* **THE HON'BLE SRI JUSTICE NYAPATHY VIJAY**

WRIT PETITION No.27611 of 2025

% 30.10.2026

Paravada Ganesh and Others …. Petitioners

Versus

$ The State of Andhra Pradesh and Others …. Respondents

! Counsel for the Petitioner(s) : K.G. Krishna Murthy, Senior Counsel assisted by K. Raghuveer

! Counsel for the Respondent : Government Pleader for Services-I

WRIT PETITION No.29972 of 2025

% 30.10.2026

Y. Nageswari and Others …. Petitioners

Versus

$ The State of Andhra Pradesh and Others …. Respondents

! Counsel for the Petitioner(s) : M. Vijay Kumar, Senior Counsel, assisted by Sri Manoj Kumar Bethapudi

! Counsel for the Respondent : Government Pleader for Services-I

WRIT PETITION No.31717 of 2025

% 30.10.2026

Ramireddy Srinivasarao and Others …. Petitioners

Versus

$ The State of Andhra Pradesh and Others …. Respondents

! Counsel for the Petitioner(s) : Bhagavan Gandhi

! Counsel for the Respondent : Government Pleader for Services-I

WRIT PETITION No.32771 of 2025

% 30.10.2026

Narikanapu Sunil Kumar .... Petitioner

Versus

$ The State of Andhra Pradesh and Others .... Respondents

! Counsel for the Petitioner(s) : V. Satyanarayana Nekkanti

! Counsel for the Respondent : Government Pleader for Services-I

WRIT PETITION No.7016 of 2026

% 30.10.2026

K. Venkata Ramana .... Petitioner

Versus

$ The State of Andhra Pradesh and Others .... Respondents

! Counsel for the Petitioner(s) : M. Vijay Kumar, Senior Counsel assisted by Manoj Kumar Bethapudi

! Counsel for the Respondent : Government Pleader for Services-I

WRIT PETITION No.11918 of 2026

% 30.10.2026

Matta Hareesh and Others .... Petitioners

Versus

$ The State of Andhra Pradesh and Others .... Respondents

! Counsel for the Petitioner(s) : Shaik Abdul Siddiq

! Counsel for the Respondent : Government Pleader for Services-I

< Gist:

> Head Note:

? Cases referred: 1) (2017) 14 SCC 797
2) Civil Appeal No.4735 of 2022
3) Civil Appeal No.209 of 2023
4) (2008) 12 SCC 331
5) (2019) 20 SCC 17
6) (2023) 13 SCC 193
7) 2026 INSC 276

THE HON'BLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION No.27611 of 2025

Paravada Ganesh and Others …. Petitioners

Versus

$ The State of Andhra Pradesh and Others …. Respondents

WRIT PETITION No.29972 of 2025

Y. Nageswari and Others …. Petitioners

Versus

$ The State of Andhra Pradesh and Others …. Respondents

WRIT PETITION No.31717 of 2025

Ramireddy Srinivasarao and Others …. Petitioners

Versus

$ The State of Andhra Pradesh and Others …. Respondents

WRIT PETITION No.32771 of 2025

Narikanapu Sunil Kumar …. Petitioner

Versus

$ The State of Andhra Pradesh and Others …. Respondents

WRIT PETITION No.7016 of 2026

K. Venkata Ramana …. Petitioner

Versus

$ The State of Andhra Pradesh and Others …. Respondents

WRIT PETITION No.11918 of 2026

Matta Hareesh and Others .... Petitioners

Versus

$ The State of Andhra Pradesh and Others .... Respondents

DATE OF ORDER PRONOUNCED: 30.10.2026

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE NYAPATHY VIJAY

1. Whether Reporters of Local Newspapers may be allowed to see the Order? Yes/No
2. Whether the copies of Order may be marked to Law Reporters/Journals? Yes/No
3. Whether Your Lordships wish to see the fair copy of the Order? Yes/No

NYAPATHY VIJAY, J

Date of reserved for orders : 29.09.2026
Date of pronouncement : 30.10.2026
Date of uploading : 30.10.2026

APHC010533382025

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3460]
(Special Original Jurisdiction)

FRIDAY, THE 30th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION NO: 27611/2025

Between:

