

CWP-24605-2022 (O&M)
CWP-9508-2023(O&M)
CWP-9817-2023(O&M)

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-24605-2022 (O&M)

1.Ashish Kumar and another

. . . . Petitioners

Vs.

State of Haryana and others

. . . . Respondents

CWP-9508-2023

2.Naveen Kumar and another

. . . . Petitioners

Vs.

State of Haryana and another

. . . . Respondents

CWP-9817-2023

3.Ravinder and others

. . . . Petitioners

Vs.

State of Haryana and others

. . . . Respondents

**Reserved on: 09.05.2023
Date of Decision: 12.05.2023**

**CORAM: HON'BLE MR JUSTICE M.S. RAMACHANDRA RAO
HON'BLE MRS JUSTICE SUKHVINDER KAUR**

Present: - Mr.Prashant Singh Chauhan, Advocate,
for the petitioners (in CWP-24605-2022)

Mr.Ankur Sidhar, Advocate, for the petitioners
(in CWP-9508-2023)

Mr.Sarthak Gupta, Advocate,
for the petitioners (in CWP-9817-2023)

Ms.Shruti Jain Goyal, DAG, Haryana.

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M.S. RAMACHANDRA RAO, J.

The background facts

1. Since common issues arise for consideration, these Writ Petitions are being disposed of together by this common order.
2. On 05.05.2022, State of Haryana had issued a notification introducing a Common Eligibility Test [for short 'CET'] for Group 'C' & 'D' posts across the State of Haryana by formulating a policy called "Policy of Recruitment to Group 'C' and 'D' for Common Eligibility Test-2022".
3. The said policy is made applicable to direct recruitment to Group 'C' posts and Group 'D' posts with some exceptions.
4. The syllabus for the said test would be divided into two parts comprising:
 - a) 75% weightage for general awareness, reasoning, quantitative ability, English, Hindi and relevant or concerned subject(s) as applicable; and for Group 'C' posts, computer knowledge in addition,
 - b) 25% weightage for History, Current Affairs, Literature, Geography, Environment, Culture etc. of Haryana.
5. The question paper would be of level of Senior Secondary Education (10+2) level for Group 'C' post and the level of Secondary Education (Matric Level) in case of Group 'D' post.
6. Clause 7(i) thereof states that an applicant, who intends to apply for direct recruitment to any applicable Group 'C' post shall have to appear in the CET.

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Sub Clause (v) of Clause 7 states as under: -

“Every applicant, who appears in the CET, shall be given marks based of his performance in the CET An applicant of general category shall have to obtain minimum 50% marks in CET (excluding the socio-economic criteria weightage) to be eligible for skill and/or written examination of second stage. however, an applicant of reserved category (both vertical and horizontal) shall receive concession @ 10%, for the purpose of eligibility for CET, i.e. the minimum cut-off for such candidates shall be 40% (excluding the socio-economic criteria weightage). An applicant of any category who obtains less than the minimum marks in CET, shall have to re-appear in CET in the next or any subsequent attempt.”

7. Similar provision is made in Clause 8 for Group ‘D’ posts.

8. Clause 9(i) of the Policy requires that after publication of the CET score, posts available for recruitment shall be advertised by the Haryana Staff Selection Commission alongwith the syllabus, procedure/manner of conducting skill and /or written examination of the advertised posts and the last date for attaining minimum educational qualification and/or experience. On the advertisement being issued, the Commission shall invite applications electronically of the eligible candidates based on the merit list of the CET score to know whether the candidate is willing to appear for skill and/or written examination for that post.

9. The proviso to Clause 9(i) of the Policy restricts the zone of consideration as to who would be allowed to appear for the skill and/or written examination in the following terms:

“ Clause 9(i): xxx

Provided that the maximum number of eligible candidates for the skill and/or written examination who shall be eligible to appear in such examination based on number of posts advertised by the Commission as under :

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- (a) *Candidates equal to five times the number of posts advertised if the number is less than 30;*
- (b) *150 candidates if the number is between 30 and 40;*
- (c) *Candidates equal to four times the number of posts advertised if the number is greater than 40.”*

10. Sub Clause (vi) of Clause 9 states that for consideration of a candidate against the post of General category, such candidate has to secure minimum 50% marks (excluding social economic criteria weightage) in the skill and/or written examination to be considered for selection/recruitment. For reserved category posts (whether vertical or horizontal), a 10% concession was given.

