal reservation, then the process of verification and adjustment/accommodation as stated above should be applied separately to each of the vertical reservations. In such a case, the reservation of fifteen per cent in favour of special categories, overall, may be satisfied or may not be satisfied.) Because the revised notification provided for a different method of filling the seats, it has contributed partly to the unfortunate situation where the entire special reservation quota has been allocated and adjusted almost exclusively against the O.C. quota.

19. In this connection, we must reiterate what this Court has said in Indra Sawhney. While holding that what may be called "horizontal reservation" can be provided under clause (1) of Article 16, the majority judgment administered the following caution in para 744:

"But at the same time, one thing is clear. It is in very exceptional situation - and not for all and sundry reasons - that any further reservations of whatever kind, should be provided under clause (1). In such cases, the State has to satisfy, if called upon, that making such a provision was necessary (in public interest) to redress the specific situation. The very presence of clause (4) should act as a damper upon the propensity to create further classes deserving special treatment. The reason for saying so is very simply. If reservations are made both



under clause (4) as well as under (1), the vacancies available for free competition as well as reserved categories would be correspondingly whittled down and that is not a reasonable thing to do".

Though the said observations were made with reference to clauses (1) and (4) of Article 16, the same apply with equal force to clauses (1) and (4) of Article 15 as well. In this case, the reservation of fifteen per cent of seats for special categories was on very high side. As pointed out above, two categories out of them representing six percent out of fifteen percent are really reservations under Article 15(4), wrongly treated as reservations under Article 15(1). Even otherwise, the special reservation would be nine per cent. The respondents would be well advised to keep in mind the admonition administered by this Court and ensure that the special reservations (horizontal reservations) are kept at the minimum."

40. The decision of the Hon'ble Supreme Court in the case of ***Rajesh Kumar Daria vs. Rajasthan Public Service Commission and Other*** reported in **(2007) 8 SCC 785** is the relevant judgement to explain in what manner horizontal reservation would be applied, wherein the same problem arose in what manner horizontal reservation would be given to female class candidates. It also considered the compartment wise horizontal reservation and the Court



has explained, any reservation for the woman only to be seen as to whether the number of persons in different classes are standing in their merit, if that percentage of the female class are already there, in such circumstance, it will be treated to have been granted horizontal reservation, in case of any shortfall in number to that extent, the female candidate will be picked up from respective categories will be fitted in their category and in the event of excess, those at bottom of respective categories will be pushed down. So it will maintain proper percentage at the reservation, as proposed in the advertisement. It was/is never an idea that the female who have been selected on merit are outside the horizontal reservation and extra 35% percentage of the female candidates would be taken and be fitted in their horizontal reservation category, which has been explained in paragraph nos. 6, 7, 8 and 9 of the said judgement, which are as follows:-

“6. Before examining whether the reservation provision relating to women, had been correctly applied, it will be advantageous to refer to the nature of horizontal reservation and the manner of its application. In Indra Sawhney vs. Union of India, the principle of horizontal reservation was explained thus; (SCC pp. 735-36, para 812) :

" All reservations are not of the same nature. There are two types of reservations, which may, for the sake of convenience, be referred to as



'vertical reservations' and 'horizontal reservations'. The reservations in favour of Scheduled Castes, Scheduled Tribes and Other Backward Classes (under Article 16(4) may be called vertical reservations whereas reservations in favour of physically handicapped (under clause (1) of Article 16] can be referred to as horizontal reservations. Horizontal reservations cut across the vertical reservations - what is called interlocking reservations. To be more precise, suppose 3% of the vacancies are reserved in favour of physically handicapped persons; this would be a reservation relatable to clause (1) of Article 16. The persons selected against the quota will be placed in that quota by making necessary adjustments; similarly, if he belongs to open competition (OC) category, he will be placed in that category by making necessary adjustments. Even after providing for these horizontal reservations, the percentage of reservations in favour of backward class of citizens remains-and should remain-the same."