Paravada Ganesh and Others **...PETITIONER(S)**

AND

The State Of Andhra Pradesh and Others **...RESPONDENT(S)**

Counsel for the Petitioner(S):

1. K RAGHU VEER

Counsel for the Respondent(S):

1. GP FOR SERVICES I

WRIT PETITION NO: 29972/2025

Between:

Y Nageswari and Others **...PETITIONER(S)**

AND

The State Of Andhra Pradesh and Others **...RESPONDENT(S)**

Counsel for the Petitioner(S):

1. MANOJ KUMAR BETHAPUDI

Counsel for the Respondent(S):

1. GP FOR SERVICES I

WRIT PETITION NO: 31717/2025

Between:

Ramireddy Srinivasarao and Others **...PETITIONER(S)**

AND

The State Of Andhra Pradesh and Others **...RESPONDENT(S)**

Counsel for the Petitioner(S):

1. BHAGAVAN GANDI

Counsel for the Respondent(S):

1. GP FOR SERVICES I

WRIT PETITION NO: 32771/2025

Between:

Narikanapu Sunil Kumar **...PETITIONER**

AND

The State Of Andhra Pradesh and Others **...RESPONDENT(S)**

Counsel for the Petitioner:

1. V SATYANARAYANA NEKKANTI

Counsel for the Respondent(S):

1. GP FOR SERVICES I

WRIT PETITION NO: 7016/2026

Between:

K Venkata Ramana **...PETITIONER**

AND

The State Of AP and Others **...RESPONDENT(S)**

Counsel for the Petitioner:

1. MANOJ KUMAR BETHAPUDI

Counsel for the Respondent(S):

1. GP FOR SERVICES I

WRIT PETITION NO: 11918/2026

Between:

Matta Hareesh and Others **...PETITIONE**

AND

The State Of Andhra Pradesh and Others **...RESPONDENT(S)**

Counsel for the Petitioner(S):

1. SHAIK ABDUL SIDDIQ

Counsel for the Respondent(S):

1. GP FOR SERVICES I

The Court made the following:

Whether the order is :
Speaking Yes/No / Reasoned Yes/No

Reportable Yes/No / Non-Reportable Yes/No

THE HON'BLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION Nos.27611, 29972, 31717, 32771 of 2025,

W.P.Nos.7016 and 11918 of 2026

COMMON ORDER:

1. The Writ Petition No.29972 of 2025 and W.P.Nos.7016 and 11918 of 2026 are filed to declare the action of Respondents in not considering the candidature of Petitioners for the post of SCT Police Constables in the un-filled/left over vacancies under the Notification issued *vide* Rc.No.161/SLPRB/Rect.2/2022, dated 28.11.2022, as illegal and arbitrary. While the Writ Petition Nos.27611, 31717 and 32771 of 2025 were filed questioning the validity of Clause 33(ix) of the Notification issued *vide* Rc.No.161/SLPRB/Rect.2/2022, dated 28.11.2022.

2. ***Introduction:***

The State Government vide G.O.Ms.No.153, Home (Services. IV) Department, dated 20.10.2022 had issued a notification to fill-up the posts of Sub-Inspectors (Civil), Reserve Sub-Inspectors, Police Constables (Civil) and Police Constables (APSP) totaling 6511 posts. Pursuant thereto, the State Level Police Recruitment Board (hereinafter referred to as ***"Board"*** for brevity) had issued a

notification *vide* Rc.No.161/SLPRB/Rect.2/2022, dated 28.11.2022 inviting applications from eligible candidates to fill-up 3580 posts of Police constables (Civil) (Men and Women) and 2520 posts of Police Constable APSP (Men).

3. The Method of Selection is in four (4) stages as under:

i. Preliminary Written Test for 200 marks
ii. Physical Measurements Test (PMT)
iii. Physical Efficiency Test (PET)
iv. Final Written Examination for 200 marks.

4. Thereafter, final selection of the Candidates (Men and Women) will be made strictly on relative merit as obtained by them based on their score in the Final Written Examination for 200 marks for the Candidates, who qualified in Physical Efficiency Test and as per the provisions of the A.P. Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975. Special representation for Meritorious Sportspersons, National NCC, Ex-Servicemen, Home Guards, children of Police Personnel were also provided a certain quota in the appointments.