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11. The petitioners have questioned the proviso to Rule 9(i) of the Policy dt.05.05.2022 whereby CET qualified candidates are restricted to join the recruitment process of Group ‘C’ and ‘D’ posts i.e. the restriction in the zone of consideration referred to therein. They also seek setting aside of the advertisement issued by respondent No.3 for the said test for Group ‘C’ posts.

In addition, they also seek a direction to the respondents to consider all CET qualified candidates for the purpose of recruitment on Group ‘C’ & ‘D’ posts.

12. It is *inter alia* contended by the petitioners that they are eligible candidates as per the conditions of the advertisement issued for filling up the said post, but the proviso to Clause 9(i) which restricts the zone of consideration depending upon the number of posts available is illegal, arbitrary and violative of the rights guaranteed under the Constitution of India and in particular Article 16 thereof.

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13. Petitioners stated that the CET examination had already been held on 05.11.2022 and the respondents cannot restrict the CET qualified candidates from joining the recruitment process.

CWP-9508-2023

14. Similar prayer as in CWP-24605-2022 is made in CWP-9508-2023 as well.

15. In this case also the petitioners contend that they have qualified in the CET examination; that through certain corrigendum issued by respondent No.2 on 11.03.2023 and 20.03.2023, 401 categories of posts in 63 groups are sought to be filled up; that a public notice was issued on 15.04.2023 regarding opening the portal from 15.04.2023 to 05.05.2023 for submission of applications for skill and/or written examination; that they submitted applications on 29.04.2023 for skill and/or written examination by submitting preference for approximately 30 different posts of different departments.

16. It is contended that due to similar eligibility/qualification required, candidates are applying for multiple posts suitable to them; that for certain categories of posts mentioned in para 11 thereof amounting to 244 posts, five times candidates amounting to 1157 are being permitted, but since one person/candidate is applying for multiple similar posts, only limited number of candidates would be applying, and the total number of actual applicants may fall short than even total number of posts of 244. They contend that this is creating uncertainty in the minds of aspirants.

17. It is contended that the CET was wrongly and illegally made a competitive examination camouflaged as a qualifying/eligibility test and Clause 9(i) has no nexus with the object of the CET, but in fact contradicts it

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and does not provide a fair and reasonable process of selection to posts subject to the norm of equality of opportunity under Article 16(1) of the Constitution of India. It is contended that due to the said clause open and fair competition got eliminated by arbitrarily limiting the number of candidates appearing in skill and/or written examination to four/five times without there being any nexus with the object sought to be achieved and by making unreasonable classification which would not stand the test of reasonableness.

18. It is contended that the State cannot act like a private business and the respondents are implementing the CET first time and experimenting very casually and irresponsibly with the future of lakhs of aspirants/candidates, many of whom are becoming over-aged and may not be able to give further examination for particular posts.

19. It is alleged that CET examination has been held having a common syllabus of all types of technical and non-technical posts; so it is not a qualifying/eligibility examination; but it was being wrongly and illegally made a competitive examination by unfairly applying Clause 9(i) limiting the candidates appearing for skill and/or written examination and not treating qualified candidates equally.

CWP-9817-2003

20. In this Writ Petition also Clause 7(i) of the Advertisement No.3/2003 dt.07.03.2023 to the extent it unreasonably and arbitrarily restricts otherwise eligible candidates from appearing in the written examination/skill test for the advertised Group C posts on the basis of the score obtained in the CET and proviso to Clause 9(i) of the Policy notified on 05.05.2022, are challenged.

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21. It is contended that Clause 4 of the Policy dt.05.05.2022 makes the CET a general test, under which there is a testing of basic skills like General Awareness, English, Hindi, Current Affairs etc.; though it could be a qualifying exam for technical posts such as Junior Engineer (Electric/Civil), Computer Technician, Architectural Assistant, etc., making the score obtained therein the basis of determining eligibility for appearing in the written examination/skill test for the said post is arbitrary and has no rational nexus with the objective of selecting the best candidate for such posts.

