



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



(1) S.B. Civil Writ Petition No. 14640/2020

CNR: RJHC020741742020 | URN: CW / 27836U / 2020

Akash Bhardwaj S/o Gopi Nath Sharma, Aged About 25 Years,
R/o Ward No. 18 Village Chhapoli Tehsil Udaipurwati, Distt.
Jhunjhunu, Rajasthan.

-----Petitioner

Versus

- 1 State Of Rajasthan, Through Principal Secretary,
Department Of Personnel, Government Of Rajasthan,
Secretariat, Jaipur.
- 2 The Director General Of Police, Police Headquarter,
Lalkothi, Jaipur.
- 3 The Secretary, Rajasthan Public Service Commission,
Ajmer, Rajasthan
- 4 Punit Meena S/o Shri Ishwar Lal Meena, aged about 30
years R/o 19-B, Maharana Pratap Nagar, Khatipura,
Jaipur.
- 5 Suresh Choudhary S/o Shri Ramavtar Choudhary, aged
about 25 years, R/o 99, Dhani Gopi Nitharwal Ki
Sardarpura, Jhotwara, Jaipur.
- 6 Shoba D/o Shri Shankar Lal aged about 32 years, R/o
Jaton Ki Dhani Rajawa, Rajya Lodi Daijran, Jodhpur.
- 7 Vivek Sherawat S/o Shri Harish Chand, Aged about 28
years, R/o Govind Vihar, Kotaputali, Jaipur.
- 8 Radhey Shyam S/o Soji Lal Meena, aged about 29 years,
R/o Village Kalera Krishnan Gopal, Tehsil Kekri, District
Ajmer.

-----Respondents

Connected With

(2) S.B. Civil Writ Petition No. 11095/2020

CNR: RJHC020560862020 | URN: CW / 20576U / 2020

Kamlesh Sharma S/o Shri Bhagwan Sahai, Aged About 32 Years,
R/o Vpo Geejgarh, Tehsil Sikrai, District Dausa, Rajasthan -
303502.

-----Petitioner

Versus

- 1 The State Of Rajasthan, Through Additional Chief



Secretary Department Of Home, Govt. Of Rajasthan,
Govt. Secretariat, Jaipur (Raj.).

- 2 The Secretary, Rajasthan Public Service Commission,
Ghooghra Ghati, Ajmer (Raj.).

----Respondents

(3) S.B. Civil Writ Petition No. 5563/2021

CNR: RJHC020328262021 | URN: CW / 12712U / 2021

1. Shree Ram Vaishnav S/o Shri Om Prakash Vaishnav, Aged About 27 Years, Resident Of Bhil Mohalla, Village Shikhrani, Bijainagar, Ajmer Merit No. 200
- 2 Bhairu Khoji S/o Shri Jairam Khoji, Aged About 28 Years, Resident Of Village Post Sakhoon, Tehsil Dudu, District Jaipur (Raj.) Merit No. 170
- 3 Mohd. Mohsin Qureshi S/o Mohd. Saleem Qureshi, Aged About 29 Years, Resident Of 2562, Bhindo Ka Rasta, 4Th Crossing, Chandpole Market, Jaipur Merit No. 180
- 4 Sarjeet Kumar S/o Shri Ramdeen Lal Ghatala, Aged About 31 Years, Resident Of Village Post Gahlota, Tehsil Dudu, District Jaipur Merit No. 187
- 5 Mohammed Ismail S/o Shri Mohammed Ibrahim, Aged About 27 Years, Resident Of Gali No. 2, Kesar Bagh, Police Line, Nayapura, Kota City, District Kota Merit No. 166
- 6 Vijay Singh S/o Shri Hanuman Singh, Aged About 25 Years, Resident Of Bhambu Ki Dhani, P.s. Mathania, Bhainsar Kotwali, Mandial Kallan, District Jodhpur Merit No. 178
- 7 Sunil Kumar S/o Shri Jagdish Saharan, Aged About 27 Years, Resident Of Village And Post Ratnadesar, Tehsil Rawatsar, District Hanumangarh Merit No.186
- 8 Lokesh Kumar S/o Shri Bachchu Singh, Aged About 24 Years, Resident Of Village Moondiya, District Alwar Merit No. 164
- 9 Yogendra Singh S/o Shri Ramoli, Aged About 34 Years, Resident Of Village Post Sajjan Bas, Tehsil Rupbas, District Bharatpur Merit No. 204
- 10 Harphool Jat S/o Shri Sanwar Lal Jat, Aged About 27 Years, Resident Of Village And Post Dantra, District





Bhilwara Merit No. 171

- 11 Hinglaj Dan S/o Shri Jeevan Dan, Aged About 28 Years, Resident Of Village And Post Koda, Tehsil Fathgarh, Distrit Jaisalmer Merit No. 175
- 12 Veerendra Kumar S/o Shri Rohitashva Singh, Aged About 32 Years, Resident Of Village Jat Ki Dhani, Post Papurana, Tehsil Khetri, District Jhunjhunu Merit No. 215
- 13 Ravi Choudhary S/o Shri Laxman Ram Choudhary, Aged About 26 Years, Resident Of 581, Rajendra Nagar Pali, Pali Marwar, Rajasthan Merit No. 194
- 14 Uttam Rajpurohit S/o Sangrama Ram, Aged About 29 Years, Resident Of Devaniyo Ki Pole, Rospi, Jalore Merit No. 266
- 15 Mahipal Singh S/o Shri Amar Singh Rathore, Aged About 34 Years, Resident Bansed Bassi, Parbatsar, Nagaur, Merit No. 207
- 16 Ramawtar Goliya S/o Ram Kunwar Goliya, Aged About 29 Years, Resident Of Khakharki, Nagaur Merit No. 260
- 17 Sheela Jat W/o Shri Kedar Choudhary, Aged About 28 Years, Resident Of Rupwas Barodiya, Kot Khawada, Jaipur Merit No. 798
- 18 Harinarayan Gurjar S/o Shri Bhairu Ram Gurjar, Aged About 28 Years, Resident Of 13, Chhabadiyon Ki Dhani, Rojda, Jaipur Merit No. 403
- 19 Sushila D/o Shri Ramchandra Singh, Aged About 30 Years, Resident Of Khurdi, Sikar, Rajasthan Merit No. 853

----Petitioners

Versus

- 1 State Of Rajasthan, Through Principal Secretary, Department Of Personnel, Government Of Rajasthan, Secretariat, Jaipur.
- 2 The Director General Of Police, Police Headquarter, Lalkothi, Jaipur
- 3 Rajasthan Public Service Commission, Through Its Secretary, Ghooghara Ghati, Ajmer (Rajasthan).

----Respondents

(4) S.B. Civil Writ Petition No. 8292/2021

CNR: RJHC020487062021 | URN: CW / 18291U / 2021





Rajendra Kumar Kumawat S/o Matadeen Kumawat, Aged About 34 Years, R/o Vpo Putli (Near Govt. Secondary School), Tehsil Kotputli, District Jaipur, Rajasthan.

