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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 04.03.2025

+ W.P.(C) 2721/2025
YAMINI MITTAL

.....Petitioner

Through: Mr. Amarjeet Singh Chandiok,
Sr. Adv with Mr. Rakesh Mittal
and Mr. Ajay Harsh, Advs.

versus

DELHI HIGH COURT THROUGH ITS REGISTRAR
GENERAL

.....Respondent

Through: Ms. Kanika Agnihotri, Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (ORAL)

CM APPL. 12902/2025 (exemption)

1. Allowed, subject to all just exceptions.

W.P.(C) 2721/2025, CM APPL. 12901/2025

2. This petition has been filed by the petitioner, praying for the following reliefs:-

*“a. Quash the Notification No. F.6/50/2019-
Judl.Supplaw/2461-2465 dated 26.12.2019
passed by Government of NCT of Delhi being
unconstitutional and ultra vires to the extent of
insertion of clause IV in appendix attached to
rule 7C Delhi Higher Judicial Service Rules
1970 imposing unreasonable restriction of
number of candidates to be admitted to the*



Main (Written) Examination to be not more than twenty times the total number of advertised vacancies in each category, in addition to the precondition of minimum qualifying marks;

b. Divert 6 reserved seats of ST category advertised third time in DHJS 2024, to the General Category in case suitable candidates are not found after conducting the mains exam and in the meantime allow the applicant to appear for DHJS mains written examination on adhoc basis;

c. Direct the respondent to advertise the 2 vacancies which fell vacant on 19.02.2025 upon promotion of 2 Hon'ble Judges in Delhi High Court, to be filled under the existing DHJS examination 2024."

3. Just as a brief background of facts, the respondent issued a Notification dated 27.12.2024, calling for applications for 16 vacancies by way of direct recruitment in the Delhi Higher Judicial Services ("DHJS"). The breakup of the vacancies are as under:-

Category	Break up of Vacancies		Total No. of Vacancies
	Existing	Anticipated vacancies (till 01.12.2025)	
General	03	02	05
SC	05	00	05
ST	06	00	06
TOTAL	14	02	16

4. The petitioner applied for the same and appeared in the Preliminary Examination. The result of the same was declared by the respondent on 24.02.2025.

5. In terms of Clause IV of the Appendix to the Delhi Higher



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Judicial Services Rules, 1970 as amended by the Delhi Higher Judicial Services (Amendment) Rules, 2019, the respondent declared 102 candidates as shortlisted in the preliminary examination against the 05 vacancies for the General category. For the 05 vacancies in the Scheduled Caste category, 25 candidates have been shortlisted, while for the 06 vacancies in the Scheduled Tribe category, 06 candidates have been shortlisted for the Delhi Higher Judicial Services Main Examination (Written), 2024. Two candidates under the persons with disabilities category under the General category have been shortlisted.

6. The learned Senior Counsel appearing for the petitioner submits that in terms of Clause I(i) of the Appendix attached to Rule 7C, the Preliminary Examination is only for selection for the main examination and is a screening test of qualifying in nature. Clause III of the Appendix further states that the minimum qualifying marks for the Preliminary Examination for a General category candidate shall be 50%, while for the reserved category candidate it shall be 45%. He submits that, therefore, any candidate who secures more than these marks should be declared to be qualified to appear for the Main (written) Examination. He submits that an artificial cut-off is thereafter prescribed in Clause IV, which states that no more than 20 times the total number of advertised vacancies in each category shall be shortlisted for the Main (written) Examination. He submits that this condition is arbitrary in nature and is liable to be struck down.

7. The learned Senior Counsel for the petitioner further submits



that as far as the 06 seats reserved for the Scheduled Tribe category are concerned, they could not be filled even in the DHJS examination for the years 2022, 2023 and 2024. He submits that there is a high likelihood that these vacancies will remain unfilled even in the present process. He, therefore, prays that the respondent should divert these six reserved seats from the Scheduled Tribe category to the General category for the present examination.

8. Lastly, he submits that two further posts in the General category have fallen vacant for the Higher Judiciary, pursuant to the elevation of two Hon'ble Judges in this Court; these should also be added to the number of available vacancies.

9. We have considered the submissions made by the learned Senior Counsel appearing for the petitioner, however, find no force in the same.

10. The respondent, as an employer, has followed the Rules as prescribed for the selection of candidates for the DHJS in the Delhi Higher Judicial Services Rules, 1970. The Appendix thereto, so far as is relevant to the present petition, is reproduced herein under:-

"APPENDIX

(See Rule 7C)

1. Delhi Higher Judicial Service Examination will be held in three successive stages: .

(i) DHJS Preliminary Examination (Objective type with 25% negative marking}for selection for the main examination which shall be a screening test of qualifying nature, and

(ii) DHJS Main Examination (Written} for selection of candidates for calling for viva-voce.



(iii) Viva-voce.

PRELIMINARY EXAMINATION

II. The Preliminary Examination will be a screening test of qualifying nature and will consist of one paper of multiple choice based objective type questions carrying a maximum of 150 marks. There shall be 150 questions with each question carrying one mark with 25% negative marking for each wrong answer.

III. Minimum qualifying marks for Preliminary Examination:

Category	Minimum Qualifying Marks in %
General	50%
Reserved Categories i.e. SC, ST and Persons with Disability	45%

IV. The number of candidates to be admitted to the Main (Written) Examination shall not be more than twenty times the total number of advertised vacancies in each category.”

11. While the Preliminary Examination is a screening test of a qualifying nature, the Rules provide that the number of candidates to be admitted to the Main (written) Examination shall not be more than 20 times the total number of advertised vacancies in each category.

12. The purpose of the above provision is that being a screening and qualifying test, only the person who qualified the benchmark, that is, are in the top 20 times the number of vacancies advertised, are thereafter subjected to the Main (written) Examination. The pool of candidates for the Main (written) Examination needs to be realistically



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curtailed. In any case, it is for the employer to determine the mode and manner of selection and unless it is shown that the same violates any statutory provision or is otherwise arbitrary, interference in the same is not warranted. In the present case, apart from contending that a larger pool of candidates should have been made to sit in the Main (written) examination, it has not been shown by the petitioner how the impugned stipulation is arbitrary.

13. In any case, the petitioner having participated in the selection process with prior knowledge of this provision, cannot now be allowed to challenge the same.

14. As far as the prayer of the petitioner that the six seats reserved for the Scheduled Tribe category may remain unfilled and should be diverted to the General category, the same is based only on a presumption. The petitioner herself states that for those 06 reserved category seats, 06 candidates have been shortlisted for the main (written) examination. In case the vacancies do remain unfilled after the selection process is over, it shall be open for the respondent to decide, in accordance with law, whether these posts are to be diverted to the General category.

15. On the submission of the learned Senior Counsel for the petitioner that two further vacancies have fallen vacant on 19.02.2025, it again does not impress us. The learned counsel for the respondent, who appears on advance notice, submits that these 02 vacancies, in fact, fall under the promotion quota. Be that as it may, it is again for



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the respondent to decide whether the number of vacancies is to be increased in the middle of a selection process. The petitioner cannot claim a right over these vacancies and thereby seek a mandamus directing the respondent to increase the number of vacancies in the ongoing process.

16. We, therefore, do not find any merit in the present petition. Accordingly, the petition along with the pending application, is dismissed.

NAVIN CHAWLA, J

SHALINDER KAUR, J

MARCH 4, 2025/ss/sk/DG

Click here to check corrigendum, if any