22. According to the petitioners, it is possible that a highly technically proficient candidate applying for the above posts may not have scored high in the general test like CET, but since his merit in CET, as per the impugned clauses, is the basis of determining his eligibility for appearing in the written examination/skill test, he might not be able to sit for the written examination/skill test. Petitioners alleged that these clauses dilute merit and are violative of Articles 14 & 16 of the Constitution of India.

23. It is also contended that the policy dt.05.05.2022, not having been framed under proviso to Article 309 of the Constitution of India, it cannot lay down the conditions regarding the recruitment for advertised Group 'C' posts, since there were separate rules governing the same which are framed under Article 309 of the Constitution of India. Illustratively, the Haryana Public Works Department Building & Roads Branch, Junior Engineers (Group C) Service Rules, 1998 notified on 02.04.1998 and Haryana Public Works Department Building & Roads Branch, Junior Engineers (Group C) Service Rules, 1998 notified on 12.02.2019, framed under proviso to Article 309 of the Constitution of India, are cited, and it is sought to be contended that since there

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is no provision for CET in the said Rules, the CET cannot be taken into consideration while making appointments to the posts of this nature.

The stand of the State

24. A short reply has been filed by the State in CWP-24605-2022 which is also taken as reply in CWPs-9508-2023 & 9817-2023. It states that: -

- (i) The main objective of the recruitment is to induct the meritorious candidates in the Govt. Jobs and that too without any delay. Therefore, only four times meritorious candidates were required to be short listed as it will expedite the conduct of examination, evaluation and avoid litigation by non-meritorious applicants.
- (ii) Fixing the selection criteria is completely within the domain of Govt. /Selecting authority and it cannot be altered at the request of certain candidates with the intention to delay the recruitment of meritorious candidates and that too at that moment when there is unemployment and craze for government employment.
- (iii) 7,73,000 (approx.) candidates including both the petitioners appeared in CET written examination who want to take recruitment to Group-C posts which were held in 4 shifts on 05.11.2022 to 06.11.2022. Further, on 10.01.2023 the answering respondent declared the result of CET written examination and out of 7, 73, 000 candidates approximately 2, 92, 000 (approx.) candidates including the petitioners qualified the CET written examination.
- (iv) CET policy was notified by the Government of Haryana on 05.05.2022. In this policy, it is clearly prescribed how many number of candidates will be called for further selection process (after qualifying CET). Therefore, the above criterion was always in the knowledge of the petitioner and they participated in the process while having full knowledge of the

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above criteria. The petitioners had filed the present writ petition on 18.10.2022 challenging various provisions of CET policy which has been published by the Govt. of Haryana on 05.05.2022. Challenging the policy at such belated stage i.e. after cutoff date i.e. 10.07.2022 violates the principle of limitation as settled by Supreme Court in various cases. Hence, the present writ petition is liable to be rejected out rightly being not maintainable and sustainable in the eyes of law.

- (v) 11,22,200(approx.) candidates had applied for CET examination through one time registration portal which was active way back on 12.01.2021.
- (vi) Provisions of Policy for Recruitment to Group C and Group D posts through Common Eligibility Test, 2022 dated 05.05.2022 (Annexure P-1) are in consonance with the best practices being followed by the other Constitutional Selection Bodies including the Union Public Service Commission which has been upheld by the Apex Court.
- (vii) Consideration of all candidates who have obtained minimum marks for admission to skill test and/or written test as prayed for by the petitioners will have the effect of relegating the meritorious candidates which results in failure of very objective of the policy.
- (viii) Challenging the policy which is in tandem with Constitutional provisions and framed after due deliberations by executive, is a calculated and concerted effort on part of petitioners just to stall the selection process and thereby jeopardize the future of thousands of unemployed youth of the State.

Rejoinder filed by the petitioners in CWP-24605-2022

25. Rejoinder has been filed by the petitioners in CWP-24605-2022 refuting the pleas taken by the State in its written statement.