5. After the due selection process, the Petitioners, who were equally meritorious, were not selected on account of various selection dynamics. The provisionally selected candidates were

referred for antecedent verification and medical examination. At that stage, some of the provisionally selected candidates dropped out of the antecedent verification and medical examination on account of various individual reasons like being selected in different departments, unwillingness to join etc., and that resulted in 400 posts being left un-filled. The Petitioners, being the next meritorious, and willing to join the Police Department, sought the Respondent authorities to consider their case for appointment in the leftover vacancies.

6. However, their cases were not considered. The defence taken in the Counter-Affidavit was that Clause 33(ix) of the notification states that the Police Recruitment Board will not maintain a waiting list for any recruitment process. The list of candidates provisionally selected as against notified posts shall be final and no waiting list shall be maintained under any circumstances. The further defence was that the Petitioners, having participated in the selection process with open eyes, cannot turn around and question Clause 33(ix) in the notification. In view of this Clause, the Respondents justify their stand of not considering the Petitioners for appointment.

7. Heard Sri K.G. Krishna Murthy, learned Senior Counsel, assisted by Sri K. Raghuveer, Sri M. Vijay Kumar, learned Senior Counsel, assisted by Sri Manoj Kumar Bethapudi on behalf of the Petitioners as well as learned Assistant Government Pleader for Services-I, Sri G. Raju appearing for the Respondents.

8. ***Issues***: The issue that fell for consideration is the validity of 33(ix) of the Notification issued *vide* Rc.No.161/SLPRB/Rect.2/2022 dated 28.11.2022 and what relief can be granted in these Writ Petitions?

9. The Clauses in the notification relevant for adjudication of these cases are Clauses 20(E), 25 and 33(ix) and they read as under:

> ***20. <u>SELECTION PROCEDURE/SCHEME:</u>***
>
> *A. ….*
>
> *B. …..*
>
> *C. …..*
>
> *D. …..*
>
> ***E. <u>FINAL SELECTION:</u>***
>
> *i.* ***<u>For Post Code No.21</u>****: The final selection of the candidates (Men & Women) will be made strictly on relative merit, as obtained by them based on their score in*

the Final Written Examination for 200 marks for the candidates who qualified in Physical Efficiency Test and as per the provisions of "The Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975" and G.O. (P) No.763, General Administration (SPE.A) Dept., dated 15.11.1975 as amended from time to time."

As per G.O.Ms.No.8, General Administration (SPF.A) Dept., dated 08.01.2002 while filling up of the posts under direct recruitment, the first 20% of posts should be filled following combined merit list of locals and non-locals and, thereafter, the remaining 80% of the posts shall be filled up by locals only.

iii. ***For Post Code No.23:*** *The final selection of the candidates (Men) will be made strictly on relative merit, as per marks obtained by them based on their score in the Final Written Examination (for 100 marks) and Physical Efficiency Test (for 100 marks), totaling to 200 marks, and as per the provisions of the "The Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975" according to which the Rule of Reservation to local candidates is not applicable.*

NOTE:

Preference: *When two or more candidates in a particular category obtain equal marks preference will be given to the candidate who was born earlier.*

25. The selection of the candidates will be provisional and subject to verification of the original certificates, antecedents and medical examination.

33. General Instructions

i) ….

ii) …..

iii) ….

iv) …..

v) …..

vi) ….

vii) ….

viii) ….

ix) There shall be no waiting list for any of the recruitment processes conducted by SLPRB, AP and the list of candidates provisionally selected as against the notified posts shall be final and no waiting list shall be maintained under any circumstances. The left over vacancies, if any, due to cancellation of provisional selection for any reasons including adverse antecedents, Lack of medical fitness, relinquishment, unwillingness by the candidates and non-joining at the Induction Training as per designated procedure etc., of the provisionally selected Candidates, shall be deemed to have lapsed for the recruitment notified.

10. The three (3) Clauses extracted above would indicate that the final selection of candidates based on *inter se* merit is provisional and subject to verification of antecedents, original certificates, and medical examination. Though the selection of the candidates is provisional, the said selection would not be reviewed by the Respondents under any circumstances. As this Clause 33(ix) is under challenge, it would be profitable to understand the reason for imposing such extreme language of not reviewing even the provisional list of selectees.

