IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

Dates & Events

In

Civil Misc. Writ Petition No. of 2020

(Under Article 226 of the Constitution of India)

(District: Prayagraj)

Dr. Ritesh Singh and others-----Petitioners.

Versus

The State of U.P. and others----Respondents.

Sl. Nos.	Dates	Events
1		It is also relevant to mention that certain candidates who got their selection as OBC and SC category candidates they have obtained lesser marks in screening test, thereafter, they have been selected, however, in interview they have been given too much marks, therefore, they have been selected in General category. For example in the year 2013 one Smt. Kalpana Gautam who has obtained 80 marks in SC category and she qualified in SC category, whereas cutoff mark of General category was fixed 86 but finally she has been selected in General category in final select list and this matter of point travelled to the Hon'ble Court where they have disclosed number of screening test, clearly reveals, they did not disclose screening marks even to the persons who are qualified in their category and has obtained less marks to the cutoff marks of general category, however, they have been selected in general category finally, which is not admissible under law.
2		It is also relevant to mention that one Mr. Manish Kumar Srivastava who was candidate in the aforesaid examination, he has filed writ petition and in that affidavit was filed where in it was stated that Mr. Manish Kumar Srivastava has obtained 104 marks above than the cutoff marks of the general category i.e. 86 marks and thereafter he has been finally selected and also the U.P. Public Service Commission has stated before the Hon'ble Court that they are sorry, thereafter he has been selected. Similar controversy was also raised, therefore, the U.P. Public Service Commission has to declare first screening marks and also interview mark which is given to the persons.
3		One Smt. Anamika Mishra, who through her

		Parents is Brahman by caste, however, she has been selected in 2013 in screening test in general category and same candidate namely Smt. Anamika Mishra now has been selected in final select list as OBC category candidate, whereas, if a person by birth is Brahmin then he/she cannot be appointed either as OBC or as SC in view of the judgment of the Hon'ble Apex Court, even she is married with SC/ OBC.
4	18.5.2018	The U.P. Public Service Commission, Prayagraj advertised vacancies vide advertisement no.1/2018-2019 dated 18.5.2018 for different posts, however, controversy involved in the present case is with respect to the appointment on the post of Homeopathic Officer, therefore, the Petitioners are only annexing relevant part of the advertisement no.1/2018-2019 dated 18.5.2018 so far as it relates to the Homeopathic Medical Services.
5		By perusal of the aforesaid advertisement, it is very much clear that: (a) The last date for submission of online application form is 18.6.2018. (b) The last date for receiving of hard copy, online application, is 25.6.2018. (c) The last date for depositing fee in the Bank is Rs.14.6.2018. (d) One must have recognized degree in Homeopathic, which is completed with duration of five years or Diploma in Homeopathic which is completed not less than 4 years. (e) The Applicant should be duly registered with U.P. Homeopathic Medicines Board, U.P. (f) The age must be in between 21 year to 40 year with relaxation as provided under the Rules. (g) It is also provided that candidates should have been annexed mark sheet of all semester, in which minimum marks and maximum marks/ obtained marks should be

		mentioned essentially along with other certificates, otherwise, their candidatu5res must not be considered.
6		All the Petitioners, who are filing present writ petition before this Hon'ble Court, they are having BHMS degree duly provided by the recognized Universities and Colleges and they had also applied as per provisions contained in the aforesaid advertisement. For kind convenience of this Hon'ble Court, True/ Photostat Copy of a detailed Chart containing names, father's names, qualifications & names of Colleges recognized by the University, marks obtained in BHMS Course, roll number allotted by the U.P. Public Service Commission, number obtained by the Petitioners in screening Test etc. is annexed as **Annexure-2** to this Writ petition.
7	9.8.2018	In fact, after issuing aforesaid advertisement, a corrigendum issued by the Commission, wherein they had revised total numbers of seats and in the corrigendum/ revised letter dated 9th August, 2018, total of the vacancies as mentioned is 596. As 319 vacancies are unreserved, 169 vacancies are reserved for OBC category candidates, 99 vacancies are reserved for SC category candidates and 9 vacancies are reserved for ST category candidates and thereafter it was also categorized, as 118 vacancies are reserved for the ladies/Women, 17 vacancies reserved for Physically Handicapped and 11 vacancies are reserved for BFF.
8	30.9.2018	Total number of candidates, who had applied, are approximately more than 7500, therefore, the U.P. Public Service Commission, Prayagraj, has decided to hold screening test and in the screening test which was held on 30th September, 2018, approximately 5500 candidates have appeared in the written examination.
9	14.1.2020	The result of the written examination/ screening test was declared on 14.1.2020, wherein, they had further fixed minimum qualifying marks 40% and 35%, therefore, one must have to obtain 60 marks for General and OBC category and 53 marks for SC category candidates.
10	14.1.2020	In the aforesaid result of written examination/ screening test dated 14.1.2020; the Petitioners were found successful in General Category.
11		By perusal of the aforesaid result, it is very much