-----Petitioner

Versus

- 1 The State Of Rajasthan, Through Its Home Secretary, Secretariat, Rajasthan, Jaipur.
- 2 The Director General Of Police, Police Headquarter, Rajasthan, Jaipur.
- 3 Rajasthan Public Service Commission, Through Its Secretary, Ajmer.

-----Respondents

(5) S.B. Civil Writ Petition No. 5848/2022

CNR: RJHC020246772022 | URN: CW / 11396U / 2022

1. Ranveer S/o Bhagwan Singh Meel, Aged About 29 Years, R/o Village Durjanpura, Post Dhaka Ki Dhani, Tehsil Nawalgarh, District Jhunjhunu, Rajasthan.
- 2 Manoj Kumar S/o Balbir Singh, Aged About 31 Years, R/o Village Budawas, Tehsil Rajgarh, District Churu, Rajasthan.

-----Petitioners

Versus

- 1 The State Of Rajasthan, Through Its Home Secretary, Secretariat, Rajasthan, Jaipur.
- 2 The Director General Of Police, Police Headquarter, Rajasthan, Jaipur.
- 3 Rajasthan Public Service Commission, Through Its Secretary, Ajmer.

-----Respondents

(6) S.B. Civil Writ Petition No. 12088/2024

CNR: RJHC020617612024 | URN: CW / 24166U / 2024

Ayan Yogi S/o Shri C.I. Yogi, Aged About 28 Years, Resident Of 2/566, Kala Kuan, Aravali Vihar, Alwar (Raj.) At Present Residing At N-7, Jai Jawan Marg, Opp. Wtp, Jaipur (Raj.)

-----Petitioner

Versus

- 1 State Of Rajasthan, Through Principal Secretary,



Department Of Personnel, Government Of Rajasthan,
Secretariat, Jaipur.

- 2 The Director General Of Police, Police Headquarter,
Lalkothi, Jaipur.
- 3 The Secretary, Rajasthan Public Service Commission,
Ajmer (Rajasthan).

-----Respondents

(7) S.B. Civil Writ Petition No. 3218/2025

CNR: RJHC020185142025 | URN: CW / 8539U / 2025

Kavita Nitharwal D/o Kalu Ram Nitharwal, Aged About 32 Years,
R/o Village Nangal Siras, Post Nindar Benar, Tehsil Amer, Jaipur,
Rajasthan.

-----Petitioner

Versus

- 1 The State Of Rajasthan, Through Its Home Secretary,
Secretariat, Rajasthan, Jaipur.
- 2 The Director General Of Police, Police Headquarter,
Rajasthan, Jaipur.
- 3 Rajasthan Public Service Commission, Through Its
Secretary, Ajmer.

-----Respondents

(8) S.B. Civil Writ Petition No. 13739/2025

CNR: RJHC020782232025 | URN: CW / 30882U / 2025

Shyam Singh S/o Shri Narpat Singh Naruka, Aged About 29
Years, Resident Of Mahwa Nangal Sumer Singh, Po- Mandawar
Singh, Dausa, (Raj.) 321609 At Present Residing At 98 Shri
Madhav Nagar Near Kiro Ki Dhani, Hajyawala, Sanganer, Jaipur,
(Raj.) 302029

-----Petitioner

Versus

- 1 State Of Rajasthan, Through Principal Secretary,
Department Of Personnel, Government Of Rajasthan,
Secretariat, Jaipur.
- 2 The Director General Of Police, Police Headquarter,
Lalkothi, Jaipur.
- 3 The Secretary, Rajasthan Public Service Commission,
Ajmer (Rajasthan)



----Respondents

(9) S.B. Civil Writ Petition No. 18514/2025

CNR: RJHC021009222025 | URN: CW / 41783U / 2025

1. Panchu Ram Choudhary S/o Shri Suraj Karan Choudhary, Aged About 32 Years, R/o Village Pabuthan, Post Lamana, District Ajmer (Raj.)-305202
2. Rajveer S/o Shri Sohanlal, Aged About 34 Years, R/o Dhangar Mohalla, Mirzewala, Ganganagar, District Sriganganagar (Raj.)-335001
3. Girdhari S/o Shri Chhel Bihari, Aged About 28 Years, R/o Dhimar Mohalla, Janoothar, Post Janoothar, District Deeg (Rajasthan)-321203
4. Ashok Patel S/o Shri Ranchhoda Ram, Aged About 35 Years, R/o Samrat Granite, Rampura Colony, Jalore (Rajasthan)-343001
5. Lala Ram Yadav S/o Shri Bhagwan Sahai Yadav, Aged About 29 Years, R/o Village Ballupara, Tehsil Amer, Raithal, District Jaipur (Raj.)-303801
6. Lalit Kishore S/o Shri Sonaram Jat, Aged About 32 Years, R/o Village Ekalkhori, Post Cherai, District Jodhpur (Raj.)-342306
7. Kuldeep Singh Gurjar S/o Shri Gajraj Singh Gurjar, Aged About 32 Years, R/o Village Kutakpur, Gazipur, Tehsil Mahwa, District Dausa (Raj.)-321612
8. Laxman Ram S/o Shri Parsa Ram, Aged About 30 Years, R/o Pandar Krishi Farm, Lungiya, Beejathal, District Nagaur-341513.
9. Shyam Lal Samrwal S/o Shri Ghisa Lal Samrwal, Aged About 40 Years, R/o House No. 312, Moriia, District Chomu, Jaipur-303805.

----Petitioners

Versus

1. State Of Rajasthan, Through Principal Secretary, Department Of Personnel, Government Of Rajasthan, Government Secretariat, Jaipur (Raj.)
2. The Additional Chief Secretary, Department Of Home, Government Of Rajasthan, Government Secretariat, Jaipur (Raj.)





- 3 The Director General Of Police, Police Headquarter, Lalkothi, Jaipur (Raj.)
- 4 Rajasthan Public Service Commission, Through Its Secretary, Ajmer (Raj.)

