



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision: 10th July, 2025

1. RA-LP No. 34 of 2025 in **LPA No. 329 of 2024 (O&M)**

Suman and others
Versus
Haryana Public Service Commission and others

... Applicants
... Respondents
2. RA-LP No. 35 of 2025 in **LPA No. 329 of 2024 (O&M)**

Manish Kishore and others
Versus
Haryana Public Service Commission and others

... Applicants
... Respondents
3. RA-LP No. 36 of 2025 in **LPA No. 329 of 2024 (O&M)**

Neha Rani and others
Versus
Haryana Public Service Commission and others

... Applicants
... Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MS. JUSTICE KIRTI SINGH**

Present: Mr. Chetan Mittal, Senior Advocate and
Mr. D. S. Patwalia, Senior Advocate, assisted by
Mr. Kanwal Goyal, Advocate,
Mr. Sarthak Gupta, Advocate, for the applicants.

SANJEEV PRAKASH SHARMA, J.

These applications have been filed seeking review of the order
passed by this Court on 09.04.2025 whereby we held as under:-

“30. In our opinion, such could not have been the view of the law makers. While obtaining marks in the screening test may not be part of the selection process, still there is an element of selection as only those candidates, who fall in the said list, can be allowed to participate in the main examination. In our



opinion, therefore, the view taken by the Apex Court in Chattar Singh's case (supra), cannot be said to lay down good law in light of the law as laid down in Saurav Yadav's case (supra). We, therefore, find that the judgment passed by the learned Single Judge holding the writ petitioner entitled for consideration of participation in the main examination on the basis of her marks higher than the candidates, who did not belong to reserved category, cannot be said to be unjustified. The writ petitioner would, therefore, be entitled to participate in the main examination and the respondents would be required to prepare a fresh merit list at the stage of screening test, firstly of Open Category by counting the marks of all the candidates, be it of reserved category or non-reserved category. This list would be of four times the number of open category posts. The other lists of reserved categories would thereafter follow on the basis of their marks in the screening test. The aforesaid exercise may, of course, result in higher number of reserved category candidates being called to participate in the main examination i.e. Special Knowledge Test but such factual aspect is logical and in consonance with the Constitution Bench Judgment in R. K. Sabharwal vs State of Punjab 1995 (2) SCC 745, wherein it was held as under:-

“5. When a percentage of reservation is fixed in respect of a particular cadre and the roster indicates the reserve points, it has to be taken that the posts shown at the reserve points are to be filled from amongst the members of reserve categories and the candidates belonging to the general category are not entitled to be considered for the reserve posts. On the other hand the reserve category candidates can compete for the non-reserve posts and in the event of their appointment to the said posts their number cannot be added and taken into consideration for



*working out the percentage of reservation... ..
..... Despite any number of appointment/ promotees
belonging to the backward classes against the general
category posts the given percentage has to be provided in
addition.....”*

*31. In view of the above discussions and directions, **the appeal is dismissed**. The judgment passed by the learned Single Judge is modified, and the results of candidates at the screening test level shall be prepared in accordance with the above directions. The Subject Knowledge Test shall be conducted accordingly where too the lists would be prepared in accordance with the observations made hereinabove.”*

2. The applicants in these review applications are the candidates who have participated in the second level test known as ‘Subject Knowledge Test’, which was conducted during the pendency of the LPA and was subject to the final decision of the appeal and the writ petition. On the basis of said decision, the review applicants are stated to have cleared the examination, the result for which was declared on 07.06.2024. The review applicants were selected and recommended for appointment and they have joined their duties. It is stated that they are currently working as PGT (Mathematics) in various government schools in the State of Haryana. However, on account of the judgment passed by this Court, their appointments would be cancelled and the Haryana Public Service Commission (hereinafter to be referred as ‘the Commission’) to have declared the fresh result of the preliminary examination as per the directions of this Court.



3. Learned counsel for the applicants submits that the review applicants were not impleaded as party to the LPA and, therefore, the order cannot be applied on them. It is further submitted that the review applications deserve to be allowed as the review applicants were not impleaded as party and the order was passed behind their back. It is further stated that the writ petitioner was provisionally permitted to participate in the subject knowledge test, wherein she could not secure sufficient marks to participate in the interview and, therefore, her claim stood redundant and qua her the case ought to have been declared as infructuous.

4. It is further submitted that the judgment has been wrongly applied retrospectively to the selection process which have already been completed and if the judgment is implemented, it is going to cause hardship and impartiality towards appointed candidates. These facts were not brought to the notice of the court at the time of hearing of the case.

