IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CWP no.6163 of 2018 (O&M)

Dr. Deepanshu and others

....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

2. CWP no.7858 of 2018 (O&M)

Dr. Satbir Singh and others

....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

Date of Decision : 03.04.2018

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE RAJBIR SEHRAWAT

Present : Mr. Girish Agnihotri, Sr. Advocate with
Mr. Arvind Seth, Advocate for petitioners
in CWP no. 6163 of 2018

Mr.Aditya Singh Yadav, Advocate for the petitioner(s)
in CWP no. 7858 of 2018

Mr. Ankur Mittal, Addl. AG, Haryana with
Ms. Kirti Singh, DAG, Haryana and
Mr. Manoj Dhankar, AAG, Haryana

Mr. M.S.Longia, Advocate for respondent no.5
in CWP no. 6163 of 2018

MAHESH GROVER, J.(ORAL)

This order will dispose of two civil writ petitions bearing CWP nos. 6163 and 7858 of 2018.

Short reply by way of affidavit of Vijayendra Kumar, IAS, Secretary General Administration Department on behalf of respondent no.1, reply by way of an affidavit of Amit Jha, IAS, Additional Chief Secretary to Govt. of Haryana on behalf of respondent no.2 and an affidavit of Hema Sharma, Addl. Secretary cum Additional Director, Medical Education and Research Department, Haryana on behalf of respondent no.3 (in CWP no. 6163 of 2018) have been filed in the Court today and the same are taken on record.

The petitioners are all M.B.B.S doctors desirous of pursuing their higher education. They have questioned the notification dated 17.1.2018 issued by the State identifying 46 blocks of various districts in the State of Haryana as remote/difficult areas for the purpose of giving incentives under various schemes of the State Government. Also under challenge is notification dated 30.1.2018 where some Community Health Centres and Primary Health Centres (hereinafter referred to as the 'CHC' and 'PHC' respectively) have been indicated to confer the incentives upon the in-service candidates.

The principle of incentivisation flows from Regulation 9(IV) of the Post Graduate Medical Education Regulations 2000 extracted herebelow:-

> **"Regulation 9(IV):-**
>
> Provided that in determining the merit of candidates who are in service of government/public authority, weightage in the marks may be given by the Government/competent authority as an incentive at the

> rate of 10% of the marks obtained for each year of service in remote and/or difficult areas upto the maximum of 30% of the marks obtained in National Eligibility-cum-Entrance Test. The remote and difficult areas shall be as defined by State Government/competent authority from time to time."

On a prior occasion the State had in furtherance of the aforesaid Regulation 9(IV) identified certain areas to admit in-service candidates to an incentive for serving there which was successfully questioned in CWP no. 8649 of 2017. The matter was carried to the Hon'ble Supreme Court which affirmed the findings of this Court.

Extensive reliance has been placed on the judgment of the Hon'ble Supreme Court in Civil Appeal no. 8179-8181 of 2017 titled as **'State of Haryana and another vs. Dr. Narender Soni and others** while making submissions before us in the present writ petitions.

We, therefore, intend to extract the relevant portion of the observations made by the Hon'ble Supreme Court in the aforesaid case, which also form the basis of the substantive argument raised before us:-

> "To identify an areas as remote and/or difficult on the basis of unwillingness of Doctors to join at these places which can be myriad reasons, cannot be held to be a valid and relevant criteria. Similarly vacancies at any particular place can again be for various reasons and cannot be directly and conclusively related to unwillingness of Doctors to join at such places. The State

is first required to identify remote and/or difficult areas, and then analyse the lack of availability of Doctors at these locations. To first identify locations where Doctors are reluctant to be posted and then classify them as remote or difficult areas is reversing the entire decision making process, akin to placing the card before the horse. The High Court has noticed that several of them were located where municipal committee/council exists, 10 places are such which are sub-divisions in the Districts concerned and many of the Community Health Centres and Primary Health Centres were located on National Highways or State Highways including in cities with large population which could not be said to be remote and/or difficult areas, observing that Haryana was a developed State with good road communications. Additionally, the impugned notification was implemented and acted upon in the 1st counselling even before its publication in the Gazette, only after which it could have come into force as mentioned in the same.