7. A provision for women made under Article 15(3), in respect of employment, is a special reservation as contrasted from the social reservation under Article 16(4). The method of implementing special reservation, which is a horizontal reservation, cutting across vertical reservations, was explained by this Court in Anil Kumar Gupta vs. State of U.P. thus:



(SCC p.185, para 18)

" The proper and correct course is to first fill up the Open Competition quota (50%) on the basis of merit; then fill up each of the social reservation quotas, i.e., S.C., S.T. and B.C; the third step would be to find out how many candidates belonging to special reservations have been selected on the above basis. If the quota fixed for horizontal reservations is already satisfied - in case it is an overall horizontal reservation - no further question arises. But if it is not so satisfied, the requisite number of special reservation candidates shall have to be taken and adjusted/accommodated against their respective social reservation categories by deleting the corresponding number of candidates therefrom. (If, however, it is a case of compartmentalized horizontal reservation, then the process of verification and adjustment/accommodation as stated above should be applied separately to each of the vertical reservations. In such a case, the reservation of fifteen percent in favour of special categories, overall, may be satisfied or may not be satisfied.) [Emphasis supplied]

8. We may also refer to two related aspects before considering the facts of this case. The first is about the description of horizontal reservation. For example, if there are 200 vacancies and 15% is the vertical reservation for SC and 30% is the horizontal



reservation for women, the proper description of the number of posts reserved for SC, should be: "For SC : 30 posts, of which 9 posts are for women". We find that many a time this is wrongly described thus : "For SC : 21 posts for men and 9 posts for women, in all 30 posts". Obviously, there is, and there can be, no reservation category of 'male' or 'men'.

9. The second relates to the difference between the nature of vertical reservation and horizontal reservation. Social reservations in favour of SC, ST and OBC under Article 16(4) are 'vertical reservations'. Special reservations in favour of physically handicapped, women etc., under Articles 16(1) or 15(3) are 'horizontal reservations'. Where a vertical reservation is made in favour of a backward class under Article 16(4), the candidates belonging to such backward class, may compete for non-reserved posts and if they are appointed to the non-reserved posts on their own merit, their numbers will not be counted against the quota reserved for the respective backward class. Therefore, if the number of SC candidates, who by their own merit, get selected to open competition vacancies, equals or even exceeds the percentage of posts reserved for SC candidates, it cannot be said the reservation quota for SCs has been filled. The entire reservation quota will be intact and available in addition to those selected under Open Competition category. [Vide Indira Sawhney, R. K. Sabharwal vs. State of Punjab, Union of India vs. Virpal Singh Chauhan and Ritesh R. Sah vs. Dr. Y. L.



Yamul]. But the aforesaid principle applicable to vertical (social) reservations will not apply to horizontal (special) reservations. Where a special reservation for women is provided within the social reservation for Scheduled Castes, the proper procedure is first to fill up the quota for scheduled castes in order of merit and then find out the number of candidates among them who belong to the special reservation group of 'Scheduled Castes-Women'. If the number of women in such list is equal to or more than the number of special reservation quota, then there is no need for further selection towards the special reservation quota. Only if there is any shortfall, the requisite number of scheduled caste women shall have to be taken by deleting the corresponding number of candidates from the bottom of the list relating to Scheduled Castes. To this extent, horizontal (special) reservation differs from vertical (social) reservation. Thus women selected on merit within the vertical reservation quota will be counted against the horizontal reservation for women. Let us illustrate by an example :

If 19 posts are reserved for SCs (of which the quota for women is four), 19 SC candidates shall have to be first listed in accordance with merit, from out of the successful eligible candidates. If such list of 19 candidates contains four SC women candidates, then there is no need to disturb the list by including any further SC women candidate. On the other hand, if the list of 19 SC candidates contains only two woman



candidates, then the next two SC woman candidates in accordance with merit, will have to be included in the list and corresponding number of candidates from the bottom of such list shall have to be deleted, so as to ensure that the final 19 selected SC candidates contain four women SC candidates. [But if the list of 19 SC candidates contains more than four women candidates, selected on own merit, all of them will continue in the list and there is no question of deleting the excess women candidate on the ground that 'SC-women' have been selected in excess of the prescribed internal quota of four.]”

In this case, the same incident has taken place that those who have been come in the merit have not been taken under the category of horizontal reservation, the Court has held that it is nothing but a vertical reservation.