11. Initially, G.O.Ms No.81, General Administration (Ser. A) Department, dated 22.02.1997 was issued restricting the number of selectees to the vacancies notified and not to maintain any waiting list. The fall-out vacancies were to be notified vacancies in the next recruitment. This executive decision was crystallized in the form of a Rule vide A*d hoc* Rule dated 04.12.1998 framed *vide* G.O.Ms.No.544, General Administration (Services-A) Department, dated 04.12.1998 under the proviso to Article 309 to the same effect.

12. In ***Munja Praveen v. State of Telangana***[1]*,* the peculiar reason for issuance of G.O.Ms No.81 General Administration (Ser. A) Department, dated 22.02.1997 was explained in detail at

[1] *(2017) 14 SCC 797*

Paragraph No.8 thereof and it was also held at Paragraph No.9 that vacancies can be termed as *'fall-out vacancies'* to be notified in the next recruitment notification, only when the relinquishment of post was after issuance of the appointment orders. For the sake of brevity only Paragraph No.9 is extracted below;

> ***"9.*** *According to us, the High Court has totally misconstrued the above GOMs. The portion of the GOMs quoted above clearly lays down that there shall be no waiting list and the selection shall be made equal to the number of posts notified. The purpose was that the vacancies arising due to people leaving the posts must be filled up by subsequent selection and not on the basis of a waiting list. It was clarified that after selection of the candidates and after issue of appointment orders, if the candidate fails to join within the stipulated period, that vacancy should be notified again. This portion of the GOMs admits of only one interpretation that after appointment order is issued and the person appointed does not join, then the vacancy cannot be filled up on the basis of the waiting list or by operating the merit list downwards.* ***This is also clear from Clause 9 of the GOMs, which also clarifies that fallout vacancies due to relinquishment or non-joining of the selected candidates may be notified in the next recruitment. This obviously means that the clause will apply after issue of letter of appointment. There can be no relinquishment and non-joining unless an appointment letter is issued.****"*

13. The Hon'ble Supreme Court considered a similar issue in the case of ***Telangana State Police Recruitment Board v. Narimetla vamsi***[2]*.* In that case, a notification was issued on 31.5.2018 to fill 16925 posts of Stipendiary Police Constables. After selecting a large number of candidates, many did not join, and the vacancies were not filled by the next meritorious candidates. The defence taken by the Board was that an *Ad hoc R*ule dated 04.12.1998 framed vide G.O.Ms.No.544, General Administration (Services-A) Department under the proviso to Article 309 of the Constitution of India states that vacancies in a notification on account of relinquishment by the selected candidates shall be notified in the next recruitment. This *Ad hoc R*ule as mentioned above was similar to G.O.Ms.No.81, dated 22.02.1997, which was considered in the ***Munja Praveen*** case (1 supra), and the *Ad hoc Rule* as extracted in the Judgment reads as under;

> *"Notwithstanding anything contained in the Andhra Pradesh State and Subordinate Service Rules/ Special Rules or adhoc rules governing maintenance and operation of waiting list for all the Direct recruitments for the posts under the State and Subordinate Services and Last Grade Services that are being taken up by various recruiting agencies and also through Employment Exchange, the maintenance and operation of*

[2] Civil Appeal No.4735 of 2022

waiting list for all the recruitments shall be dispensed with and the list of candidates approved/ selected in any recruitment by any recruiting agency in the State in any department for such posts shall be equal to the number of vacancies notified for that recruitment only including those meant for reserved community/category notified by the Unit Officers. The fallout vacancies, if any, due to relinquishment and non-joining etc., of selected candidates shall be notified in the next recruitment."

14. As the language in the *Ad hoc Rule* was similar to the G.O.Ms.No.81, dated 22.02.1997, the Hon'ble Supreme Court followed the interpretation in ***Munja Praveen**'s* case (1 supra) and the relevant portion of the order reads as under;

"We have heard learned counsel for the parties in the conspectus of the aforesaid submissions and find no reason to interfere with the concurrent findings of the two Courts below. ***The manner of interpreting the rule in question has already been set out in Munja Praveen case (Supra).*** *If a candidate has not gone through the process of recruitment, he has not done what was required to be done by him as set out hereinabove; it cannot be construed as a vacancy arising which has to be carried forward to the next recruitment process. As to the consequences of the large number of vacancies which have remained on these different accounts, the details of which have been set out hereinabove, again lend support to this conclusion that a large part of the process is not frustrated by not filling up the vacancies. Public employment is an important source of employability for young people in the country where we are facing problems of adequacy of jobs; An interpretation of the*

kind sought to be propounded by the appellants would go against the very ethos of providing public employment to persons eligible and meritorious, by construction of a rule in a manner leaving a large number of vacancies unfilled. This would not be an appropriate interpretation."