8. The flawed implementation by a hasty identification of remote and/or difficult areas is further evident from the fact that out of 150 Community Health Centres, 68 of them have been identified as remote and/or difficult which amounts to 60 per cent of the total. Likewise, 54 per cent of the Primary Health Centres have

been identified as remote and/or difficult areas. It strongly conflicts with the status of Haryana as a developed State and severely reduces the chances of other candidates who may not be entitled to such weightage.

9.xxxxx

10. The word remote and/or difficult areas has not been defined anywhere. In common parlance, identification of the same would require considering a host of factors, such as social and economic conditions, geographical location, accessibility and other similar relevant considerations which may be a hindrance in providing adequate medical care requiring incentivization. A cue may be had from the "Concept and Process Document for Incentivisation of Skilled Professionals to work in inaccessible most difficult and difficult rural areas (draft note)" published by the National Health Systems Resource Centre, Ministry of Health and Family Welfare. It outlines the rationale and objectives of a scheme for providing a package of incentives for attracting and retaining skilled service providers that are categorised as inaccessible, most difficult and difficult.

11. Dwelling upon the past experiences on 2.7.2009, the Hon'ble Minister of Health and Family Welfare wrote to the Chief Minister of States, about the

challenges in reaching health services in hilly areas, desert areas, areas affected by Naxalite problem, areas having poor connectivity and un-served and under-served tribal areas. The third Common Review Mission (CRM) of the Ministry of Health and Family Welfare in November, 2009 invited suggestions from all States. After noticing drawbacks in the same, the Ministry of Health and Family Welfare requested the National Health System Resources Centre (NHSRC) to conduct an independent survey for categorization of difficult, most difficult or inaccessible areas and evolve a set of criteria. NHSRC evolved the criteria on the following five principles:-

> "a. That the facilities are identified on the basis of how difficult it is for service providers to go and work in these areas not on how well the health programmes are faring or how difficult it is to provide services in these areas.
>
> b. That the basis of identification would be an objective and verifiable date base which measures difficulty in four dimensions: the difficulty posed by the remoteness of a rural area, the difficulty posed by natural and social environmental factors, the difficulty a family would have in terms of housing, water, electricity

and schooling and the record of success of the system in filling up the post in the past. The data base to be prepared would be stored in such a manner that it could be regularly updated.

c. That once the data base is defined the scoring could be done by giving weightage to the various factors in any way the state or the centre wants it, and if need be different elements of the incentive package could be defined by different weightage and selections.

d. Of the four dimensions of difficulty, the most important would be assumed to be the remoteness and physical inaccessibility of the area, while other factors would be considered only if the distance from an urban area of district headquarters criterion was satisfied. Thus an extremist affected district could be as much a problem as distance, but if the facility is an urban or peri-urban area then it would not be the central issue in getting a doctor to that facility. This is based on an understanding that lack of willingness to work in remote areas is due to a combination of economic loss, social and (from community and family) and professional isolation and not so much of a problem as distance from an urban area.

e. The criteria for difficulty should be measurable enough to withstand legal and political contestation, but there would be exceptions that need to be made and these could be made by addition of further qualifying rules and flexibilities that would be defined in writing wherever needed."

12. Annexure 1 to the draft note on "the measurement of inaccessibility and difficulty of health facilities" stipulates as follows:-

"1. Accessible: Any health facility less than 60 km from any district hospital/ district headquarters or less than 60 km from any urban area (not counting very small townships) is accessible. It would not be considered difficult even if there are other adverse environments or housing situations (exceptions only in extreme situations like Upper Himalayan districts or in some NE districts). In terms of scoring, these facilities within the 60 km zone are scored AO. This cut off of 60 km is chosen as in most cirucumstances 60 km is less than two hours motorable distance.

2. **Inaccessible.** Any health facility which is not on a motorable road or where the road gets cut off for more than 6 months and one has to walk to reach the facility is inaccessible irrespective of other

factors. Not to count as inaccessible, if the walking part is only within the village/town. (Motorable road to the village, not necessarily to the facility) A walking time of over half hour or 2 km distance is taken as cut off. Usually above a one hour walking time and 5 km distance, it is safe to declare it as "inaccessible." At the lower limit, one needs to verify the data more carefully. In terms of scoring these are scored A4 or A5 is if the distance is over 15 km or three hours walking time.

