

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**REVP No. 87 of 2020**

- Sunil Ajgalley S/o Shri Surendra Ajgalley aged about 29 years R/o village Pachpedi district Bilaspur C.G. (appellant 1 in Writ Appeal)
- Bhuwan Bhashkar S/o Shri Suresh Kamlakar aged about 22 years R/o Village Surkulkari P.S. Masturi District Bilaspur C.G.

-----Petitioners**VERSUS**

1. State of Chhattisgarh, through The Secretary, Department of Home (Police), Mahanadi Bhawan Mantralaya, Atal Nagar District Raipur C.G.
2. Director General of Police, Police Headquarters, Block No. 4 Sector 19, Near Indrawati Bhawan, Atal nagar, District Raipur C.G.
3. Additional Director General of Police (Recruitment/ Selection), Police Headquarters, Block no. 4 Sector-19, Near Indrawati Bhawan Atal nagar, District Raipur C.G.
4. Deputy Inspector General of Police (Administration) Police Headquarters, Block No. 4, Sector-19, Near Indrawati Bhawan, Atal Nagar, District Raipur C.G.
5. Suryabhan Bhaskar S/o Shri Devnath Bhaskar, aged about 34 years R/o House No. 8 Ward No. 9 Avaspara, Village Gourgaon, Post office Nathiya District kanker C.G.
6. Rupendra Kumar Sahu, S/o Jeevan Lal Sah, aged about 31 yers R/o Ward No. 4, Awaradabri, Khallari District Mahasamund C.g.
7. Pramod Kumar Dhritlahre S/o Shri Chandrika Prasad Dhritlahre aged about 29 years, R/o house No. 407 Leela Chowk, Chherkapur District Baloda Bazar C.G.

-----Respondents**WITH****REVP No. 89 of 2020**

1. Vedprakash Madhukar S/o Shri Bhuwan Lal Madhukar Aged About 26 Years R/o Ward No. 7, Mohbhatta Road, District Bemetara Chhattisgarh.
2. Virendra Kumar Sahu S/o Narayan Prasad Sahu Aged About 30 Years R/o House No. 107, Dhaurabhatha District Durg Chhattisgarh
3. Santosh Chandra S/o Shri Malik Ram Chandra Aged About 26 Years R/o Ward No. 1, Bahathagaon Jaijaipur District Janjgir Champa Chhattisgarh.

---- Petitioners**Versus**

1. State of Chhattisgarh Through The Secretary, Department of Home (Police), Mahanadi Bhawan, Mantralaya, Atal Nagar, District Raipur Chhattisgarh.
2. Director General of Police Police Headquarters, Block No. 4, Sector - 19,

Near Indrawati Bhawan, Atal Nagar, District Raipur Chhattisgarh.

3. Additional Director General of Police (Recruitment / Selection), Police Headquarters, Block No. 4, Sector - 19, Near Indrawati Bhawan, Atal Nagar, District Raipur Chhattisgarh.
4. Deputy Inspector General of Police (Administration), Police Headquarters, Block No. 4, Sector - 19, Near Indrawati Bhawan, Atal Nagar, District Raipur Chhattisgarh.
5. Ravikant Madhukar S/o Shri Shri Bhuwan Lal Madhukar Aged About 28 Years R/o Ward No. 7, Mohbhatta Road, District Bemetara Chhattisgarh.
6. Vedprakash Sahu S/o Shri Ramesh Kumar Sahu Aged About 24 Years R/o Dhaurabhatha District Durg Chhattisgarh.

---- Respondents

For Petitioners	:	Ms. Naushina Afrin Ali, Nitansh Kumar Jaiswal and Mr. Topilal Baresh, Advocate
For Respondent -State	:	Mr. Siddharth Dubey, Dy. G.A.

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board

Per P.R. Ramachandra Menon, CJ.

11/12/2020

1. Heard learned counsel appearing for review petitioners at length. We also heard Mr. Siddharth Dubey, learned Deputy Government Advocate representing the State.
2. Learned counsel for the review petitioners submits that the petitioners' constraint to move this Court because of the consequences resulted as per the judgment, whereby the candidates are required to contest under five different events such as long jump, high jump, shot put, 100 mtrs race and 800 mtrs race, each of which carries 20 marks, constituting a total of 100 marks, where the qualifying marks for the general category candidates is '60' while for the reserved category candidates, it is '50'. It is the submission of the learned counsel for the petitioners that the petitioners have already qualified in the 1500 mtrs. race (men), and 800 mtrs race (women), as per the amended rules which since not modified in the Official

Gazette, were not accepted by this Court while follow ordering to the 2007 Rules. It is submitted that the petitioner having already cleared the modified physical efficiency test, the requirement to undergo further test under the old Rules will be virtually a punishment and hence, matter is sought to be considered.

3. We also find a ground, as raised in the Review petition, at Point No. 6, to the following effect.

“vi. That, this Hon'ble Court while quashing the order dated 27.09.2019 has ordered for re-conduct of the physical proficiency test comprising of five events for those candidates who have appeared in the written examination, which is apparently not mentioned in the pre-amended and post restoration of the Rules 2007 and thus is de hors the Rules 2007.”

4. Despite the elaborate hearing, the petitioners could not bring any instance as to the involvement of an error apparent on the face of record so as to invoke the power of review. The ground projected in the Review petition and highlighted during the course of argument, is virtually amounting to “re-hearing” with reference to the amended rule; which cannot be permitted. The course open, if at all any, (with regard to specific finding rendered by this Court, as discussed in detail in the judgment under challenge) can only be by way of appeal. We find support of the ruling rendered by the Supreme Court in **Smt. Meera Bhanja v. Smt. Nirmala Kumari Choudhary**, reported in **AIR 1995 SC 455**. The Apex Court has alerted that the power of review is not a substitute for appeal and unless there is an error apparent on the face of record, no interference is called for.
5. Despite our best efforts, we could not find any such instance warranting review. What is ordered by this Court is to conduct a physical test, in respect of the relevant items in accordance with the 2007 Rules. Whatever was being followed as per the 2007 Rules, with regard to testing of the

physical efficiency, has to be strictly followed by the Respondents and nothing else.

6. We do not find any ground to invoke the power of review. Review petition fails and they are dismissed accordingly.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

Pawan