----Respondents

(10) S.B. Civil Writ Petition No. 18554/2025

CNR: RJHC021011312025 | URN: CW / 41867U / 2025

1. Dinesh Singh Chaudhary S/o Shri Banay Singh, Aged About 30 Years, R/o Shiv Colony, Manna Ka Road, Near Bevadi Wala Kuan, Alwar (Raj.)-301001
- 2 Shyam Sundar S/o Shri Radhacharan, Aged About 34 Years, R/o Village Sanchauli, Post Maharana, District Mathura (U.p.)-281405
- 3 Ravikant Suthar S/o Shri Mahendra Suthar, Aged About 31 Years, R/o Ward No. 2, Nanda Colony, Gandhi Nagar, Nohar, District Hanumangarh-335523 (Raj.)
- 4 Basant Kumar S/o Shri Indraj Poonia, Aged About 29 Years, R/o Ward No. 8, Village Lakhasar, Tehsil Nohar, District Hanumangarh-335523 (Raj.)
- 5 Sukhpal Jat S/o Shri Kishan Lal Jat, Aged About 31 Years, R/o Seel Ka Rasta, Sandoliya, District Ajmer (Raj.)-305813
- 6 Mahaveer Bhanwaria S/o Shri Dilip Bhanwariya, Aged About 33 Years, R/o Bhanwariyo Ki Dhani, Buranada, Boroonda, Jodhpur (Rajasthan) -342604
- 7 Pemaram S/o Shri Pokar Ram, Aged About 30 Years, R/o Bakthaniya Ki Dhaniya, Tehsil Osiya, Newra Road, Osiya, District Jodhpur (Raj.) - 342303
- 8 Dharmbeer Singh S/o Shri Bhagwan Singh, Aged About 46 Years, R/o Village Mudhera, Tehsil Nagar, District Bharatpur-321205.
- 9 Nirmal Chhaba S/o Shri Prabhu Ram, Aged About 31 Years, R/o Village Morra, P.o. Merta, District Nagaur-341510.

----Petitioners

Versus

- 1 State Of Rajasthan, Through Principal Secretary, Department Of Personnel, Government Of Rajasthan,





Government Secretariat, Jaipur (Raj.)

- 2 The Additional Chief Secretary, Department Of Home, Government Of Rajasthan, Government Secretariat, Jaipur (Raj.)
- 3 The Director General Of Police, Police Headquarter, Lalkothi, Jaipur (Raj.)
- 4 Rajasthan Public Service Commission, Through Its Secretary, Ajmer (Raj.).

----Respondents

(11) S.B. Civil Writ Petition No. 18555/2025

CNR: RJHC021009262025 | URN: CW / 41868U / 2025

1. Lakhan Singh S/o Shri Mohan Singh, Aged About 31 Years, R/o Near Bus Stand, Gopalgarh, District Deeg (Raj.)-321204
- 2 Rajuram Dewasi @ Rajeev Desai S/o Shri Asha Ram Dewasi, Aged About 34 Years, R/o House No. 243, Nohra Marg, Village Samrani, District Jalore (Raj.)-343040
- 3 Ompal S/o Shri Murari, Aged About 33 Years, R/o Village Nahida, Tehsil Mahawa, District Dausa (Raj.)-322240
- 4 Bhom Singh S/o Shri Rawent Singh, Aged About 42 Years, R/o House No. 9, Tara Panna Bhawan Ke Pass, Bikaner (Raj.)-334001
- 5 Yogendra Kumar Dhaka S/o Shri Madan Singh Dhaka, Aged About 43 Years, R/o Ward No. 10, Village Rasora, Post Bhimsar, District Jhunjhunu (Raj.)-333001
- 6 Jagdish Prasad S/o Shri Baldeo Ram, Aged About 42 Years, R/o Village Jaitpura Kalan, Post Kherwa, District Nagaur (Rajasthan)-341503
- 7 Ajay Rojaria S/o Shri Harish Chandra, Aged About 45 Years, R/o Village Basmana, Post Bhatiwari, Tehsil Udaipurwadi, District Jhunjhunu (Raj.)-333026.
- 8 Depandra Roj S/o Shri Nathu Lal, Aged About 45 Years, R/o Village Chala, District Sikar (Raj.)-332706
- 9 Krishna Chandra Bisnoi S/o Shri Manohar Lal, Aged About 31 Years, Village Bheem Sagar, Samrau, Osia, Jodhpur-342302.

----Petitioners

Versus





- 1 State Of Rajasthan, Through Principal Secretary, Department Of Personnel, Government Of Rajasthan, Government Secretariat, Jaipur (Raj.)
- 2 The Additional Chief Secretary, Department Of Home, Government Of Rajasthan, Government Secretariat, Jaipur (Raj.)
- 3 The Director General Of Police, Police Headquarter, Lalkothi, Jaipur (Raj.)
- 4 Rajasthan Public Service Commission, Through Its Secretary, Ajmer (Raj.)

-----Respondents

For Petitioner(s)	: Mr. R.N. Mathur, senior advocate with Mr. Abhishek Mewara and Mr. Jai Vardhan Joshi Mr. Tanveer Ahamad with Mr. Mohsin Khan and Ms. Sara Parveen Mr. Akshit Gupta with Ms. Pragya Seth, Mr. Nakul Bansal and Mr. Shreyansh Dhariwal Mr. Ram Pratap Saini with Mr. Aamir Khan Mr. Divyesh Maheshwari with Mr. Harsh Vardhan Katara and Mr. Jai Prakash Dr. Pushpendra Pal Singh with Mr. Niranjana Singh Raghav Mr. Akash Sharma
For Respondent(s)	: Mr. Rajendra Prasad, Senior Advocate, AG with Ms. Dhriti Laddha Mr. Ashwinee Jaiman with Mr. Keshav Parashar, Mr. Moin Khan and Mr. Ashish Kabra Mr. Parth Sharma for Mr. Bhuvnesh Sharma, AAG Mr. M.F. Baig with Mr. Govind Gupta Mr. Saurabh Sharma and Mr. Munendra Singh Fozdar for Mr. Somitra Chaturvedi, Dy.GC

**HON'BLE MR. JUSTICE ASHOK KUMAR JAIN****Judgment****REPORTABLE****16/10/2026****A. Introduction**

1. All these writ petitions are filed with a common question of law in relation to recruitment for the post of Sub-Inspector/Platoon Commander, pursuant to advertisement dated 05.10.2016 (Annexure-1) and corrigendum dated 05.12.2018 and 23.08.2019 (Annexure-4) issued by the RPSC (respondent No.3). The basic issue raised in these writ petitions is the application of the reservation policy by the State of Rajasthan in determination of the posts in direct recruitment in different categories.

2. The basic contention of all the petitioners is that the reservation policy cannot be given effect to where the number of unreserved posts available to fill upon merits is reduced to less than 50%. The contention of these petitioners is only with regard to the effective implementation of the reservation policy and violation of the basic principles of law as laid down in the case of ***Indra Sawhney v. Union of India, 1992 Supplementary (3) SCC 217***, and ***R.K. Sabharwal Vs. State of Punjab reported as (1995) 2 SCC 745*** that the reservation in direct recruitment cannot exceed 50% of the total posts.

3. Initially, an interim order was passed on 15.12.2020, and same was vacated on 06.07.2021, with the observation that the appointments made by the respondent(s) shall remain subject to the final decision of these writ petitions, therefore, all the



appointments made pursuant to the said advertisement and corrigendum are subject to the outcome of these writ petitions. We have no hesitation in examination of the issues on merits as all appointments are subject to decision of this writ petition.