41. Again this issue came for consideration in the case of ***Shiv Prasad vs. Government of India and Others*** reported in (2008) 10 SCC 382, wherein the Hon’ble Supreme Court has explained the difference between horizontal and vertical reservation in paragraph nos. 25 to 29 of the said judgement, which are as follows:-

“25. In Indra Sawheny (I), Justice Jeevan Reddy dealt with this aspect. His Lordship observed that there are two types of reservations; (i) vertical reservations;



and (ii) horizontal reservations. They must be so applied as not to exceed the percentage of reservations which is permissible under law. This can be done by 'interlocking reservations'. His Lordship proceeded to state; (SCC pp. 735-36, para 812)

“812. ... There are two types of reservations, which may, for the sake of convenience, be referred to as 'vertical reservations' and 'horizontal reservations'. The reservations in favour of Scheduled Castes, Scheduled Tribes and other backward classes [under Article 16(4)] may be called vertical reservations whereas reservations in favour of physically handicapped [under clause (1) of Article 16] can be referred to as horizontal reservations. Horizontal reservations cut across the vertical reservations what is called interlocking reservations. To be more precise, suppose 3% of the vacancies are reserved in favour of physically handicapped persons; this would be a reservation relatable to clause (1) of Article 16. The persons selected against this quota will be placed in the appropriate category; if he belongs to SC category he will be placed in that quota by making necessary adjustments; similarly, if he belongs to open competition (OC) category, he will be placed in that category by making necessary adjustments. Even after providing for these horizontal reservations, the percentage of reservations in



favour of backward class of citizens remains and should remain the same. This is how these reservations are worked out in several States and there is no reason not to continue that procedure. (emphasis supplied)

26. A similar question came up for consideration in Swati Gupta. There, the petitioner appeared in the Combined Pre-Medical Test (CPMT) held by the State. She was not selected. She challenged a notification of the State Government on the ground that the reservation was 65% which exceeded 50% and was thus violative of the constitutional guarantee under Articles 14, 16, 19 and 21 of the Constitution as also the ratio laid down in Indra Sawhney. The Government of U.P., however, issued another notification clarifying its stand on reservations.

27. In the amended notification, it was clarified that the reservations for the candidates belonging to other categories, such as, dependents of freedom-fighters, sons/ daughters of deceased/disabled soldiers, physically handicapped candidates, etc. would be 'horizontal' and the candidates selected in those categories would be adjusted in the categories to which they belong, i.e. either reserved category of Schedule Castes (SC), Schedule Tribes (ST), Other Backward Class (OBC) or Open Category (OC) in 'vertical' reservation and it would not violate constitutional guarantee.

26. The Court considered Indra Sawhney, applied it to the case on hand and held that the submission of the



State was well founded and the contention of the petitioner that the reservation violated constitutional guarantee of 50% was not well-founded. The Court stated; (Swati Gupta Case, SCC p. 563, para 3)

“3. ...The vertical reservation is now 50% for general category and 50% for Scheduled Castes, Scheduled Tribes and Backward Classes. Reservation of 15% for various categories mentioned in the earlier circular which reduced the general category to 35% due to vertical reservation has now been made horizontal in the amended circular extending it to all seats. The reservation is no more in general category. The amended circular divides all the seats in CPMT into two categories one, general and other reserved. Both have been allocated 50%. Para 2 of the circular explains that candidates who are selected on merit and happen to be of the category mentioned in para 1 would be liable to be adjusted in general or reserved category depending on to which category they belong, such reservation is not contrary to what was said by this Court in Indra Sawhney. (emphasis supplied)

29. A similar question was raised in Anil Kumar Gupta & Ors. V. State of U.P. & Ors., referring to Indra Sawhney (I), and Swati Gupta, the Court observed; (Anil Gupta Case, SCC p. 185, para 18)

“18. Now, coming to the correctness of the procedure prescribed by the revised notification



for filling up the seats, it was wrong to direct the fifteen per cent special reservation seats to be filled up first and then take up the OC (merit) quota (followed by filling of OBC, SC and ST quotas). The proper and correct course is to first fill up the OC quota (50%) on the basis of merit; then fill up each of the social reservation quotas, i.e., SC, ST and BC; the third step would be to find out how many candidates belonging to special reservations have been selected on the above basis. If the quota fixed for horizontal reservations is already satisfied - in case it is an overall horizontal reservation - no further question arises. But if it is not so satisfied, the requisite number of special reservation candidates shall have to be taken and adjusted/ accommodated against their respective social reservation categories by deleting the corresponding number of candidates therefrom. (If, however, it is a case of compartmentalised horizontal reservation, then the process of verification and adjustment/ accommodation as stated above should be applied separately to each of the vertical reservations. In such a case, the reservation of fifteen per cent in favour of special categories, overall, may be satisfied or may not be satisfied.) Because the revised notification provided for a different method of filling the seats, it has contributed partly to the unfortunate situation where the entire special



reservation quota has been allocated and adjusted almost exclusively against the OC quota.