15. The above Judgment was followed in ***K. Ashok v. The State of Telangana and others***[3] regarding the recruitment notification dated 06.02.2016 for the post of Sub-Inspector of Police (Civil).

16. In a nutshell, it was held in the above Judgments that G.O.Ms.No.81, General Administration (Ser. A) Department, dated 22.02.1997 and the A*d hoc R*ule dated 04.12.1998 framed *vide* G.O.Ms.No.544 under the proviso to Article 309 of the Constitution of India, which prohibited maintenance of waiting list under any circumstances and fall-out vacancies to be notified in the subsequent recruitment notification, was interpreted to come into play, only to those vacancies, where the selectee relinquished appointment after the issuance of appointment orders. The relinquishment even before issuance of appointment orders was held to be not a *"fall-out vacancy"* to be notified in the subsequent recruitment notification.

17. As the interpretation was not to the liking of the Respondents, Clause 33(ix) was introduced in the impugned recruitment

[3] Civil Appeal No.209 of 2023

notification to overcome the Judgments referred above, refraining from even revising the provisional selection list.

18. There is an inherent and irreconcilable contradiction in the above Clauses 25 and 33(ix). Clause 25 states that the final selection is provisional, subject to verification of antecedents, original certificates, and medical examination, while Clause 33(ix) of general instructions gives finality to this provisional selection, notwithstanding the outcome of the verification process. In understanding of contractual clauses, the earlier clause would prevail over the repugnant later clause.

19. Another aspect is that the posts are governed by the ***Andhra Pradesh Police (Stipendiary Cadet Trainee) Rules 1999*** framed *vide* G.O.Ms.No.315, Home (Police-C) Department, dated 17.10.1999. As per these Rules, the persons selected for the post of Police Constable (Civil) after verification of original certificates, antecedents and medical examination would have to undergo induction training for (9) months and during this period, they would be paid stipend and would have to pass tests conducted during the training period. If the candidates fail in the tests and supplementary tests, they shall be discharged from training. As the name suggests, the selected candidates are called *"Stipendiary Cadet Trainee Police*

Constable," and the appointment as *Police Constable (Civil)* would not materialize until successful completion of induction training. The Rules 4(iv) and 5 are extracted below;

> *"**4. Training & Training Period**:*
>
> *(i) ….*
>
> *(ii) ….*
>
> *(iii) ….*
>
> *(iv) Stipendiary Cadet Trainee Police Constables under all categories shall undergo training for a period of 9 months at training institutions/centres as notified by the Director General of Police. They should undergo all indoor and outdoor training without any break and show satisfactory progress/performance during the training period.*
>
> ***5. Test and Evaluation**:*
>
> *The trainees in all the categories shall have to appear for the tests during training or on completion of training both indoor and outdoor subjects. The trainees are required to pass all the subjects on completion of Institutional training as per the scheme of examination. Those who fail in one or more subjects shall be retained in the training institutions and they shall be required to appear in the supplementary examination within a period of (2) two months from the date of completion of final examination.* ***The Un-successful candidates of supplementary examination shall be discharged from the training and they shall not be offered any appointment in the Department.*** *The Chairman, State Level Police Recruitment Board shall prescribe required test for all the above*

categories from time to time and decide the scheme of examination."