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26. It is contended that for different departments recruitment is to be conducted and the requirements would be different; the skill which is to be tested has to be in the main written examination for the requisite department and not of the marks obtained in the CET which is only an eligibility examination. It is contended that a candidate, who qualifies in the CET, should be eligible for skill test for a particular test and the zone of consideration cannot be restricted by the State.

27. According to the petitioners since different skill/potential is required for different posts, short-listing of candidates at the preliminary stage, that too by way of an eligibility test would violate Article 16 of the Constitution of India.

Consideration by the Court

28. The admitted facts are that P-1 notification dt.05.05.2022 had been issued by the State of Haryana declaring policy for recruitment to Group-C and D posts through the Common Eligibility Test, 2022 under which direct recruitment to such posts with certain exceptions would be done.

29. The Haryana Staff Selection Commission had issued a notice dt.29.04.2022 and invited candidates to register themselves for the Common Eligibility Test through one time registration from 01.05.2022 to 10.05.2022 and these dates were extended from time to time upto 10.07.2022.

30. According to the respondents, 11,22,200 candidates (approximately) applied for the CET written examination; 7,73,000 candidates appeared for the CET conducted on 05.11.2022 and 06.11.2022 for Group-C posts; and 2,92,000 candidates (approximately) qualified therein.

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31. The proviso to clause 9(i) of the notification dt.05.05.2022 is sought to be invoked by way of advertisement for skill test dt.07.03.2023 (P-6) in CWP-9508-2023.

32. The said advertisement shows that the Commission, on the basis of similar educational qualifications, had grouped 378 categories of various posts into 58 groups and would hold one common written examination for each group with the condition that the distribution/allocation of the successful candidates shall be based on merit and option given for that post. A candidate may have his/her suitability for number of posts within the group and outside the group by virtue of his/her qualifications. It was directed that every candidate shall fill his/her options for the posts as per his/her choice; and allocation of a candidate against a post shall depend on his/her choice for the post as well as his/her merit.

33. Proviso to clause 7(i) of the advertisement dt.7.3.2023 (P-6) reproduces clause 9(i) of the policy notified on 05.05.2022.

34. The question for consideration is:

“whether restricting the zone of consideration as mentioned in the proviso to the above clauses violates Article 14 of the Constitution of India or any other legal principle/”

35. We shall first deal with the contention that such procedure of shortlisting not having been provided in the Rules made under Article 309 of the Constitution of India made for direct recruitment to the posts in question by the respondents, it is not permissible to do shortlisting.

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36. This issue fell for consideration before the Supreme Court in *M.P. Public Service Commission vs. Navnit Kumar Potdar and another*¹.

For the recruitment of post of Presiding Officers of Labour Courts, an advertisement was issued prescribing a qualification that the applicant should have practiced as an advocate or a pleader for a total period of not less than 5 years.

However, in view of the large number of applications received from the General category candidates against only 4 posts earmarked for the said category, a decision was taken by the Commission to call for interview only those candidates who had completed 7.5 years of practice though Section 8(3)(c) of the M.P. Industrial Relations Act, 1960 prescribed only 5 years of practice as an advocate or a pleader in the State of Madhya Pradesh as the minimum requirement.

Writ Petitions were filed contending that the Commission could not raise the said period up to 7.5 years and debar the applicants who had applied for those posts, and who had fulfilled the statutory requirements prescribed under the said section.

The High Court allowed the Writ Petitions taking the view that raising the period of practice from 5 years to 7.5 years amounted to laying down criteria in violation of the prescribed statutory criteria. It directed the Commission to call all the applicants for interview, who had completed 5 years of practice as required by the section, or to screen the applicants through some test, and thereafter to call only such applicants for interview who qualified for the said screening test.

¹ 1994 (6) SCC 293

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The Supreme Court reversed the decision of the High Court. It held that whenever applications are invited for recruitment to different posts, certain basic qualifications and criteria are fixed and the applicants must possess those basic qualifications or criteria before their applications can be entertained for consideration; the Selection Board or the Commission has to decide as to what procedure is to be followed for selecting the best candidates amongst the applicants; *in most of the services, screening test or written test have been introduced to limit the number of candidates who have to be called for interview*; such screening test or written test have been provided in the concerned statutes or prospectus which govern the selection of the candidates; but where the selection is to be made only on the basis of interview, the Commission or the Selection Board can adopt any rational procedure to fix the number of candidates who should be called for interview.