[see also Mahesh Gupta & Ors. V. Yashwank Kumar].”

42. In the case of ***Public Service Commission, Uttaranchal vs. Mamta Bisht and Ors.*** reported ***2010 (3) PLJR, 100 (S.C.)***, the difference between horizontal reservation and vertical reservation has been mentioned in paragraph no.13. It will be relevant to quote paragraph no.13 of the said judgement, which is as follows:-

*“13. The view taken by the High Court on application of horizontal reservation is contrary to the law laid down by this Court in **Rajesh Kumar Daria vs. Rajasthan Public Service Commission & Ors.** AIR 2007 SC 3127, wherein dealing with a similar issue this Court held as under:*

"9. The second relates to the difference between the nature of vertical reservation and horizontal reservation. Social reservations in favour of SC, ST and OBC under Article 16(4) are "vertical reservations". Special reservations in favour of physically handicapped, women, etc., under Articles 16(1) or 15(3) are "horizontal reservations". Where a vertical reservation is made in favour of a Backward Class under Article 16(4), the



*candidates belonging to such Backward Class, may compete for non- reserved posts and if they are appointed to the non- reserved posts on their own merit, their number will not be counted against the quota reserved for respective Backward Class. Therefore, if the number of SC candidates, who by their own merit, get selected to open competition vacancies, equals or even exceeds the percentage of posts reserved for SC candidates, it cannot be said that the reservation quota for SCs has been filled. The entire reservation quota will be intact and available in addition to those selected under open competition category. (Vide **Indra Sawhney, R.K. Sabharwal v. State of Punjab, Union of India v. Virpal Singh Chauhan and Ritesh R. Sah v. Dr.Y.L. Yamul.**) But the aforesaid principle applicable to vertical (social) reservations will not apply to horizontal (special) reservations. Where a special reservation for women is provided within the social reservation for Scheduled Castes, the proper procedure is first to fill up the quota for Scheduled Castes in order of merit and then find out the number of candidates among them who belong to the special reservation group of "Scheduled Caste women". If the number of women in such list is equal to or more than the number of special reservation quota, then there is no need for further selection towards the special*



reservation quota. Only if there is any shortfall, the requisite number of Scheduled Caste women shall have to be taken by deleting the corresponding number of candidates from the bottom of the list relating to Scheduled Castes. To this extent, horizontal (special) reservation differs from vertical (social) reservation. Thus women selected on merit within the vertical reservation quota will be counted against the horizontal reservation for women." (Emphasis added)"

43. Again the same issue what manner and methodology will be applied for the execution of the horizontal reservation came for consideration in the case of ***Union of India and another vs. National Federation of the Blind and Others*** reported in ***(2013) 10 SCC 772***. It will be relevant to quote paragraph nos. 31 and 42 of the said judgement, which as follows:-

"31. In the light of the above pronouncement, it is clear that the scope of identification comes into picture only at the time of appointment of a person in the post identified for disabled persons and is not necessarily relevant at the time of computing 3% reservation under Section 33 of the Act. In succinct, it was held in Ravi Prakash Gupta that Section 32 of the Act is not a precondition for computation of reservation of 3% under Section 33 of the Act rather Section 32 is the following effect of Section 33.



42. A perusal of Indra Sawhney would reveal that the ceiling of 50% reservation applies only to reservation in favour of other Backward classes under Article 16(4) of the Constitution of India whereas the reservation in favour of persons with disabilities is horizontal, which is under Article 16(1) of the Constitution. In fact, this Court in the said pronouncement has used the example of 3% reservation in favour of persons with disabilities while dealing with the rule of 50% ceiling. Para 812 of the judgment clearly brings out that after selection and appointment of candidates under reservation for persons with disabilities they will be placed in the respective rosters of reserved category or open category respectively on the basis of the category to which they belong and, thus, the reservation for persons with disabilities per se has nothing to do with the ceiling of 50%. Para 95 is reproduced as follows: (SCC p.735-36)

“812. ...all reservations are not of the same nature. There are two types of reservations, which may, for the sake of convenience, be referred to as 'vertical reservations' and 'horizontal reservations'. The reservations in favour of Scheduled Castes, Scheduled Tribes and other backward classes [under Article 16(4)] may be called vertical reservations whereas reservations in favour of physically handicapped [under Clause (1) of Article 16] can be referred to as horizontal reservations.