3. **Difficult and Most difficult.** If the facility is more than 60 km from urban area/ district headquarters it would be considered difficult if in addition if

1. The facility is more than 30 km from block headquarter and over 10 km away from national highway or other main busy highway-irrespective of other adverse environment or housing criteria:

or

b. The facility is less in one of the above two distances (from block and from highway) but there are adverse environment factors as housing factors to compensate for it.

Or

c. If the road gets cut off for more than a month every year.

In terms of scoring an **A2 is difficult** and **A3 is most difficult** A1 is accessible.

A facility which is over 60 km from any urban area or any district headquarters gives it a score of A1. To this we add another score of 0.5 for being more than 30 km from block HQ and another 0.5 for being more than 10 km off the national highway. This makes any facility conforming to paragraph "3 a" above get a score of A2.

If the facility had a score of A1 or A 1.5 score from its distance or for road cut off reasons but as an environment score of more than 2 or an environment score of 1 plus a housing score or a vacancy score then this A1 or A 1.5 would become a net A2 and get categorized as difficult.

If the facility had a score of A2 or A 2.5 from its distance scores and cut-off reasons – and then also has an environment score of more than 2 or an environment score of 1 plus a housing score or a vacancy score then this A1 or A 1.5 it would become a net A3 and get categorized as Most difficult.

Lack of public transport including lack of a taxi service could also make an A2 into an A3.

4. **Scoring for Environment:** Any hilly, forest, tribal or desert or island area would attract an

environment score of 1. These are not additive. If it is a facility located in a tribal hilly forest area, the environment score is still only 1- not 3. If the hills are above 5000 ft then one could put it as two. Or if the tribal areas has a high malaria problem (Falciparum and above AP1 5) in addition to it being hilly and forested one could put it as 2. We can also add one to three points for Left Wing violence depending on the stage of police operations. Generally other forms of conflict which are occasionally and widely dispersed would not attract a disturbed area score. Factors like dacoit infested, caste conflicts etc. are not given any score. The important point to note is that an environment score would make an A1 to an A2 or an A2 into an A3. It would seldom make an A1 to A3 and it would never make an AO into any level of difficulty.

5. **Scoring for housing:** Poor quality of housing, lack of water supply and electricity, and lack of access to a higher secondary school within one hour of bus journey (30 km) also are scored. In combination with an environment score they could make an A1 to an A2 (difficult) or an A2 to an A3 (most difficult) but would not make an AO into a difficult category.

6. **Scoring for vacancy** If medical posts are vacant for one to three years we indicate it by V1 to

> V3 scores. This is just used to check whether we are on the right track. The pattern of vacancies is inconsistent and changing and the data on it is of too poor a quality to use it for decision making."
>
> 13. It is, therefore, apparent that the Notification dated 5.5.2017 is based on a completely flawed process of identification, applying irrelevant criteria and ignoring relevant considerations. The High Court has rightly observed that the State power for transfer and posting is sufficient to take care of the unwillingness of Doctors to join at specified locations. The identification and crtieria, will naturally vary from State to State to some extent, despite identification of certain common criteria."

Learned counsel for the petitioners contends i) that none of the guidelines laid down by the Hon'ble Supreme Court as extracted above have been followed by the State and therefore, the entire classification needs to be set aside and ii) despite specific directions given by this Court that the exercise of identifying remote/difficult areas be carried out before the declaration of result, the same was not done and instead the identification of PHCs and CHCs was done only on 30.1.2018 while results stood declared on 23.1.2018. It has been strenuously argued before us that no rationale has been adopted by the State in identifying such areas, considering that State of Haryana is a developed one and none of the districts or sub divisions would meet the guidelines laid down by the Hon'ble Supreme Court.