It held that *decision regarding shortlisting the number of candidates who have applied for the post must be based not on any extraneous consideration, but only to aid and help the process of selection of the best candidates among the applicants for the post in question; this process of shortlisting would not amount to altering or substituting the eligibility criteria given in the statutory rules or prospectus.*

It held that if with 5 years of experience an applicant is eligible, then no fault can be found with the Commission if applicants having completed 7.5 years of practice are only called for interview because such applicants having longer period of practice shall be presumed to have better experience. It declared that such *process of shortlisting will not be in conflict with the requirement of the Section which prescribed the eligibility for making an*

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application for the post in question, and that if amongst several hundred applicants, a decision is taken to call for interview only those who have completed 7.5 years of practice, it would neither be violative nor in conflict with the requirement of the Section.

It relied on its earlier decision in ***State of Haryana vs. Subash Chander Marwaha***² and noted that in that case, appointments had been offered only to those who had secured not less than 55% marks though Rule 8 of the Punjab Civil Service (Judicial Branch) Rules stipulated that candidates who had obtained 45% or more in the competitive examination could be eligible for appointment; that *the Rule was a step in the preparation of the list of eligible candidates with minimum qualifications who may be considered for appointment*; the list would be prepared in order of merit and the one higher in rank is deemed to be more meritorious than the one who is lower in rank; and there is nothing arbitrary in fixing the higher benchmark of 55% for the purpose of selection although a candidate obtaining 45% was eligible to be appointed.

The Court declared that the *true implication of shortlisting is that it does not amount to altering or changing of the criteria prescribed in the Rule, but is only a part of the selection process.*

37. In ***Union of India and another vs. T. Sundararaman and others***³ the UPSC issued an advertisement inviting applications for 3 posts of Assistant Professors of Medicine.

² 1974 (3) SCC 220

³ 1997 (4) SCC 664

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One of the essential qualifications was at least three years' teaching experience in the speciality concerned as a Lecturer/Tutor/ Demonstrator/ Senior Resident/ Registrar after obtaining the requisite post-graduate degree qualification.

A note contained in the advertisement stated that the prescribed essential qualifications were the minimum qualifications and a mere possession of the minimum qualifications does not entitle the candidates to be called for interview, and that if the number of applications received in response to the advertisement is large and it will not be convenient or possible for the Commission to interview all the candidates, it may restrict the number of candidates to a reasonable limit on the basis of qualifications and experience higher than the minimum prescribed in the advertisement or by holding a screening test. 37 applications were received for 3 posts.

The Commission shortlisted candidates to be called for interview on the basis of 4 years' experience or more, and called 20 candidates for the interview.

Respondent No.1 before the Supreme Court did not qualify for shortlisting and he was not called for interview.

He along with another approached the Central Administrative Tribunal, Madras Bench for setting aside the selection to the said post by challenging the shortlisting.

The Tribunal took note of the fact that there were a large number of vacancies available and remitted the case to the UPSC for reprocessing all applications including those of the applicants for fresh selection, disapproving of the shortlisting done by the Commission.

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The Supreme Court found fault with the Tribunal for doing so.

It relied on its judgment in ***M.P. Public Service Commission*** (1 supra) and held that *shortlisting of candidates is valid if done on rational and reasonable basis*.

It also referred to its judgment in ***Govt. of A.P vs. P. Dilip Kumar***⁴ and held that *it was always open to the recruiting agency to screen candidates due for consideration at the threshold of the process of selection by prescribing higher eligibility qualification so that the field of selection can be narrowed down with the ultimate objective of promoting candidates with higher qualifications to enter the zone of consideration*.

38. In ***Yogesh Yadav vs. Union of India and others***⁵, the Supreme Court considered appointment to the post of Deputy Director (Law) in Other Backward Class category in the office of the Competition Commission of India.