20. In the scheme of appointment of Police Constable (Civil), the provisional selections, after the four (4) stages of selection as mentioned above, pursuant to the recruitment notification is still at a nascent stage of selection. From this stage onwards, there are four to five possibilities from where the candidate included in the provisional merit list can relinquish or be denied appointment. i.e.,

(i) *At the stage of verification of original certificates, antecedents and medical examination.*

(ii) *The selected candidate relinquishes before appointment;*

(iii) *Though provisionally appointed, claim of belonging to a social group was found to be wrong, disentitling him to public employment;*

(iv) *On a successful challenge by another candidate on eligibility/suitability of a candidate included in the merit list/appointed to a post.*

(v) *Failure to complete the induction training.*

21. In the light of the elaborate procedure for appointment of Police Constable (Civil), would it be appropriate for the recruiting Board to rely on Clause 33(ix) of the notification to deny consideration for appointment in vacancies caused on account of

relinquishment at the stage of further verification of original certificates, medical examination and antecedents? Though there would be some justification in denying consideration of the next meritorious on relinquishment of the selected candidate, after he is sent for induction training or failure of the selected candidate in the induction training, but at a stage well before that i.e., at the stage of verification, it would be unfair to deny consideration of the next meritorious in the line.

22. It is a matter of common knowledge that the recruitment process starts with the issuance of a public notification calling for applications to fill-up notified vacancies and ends with the appointment of the eligible and meritorious. In the present notification, this logical culmination of the recruitment process is interdicted at the stage of provisional selection itself and a hands-off approach is adopted in the middle of the recruitment process. This goes against the very concept of recruitment notification and, in the opinion of this Court, appears to be an arbitrary condition. Though employers have the discretion to impose conditions in the recruitment notification, they must remain within the bounds of non-arbitrariness.

23. The candidates who are meritorious and have gone through the rigour of the selection process and miss out being included in the provisional selection list do aspire for consideration of their cases in all fairness. It is quite ironic that persons interested in joining the Police Department, notwithstanding the hard life, are not being considered for persons who relinquished and are uninterested in joining the service.

24. Public employment opportunities are limited, and recruitment notifications come occasionally; aspirants to the post of Police Constables, apart from preparing for the written examinations, must also be at their physical prime to qualify in the Physical Efficiency Tests (PET). The conditions in the recruitment notifications cannot be arbitrary as the right to be considered for public employment is a fundamental right and the denial of consideration for public employment should be on valid reasons, which substantially should relate to merit and not whimsical grounds.

25. Apart from that, what is the rationale that is sought to be achieved by imposing such a clause is not discernible in the Counter-Affidavit. At best, Clause 33(ix) provides some ease to the Respondents for closure of the recruitment process, but that can hardly be a ground and in matters of recruitment, the Clauses in the

recruitment notification should aid the objective of the notification i.e., appointments to the notified vacant posts. A condition that runs contrary to this objective of the notification can only be termed to be arbitrary, irrational and violative of Article 14 and 16 of the Constitution of India. At this stage, it would be apt to refer to the observation in the judgment of the Hon'ble Supreme Court in ***Man Singh v. State of Haryana***[4]***;***

> *"**20.** We may reiterate the settled position of law for the benefit of the administrative authorities that any act of the repository of power whether legislative or administrative or quasi-judicial is open to challenge if it is so arbitrary or unreasonable that no fair-minded authority could ever have made it. The concept of equality as enshrined in Article 14 of the Constitution of India embraces the entire realm of State action. It would extend to an individual as well not only when he is discriminated against in the matter of exercise of right, but also in the matter of imposing liability upon him. Equals have to be treated equally even in the matter of executive or administrative action. **As a matter of fact, the doctrine of equality is now turned as a synonym of fairness in the concept of justice and stands as the most accepted methodology of a governmental action. The administrative action is to be just on the test of "fair play" and reasonableness.**"*

26. In the Counter-Affidavit filed by the Respondents, the only defence taken was that the Petitioners, having participated in the selection process, cannot question the same. It is to be noted that

[4] (2008) 12 SCC 331

the clauses in the recruitment notification, which are arbitrary, can always be struck down, notwithstanding the mere participation of the aspirants in the selection process, as their mere participation cannot amount to validation of arbitrary clauses. At this stage, it would be apt to refer to the Judgment of Hon'ble Supreme Court in ***Meeta Sahai v. State of Bihar***[5]***,*** as a similar contention urged by the Respondents was distinguished;

> ***"16.*** *It is well settled that the principle of estoppel prevents a candidate from challenging the selection process after having failed in it as iterated by this Court in a plethora of judgments including* ***Manish Kumar Shahi v. State of Bihar****, observing as follows:*
>
> > *"16. We also agree with the High Court that after having taken part in the process of selection knowing fully well that more than 19% marks have been earmarked for viva voce test, the appellant is not entitled to challenge the criteria or process of selection. Surely, if the appellant's name had appeared in the merit list, he would not have even dreamed of challenging the selection. The [appellant] invoked jurisdiction of the High Court under Article 226 of the Constitution of India only after he found that his name does not figure in the merit list prepared by the Commission. This conduct of the appellant clearly disentitles him from questioning the*

[5] (2019) 20 SCC 17

selection and the High Court did not commit any error by refusing to entertain the writ petition."