The State on the other hand justifies their stand and refers to the elaborate exercise undertaken by them reflected in Annexure A to Annexure R-1 which has also referred to certain factors related to the adjoining States which though to our minds may not be relevant to the controversy. For the purposes of reference, the relevant factors resulting in recommendations of the committee are set out hereinbelow:-

"**<u>Recommendations of the Committee</u>**

Taking into consideration the above factors, the Committee has relied on the backwardness criteria adopted by the Rural Development Department, Industries Department, Education Department and Health Department Haryana to identify backward/difficult/remote areas and decided to recommend that the following parameters may be adopted to identify a block as a backward/difficult/remote:-

i. Socio-Economic and Educational

   a. SC population
   b. Land irrigated area
   c. Literate people
   d. Villages with high school education facilities
   e. Villages with any health care facility
   f. Female Literacy Rate
   g. Enrollment of girls in the secondary schools

ii. Health (Poor Health Indicators)
   a. Home deliveries
   b. Maternal deaths
   c. Still births
   d. Infant deaths

iii. Industries
   a. Categorization of blocks made under the Industrial Policy 2011
   b. Balanced regional growth incentives and geographical dispersal of industry.
   c. Blocks having no large and medium units were categorized as extremely backward blocks i.e 'D' category block

d. Number of units and investment in different blocks.
e. Economic development
f. Natural growth in view of location of blocks.

On the basis of the above parameters, a set of basic indicators like socio-economic, including education, poor health and industrial development have been tabulized uniformly according to data collected from various departments. Each indicator has been given weightage at a scale of 100 and thereafter indicators have been aggregated and have been further reduced to a single measure of 100. It is pertinent to mention here that after Aug 2016, 13 new blocks have been created but the data readily available for only 127 blocks which were in existence upto Aug 2016, therefore, the new blocks which have been carved out from old blocks will be treated backward/difficult/remote as per the status of the original blocks. Accordingly, each development block of the State has been given score and gradation in the order of backwardness/remoteness (top to bottom). These blocks may be declared as backward/difficult/remote by the Government by applying a cutoff point below which an area may deemed to be as difficult/backward/remote to provide incentive by the different departments under various Schemes keeping in view the object sought to be achieved under each Scheme of the department concerned. Generally, the median value is taken as the

cutoff point. The most backward/remote block has been graded at sr. no.1 with score of 26.5 out of 100 and the least backward/remote block has been graded the last at sr.no.127 with score of 93.1 out of 100 and the medium comes out at sr.no.63 with score of 61.8."

It has been argued by the learned counsel for the State that once Regulation 9(IV) has found legitimacy in judgments rendered by the Hon'ble Supreme Court the only question that remains to be seen is as to whether the exercise undertaken by them to identify remote/difficult areas stands the test of rationale laid down in case titled as **State of U.P and others vs. Dr. Dinesh Singh Chauhan** reported as 2016 AIR (SC) 3841. Relevant paras are extracted herebelow:-

"34. It was then contended that hitherto reservation for in-service candidates was applicable only in respect of Government colleges but on account of interim directions given by this Court, dispensation of giving weightage or incentive marks as per Regulation 9 to the in-service candidates has been made applicable across the board even to non-Government medical colleges where the seats allocated to the State Government are to be filled up. In our opinion, Regulation 9 per se makes no distinction between Government and non-Government colleges for allocation of weightage of marks to in-service candidates. Instead, it mandates preparation of one merit list for the State on the

basis of results in NEET. Further, regarding in-service candidates, all it provides is that the candidate must have been in-service of a Government/public Authority and served in remote and difficult areas notified by the State Government and the Competent Authority from time to time. The Authorities are, therefore, obliged to continue with the admission process strictly in conformity with Regulation 9. The fact that most of the direct candidates who have secured higher marks in the NEET than the in-service candidates, may not be in a position to get a subject or college of their choice, and are likely to secure a subject or college not acceptable to them, cannot be the basis to question the validity of proviso to Clause IV of Regulation 9. The purpose behind proviso is to encourage graduates to join as medical officers and serve in notified remote and difficult areas of the State. The fact that for quite some time no such appointments have been made by the State Government also cannot be a basis to disregard the mandate of proviso to Clause IV - of giving weightage of marks to the in-service candidates who have served for a specified period in notified remote and difficult areas of the State.