Horizontal reservations cut across the vertical reservations - what is called inter-locking reservations. To be more precise, suppose 3% of the vacancies are reserved in favour of physically handicapped persons; this would be a reservation relatable to Clause (1) of Article 16. The persons selected against this quota will be placed in the appropriate category; if he belongs to S.C. category he will be placed in that quota by making necessary adjustments; similarly, if he belongs to open competition (O.C.) category, he will be placed in that category by making necessary adjustments. Even after providing for these horizontal reservations, the percentage of reservations in favour of backward class of citizens remains - and should remain - the same.....”

44. Learned counsel for the Commission has submitted that they are applying the horizontal reservation as per the guidelines by way of letter containing memo no.2342 dated 15.02.2016 has been framed in terms of the judgement of the Hon'ble Supreme Court giving guidelines in what manner the horizontal reservation can be acted upon. So, this Court is of the view that the plea of the Commission that those who have been selected on merit are outside from 35% horizontal reservation, is completely illegal, is itself shows that it is nothing but vertical reservation, which is not permissible in



law as explained by the Hon'ble Supreme Court in number of judgements as it cut across the vertical reservation meant for different categories is called interlocking reservation, so this Court directs that in the event of final selection the principle as stated herein-above should be applied in the matter of horizontal reservation.

45. Another aspect of the matter, what will be proper procedure in the matter of selection. In the case of *Md. Nafiz Nawaz Khan and another vs. The State of Bihar and Ors.* reported in **2016 (1) PLJR 667**, discussion has been made about the methodology to be applied for ideal process of selection and the Court has held in paragraph no.38 of the said judgement that utmost care is to be taken while setting of multiple choice questions leaving no scope of uncertainty in assessing individual merits of the test takers. However, there can be a situation, where despite due care taken, mistakes may occur in preparing such question, because of human error, but in finality it has been held that before evaluating the answer-sheets, to ascertain whether the questions were correctly framed having definite answers as well as correctly framed answer it will be desirables that the question and model answer should be uploaded, objection should be invited from the candidates and any such objection is received must be looked into by a body of experts, which would not only be



required to ascertain whether the question were correctly framed or not and also examine as to whether the model answers, prepared by the question setter, are correct or not.

46. This practice is being followed in this State by every body which is engaged in the recruiting the candidates for different categories. So the plea taken by the Commission that it is a newly created body is not very much conversant with the procedure for selection, but it has been said that they have not violated any of the terms of the rule or the procedure mentioned in the advertisement, hardly of any substance. To understand that in what manner fair procedure is to be applied by the recruitment body has been explained in paragraph nos. 35, 36, 37, 38, 39 and 40 of the said judgement, which are as follows:-

“35. Our attention has been drawn by learned Senior counsel, appearing for the Board, to the effect that the decision of this Court in case of Manoj Kumar (Supra), which has been relied upon by learned Single Judge, in his order under appeal, has been affirmed by a Division Bench decision of this Court reported in 2012 (1) PLJR 578 (Manoj Kumar Vs. State of Bihar and Ors.). Those cases had arisen out of preliminary test held by the Bihar Public Service Commission. In the said preliminary test, certain questions were found to have been incorrectly framed, which were decided



to be weeded out for the purpose of re-evaluation of the mark sheets. On going through the said decisions, we find that on many occasions, situations had arisen, where, in a multiple-choice question type test, framing of incorrect questions came to be detected after the examination had been held by statutory bodies, sometimes suo motu and sometimes after objections having been raised by the test takers, giving rise to several litigations. In order to remedy such a situation, the bodies, holding such tests, adopt different ways and means, of which the present case is a living example. Initially, when the Board had detected certain questions to be wrong, it had decided to delete such questions and re-evaluate the answer sheets on the basis of the remaining questions on pro rata basis. Subsequently, when more questions were detected to be incorrect by the expert body, they decided to give additional marks for each such incorrect question across the Board.

36. In our considered view, the learned Single Judge has rightly held that in a situation such as the present one, wrongly framed questions should be deleted and the answer sheets should be re-evaluated on the basis of remaining questions. The view, taken by learned Single Judge, is not only reasonable and rational view, it also ensures fair and equal treatment to all candidates, who participate in such a test, there being no disadvantage to any individual or undue advantage to the other. We do not find any infirmity in the order under appeal passed by learned Single Judge.