The eligibility condition prescribed was that the applicant should be holder of a degree of Bachelor of Law (Professional) and also possess 3 years' experience in the relevant field including in the Corporate sector.

There was a written test to be taken which was for 80 marks and also an interview for 20 marks; and the instructions given at the time of the examination to the candidates was that those who did not secure 50% of marks in the test will not be called for the interview, and that for candidates belonging to reserved category, cut off marks will be 40% of the total marks.

⁴ 1993 (2) SCC 310

⁵ 2013 (14) SCC 623

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The appellants secured only 53 marks out of 100 marks, but the respondents had fixed a benchmark of 70 marks for general category and 65 marks for the reserved category candidates.

The Single Judge of the High Court as well as Division Bench of the High Court did not agree with their contention, and so they approached the Supreme Court contending that there was a change in the mode of selection after the process of selection had started which was impermissible.

The Supreme Court held that it was not a case where no minimum marks are prescribed, and the instructions to the examinees provided that written test will carry 80% and 20% marks were assigned for the interview; that candidates who secured minimum 50% of marks in the general category and minimum 40% of marks in the reserved category in the written test would qualify for the interview; the entire selection was undertaken in accordance with said criteria laid down at the time of recruitment process; after conducting interview, marks of written test and viva voce were to be added; there was no benchmark stipulated for giving the appointment and what was done was that a decision was taken to give appointments only to those persons who have secured 70% marks or above in the unreserved category and 65% or above marks in the reserved category.

It held that in the absence of any rule on this aspect, in the first instance, this does not amount to changing the “rules of the game”, and that it is not a situation where securing of minimum marks was introduced which was not stipulated in the advertisement. It held that fixation of such a benchmark is permissible in law.

39. In the instant case, the policy was notified on 05.05.2022.

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40. It made a provision for shortlisting on the basis of CET in the first instance and further shortlisting through *proviso* to clause 9(i) which was repeated in clause 7(i) of the advertisement. This was admittedly done in view of the large number of candidates who would apply for the posts in question and not for any extraneous consideration.

41. The minimum qualification prescribed by the applicable rules framed under *proviso* to Article 309 of the Constitution of India were not given up, and all the applicants had to fulfill those norms for the respective posts for which they apply.

42. Accepting this policy by uploading a declaration was necessary and according to the short reply filed by the Commission, this was done by all the applicants, so they were fully aware of the prospect of shortlisting. So they are estopped from now contending that it is not valid having regard to the decisions mentioned above.

43. The Supreme Court had held in ***Satya Dev Bhagaur and others vs. State of Rajasthan and others***⁶ that Courts would be slow in interfering in policy matters unless the policy is found to be palpably discriminatory and arbitrary; that Court would not interfere with policy decision when a State is in a position to point out that there is intelligible differentia in application of policy and that such differentia has a nexus with the object sought to be achieved.

44. As stated in the policy dt. 05.05.2022, the Common Eligibility Test was introduced to simplify and standardize the recruitment process for Government employment to Group-C posts and Group-D posts with some exceptions mentioned therein.

⁶ 2022 (5) SCC 314

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45. We agree with the said view since consideration of all candidates who have obtained minimum marks in the CET for the skilled test and/or written test would have the effect of relegating the meritorious candidates, and would result in failure of the very objective of the policy particularly when large number of candidates in lakhs appeared for the CET and a substantial number of them had qualified in the CET written examination to the tune of 2,92,000 for the posts in question.

46. In our opinion, the clause in the policy providing for shortlisting is in tune with the main objective of inducting meritorious candidates in Government jobs, and limiting the number of meritorious candidates by way of shortlisting would expedite the conducting of examination, evaluation and avoid unnecessary litigation by non-meritorious applicants.

47. Counsel for petitioners also pleaded that in the CET, testing was for only General knowledge and computer knowledge, but knowledge in subject was not tested; and so the securing of 70% marks therein for appearing in the skill test/written examination in the relevant subject for the post, cannot be permitted.

48. In the case of *The University of Mysore V. C.D. Govinda Rao and Another*⁷, the Supreme Court held it would normally be wise and safe for the Courts to leave decisions of academic matters to experts who are more familiar with the problems they face than the Courts generally can be.