		clear that said result is based upon the marks obtained by the Petitioners in BHMS Course and all the Petitioners have obtained more than 40% marks being General Category candidates.
12		Total persons who were found successful in different categories, whose numbers are given herein as below: (a) General Category Candidates-555 (b) OBC Category Candidates-419 (c) SC Category Candidates-183 (d) SC Category Candidates-4
13	10.2.2020	For preparation of the waiting list, the Petitioner has already moved application on 10.2.2020, copy of which is also duly received in the Office of the U.P. Public Service Commission, Prayagraj.
14		In the case of the Petitioners, the Petitioners are saying on affidavit that Interview Boards have not conducted interview for more than 1 or 2 minutes and no questions with respect to the subjects were asked, clearly shows that Experts are sitting with a mind set up to make selection to the persons who are inferior in merits to the Petitioners.
15		It is relevant to mention that the Petitioners have obtained much higher marks in screening test, however, they have been given less marks in interview, so that they may not be selected.
16	7.3.2020	Final impugned result was declared by the U.P. Public Service Commission on 7th March, 2020.
17	16.3.2020 20.3.2020	By perusal of the aforesaid letter dated 14.1.2020, it is also clear that the U.P. Public Service Commission, Prayagraj had disclosed that they will provide marks obtained in the screening test, but instead of repeated request so made by the Petitioners' side marks of screening test has not been disclosed and in this regard some of the Petitioners have also moved applications under Right to Information Act, 2005 dated 16.3.2020 and 20.3.2020.
18		On the basis of the aforesaid screening test, interview was held in between 20th January, 2020 to 3rd February, 2020, in which, out of 1158 candidates, 1048 candidates have participated.
19		On average, daily five Boards were constituted, or on some day only three Boards were constituted and average almost 90 and 150 students have called for interview.

20		Interview started from 11.00 a.m. and that may be ended by 2.30 in most of the Boards, and only in some of the Boards interview continued also afternoon and as per information of the Petitioners in one Board only two persons were there: one is member of Board, another is Expert of the Subjects.
21		Before Interview Board, in majority of cases, either 1 or 2 minutes interview was held and even by the Interview Board, from some of the Petitioners who have participated, no question was asked, only address, college name or something was asked and within 1 or 2 minutes interview was over.
22		It is relevant to mention that interview was held but number of mark of interview was not disclosed and also it is not disclosed that how mark will be allotted to the candidates, whether total marks depends upon the marks of interview or marks fixed for interview have been bifurcated amongst the academic qualification etc or not?
23		It is also relevant to mention that several persons who are less meritorious or too less meritorious to the Petitioners in their academic qualifications and also they were obtained lesser marks in screening test, however, they have been selected.
24	18.3.2020	It is relevant to mention that one Person namely Manoj Kumar Upadhyay who had appeared in the examination, against vacancies of advertisement-2013, and instead of repeated request the U.P. Public Commission has not disclosed marks to Mr. Manoj Kumar Upadhyay, instead of the aforesaid fact, Mr. Manoj Kumar Upadhyay has moved application dated 18.3.2020 under Right to Information Act.
25		The aforesaid action of the U.P. Public Service Commission, Prayagraj is absolutely arbitrary, as out of total interview marks, there is a lot of variation in the marks awarded to some of the candidates then certainly there will be overlapping, therefore, candidates on whims and wishes of the Experts have been selected.
26		No doubt the opinion of the Experts is supreme but if marks allotted in arbitrary manner and candidates who are much inferior in merits in BHMS Course as well as in other qualifications, they are being awarded higher marks, then certainly it amounts as arbitrariness on the part of