4. While considering these writ petitions, it has been submitted by Learned Senior Counsel appearing on behalf of the petitioners and the learned Advocate General that Writ Petition No. 14640/2020, **(Akash Bhardwaj versus State of Rajasthan)**, be taken-up as a lead matter and reliance be placed upon the pleadings of the said case. Therefore, we are placing reliance upon the pleadings of the case of Akash Bhardwaj. Accordingly, this judgment is based upon the pleadings and facts as narrated in the lead case, but for the purpose of further consideration, we are referring to the prayers made in each of the writ petitions.

B. The Prayer in each of the petition

5.1 S.B. Civil Writ Petition No. 14640/2020 has been filed with following prayer:-

1. The respondents' action in providing only 142 out of total 456 posts of Non TSP may be declared arbitrary and illegal.
2. The respondents may be directed not to proceed with appointments in pursuant to the result dated 01.09.2020 based on the advertisement dated 05.10.2016, 05.12.2018 & 23.08.2019 and the appointment may be directed to be made only after properly applying the reservation and by making proper classification of the posts category wise which should not be less than 50% for the unreserved/ general category.
3. Any other relief which this Hon'ble Court may deemfit and proper in the facts and circumstances of the case, may also kindly be passed in favour of the Petitioners.
4. Cost of the writ petition may also be awarded in favour of the petitioners.



5.2. S.B. Civil Writ Petition No. 5563/2021 has been filed with following prayer:-

1. The respondents' action in providing only 142 post for open category out of total 456 posts of (Non TSP may be declared arbitrary and illegal and the same be quashed and set aside and be directed to be set right in the interest of justice.
2. The respondents may be directed not to proceed with appointments in pursuant the advertisement dated 23.08.2019, 05.10.2016 and 05.12.2018 and the appointment may be directed to be made only after properly applying the reservation and by making proper classification of the posts category wise which should not be less than 50% for the unreserved / general category and only thereafter the merit position declared under result dated 01.09.2020 may be considered for appointment.
3. Any other relief which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case, may also kindly be passed in favour of the Petitioners.
4. Cost of the writ petition may also be awarded in favour of the petitioners.

5.3. S.B. Civil Writ Petition No. 18514/2025 has been filed with following prayer:-

- (i) by an appropriate writ, order or direction set aside the arbitrary and illegal action of providing reservation beyond the upper limit of 50% vide impugned Corrigendum dated 23.08.2019 while making recruitment on the post of Sub-Inspector under the Rajasthan Police Sub-Ordinate Service Rules, 1989;
- ii) by issuing appropriate writ or direction in the nature thereof the respondents may kindly be directed to prescribe 50% posts for General/Open Category candidates for selection to the posts Sub-Inspector (AP), Sub-Inspector (IB) and RAC as per the provisions of under Rajasthan SC, ST, BC, SBC and EBC Reservation Act of 2008 read with Rajasthan MBC Reservation Amendment Act of 2019 alongwith DOP Circular dated 29.03.2019;
- iii) by issuing appropriate writ or direction the respondents be directed to consider the candidature of the Petitioners in Sub-Inspector (A.P.) cadre according to their preference after modifying the Corrigendum dated 23.08.2019;





iv) Any other appropriate direction or order which is deemed just and proper by this Hon'ble Court may also be issued/passed in favour of the humble Petitioners and in the interest of justice.

v) Cost of the petition may also be awarded in favour of the humble Petitioners.

5.4. S.B. Civil Writ Petition No. 3218/2025 has been filed with following prayer:-

i) Issue an appropriate writ order or direction in the nature thereof thereby direct the respondents to fill up the advertised posts of Sub Inspector (AP), Sub Inspector (IB) and Platoon Commander as per the corrigendum dated 23.08.2019.

ii) Issue an appropriate writ order or direction in the nature thereof thereby direct the respondents to fill up all the advertised posts as per the roster process and as per the Rajasthan Scheduled Castes, Scheduled Tribes, Backward Classes, Special Backward Classes And Economically Backward Classes (Reservation Of Seats In Educational Institutions in the State And of Appointments And Posts In Services Under the State) Act, 2008

iii) Issue an appropriate writ order or direction in the nature thereof thereby directs the respondents to fill up the 50% posts from the Open Category of Sub Inspector.

iv) Issue an appropriate writ order or direction in the nature thereof thereby direct the respondents to give appointment to the petitioner on the post of Sub Inspector with all consequential benefits as the petitioner is in merit.

v) Pass any other appropriate order which this Hon'ble Court may deem fit, just and proper in the facts and circumstances of the case in favour of the petitioner.

vi) Cost of the writ petition be also awarded in favour of the petitioner.

5.5. S.B. Civil Writ Petition No. 13739/2025 has been filed with following prayer:-

1. The impugned order dated 07.07.2021 to the extent it breaches is in violation of the reservation policy may kindly be quashed and set aside and accordingly requisite number of unreserved / general category candidates may be ordered to be considered;

2. Or in alternate the candidature of the humble





petitioner (General Category overall merit no. 51) may be ordered to be considered for his selection and appointment on the post of Sub-Inspector (AP) in pursuant to the advertisement dated 05.10.2016 and other subsequent corrigendums with all consequential benefits.

3. The respondents' action in providing only 142 posts out of total 456 posts of Non TSP Area for General Category may be declared arbitrary and illegal and accordingly the same may be ordered to be set right by issuing appropriate directions, in the interest of justice.

4. The respondents may be directed to appoint the humble petitioner in the cadre of Sub-Inspector (AP) in pursuance to the advertisement dated 05.10.2016 with all consequential benefits, in the interest of justice.

5. Any other relief which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case, may also kindly be passed in favour of the Petitioner.

6. Cost of the writ petition may also be awarded in favour of the petitioner.

5.6. S.B. Civil Writ Petition No. 18554/2025 has been filed with following prayer:-

- i) by an appropriate writ, order or direction set aside the arbitrary and illegal action of providing reservation beyond the upper limit of 50% vide impugned Corrigendum dated 23.08.2019 while making recruitment on the post of Sub-Inspector under the Rajasthan Police Sub-Ordinate Service Rules, 1989;
- ii) by issuing appropriate writ or direction in the nature thereof the respondents may kindly be directed to prescribe 50% posts for General/Open Category candidates for selection to the posts Sub-Inspector (AP), Sub-Inspector (IB) and RAC as per the provisions of under Rajasthan SC, ST, BC, SBC and EBC Reservation Act of 2008 read with Rajasthan MBC Reservation Amendment Act of 2019 alongwith DOP Circular dated 29.03.2019;
- iii) by issuing appropriate writ or direction the respondents be directed to consider the candidature of the Petitioners in Sub-Inspector (A.P.) cadre according to their preference after modifying the Corrigendum dated 23.08.2019;
- iv) Any other appropriate direction or order which is deemed just and proper by this Hon'ble Court may also





be issued/passed in favour of the humble Petitioners and in the interest of justice.

v) Cost of the petition may also be awarded in favour of the humble Petitioners.