35. Presumably, realizing this position writ petition has been filed to challenge the validity of proviso to Clause IV of Regulation 9. According to the writ petitioners, the

prospectus provided for 30% reservation in favour of in-service candidates for admission to post-graduate medical courses. The application of Regulation 9 results in an absurd situation because of giving weightage to specified in-service Medical Officers in the State. There is neither any committee set up nor guidelines made as to which area can be notified as remote and difficult area. The power vested in the State is an un-canalized power and disregards the settled position that for consideration after the graduate level, merit should be the sole criteria. Further, there is no nexus with the object sought to be achieved for providing weightage to the extent of 10% of the marks obtained by the candidate in the common competitive test and to the extent of maximum of 30% marks so obtained. Dealing with this contention, we find that the setting in which the proviso to Clause IV has been inserted is of some relevance. The State Governments across the country are not in a position to provide health care facilities in remote and difficult areas in the State for want of Doctors.[1] In fact there is a proposal to make one year service for MBBS students to apply for admission to Post Graduate Courses, in remote and difficult areas as compulsory. That is kept on hold, as was stated before the Rajya Sabha. The provision in the form of granting weightage of marks, therefore, was to

give incentive to the in-service candidates and to attract more graduates to join as Medical Officers in the State Health Care Sector. The provision was first inserted in 2012. To determine the academic merit of candidates, merely securing high marks in the NEET is not enough. The academic merit of the candidate must also reckon the services rendered for the common or public good. Having served in rural and difficult areas of the State for one year or above, the incumbent having sacrificed his career by rendering services for providing health care facilities in rural areas, deserve incentive marks to be reckoned for determining merit. Notably, the State Government is posited with the discretion to notify areas in the given State to be remote, tribal or difficult areas. That declaration is made on the basis of decision taken at the highest level; and is applicable for all the beneficial schemes of the State for such areas and not limited to the matter of admissions to Post Graduate Medical Courses. Not even one instance has been brought to our notice to show that some areas which are not remote or difficult areas has been so notified. Suffice it to observe that the mere hypothesis that the State Government may take an improper decision whilst notifying the area as remote and difficult, cannot be the basis to hold that Regulation 9 and in particular proviso to Clause IV is unreasonable.

> Considering the above, the inescapable conclusion is that the procedure evolved in Regulation 9 in general and the proviso to Clause (IV) in particular is just, proper and reasonable and also fulfill the test of Article 14 of the Constitution, being in larger public interest."

To counter this last limb of the argument, learned senior Advocate Sh. Agnihotri, representing the petitioners (in CWP no. 6163 of2018) contends that the Hon'ble Supreme Court has held these directions to be desirable and not mandatory for the State to adopt and if that be so then considering the developed State that Haryana is there would be no occasion to afford any scheme of incentivisation.

We have heard learned counsel for the parties and are of the opinion that Regulation 9(IV) certainly gives the authority to the State to introduce a scheme of incentives to the in-service candidates with laudable object to ensure representation and service in PHC/CHC in remote/difficult areas where doctors display reluctance to go to. It is thus not an issue to be debated any further, if the State has decided to give incentives to in-service candidates who have served in remote/difficult areas unless a perversity is shown in such a decision. The Courts would thus not sit over the judgment of the State to adopt a scheme of incentivisation, particularly, in the absence of any challenge to the scheme or arbitrariness or legal infringement.

That leaves us with a question about the correctness of the exercise undertaken by the State to identify remote/difficult areas.

We have seen from the record that a committee was indeed constituted which took into consideration various factors and keeping in

view the earlier observations made by this Court as also the Hon'ble Supreme Court, areas which fell within the Municipal limits were weeded out and only those areas have been included where after applying all the parameters, percentage of backwardness fell well below the tabulated average score. To demonstrate we would merely reproduce some portion of Annexure A appended to Annexure R-1:-

