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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 3173/2020**

PRAMOD BABANRAO YADAV

..... Petitioner

Through: Mr. Saurabh Kirpal, Mr. Ravindra
Keshavrao Adsure, Mr. Sagar N.
Pahune Patil, Advocates.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Harish Vaidyanathan, Advocate
for respondent No.1/ UOI.
Mr. Naresh Kaushik, Advocate for
respondents No.2 & 3/ UPSC.
Mr. Rahul Chitnis, Advocate for
respondents No.4 & 5/ State of
Maharashtra.

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HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

19.05.2020

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CM APPL. 11034/2020

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

CM APPL. 11035/2020

3. Exemption allowed, subject to all just exceptions.
4. The Court Fees be paid within two weeks.
5. The application stands disposed of.

W.P.(C) 3173/2020 & CM APPL. 11033/2020

6. Issue notice. Learned counsels accept notice on behalf of the respective respondents.

7. The petitioner is a serving officer of the State Civil Service in the State of Maharashtra. For appointment to the Indian Administrative Service, there is a channel of promotion of the State Civil Service Officers who are eligible to be so promoted. The strength of the promotional cadre of the IAS – for the State of Maharashtra, was increased in the year 2018 and there were 25 vacancies. The State of Maharashtra prepared a list of eligible candidates due for consideration for that promotion in December 2018 and sent the same to the UPSC. The petitioner's name finds mention in the said list. However, it appears that there were certain deficiencies in the said list, and the UPSC entered into several communications with the State of Maharashtra to resolve those deficiencies and seek clarifications. The petitioner submits that he is due for superannuation from the State Civil Service on 31.05.2020. The grievance of the petitioner is that the UPSC has not held the selection process and with the Covid-19 Pandemic, the situation has only worsened. It is in this background that the petitioner seeks the following reliefs:

“b) issue appropriate writ, order or direction to hold & declare that delay in final approval of Select List of 2018 for Maharashtra and consequential issuance of Gazette Notification by DoPT for promotion of 25 SCS Officers from Select List of 2018 to IAS Cadre in Maharashtra is violative of Fundamental Rights under Article 16 r/w 14, 21 of the Constitution of India as well as provisions of All India Services Act, 1951 r/w Rules/Regulations made therein;

c) issue appropriate writ, order or direction directing Respondents to immediately (within a week) conduct Selection Committee Meeting and thereafter finalize Select List-2018 for promotion of 25 SCS Officers (including petitioner/ Pramod Babanrao Yadav & Shyamsundar Liladhar Patil) to IAS Cadre in Maharashtra and thereafter to issue notification in official gazette for promotion of 25 SCS Officers (from finalized Select List-2018) to IAS Cadre in Maharashtra forthwith before 31.5.2020 [including those Members of SCS, who are covered in Maharashtra Government's revised proposal/eligibility list dated 27.2.2020, and found eligible to be promoted to IAS Cadre, but attained age of superannuation unfortunately in the Cadre of SCS only on account of delay on the part of respondents in completing entire process] in the interest of justice;

d) thereafter, issue further direction to respondent No.4 & 5 (Government of Maharashtra authorities) to appoint aforesaid selected 25 SCS Officers (including petitioner/Praod Babanrao Yadav & Shyamsundar Liladhar Patil) on available IAS Cadre posts forthwith and gave them all consequential benefits on such appointment in IAS Cadre in the interest of justice;"

8. So far as the relief 'd' is concerned, in our view, the same is premature. We, therefore, do not consider it necessary to form an opinion – one way or the other, whether the said relief can be sought from the Court.

9. During the course of hearing, Mr. Kirpal has forwarded to us a communication issued on 13.05.2020 by the UPSC to the State of Maharashtra on the subject of Convening of Selection Committee Meetings/ Empanelment Committee Meetings through Video Conferencing. The State of Maharashtra was requested to furnish all the documents along with the ACR/ APAR dossiers of all the eligible officers in the zone of consideration in respect of the proposals already sent to the Commission (i.e. Select List

2018 for induction into IAS and Select Lists 2017 and 2018 for induction into IPS) in the soft format, so as to enable the Commission to hold the Selection Committee Meetings through Video Conferencing. This Communication is numbered as F.No.04/07/2020-AIS.

10. Mr. Chitnish appears on behalf of the State of Maharashtra and he states, on instructions, that the State of Maharashtra is keen that the selection process proceeds expeditiously since the State is in urgent need of IAS Officers.

11. Mr. Kaushik, who appears for the UPSC, states that he has taken instructions from the UPSC, and the UPSC is of the opinion that it may not be possible to hold Selection Committee Meetings/ Empanelment Committee Meetings through Video Conferencing due to lack of confidentiality and other considerations.

12. Rule 5 of the Indian Administrative Service (Appointment By Promotion) Regulation, 1955 states that the Committee of the UPSC shall ordinarily meet every year and prepare a list of such members of the State Civil Service as are held by them to be suitable for promotion to the Service. The number of members of the State Civil Service to be included in the list shall be determined by the Central Government in consultation with the State Government concerned and shall not exceed the number of substantive vacancies as on the first day of January of the year in which the meeting is held, in the posts available for them under Rule 9 of the recruitment rules. Thus, it appears that the mandate under the regulations is for the UPSC to try and hold its meetings every year to prepare the Select List. Since we are already in May 2020, it is evident that the preparation of the Select List of

2018 has already got inordinately delayed due to one, or the other reason. The petitioner is seeking preparation of the Select List for the year 2018 at the earliest, since he is due for superannuation from the Maharashtra State Civil Service on 31.05.2020.

13. Mr. Kaushik has stated that, in any event, since the petitioner's name has been included in the list of candidates due for consideration for the Select List of the year 2018, he would certainly be considered as and when the Selection Committee / Empanelment Committee Meeting is held, irrespective of the fact that he is due for superannuation on 31.05.2020. He submits that the UPSC shall not be guided by the fact that he would superannuate on 31.05.2020, and the recommendations of the UPSC would be based on the merit evaluation of all the eligible candidates. Thereafter, it would be for the Central Government to make appointments to the IAS of the recommendees.

14. Considering the aforesaid aspects, we are, firstly, of the view that the UPSC should seriously consider holding the Selection Committee Meetings through video conferencing. In today's day and age, it is possible to hold such meetings while maintaining confidentiality. Looking to the present times, the UPSC should seriously consider adapting to new technology since it is not even known up to when the Covid-19 Pandemic would continue, or the lockdown itself would continue. The functioning of the UPSC – which performs very crucial functions of making selections for Government Services, cannot be brought to a knot, and it should continue to carry out its constitutional mandate by adapting to the changing times and new technology. The biological clock is ticking away even during the lockdown,

and the rights of the candidates/ aspirants – who have offered their candidature for selection, would be irreparably prejudiced, if the UPSC were not to perform its duties by resort to innovative methods during the Pandemic.

15. Having said that, since Mr. Kaushik has made the aforesaid statement taken note of hereinabove, in our view, the concern of the petitioner stands addressed. We, therefore, dispose of this petition while taking the statement of Mr. Kaushik on record, which shall continue to bind the UPSC. We are hopeful that the UPSC would hold the Selection Committee Meeting – either face to face, or through video conferencing, within the next three months.

16. The petition stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

RAJNISH BHATNAGAR, J

MAY 19, 2020

B.S. Rohella