5.7. S.B. Civil Writ Petition No. 18555/2025 has been filed with following prayer:-

i) by an appropriate writ, order or direction set aside the arbitrary and illegal action of providing reservation beyond the upper limit of 50% vide impugned Corrigendum dated 23.08.2019 while making recruitment on the post of Sub-Inspector under the Rajasthan Police Sub-Ordinate Service Rules, 1989;

ii) by issuing appropriate writ or direction in the nature thereof the respondents may kindly be directed to prescribe 50% posts for General/Open Category candidates for selection to the posts Sub-Inspector (AP), Sub-Inspector (IB) and RAC as per the provisions of under Rajasthan SC, ST, BC, SBC and EBC Reservation Act of 2008 read with Rajasthan MBC Reservation Amendment Act of 2019 alongwith DOP Circular dated 29.03.2019;

iii) by issuing appropriate writ or direction the respondents be directed to consider the candidature of the Petitioners in Sub-Inspector (AP) cadre according to their preference after modifying the Corrigendum dated 23.08.2019;

iv) Any other appropriate direction or order which is deemed just and proper by this Hon'ble Court may also be issued/passed in favour of the humble Petitioners and in the interest of justice.

v) Cost of the petition may also be awarded in favour of the humble Petitioners.

5.8. S.B. Civil Writ Petition No. 11095/2020 has been filed with following prayer:-

i) the impugned corrigendum advertisement dated 05.12.2018 read with corrigendum advertisement dated 23.08.2019 alongwith impugned final result dated 01.09.2020, may kindly be declared illegal and arbitrary and therefore, same may kindly be quashed and set aside;

ii) By issuing appropriate writ or direction in the nature thereof the respondents may kindly be directed to:

(a) To prescribe 50% posts for General/Open Category candidates for selection to the posts Sub Inspector(AP) and Sub Inspector (IB) as per the





provisions of under Rajasthan SC, ST, BC, SBC & EBC Reservation Act of 2008 read with Rajasthan MBC Reservation Amendment Act of 2019 alongwith DOP circular dated 29.03.2019;

(b) To grant reservation to Scheduled Castes and Scheduled Tribes not more than 16% and 12% in the impugned corrigendum advertisement dated 05.12.2018 and corrigendum advertisement dated 23.08.2019 as per the provisions of under Rajasthan SC, ST, BC, SBC & EBC Reservation Act of 2008 read with Rajasthan MBC Reservation Amendment Act of 2019 alongwith DOP circular dated 29.03.2019;

(c) To revise the impugned result dated 01.09.2020 as per the reservation provided to General/Open Category candidates under reservation provided under Rajasthan SC, ST, BC, SBC & EBC Reservation Act of 2008 read with Rajasthan MBC Reservation Amendment Act of 2019 alongwith DOP circular dated 29.03.2019.

(d) To direct Respondent RPSC to reflect backlog vacancies of SCs and STs recruitment year wise , if there are any;

(e) To direct Respondent RPSC to fill the backlog vacancies of SCs and STs from General/Open Category candidates if such vacancies have been carried forward for more than three consecutive years; and

(f) To give joining to Petitioner on the post of Sub Inspector with all consequential benefits.

(iii) Any other appropriate order or direction which this Hon'ble Court deems just and proper in the facts and circumstances of this case may kindly also be passed in favour of the petitioner.

5.9. S.B. Civil Writ Petition No. 8292/2021 has been filed with following prayer:-

- i) Issue an appropriate writ order or direction in the nature thereof thereby direct the respondents to fill up all the advertised posts as per the roster process and as per the Rajasthan Scheduled Castes, Scheduled Tribes, Backward Classes, Special Backward Classes And Economically Backward Classes (Reservation Of Seats In Educational Institutions in the State And of Appointments And Posts In Services Under the State) Act, 2008
- ii) Issue an appropriate writ order or direction in the nature thereof thereby directs the respondents to fill up the 50% posts from the Open Category of Sub Inspector.





Issue an appropriate writ order or direction in the nature thereof thereby direct the respondents to give appointment to the petitioner on the post of Sub Inspector with all consequential benefits as the petitioner is in merit.

iv) Issue an appropriate writ order or direction in the nature thereof thereby, the impugned appointment order dated 07.07.2021 may kindly be declared illegal and be quashed and set aside.

v) Pass any other appropriate order which this Hon'ble Court may deem fit, just and proper in the facts and circumstances of the case in favour of the petitioner.

vi) Cost of the writ petition be also awarded in favour of the petitioner.

5.10.S.B. Civil Writ Petition No. 5848/2022 has been filed with following prayer:-

i) Issue an appropriate writ order or direction in the nature thereof thereby direct the respondents to fill up all the advertised posts as per the roster process and as per the Rajasthan Scheduled Castes, Scheduled Tribes, Backward Classes, Special Backward Classes And Economically Backward Classes (Reservation Of Seats In Educational Institutions in the State And of Appointments And Posts In Services Under the State) Act, 2008

ii) Issue an appropriate writ order or direction in the nature thereof thereby directs the respondents to fill up the 50% posts from the Open Category of Sub Inspector.

iii) Issue an appropriate writ order or direction in the nature thereof thereby direct the respondents to give appointment to the petitioners on the post of Sub Inspector with all consequential benefits as the petitioners are in merit.

iv) Issue an appropriate writ order or direction in the nature thereof thereby, the impugned appointment order dated 07.07.2021 may kindly be declared illegal and be quashed and set aside.

v) Pass any other appropriate order which this Hon'ble Court may deem fit, just and proper in the facts and circumstances of the case in favour of the petitioners.

vi) Cost of the writ petition be also awarded in favour of the petitioners.



5.11.S.B. Civil Writ Petition No. 12088/2024 has been filed with following prayer:-

1. It is, therefore humbly prayed that Your Lordship may graciously be pleased to accept and allow this writ petition and by an appropriate writ, order or direction:-The impugned order dated 07.07.2021 to the extent it breaches is in violation of the reservation policy may kindly be quashed and set aside and accordingly requisite number of unreserved / general category candidates may be ordered to be considered;
- 2.Or in alternate the candidature of the humble petitioner (General Category overall merit no. 22) may be ordered to be considered for his selection and appointment on the post of Sub-Inspector (AP) in pursuant to the advertisement dated 05.10.2016 and other subsequent corrigendums with all consequential benefits.
3. The respondents' action in providing only 142 posts out of total 456 posts of Non TSP Area for General Category may be declared arbitrary and illegal and accordingly the same may be ordered to be set right by issuing appropriate directions, in the interest of justice.
4. The respondents may be directed to appoint the humble petitioner in the cadre of Sub-Inspector (AP) in pursuance to the advertisement dated 05.10.2016 with all consequential benefits, in the interest of justice.
- 5.Any other relief which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case, may also kindly be passed in favor of the petitioner.
6. Cost of the Writ petition may also be awarded in favor of the petitioner.