⁷ 1965 AIR (SC) 491

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49. In ***Sanchit Bansal V. The Joint Admission Board (JAB) and Ors***⁸, the Supreme Court held as under:

*“In Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupeshkumar Sheth*⁹ it was observed thus:

“...the Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day-to-day working of educational institutions and the departments controlling them.”

*In All India Council for Technical Education v. Surinder Kumar Dhawan*¹⁰ this Court held:

“ The courts are neither equipped nor have the academic or technical background to substitute themselves in place of statutory professional technical bodies and take decisions in academic matters involving standards and quality of technical education. If the courts start entertaining petitions from individual institutions or students to permit courses of their choice, either for their convenience or to alleviate hardship or to provide better opportunities, or because they think that one course is equal to another, without realizing the repercussions on the field of technical education in general, it will lead to chaos in education and deterioration in standards of education.The role of statutory expert bodies on education and role of courts are well defined by a simple rule. If it is a question of educational policy or an issue involving academic matter, the courts keep their hands off. If any provision of law or principle of law has to be interpreted, applied or enforced, with reference to or connected with education, the courts will step in.”
(Emphasis Supplied)

This Court also repeatedly held that courts are not concerned with the practicality or wisdom of the policies but only illegality.

⁸ (2012) 1 SCC 157

⁹ MANU/SC/0055/1984 : 1984 (4) SCC 27

¹⁰ MANU/SC/0507/2009 : 2009 (11) SCC 726

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*In Directorate of Film Festivals v. Gaurav Ashwin Jain*¹¹ this Court held:

“Courts do not and cannot act as appellate authorities examining the correctness, suitability and appropriateness of a policy, nor are courts advisors to the executive on matters of policy which the executive is entitled to formulate. The scope of judicial review when examining a policy of the Government is to check whether it violates the fundamental rights of the citizens or is opposed to the provisions of the Constitution, or opposed to any statutory provision or manifestly arbitrary. Courts cannot interfere with policy either on the ground that it is erroneous or on the ground that a better, fairer or wiser alternative is available. Legality of the policy, and not the wisdom or soundness of the policy, is the subject of judicial review?”
 (Emphasis Supplied)

19. Thus, the process of evaluation, the process of ranking and selection of candidates for admission with reference to their performance, the process of achieving the objective of selecting candidates who will be better equipped to suit the specialized courses, are all technical matters in academic field and courts will not interfere in such processes. Courts will interfere only if they find all or any of the following: (i) violation of any enactment, statutory Rules and Regulations; (ii) mala fides or ulterior motives to assist or enable private gain to someone or cause prejudice to anyone; or where the procedure adopted is arbitrary and capricious. An action is said to be arbitrary and capricious, where a person, in particular, a person in authority does any action based on individual discretion by ignoring prescribed rules, procedure or law and the action or decision is founded on prejudice or preference rather than reason or fact. To be termed as arbitrary and capricious, the action must be illogical and whimsical, something without any reasonable explanation. When an action or procedure seeks to achieve a specific objective in furtherance of education in a bona fide manner, by adopting a process which is uniform and non-discriminatory, it cannot be described as arbitrary or capricious or mala fide.”

50. The Commission is an expert body and is competent to decide in consultation with the State departments on what subjects a candidate is to be tested for short listing. It is not the province of this Court to enter into the

¹¹ MANU/SC/1778/2007 : 2007 (4) SCC 737

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domain of the Commission and exercise the power vested in the Commission as this Court does not have the requisite expertise in that regard.

51. It is not the case of the petitioners that General knowledge or analytical skills tested in the CET are wholly irrelevant for appointment to the posts in question.

52. Having regard to the aforesaid decisions and the reasons, we therefore do not find any merit in the Writ Petitions.

53. They are therefore dismissed accordingly. No costs.

54. Pending application(s), if any, also stands disposed of accordingly.

(M.S. RAMACHANDRA RAO)
JUDGE

12.05.2023
Vivek/Mohit

(SUKHVINDER KAUR)
JUDGE

1. Whether speaking/reasoned?	Yes
2. Whether reportable?	Yes