The underlying objective of this principle is to prevent candidates from trying another shot at consideration, and to avoid an impasse wherein every disgruntled candidate, having failed the selection, challenges it in the hope of getting a second chance.

17. However, we must differentiate from this principle insofar as the candidate by agreeing to participate in the selection process only accepts the prescribed procedure and not the illegality in it. In a situation where a candidate alleges misconstruction of statutory rules and discriminating consequences arising there from, the same cannot be condoned merely because a candidate has partaken in it. The constitutional scheme is sacrosanct and its violation in any manner is impermissible. In fact, a candidate may not have locus to assail the incurable illegality or derogation of the provisions of the Constitution, unless he/she participates in the selection process."

27. Even otherwise, at the stage of participation in the selection process, no cause of action is available for the aspirants to challenge the clause in question i.e., Clause 33(ix), until they successfully qualify in the four stages of selection as mentioned supra and be included in the provisional selection list. In the absence of cause of

action to question Clause 33(ix), the Petitioners could not be non-suited from challenging the same.

28. Another aspect is that the *Ad hoc* Rule dated 04.12.1998 framed *vide* G.O.Ms.No.544 under the proviso to Article 309 of the Constitution of India as interpreted in ***Munja Praveen**'s* case (1 supra) as well as in ***Narimetla Vamsi*** and ***K. Ashok**'s* cases (2 & 3 supra) by the Hon'ble Supreme Court is in vogue and Clause 33(ix) of the notification runs contrary to the *Ad hoc Rule*.

29. The ***Vallampati Satish Babu v. State of Andhra Pradesh and Others***[6] cited by the learned Government Pleader is distinguishable on facts. In the said case, notification was issued for recruitment of Teachers termed as 'DSC-2012'. After drawing of final seniority list, one individual did not turn up for counselling and the next meritorious person sought for appointment in the said category and in that context, the next meritorious person sought for consideration of his case for appointment. The procedure for preparation of final selection list for conduct of counselling for issuance of appointment orders were provided by the State *vide* G.O.Ms.No.91, dated 03.11.2012 in the said case and the procedure is distinctly different.

[6] (2023) 13 SCC 193

30. As per the selection procedure contemplated therein, a provisional merit list would be drawn up and the persons in the said list were to attend for verification of original certificates. It is pertinent to note here that the said guidelines provided for re-drawing of the provisional selection list by the DSC to the extent necessary in the event of a provisionally selected candidate fails to attend the verification of certificates/production of original certificates, by inclusion of the next meritorious candidate. After verification, the final selection list would be prepared. This final selection list did not provide for any waiting list and in the event the candidate included in the final selection list does not claim appointment, the vacancy remains unfilled and would be carried forward to the next recruitment. Paragraphs 14 and 15 of G.O.Ms.No.91, dated 03.11.2012 are extracted below:

> *"14. The Guidelines have been issued by the State Government for selection f process including the preparation of selection list, conduct of counselling and issue of appointment and posting orders to the selected candidates under GOMS No. 91 dated 3-11-2012. Para 8 of the said Guidelines is relevant for our purpose, which reads as under:*
>
> *"8. Verification of Certificates.*
>
> ***(a)** The District Educational Officer shall prepare with the approval of the District Selection Committee a provisional list to the extent of vacancies notified, for each category of post*

notified in DSC-2012 on the basis of the merit list and publish the same on the notice boards of the offices of the District Collector and District Educational Officer and also on the designated website, along with the date, time and venue fixed for verification of certificates. The District Educational Officer shall also issue a press note in the local newspapers for wide publicity in this regard.