C. Submission on behalf of the petitioners.

6. Learned Senior Advocate, while leading the case on behalf of all the petitioners, has referred the facts of the case and pointed out that the advertisement issued by the RPSC is clearly violative of the reservation scheme as implemented by the State of Rajasthan, and these petitioners have raised violation of constitutional norms. He specifically pointed out tabulation to





demonstrate that the total reservation exceeded the maximum limit of 50% in Annexure-1 dated 05.10.2016, Annexure-3 dated 05.12.2018 and Annexure-4 dated 23.08.2019, and petitioners are before this Court only against the determination of posts in various categories and leaving lesser number of posts to the open category candidates.

7. Learned Senior Advocate has also submitted that, on 05.10.2016, an advertisement was issued by the RPSC for the post of Sub-Inspector, and on 05.12.2018, a corrigendum was issued by the RPSC for change in the number posts of Sub-Inspector and Platoon Commander as advertised on 05.10.2016. He also referred the advertisement dated 23.08.2019 issued by the RPSC for further change in the number posts of Sub-Inspector and Platoon Commander as advertised on 05.10.2016 and 05.12.2018. He has placed his case by way of the following tabulation, and we are reproducing the tabulation relied upon by the learned Senior Advocate to buttress his arguments.

Total Posts for Sub Inspector (AP)-

Category	05.10.2016 (147 Posts) Annx. 1	05.12.2018 (220 Posts) Annx. 3	23.08.2019 (228 Posts) Annx. 4
General	22 + 6 = 28	40 + 9 = 49	40 + 9 = 49
Scheduled Caste	46	69	69
Scheduled Tribe	31 + 5 = 36	46 + 8 = 54	46 + 8 = 54
Backward Class	30	45	45
Special Backward Class	7	2	10
Sahariya	0	1	1
Total Caste Reservation (Excluding General Category)	119 Posts	171 Posts	179 Posts
In Percentage	80.95%	77.7%	78.5%



Total Posts for Sub Inspector (IB)-

Category	05.10.2016 (65 Posts) Annx. 1	05.12.2018 (97 Posts) Annx. 3	23.08.2019 (100 Posts) Annx. 4
General	4 + 3 = 7	22 + 4 = 26	22 + 4 = 26
Scheduled Caste	9	17	17
Scheduled Tribe	10 + 2 = 12	14 + 3 = 17	14 + 3 = 17
Backward Class	34	36	36
Special Backward Class	3	1	4
Total Caste Reservation (Excluding General Category)	58 Posts	71 Posts	74 Posts
Reserve posts In Percentage	89.2%	73.1%	74%

Total Posts for Platoon Commander (RAC)-

Category	05.10.2016 (114 Posts) Annx. 1 Page 15	05.12.2018 (171 Posts) Annx. 3 Page 20	23.08.2019 (171 Posts) Annx. 4 Page 21
General	52 + 5 = 57	77 + 7 = 84	77 + 7 = 84
Scheduled Caste	15	26	26
Scheduled Tribe	12 + 4 = 16	14 + 6 = 20	14 + 6 = 20
Backward Class	21	40	40
Special Backward Class	5	1	7
Total Caste Reservation (Excluding General Category)	57 Posts	87 Posts	93 Posts
Reserve posts In Percentage	50%	50.8%	52.5%

Total Posts for Sub Inspector (MBC)-

Category	05.10.2016 (4 Posts) Annx. 1	05.12.2018 (6 Posts) Annx. 3	23.08.2019 (6 Posts) Annx. 4
General	1	3	3
Scheduled Caste	1	1	1
Scheduled Tribe	1	1	1
Backward Class	1	1	1
Special Backward Class	0	0	0
Total Caste Reservation (Excluding General Category)	3 Posts	3 Posts	3 Posts



Reserve posts In Percentage	50%	50%	50%
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8. The learned Senior Advocate has submitted that the instant case is not a case of approbate and reprobate, as no party can be allowed to accept and reject the same thing, and one cannot blow hot and cold. He also submitted that the petitioners are before this Hon'ble Court on the ground that their Fundamental Rights have been infringed while computing and determining the posts in public employment. He further submitted that the respondents are not at liberty to take advantage of any situation faced by the petitioners, therefore, the cases of these petitioners cannot be thrown out of Court merely on the ground that the petitioners approached this Court after the declaration of the result on 01.09.2020, as has been observed by a Coordinate Bench while withdrawing the interim order on 06.07.2021.

9. Learned Senior Advocate has further submitted that the respondents have raised the ground of delay and laches, but same cannot be raised in the instant case, as similar writ petitions are also pending before this Hon'ble Court and the petitioners herein are not challenging the policy of the State; rather, they are before this Court for the effective and legal implementation of the reservation policy, as they have not challenged any of the Rules or any law by way of prayers in any of these writ petitions. He also submitted that, when these writ petitions were filed, no third-party rights had been created, as mere declaration of result does not create any substantive right to the posts. He also submitted that the petitioners are before this Court for the enforcement of their equitable rights and are legally entitled to approach this



Hon'ble Court for redressal of their grievances, therefore, their petitions cannot be dismissed on the basis of the objections raised by the respondents.

10. The learned Senior Advocate has further referred the judgment in the case of ***Ramchandra Shankar Deodhar v. State of Maharashtra, reported as (1974) 1 SCC 317***, and submitted that, where the Rules provide for a procedure different from that adopted by the respondents, and such procedure violates the fundamental rights of the petitioners then delay may not stand in the way of the enforcement of Fundamental Rights under Article 16 of the Constitution of India. He also referred the principle laid down in the said case and submitted that relief under Article 226 of the Constitution of India could not be denied on the ground of delay and laches, as no lower or upper time limit within which a writ petition must be filed, has been prescribed under the law. He also referred the judgment in the case of ***Mool Chand v. Union of India, reported as (2025) 1 SCC 625***, and submitted that, in a matter involving rights, failure to adopt a liberal or justice-oriented approach was considered as detrimental to the enforcement of fundamental rights, therefore, the objections raised by the respondents are not sufficient to defeat the attempt of the petitioners' rights before this Hon'ble Court. He also referred Rule 18 of the RSR relating to the termination of lien and the creation of supernumerary posts, and submitted same does not defeat any rights of the petitioners.

11. Learned Senior Advocate, while placing reliance upon the judgments in the cases of ***R.K. Sabharwal v. State of Punjab, (1995) 2 SCC 745***, and ***M. Nagaraj v. Union of India, (2006)***





8 SCC 212, submitted that, in no circumstances, the reservation policy can be implemented by applying any formula which empowers reservation of posts exceeding 50% of the total posts. He also submitted that Articles 15(4) and 16(4) are enabling provisions and that reservation under Articles 15(4), 15(5) and 16(4) of the Constitution of India cannot exceed the threshold limit of 50%. He further submitted that the entire disclosure of category wise posts in the three advertisements/corrigendum issued by the RPSC, clearly violates the judgment of the Constitution Bench of the Hon'ble Supreme Court, therefore, the rights of the petitioners have been affected, and they have approached this Hon'ble Court.