weightage (100+100+100)		Socio Economic Indicators																	Poor Health Indicators			Indst. Dev.	
District	Block	% Land irrigated area	Marks (Out of 10)	% Literate People	Marks (Out of 10)	% of villages with high school education facilities (Data from Edu. Deptt. - Census)	Marks (Out of 10)	% of villages with any health care facility (Data from Census)	Marks (Out of 10)	Female literacy rate	Marks (Out of 10)	% Enrollment of girls in secondary schools	Marks (Out of 10)	Total Marks (3+5+8+10+12+14)(Out of 60)	% of S.C. Population	Marks (Out of 10) (A)	= 10-A (Reverse of 17)	Total = 15+16 (Out of 20)	# Marks given in Col.19 converted on the scale of 100	Composite Index for poor Health Indicators attributed to Home deliveries, Maternal Health, Still Birth, Infant Death (out of 10)	Composite Score of Col-21 converted on the Scale of 100 (B)	= 100-B(22) Reverse of 22	# Industrially backward block (out of 100)	Average Score of 19+22+23 at the base of 100
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25
1 Mewat (Nuh)	Punhana	32	3.2	46.29	4.6	22.6	2.3	34.52	3.5	11.36	2.1	34.2	3.4	18.1	5.08	0.5	9.5	27.6	38.4	8.75	87.5	12.5	25	25.6
2 Mewat (Nuh)	Nuh	20	2.0	42.68	4.3	26.2	2.6	32.04	3.2	13.79	1.4	35.1	3.5	17.0	6.09	0.6	9.4	26.4	37.7	10	100	0	50	29.2
3 Mewat (Nuh)	Nagina	11	1.1	40.51	4.0	15.2	1.5	100	10.0	11.06	1.1	30.6	3.1	20.8	4.83	0.5	9.5	30.3	43.3	8	80	20	25	29.4
4 Mewat (Nuh)	Ferozepur Jhirka	25	2.5	37.79	3.8	15.8	1.5	96.25	9.6	13.42	1.3	34.6	3.5	22.2	6.01	0.6	9.4	31.6	45.1	8	80	20	25	30.0
5 Mewat (Nuh)	Taoru	0	0.0	50.36	5.1	15.2	1.5	68.35	6.8	18.61	1.9	35.2	3.5	18.8	14.1	1.4	8.6	27.4	39.1	10	100	0	75	38.0
6 Palwal	Hathin	19	1.9	57.95	5.8	15.0	1.5	63	6.3	19.21	1.9	41.5	4.1	25.6	73.71	7.1	2.9	10.4	40.6	7.25	72.5	27.5	50	39.4
7 Panchkula	Morni	8.5	0.8	65	6.5	46.7	4.7	26.67	2.7	54	5.4	54.6	5.5	25.6	11.42	1.1	8.7	34.3	48.9	3.25	32.5	67.5	25	47.2
8 Bhiwani	Loharu	27.4	2.7	54.1	5.4	42.6	4.3	40.45	4.0	24.94	2.5	49.8	5.0	34.9	14.56	2.0	8.0	30.9	47.1	3	30	70	25	47.4
9 Bhiwani	Behal	30.9	3.0	53.93	5.3	41.9	4.2	38.71	3.9	24.29	2.4	59.3	5.9	35.7	13.67	1.8	8.2	33.9	48.5	3	30	70	25	47.8
10 Kaithal	Siwan	83.7	8.4	56.24	5.6	38.8	3.1	74.36	7.4	45.97	4.6	54.4	5.4	34.5	31.29	3.1	6.9	41.4	58.1	3.75	37.5	62.5	25	48.9
11 Fatehabad	Bhuna	95	9.5	57.3	5.7	50.6	5.1	85.39	8.5	57.02	5.7	51.2	5.1	44.8	26.0	2.6	7.4	52.2	74.6	5	50	50	25	49.5
12 Charkhi Dadri	Badhra	38.1	3.8	64.85	6.5	45.5	4.5	75.76	7.6	25.04	2.5	53.3	5.3	38.2	17.62	1.8	8.2	38.4	54.9	3	30	70	25	50.0
13 Bhiwani	Siwani	11.5	1.1	59.8	6.0	55.6	5.6	62.89	6.3	22.9	2.3	52.9	5.3	16.5	19.91	2.0	8.0	34.5	49.4	2.25	22.5	77.5	25	50.6
14 Charkhi Dadri	Dadri-2 (Bond Kalan)	42.3	4.2	66.25	6.6	77.6	7.8	100	10.0	25.94	2.6	58.7	5.9	37.0	18.47	1.8	8.2	45.2	64.5	3.75	37.5	62.5	25	50.7
15 Bhiwani	Kairu	25.9	2.6	63.07	6.3	74.2	7.4	77.42	7.7	24.77	2.5	56.4	5.6	32.3	19.56	2.0	8.0	40.3	57.3	3	30	70	25	50.8
16 Kaithal	Kalayat	83.1	8.3	58.07	5.8	57.1	5.7	78.57	7.9	50.99	5.1	49.8	5.0	37.8	20.93	2.1	7.9	45.7	65.3	3.75	37.5	62.5	25	50.9
17 Jind	Uchana	79	7.9	57.52	5.8	70.7	7.0	100	10.0	46.68	4.7	53.4	5.3	41.6	12.63	2.3	7.7	49.3	70.5	4.25	42.5	57.5	25	51.0
18 Bhiwani	Bawani Khera	72	7.2	62.89	6.3	108.6	10.0	83.95	8.1	24.79	2.5	50.2	5.0	39.1	12.34	2.2	6.8	45.9	65.6	3.75	37.5	62.5	25	51.0
19 Kaithal	Kaithal	100	10.0	74.27	7.4	19.8	2.0	50.49	5.0	65.76	6.6	50.4	5.0	36.8	12.98	2.3	7.7	44.5	63.6	6	60	40	50	51.2
20 Hisar	Barwala	17.1	1.7	67.13	6.7	78.9	7.9	84.21	8.4	55.19	5.5	46.7	4.7	43.2	19.21	2.6	7.2	50.4	72.0	4.25	42.5	57.5	25	51.9
21 Yamunagar	Sadaura	99	9.9	73.14	7.3	10.8	1.0	26.67	2.7	65.42	6.5	42.4	4.2	31.6	27.52	2.8	7.2	58.8	55.4	2.5	25	75	25	51.8
22 Jind	Safidon	96	9.6	63.6	6.2	54.3	5.4	100	10.0	53.13	5.3	54.6	5.5	42.0	19.98	2.1	7.9	49.9	71.3	4	40	60	25	52.1
23 Palwal	Hassanpur	53	5.3	69.05	6.9	162.2	10.0	59	5.9	52.39	5.2	45.2	4.5	38.8	87.56	8.8	1.2	48.0	57.2	5	50	50	50	52.4