5. Learned counsel submits that the appointment of the review applicants be protected, and even if the revised result is to be declared in terms of the law laid down by this Court, some additional candidates who would become eligible for participating in the subject knowledge test can also be separately given an opportunity to participate in the next examination.

6. We have considered the submissions carefully after looking into the law as it is settled.



7. At the outset, it is noticed that so far as participation of the review applicants in the subject knowledge test or any of the subsequent test is concerned, the same would have to be treated as provisional and was subject to the final decision of the appeal. In the interim order passed by the Court while allowing the writ petitioner to participate no rights can be stated to have been created or taken away either of the review applicants or of the individuals, who are going to participate in the subject knowledge test, which is the second level test.

8. The order passed by the learned Single Bench was in relation to the first phase of examination i.e. the preliminary examination. It is now well settled that the Court while deciding a case examines the facts as they stood at the time when the writ petition is filed. Thus, at the stage of LPA, none of the candidates have participated in the examination and the issue was with regard to declaration of result of the first preliminary examination. The interim order passed by the Court allowing the Commission to conduct second level test i.e. subject knowledge test with revising the preliminary test, therefore, does not create any equity or rights in favour of the writ petitioner.

9. We also noticed that in the final result declared by the Commission on 07.06.2024, it was specifically mentioned that the result is subject to the final decision of the LPA No. 329 of 2024. The theory of *lis pendens* would, therefore, have its application. The principle of *lis-pendens* has been explained in detail by Hon'ble the Supreme Court in M/s



Siddamsetty Infra Projects Private Limited vs Katta Sujatha Reddy and

Others, 2024 INSC 861, and has held as under:-

“49. The purpose of lis pendens is to ensure that the process of the court is not subverted and rendered infructuous. In the absence of the doctrine of lis pendens, a defendant could defeat the purpose of the suit by alienating the suit property. This purpose of the provision is clearly elucidated in the explanation clause to Section 52 which defines “pendency”. Amending Act 20 of 1929 substituted the word “pendency” in place of “active prosecution”. The Amending Act also included the Explanation defining the expression “pendency of suit or proceeding”. “Pendency” is defined to commence from the “date of institution” until the “disposal”. The argument of the respondents that the doctrine of lis pendens does not apply because the petition for review was lying in the registry in a defective state cannot be accepted. The review proceedings were “instituted” within the period of limitation of thirty days. The doctrine of lis pendens kicks in at the stage of “institution” and not at the stage when notice is issued by this Court. Thus, Section 52 of the Transfer of Property Act would apply to the third-party purchaser once the sale was executed after the review petition was instituted before this Court. Any transfer that is made during the pendency is subject to the final result of the litigation.”

10. The claim of the review applicants for protecting their appointments, therefore, is found to be without basis. It is also noticed that, in spite of having been informed about the litigation pending before this Court, while the result was declared mentioning that result was subject to the judgment in LPA No. 329 of 2024, none of them bothered to participate or



inform about their selection. They had made no attempt to be impleaded as a party to the appeal. They were fence-sitters, who were watching the game while enjoying their selection, which was based on an erroneous result, as we have so held. Court does not come to rescue of such persons who sleep over their rights. In fact, the law has already been settled down, should apply to all. After the judgment has already been pronounced, the applications have been moved seeking review of the order. It does not lie in their mouth to seek review on the ground that they were not heard. Since the subject knowledge test was held after the LPA was filed by the Commission, the decision given subsequently cannot be overturned on that ground. Many persons, who have been deprived on account of non-participation and an erroneous preliminary examination result declared contrary to the judgment passed in **Saurav Yadav vs State of U.P. and Others**, 2021 (4) SCC 542, were left out and were waiting for the final decision of the appeal.

11. We say so, as apart from the respondents in the present appeal, there are other writ petitions which have been filed and one of them was tagged with the appeal and referred back to the learned Single Judge to decide on the basis of the law as laid down by Hon'ble the Supreme Court. Merely because the selection was proceeded on, even after the order of Single Judge and it took time to decide the LPA, the appointments cannot be saved. Moreover, in our opinion, saving appointments does not come within the power of the High Court under Articles 226 and 227 of the Constitution of India, as we cannot save illegal appointment. The scope of review has been aptly considered recently by Hon'ble the Supreme Court in **S. Murali Sundaram vs Jothibai Kannan and others** 2023 INSC 161.



12. In view of the above, if we examine the review applications, none of the grounds as allowed by Hon’ble the Supreme Court for entertaining the review applications are made out. Accordingly, the review applications are dismissed.

13. All pending applications shall stand disposed of.

14. No costs.

(SANJEEV PRAKASH SHARMA)
JUDGE

10th July, 2025
vs

(KIRTI SINGH)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No