12. Learned Senior Advocate has further submitted that the Constitution provides for the carry-forward of vacancies reserved for SC/ST candidates, that too only for a period of three years, but does not provide for the carry-forward of any of vacancy reserved for Other Backward Classes (OBCs) or more Backward Classes. He also submitted that the classification and determination based on an analogy to include the backlog of vacant posts in OBC category by the respondents are contrary to settled law and such determination is contrary to the legal provisions, as settled by the Hon'ble Supreme Court while interpreting Articles 15 and 16 of the Constitution of India in relation to reservation. He also submitted that the respondents have failed to provide a category-wise bifurcation along with complete details of the vacancies in their respective categories so as to satisfy the mandate of law. He specifically pointed out that only 22% to 25% of the direct recruitment posts are available for the open or general category,



which means that they are only for meritorious candidates otherwise all are reserved and will be filled only from the categories as mentioned by the respondents in said advertisements.

13. The learned Senior Advocate has further referred the Rule 10 of the Rajasthan Police Subordinate Service Rules, 1989 (hereinafter referred to as the "Rules of 1989"), and submitted that the said Rule provides for the determination of vacancies, which has to be made in accordance with said Rules. He also submitted that the vacancies earmarked for direct recruitment have to be filled up from direct recruitment and cannot be filled by any other means as not provided under the Rules. He further submitted that the Rules provide for the determination of vacancies but does not provide for carry-forward of vacancies, in reserve categories. He also referred Article 16(4)(A) of the Constitution of India and submitted that the protection is available only in respect of Scheduled Castes and Scheduled Tribes, Otherwise, the actions of the respondents clearly indicate that they have not only violated the provisions of the Constitution but have also acted contrary to the prescribed procedure for the determination of vacancies, thereby leaving a minimum number of vacancies available to candidates belonging to the open category.

14. The learned counsel appearing for the other petitioners have also adopted the arguments advanced by the learned Senior Advocate and submitted that the grievance of the petitioners is confined to the allocation of posts to various reserved categories beyond the permissible extent of reservation, which is contrary to the roster points. They also referred the advertisements and the



subsequent determination and computation of posts and submitted that the reservation for the reserved categories exceeds 50%, which is contrary to the settled law. They further submitted that the advertisements do not mention any backlog vacancies for the SC, OBC or ST categories, which is also violative of the basic principles governing the implementation of the reservation policy. They also referred to the relevant provisions of law and submitted that, in the OBC category, there is no provision for the carry-forward of backlog vacancies to another year to be filled by OBC candidates, and in the instant case, the respondents have attempted to justify the backlog vacancies, including the carry-forward of backlog vacancies relating to the OBC category, which is contrary to the settled principles of law laid down by the Constitution Bench of the Hon'ble Supreme Court.

15. The learned counsel for the petitioners have further submitted that these writ petitions challenge the implementation of the reservation policy by the respondents in the advertisements in question. They submitted that the advertisements were revised on two occasions, thereby leaving little scope for the petitioners to approach this Hon'ble Court on earlier occasion. They also submitted that, as soon as the policy was implemented, the petitioners approached this Court by filing writ petitions, particularly when writ petitions relating to the reservation policy of the State were already pending, therefore, in case of continuing cause of action, and the petitions cannot be dismissed merely on the ground that the petitioners approached this Court after declaration of the result. They further submitted that, when the writ petitions were filed, a coordinate Bench of this Court, after



considering the matter, had stayed the appointments, but While vacating the interim order, another coordinate Bench also observed that the writ petitions could be allowed by way of an interim order and that the issue concerning the advertisement and the category-wise allocation of posts could be decided finally in these writ petitions, as the rights of the petitioners were kept reserved while vacating the stay order by a coordinate Bench. Moreover, the appointments were made by the respondents subject to the final decision in the writ petitions, which is evident from the appointment orders issued by the respondents.

16. The learned counsel for the petitioners have further submitted that, by circular dated 20.11.1987, the roster points were revised by the State and that the computation and classification of vacancies were not in accordance with the 100-point roster, therefore, the determination of vacancies for various categories are clearly violative of the principles of law laid down by the Hon'ble Supreme Court. They also referred the Rules 7 and 8 of the Rajasthan Police Subordinate Service Rules, 1989, and submitted that the declaration of the result and the selection process are clearly violative of the provisions of the said Rules. He also submitted that any process adopted by the respondents that is de-hors the Rules can be challenged at any stage, and no appointee de-hors the rules any right to continue on the post. They also submitted that the petitioners are bona fide candidates who had always believed that the State would implement the policy in right spirit, however, they have not expected from the State to act in violation of the principles of law, thereby infringing the fundamental rights of the petitioners. They further submitted



that mere participation in the selection process does not dis-entitle the petitioners from challenging the actions of the respondents, which are contrary to the scheme of the reservation policy and also against the prevailing Rules, therefore, the petitions cannot be dismissed on the ground that the petitioners challenged the determination of vacancies after participating in the selection process.

17. The learned counsel for the petitioners have further placed reliance upon the judgment of the Hon'ble Supreme Court in ***Dr. Jayashri Lakshmanrao Patil v. Chief Minister and Others***, Civil Appeal No. 3123/2020, and submitted that State of Maharashtra had implemented additional reservation, which exceeded the threshold limit of 50%, and that, after reiterating the previous judgments rendered by the Constitution Benches of the Hon'ble Supreme Court, the SEBC Act, 2018, enacted by the State of Maharashtra to implement reservation for the Maratha community, was struck down. They also submitted that, now, by way of a face-saving measure, the respondents have sought to justify in their additional affidavit that the vacancies meant for the open/unreserved category were filled from other sources, including appointment pursuant to orders passed by the Court, however, same is not a valid justification, as no such classification is reflected in the advertisements and subsequent corrigendum, therefore, the act of fraud and misrepresentation allegedly committed by the respondents is sufficient to allow these writ petitions.

D. Submission of the Advocate General



18. Aforesaid contentions were opposed by the learned Advocate General, and submitted that the petitioners had participated in the selection process but has filed these writ petitions only after being unsuccessful, therefore, the writ petitions are liable to be dismissed on the ground that the petitioners did not challenge the determination of posts in the advertisements before participating in the selection process. He also submitted that the RPSC had issued an advertisement dated 05.10.2016 for recruitment to the posts of Sub-Inspector and Platoon Commander, and that corrigendum were subsequently issued in relation to the said advertisement. He further submitted that the recruitment in question pertained to the year 2016 and that the selection process was completed upon the declaration of the final result on 01.09.2020. However, the petitioners challenged the actions of the respondents only after the completion of the selection process, therefore, the writ petitions are not maintainable.