37. We do not think that discrepancies, in holding the eligibility test in question, as noted above, are such that the entire exercise, done by the Board, is required to be annulled. There is no allegation of any malpractice nor any irregularity of such nature warranting scrapping of the entire exercise.

38. Before we part with the present judgment, we consider it appropriate to issue certain directives to be followed in future. It would have been ideal situation that utmost care is taken, while setting multiple choice questions leaving no scope of uncertainty in assessing individual merits of the test takers. However, there can be a situation, where despite due care taken, mistakes may occur in preparing such questions, because of human error. This Court is of the view that the agencies/authorities, responsible for setting such questions, should carry out the exercise with utmost care as even a small flaw leads to series of litigations, creates lot of confusion and, at times, puts question mark on the sanctity of selection process itself.

39. Keeping in mind that there has been numerous instances, where the questions have been found to be incorrect, giving rise to several litigations, we are compelled to issue general directions to the such statutory bodies or other agencies holding tests based on multiple-choice questions for the purpose of appointment to various posts under the State within the meaning of [Article 12](#) of the Constitution of India or for the purpose of admission to various institutions managed or controlled by the State.



40. Having considered the matters in its entirety and in the interest of justice, we, therefore, direct as follows:-

(a) Immediately after a multiple choice question test is held, it shall be obligatory for the Committee or the Body, which conducts such a test, to undertake an exercise, before evaluating the answer-sheets, to ascertain whether the questions were correctly framed having definite answers. In case any objections are invited from the candidates and such objections are received, they must be looked into by a body of the experts, who would not only be required to ascertain whether the questions were correctly framed or not, but they would also be required to examine as to whether the model answers, prepared by the question-setter, are correct or not, for the purpose of correct evaluation of answer-sheets;

(b) If the structure of a question is found to be incorrect or if the option suggested is found to be incorrect or if there is any printing mistake of such a nature that the correct answer cannot be ascertained or more than one option is found to be correct, such a question must be rejected and should not be allowed to be evaluated;

(c) If, after publication of result, despite due care, it is found that the model key answer/answers suggested was/were incorrect, leading to wrong evaluation, remedial measures must be taken and answer-sheets



must be re-evaluated with correct model answers.”

47. This issue has been looked into by the Hon’ble Supreme Court in the case of ***Richal vs. Rajasthan Public Service Commission*** reported in ***2018 (8) SCC 81***, in paragraph no.19 of the judgment, which is as follows:-

“19. The key answers prepared by the papersetter or the examining body is presumed to have been prepared after due deliberations. To err is human. There are various factors which may lead to framing of the incorrect key answers. The publication of key answers is a step to achieve transparency and to give an opportunity to candidates to assess the correctness of their answers. An opportunity to file objections against the key answers uploaded by examining body is a step to achieve fairness and perfection in the process. The objections to the key answers are to be examined by the experts and thereafter corrective measures, if any, should be taken by the examining body. In the present case we have noted that after considering the objections final key answers were published by the Commission thereafter several writ petitions were filed challenging the correctness of the key answers adopted by the Commission. The High Court repelled the challenge accepting the views of the experts. The candidates still unsatisfied, have come up in this Court by filing these appeals.”

48. Placing reliance on the aforesaid judgment, this Court is



giving following directions:-

(i) that while making selection especially for the female candidates while applying horizontal reservation the procedure and the manner as has been stated herein-above and which has been explained by the Hon'ble Supreme Court should be followed in true letter and spirit.

(ii) let the Commission upload the question and model answer, invite objection from the candidates, on receipt of the same, the expert Committee should look into the question paper and model answer and will be modulated in terms of the opinion of the expert Committee.

(iii) for fairness and transparency, if any candidate apply for the carbon copy of OMR sheet of the mains examination under Right to Information Act for the purposes of knowing the number awarded to him/her, in such circumstance, the same should be supplied to him/her.

(iv) The cut-off marks of different categories should also be uploaded in the official website of the Commission.



It is clarified that this order is only confined to the mains examination. The aforesaid directions, will not be applicable to the preliminary examination.

49. With the aforesaid observations and directions, this writ petition is disposed of.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	A.F.R.
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