We, therefore, have no reason to disagree with the State on this count, particularly, when no major deviation has been shown or any arbitrary conclusion indicated in the exercise. It has to be understood that once we accept that the State has decided to incentivise in-service candidates having

served in remote/difficult areas then the rationale to identify such areas would also have to be seen from the ground realities prevailing in a State. There can never be uniform yardstick or fool proof method of identifying backward areas and considering the State of Haryana as a State equipped with decent infrastructure such as roads etc. it will be difficult to identify a remote/difficult area purely on the basis of available infrastructure and inaccessibility or geographical location and proximity to an urban centre. In such a situation socio-economic factors play a dominant role in ascertaining the backwardness of a particular area and a casual look at the blocks identified does not really throw up any serious discrepancies so as to discard the entire process altogether.

Further while exercising the power of a judicial review on the action of the executive, the Court has to see if it suffers from the vice of arbitrariness or reeks of excessive exercise of power or lack of its or is violative of any law. Merely because a particular thing can be done differently or even in a better way, would be no ground to strike it down altogether. We, therefore, would lean in favour of the exercise undertaken by the State.

In so far as argument of the learned counsel for the petitioners that notification was issued after the declaration of result, we are of the opinion that it is a failing argument. The notification dated 17.1.2018 where the blocks were identified and the result was declared on 23.1.2018. The notification dated 30.1.2018 merely carries forward the process of identifying blocks of the remote/difficult areas as per the notification dated 17.1.2018. On this count also we do not find any wrong doing. Since no

further points have been raised by the petitioners, we decline interference.

Hence, instant petitions are hereby dismissed.

(Mahesh Grover)
Judge

03.04.2018 **(Rajbir Sehrawat)**
rekha **Judge**
Whether speaking/reasoned Yes/No
Whether reportable Yes/No