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

+ **W.P.(C) 3203/2020**

SHYAMSUNDAR LILADHAR PATIL Petitioner

Through: Mr. Ankit Virmani & Mr. Manasi
Kumar, Advocates.

versus

UNION PUBLIC SERVICE COMMISSION & ORS..... Respondents

Through: Mr. Naresh Kaushik, Advocate for
respondents No.1 & 2/ UPSC.
Mr. Harish Vaidyanathan, Advocate
for respondent No.3/ UOI.
Mr. Rahul Chitnis, Advocate for
respondent No.4/ 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. 11131/2020

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

W.P.(C) 3203/2020 & CM APPL. 11130/2020

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

5. The petitioner was a serving officer of the State Civil Service in the State of Maharashtra till 31.03.2020, when he superannuated from service. 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 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:

“(a) Issue a writ of mandamus or any other appropriate writ, order or direction to direct the Respondents to hold a meeting of the Selection Committee under Regulation 5 of the Indian Administrative Service (Appointment by Promotion) Regulation, 1955, immediately, for preparation of Select List of officers of Maharashtra State Civil Services who are suitable for fulfilling the vacancies identified by Respondent No.3 in IAS Maharashtra Cadre for the year 2018; approve the name of the Petitioner for promotion and appointment to the IAS, and to immediately take all such further steps as may be necessary for appointment of Petitioner to the IAS.

(b) Pass such further or other orders as may be deemed just and proper in the circumstances of the case.”

6. During the course of hearing, Mr. Virmani 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.

7. 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.

8. 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.

9. 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.

10. 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 superannuated on 31.03.2020. He submits that the UPSC shall not be guided by the fact that he superannuated on 31.03.2020, 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.

11. 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.

12. 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.

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

VIPIN SANGHI, J

RAJNISH BHATNAGAR, J

MAY 19, 2020

B.S. Rohella