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		the Experts.
27		Selection is based on the absolutely interview marks, therefore, same is absolutely illegal, as the Hon'ble Apex Court has decided in several cases that interview marks should not be more than 30%, even otherwise if written examination is not conducted, then every things have to be considered like qualifications and essential qualifications and marks be allotted against which.
28		Making selection absolutely hundred percent on oral interview without any bifurcation to the same is clear cut violation of the judgments delivered by the Hon'ble Apex Court, therefore, whole selection is bad in law.
29		Selection is malice on the ground that out of 555 candidates of general category, only 171 candidates have been selected, whereas, posts for general category were advertised 319 in number.
30		It is relevant to mention that OBC category candidates who have qualified are 419 and out of 419 posts duly advertised, total 281 candidates of OBC category have been selected and out of the aforesaid 281 OBC candidates 112 OBC candidates have been selected in general category and 169 candidates in OBC category.
31		It is also relevant to mention that in the aforesaid general category candidates, about 30-40 candidates who are OBC category candidates, but they were declared as general category candidates on the ground of creamy layer, therefore, in totality in general category, actually less than 150 candidates have been selected.
32		It is relevant to mention that so far as SC category is concerned, total seats reserved were 99, however, total 130 and 26 candidates of SC category have been selected as General category candidates.
33		It is relevant to mention that 10 SC category candidates have been mentioned as plane SC in general category, therefore, 36 SC candidates have been further selected in General Category. In totality overlapping is more than 50% of SC and OBC candidates in general category and if their marks obtained in BHMS Course or of the Post Graduate Course are being called upon, then it is found that they are much inferior in merits to the Petitioners, however, they have been awarded too much marks, even then they have been selected in

Dated: June, 2020

(Shivendu Ojha)Advocate
Advocate On Roll No.A/S-0743/2016
Counsel for the Petitioners
Chamber no.134 High Court,
Allahabad.

Note:

Sri Radha Kant Ojha, Sr. Advocate will appear and argue the case on behalf of the Petitioners.

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IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

Civil Misc. Stay Application No. of 2020

(Under Section 151 of C.P.C.)

On behalf of

Dr. Ritesh Singh and others-------Petitioners

In

Civil Misc. Writ Petition No. of 2020

(Under Article 226 of the Constitution of India)

(District: Prayagraj)

1. Dr. Ritesh Singh Son of Rajesh Singh, Resident of 727-A, Ashirvad Sadan, Baharaich, Kanoongopura Uttari, District Baharaich-271801.
2. Akhilesh Upadhyay Son of Ghanshyam Upadhyay, Resident of Village Kachhawa Dih, Post Kachhawa Bazar , District Mirzapur-231501.
3. Abhishek Kumar Son of Vinod Kumar, Resident of Village Asta, Gura Sarai , District Jhansi-284202.
4. Divya Tripathi D/o Om Prakash Tripathi, Resident of 127/568-W-1, Saket Nagar, District Kanpur-288014.
5. Hemant Pandey Son of Sri Anand Prakash Pandey, Resident of 717-G Chack Raghunath Mewa Lal Ki Bagiya, Naini, District Prayagraj-211008.
6. Ajay Rai Son of Rishikesh Rai, Resident of Village and Post Basuka, District Ghazipur-232339.
7. H.S. Tripathi Son of Bhav Nath Tripathi, Resident of House No.19, Sadanand Nagar, Ahiravan, District Kanpur-208007.
8. Ashwani Kumar Pandey Son of Namwar Pandey, Resident of 9/14, Shvi Nagar Colony, EWS 144, Near Buxi Bandh, Allahpur, District Prayagraj-211006.
9. Shubhankar Dwivedi Son of Raj Kishor Dwivedi, Resident of 50-C/3-A/2-C, Govindpur, District Prayagraj-211004.
10. Om Narayan Dixit Son of Rakesh Kumar Dixit, Resident of 1314, Adarsh Nagar, District Unnao-209801.
11. Sandeep Kumar Singh Son of Rang Bahadur Singh, Resident of Village and Post Kuddupur, District Jaunpur-222105.
12. Ravi Pandey Son of Om Prakash Pandey, Resident of 505, Kayasthan, Puranpur, District Pilibhit-262122.
13. Pratibha Tiwari Son of Rajesh Kumar Tiwari, Resident of Shardapura m Colony, Near braham Bab Naka, Prayagraj Road, District Ayodhya-224001.
14. Ankur Srivastava Son of Sri Surendra Kumar Srivastava, Resident of Village Ramganj, Post Risia, District Baharaich-271875.