(b) *As the processing of applications for DSC-2012 is made online so far, the process of verification of certificates of candidates included in provisional list may, in certain cases, also result in.*

(i) Failure of the candidate to attend for verification of certificates.

(ii) Failure of the candidate to produce the original certificate/s relevant to his/her eligibility and selection.

(iii) Inclusion of a candidate in the provisional list of more than one category.

(c) *As regards (b)(i) above, the District Educational Officer shall send a personal intimation to the address furnished by the candidate, to attend along with all relevant original certificates on the date fixed for the said purpose, as a final chance.*

(d) *In case the candidate fails to attend even on the date so fixed, he/she shall forfeit his/her right to be considered for selection.*

(e) In the event of (b)(ii) & (b)(iii) and (d) above, the provisional list shall be redrawn by the District Selection Committee drawing next candidate/s from the merit list to

the extent necessary, however, subject to the condition that the number of candidates included shall not be more than the number of vacancies notified for that particular category. Insofar as the candidate is covered by b(iii) above, this exercise shall be done only after obtaining the option of such candidate at the time of verification of certificates itself.

(f) The further verification of certificates, if any required as under (e) above shall be done, after due intimation to the candidates concerned, on the date fixed for the said purpose.

(g) After due completion of the above exercise the District Selection Committee shall prepare the final selection list of the candidates for all categories of the teachers. Once the final selection list is prepared, there shall be no waiting list and posts if any unfilled for any reason whatsoever shall be carried forward for future recruitment as per sub-rule (5) of Rule 16 of the Andhra Pradesh Direct Recruitment for the posts of Teachers (Scheme of Selection) Rules, 2012.

15. On a fair reading of Rule 16 of the 2012 Rules read with the Guidelines referred to hereinabove, once the final selection list is prepared, there shall be no waiting list and posts, if any, are unfilled for any reason whatsoever, shall be carried forward for future recruitment as per sub-rule (5) of Rule 16 of the 2012 Rules."

31. In the present case, Clauses (e) and (g) quoted above are absent and even if the candidate provisionally selected did not turn up for certificate verification, the provisional merit list is not being re-drawn as done in the above case by relying on

Clause 33(ix) of the notification. The guidelines framed *vide* G.O.Ms.No.91, dated 03.11.2012 in the above case, if followed in the present case, no cause of action would arise.

32. The ***State of Karnataka and Others v. Santhosh Kumar C***[7] cited by the Learned Government Pleader**,** was the case where the Karnataka Public Service Commission had issued a notification inviting applications for recruitment to 362 posts of Karnataka Gazetted Probationers in Group A and Group B Services under the Karnataka Recruitment of Gazetted Probationers (Appointment by Competitive Examinations) Rules, 1997.

33. In the said case, the Respondent i.e., Santhosh Kumar C had participated in the selection process and was selected to the post of Assistant Commissioner of Commercial Taxes Group A *vide* notification dated 05.05.2022 and the said individual joined duty on 09.05.2022. On the ground that one Aiyappa M.A selected to the post of Assistant Commissioner of Karnataka Administrative Service, Group A, Junior Scale, did not undergo medical examination and police verification, the Respondent sought appointment in the said post. In that context, the Hon'ble Supreme Court negatived the claim, as the Respondent, Santhosh Kumar C, had joined the post of

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Assistant Commissioner of Commercial Taxes and as Rules were not under challenge. The case is distinctly different to the facts of this case.

34. **Relief**:-

In the light of the above discussion, the Writ petitions are disposed of, with the following directions;

(i) The clause 33(ix) of the recruitment notification issued vide Rc.No.161/SLPRB/Rect.2/2022 dated 28.11.2022 is declared to be arbitrary and unfair.

(ii) The Respondents shall take steps for appointment in the left over vacancies under the notification vide Rc.No.161/SLPRB/Rect.2/2022 dated 28.11.2022 by adhering to merit as well as reservations.

(iii) The above exercise shall be completed within a period of (04) months from the date of receipt of the copy of the order.

(iv) No order as to costs.

As a sequel, pending applications, if any, shall stand closed.

NYAPATHY VIJAY, J

Date: 30.10.2026

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THE HON'BLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION Nos.27611, 29972, 31717, 32771 of 2025,

W.P.Nos.7016 and 11918 of 2026

Date: 30.10.2026

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