15. Ankur Tripathi Son of Vivekanand Tripathi, Resident of C/o Rajesh Kumar Tiwari, Shraddhapuram Colony, Near Braham Baba Prayagraj Road, District Ayodhya-224001.
16. Sujata Singh D/o Pradeep Singh, Resident of Near Gyan Pecthika School Jagdishpur, District Ballia-277001.
17. Anupam Singh Son of Sri Shiv Bahadur Singh, Resident of Village and Post Bavriha, Thana Tarbganj, District Gonda-271123.
18. Archana Upadhyay D/o Vishnu Dayal Upadhyay, Resident of Bra hma Nagar Colony, Bypass More, Post Mandigun, Tehsil Kivaol, District Agra-283110.
19. Randhir Singh Son of Sri Ramsharikh Singh, Resident of Village Jalalpur, Post Gaddapur, Thana Bilariyaganj, Tehsil Sagari, District Azamgarh-276121.
20. Shweta Mishra D/o Rajesh Kumar Mishra, Resident of 119/12-B, Darshanpurva, District Kanpur-208012.
21. Meeta Kumari D/o Ramesh Chandra Tripathi, Resident of Kotwali Road (Lifeline Diagnostic Centre) Akbarpur, District Kanpur Dehat-09101.
22. Veer Bahadur Singh S/o Tej Pratap Singh, Resident of Village & Post Dewait, Rudouli, District Ayodhya-225407.
23. Durgesh Kumar Chaturvedi S/o Aniruddha Chaturvedi, Resident of House no.307, New Colony, Palhani, Post Palhani, District Azamgarh-276001.
24. Roopali Garg D/o Mukesh Agrawal, Resident of Mohalla Moolchand Ganjdundwara, District Kashganj-207242.
25. Jayati Verma Wife of Shailendra Srivastava, Resident of 599-B, Mumfordganj, District Prayagraj-211002.
26. Deepika Mishra D/o Chinta Haran Mishra, Resident of 532 Kha/25, Adarsh Colony, Mehandi Tola, Near Baba Sangat, Aliganj, District Lucknow-226022.
27. Amita Tripathi D/o Brijendra Pratap Tripathi, Resident of Village Bhikharipur, Post Panhauna, District Rae Bareli-229135.
28. Swati Pandey D/o Mr. Shesh Narayan Pandey, Resident of 535/192-B, Mohalla Aliganj, District Lucknow-226024.
29. Priya Tiwari D/o Ramesh Kumar Tiwari, Resident of 356/340/1196, Ashok Vihar, Alambagh Road Rajajipuram, District Lucknow-226017.
30. Atul Kumar Son of Sri Deena Nath, Resident of E-20, Shivani Vihar, Kalyanpur, District Lucknow-226022.
31. Namita Thakur D/o Ajeet Kumar Thakur, Resident of Vikram Nagar, Manak Nagar, District Lucknow-226001.
32. Atul Kumar Son of Sri Hari Vilash Singh, Resident of Village Devpur, Post Partappur, District Kashganj-207241.
33. Manoj Kumar Upadhyay Son of Lal Muni Upadhyay, Resident of Village Kaptanganj, Post Terhi, Tehsil Sagri, District Azamgarh-276141.

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34. Ankur Srivastava Son of Servaker Nath Srivastava, Resident of House No. 153, Rai Colony, Station Road, District Ghazipur-233001.

35. Jitendra Srivastava Son of late P.S. Srivastava, Resident of 4/146, New Azad Nagar (Opposite Shyam Nagar Bypass) Daheli, Sujanpur (Near Durga Chauraha), District Kanpur-208011.

36. Meenakshi Singh D/o Peshkar Singh, Resident of Plot No.86, Sita Ram Nagar (Near Civil Airport) Chakeri, Harjinder Nagar, District Kanpur-208007.

37. Sana Khan D/o Akhlaq Ahmad Khand, Resident of 418/1133, Garhi Peer Khan, Thakurganj Chowk, District Lucknow-226003.

38. Vandana Shukla D/o Ajeet Kumar Shukla, Resident of J-669 World Bank Bara, District Kanpur-208027.

39. Sujata Singh D/o Late P.N. Singh, Resident of 153-A (3), Kailash Natgar, Jajmau, District Kanpur-208010.

40. Shiv Vinayak Tripathi S/o Shyam Sundar Tripathi, Resident of Budhauliayana, Post Rath, District Hamirpur-210431.

41. Meenakshi D/o Jai Pal Singh, Resident of House no.563, Samrat Ashoka Nagar, Near Saini Sansthan, Delhi Road, Disterict Moradabad-244001.

42. Prachi Mishra D/o Rakesh Kumar Mishra , Resident of Shyam Nagar Colony, District Lakhimpur Kheri-262701.

43. Dr. Sunil Kumar Tripathi Son of Dr. Y.P. Tripathi, Resident of Kaoundia, District Sultanpur-228001.

44. Paritosh Mishra Son of late Dinesh Chandra Mishra, Resident of 340 Lig Govindpur Colony, District Prayagraj-211002.

45. Shankalp Chawala Son of Ramesh Kumar Chawala, Resident of S-2106 Rajaji Puram District Lucknow-226017.

46. Neha Mishra D/o Swayam Prakash Mishra, Resident of Mokalpur Rani Bazar, District Ayodhya-224127.

47. Shashank Gupta Son of Ved Prakash Gupta, Resident of Ward No.12, Purani Bazar, Shankergarh, District Pryagraj-212108.

48. Kunwar Devesh Singh Son of Ram Bahadur Singh, Resident of Village Purebagh Rai, Post Bharthipur, District Sultanpur-227304.

49. Jyoti Singh D/o Bhagwant Singh, Resident of House No. 538-K/122, Triveni Nagar, 3RD Hanumant Nagar , Sitapur Road, District Lucknow-226020.

---Petitioners.

Versus

1. The State of U.P. through Secretary,
AYUSH Department, U.P. Shashan, Lucknow.
2. The U.P. Public Service Commission,
Prayagraj through its Secretary.

3. The U.P. Homeopathic Medicines Board,
Lucknow.

----Respondents.

To

The Hon'ble The Chief Justice and His other companion Judges of the aforesaid Court.

The humble Application on behalf of the Petitioners Most Respectfully showeth as under.

1. That full facts and circumstances of the case have been disclosed in the accompanying writ petition for kind perusal of this Hon'ble Court.

PRAYER

It is, therefore, Most Respectfully prayed that this Hon'ble Court may very graciously be pleased to stay effect and operation of the whole selection published by the U.P. Public Service Commission, Prayagraj, The Respondent no.2, by the order dated 7.3.2020 (Annexure-10 to the Writ petition) and further this Hon'ble Court may be pleased to direct the U.P. Public Service Commission, Prayagraj, the Respondent no.2, to delete names of the persons who have been recommended provisionally, having not registered with U.P. Homeopathic Medicines Board, Lucknow and also commanding the Respondents to recommend names of the Petitioners who are below in merits against the aforesaid posts including posts which are still vacant because the posts have been surrendered or have not been joined by the candidates, treating the Petitioners in merit, during the pendency of the instant writ petition before this Hon'ble Court. And /or to pass such other and further order or direction which this

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Hon'ble Court may deem, fit and proper in view of the facts and circumstances of the case, so that justice may be done, otherwise, the Petitioners shall suffer an irreparable loss and injury.

Dated: June, 2020

(Shivendu Ojha)Advocate
Advocate On Roll No.A/S-0743/2016
Counsel for the Petitioners
Chamber no.134 High Court,
Allahabad.

Note:

Sri Radha Kant Ojha, Sr. Advocate will appear and argue the case on behalf of the Petitioners.