19. The learned Advocate General further referred the judgment in the case of **Anupal Singh and Ors. v. State of Uttar Pradesh and another, reported as (2020) 2 SCC 173**, and submitted that once a candidate has participated in the selection process without raising any objection, such candidate cannot subsequently seek to challenge or set aside the selection process. He also submitted that the petitioners were well aware, from the date of publication of the advertisement and the subsequent issuance of two corrigendum about the determination, computation and category-wise allocation of vacancies by the respondents, however, the petitioners did not challenge the same before any court by filing writ petitions at an earlier stage.



He further submitted that the petitioners had approached the Court with the intention of creating undue pressure upon the respondents by filing writ petitions. He also submitted that the State had rightly implemented the reservation policy and that there was no infirmity in the determination of vacancies, and the action of the State had not caused any specific prejudice to the petitioners, therefore, they were not entitled to challenge the determination of vacancies by the State and their subsequent forwarding to the RPSC for the purpose of recruitment process.

20. The learned Advocate General further referred the reply and the tabulation submitted by the respondents in justification of the determination of vacancies and submitted that, once such justification had been provided, the writ petitions filed by the petitioners were liable to be dismissed. He further referred the judgment in the case of **Gaurav Pradhan and Another v. State of Rajasthan and Another, reported as (2018) 11 SCC 352**, and submitted that, if any number of vacancies have been consumed pursuant to orders passed by the Court(s), the same have to be adjusted against future vacancies, which is a settled principle of law. He also referred to the judgment in the case of **Ram Narayan Bhanwerya v. State and Another, S.B. Civil Writ Petition No. 3705 of 2009, decided on 20.09.2021**, and submitted that vacancies consumed pursuant to judgments passed by courts have to be adjusted against future vacancies. He further submitted that challenges to recruitment processes are made either before completion of the selection process or after declaration of the result, and that, pursuant to orders passed by the Court, appointments are made to accommodate successful



candidates, and in such circumstances, while determining the number of vacancies, the excess vacancies filled pursuant to orders passed by the Court are adjusted against future vacancies. He also submitted that it is a settled principle of law that such allocation and adjustment of vacancies are permissible.

21. The learned Advocate General further referred the judgment in the case of ***Union of India and Others v. N. Murugesan and Ors., reported as (2022) 2 SCC 25***, and submitted that, where the petitioners approach the Court after an inordinate delay, the writ petitions are liable to be dismissed. He also submitted that, although no period of limitation has been prescribed for filing a writ petition under Article 226 of the Constitution of India, the doctrine of delay and laches is well-recognized in the consideration of writ petitions, as relief under Article 226 of the Constitution of India is discretionary in nature. He further submitted that the recruitment process had been undertaken against the available vacancies and that, after considering the cadre strength, the respondents had determined the vacancies in accordance with the reservation policy and the 1989 Rules, which had also been referred by the learned counsel for the petitioners. He also referred the judgment in the case of ***PGI, Chandigarh and Another v. K.L. Narasimhan and Another, reported as (1997) 6 SCC 283***, and submitted that recruitment against vacant posts is permissible and must be undertaken in accordance with law. He further submitted that a recruitment process cannot be challenged merely by alleging a violation of the Fundamental Rights guaranteed under Articles 14, 15 and 16 of the Constitution of India; rather, the Court is required to examine the overall facts



and circumstances of the case and arrive at an appropriate conclusion. He also submitted that the scope of judicial review of actions taken by the State Government pursuant to orders passed is very limited, and in this regard, he referred to the judgment in the case of ***Kanta Parihar v. State of Rajasthan and Others, reported as MANU/RH/0836/1999; 1999 SCC OnLine Raj 369***, wherein, while considering the judgment in the case of ***Naresh Shridhar Mirajkar v. State of Maharashtra, AIR 1967 SC 1***, it was held that entertaining such objections would amount to sitting in appeal on administrative decision.

22. Learned Advocate General further referred the reply, the additional affidavit and the justification furnished by the State regarding the determination of vacancies for the post of Sub-Inspector of Police under the Competitive Examination, 2016. He submitted that the year-wise vacancies had been explained by the respondents and that, after considering the formula set out in the additional affidavit filed by Ram Kumar Kaswa, the State had justified the determination of vacancies and the advertisements issued by the RPSC. He also submitted that there was no violation of any of the applicable Rules governing the implementation of the reservation policy or of any fundamental rights of the petitioners.

E. Submissions on behalf of other respondents

23. Learned counsel appearing on behalf of the private respondents also opposed the contentions advanced by the learned counsel for the petitioners and adopted the arguments advanced by the learned Advocate General. They submitted that the petitioners had obtained an interim order dated 15.12.2020 by concealing material facts, but the said order has subsequently



been vacated by a detailed order dated 06.07.2021. They also submitted that the petitioners could not challenge the selection process after having participated therein and that such a challenge, raised only after their failure in the selection process, amounted to nothing more than a witch-hunt. They further relied upon the justification furnished by the Advocate General regarding the determination of vacancies and submitted that the private respondents had been appointed only against the categories for which they had been selected, therefore, their rights had already accrued, and these writ petitions could not be allowed in a manner that would unsettle the appointments already made by the respondents.

F. Basics before Analysis:-

24. We have heard the learned Senior Advocate and the learned counsel appearing on behalf of the petitioners, learned Advocate General appearing on behalf of the State of Rajasthan and other Government department, the counsel appearing on behalf of the RPSC, and learned counsel appearing on behalf of the private respondents. We have also considered the entire record.

25. However, keeping in view the fact that ***Akshay Bhardwaj v. State of Rajasthan and Another, S.B. Civil Writ Petition No. 14640/2020***, is the lead case, all other connected cases are being considered in light of the arguments advanced by both sides. We have also considered the judgments referred by both sides.

26. We have taken note of the fact that, after the filing of these writ petitions, an interim stay order was initially passed on 15.12.2020, which was subsequently vacated on 06.07.2021, with



the observation that the appointments made pursuant to the advertisements issued by the respondents would remain subject to the outcome or final decision of these writ petitions. For ready reference, we are reproducing the reasons recorded by a coordinate Bench of this Court while vacating the interim stay order on 06.07.2021:-



The application filed on behalf of the State for vacating the interim order deserves to be allowed for the reasons firstly; the petitioners have challenged the process of selection after participating in the selection process and after declaration of the result; secondly, the present selection process relates to appointment of police officers in the State of Rajasthan, therefore, balance of convenience lies in favour of the respondents-State as the police officers are an urgent need to maintain the Law & Order situation in the State of Rajasthan; thirdly, the issue of advertising the subject post on category wise can only be decided finally in the writ petitions; lastly, the writ petitions cannot be allowed by way of interim order.

In that view of the matter, the application for vacation of the interim order is allowed. The interim order dated 15.12.2020 is vacated. However, the appointments made by the respondents shall remain subject to final decision of these writ petitions.

27. The RPSC issued a detailed advertisement for recruitment to the post of Sub-Inspector under the Rajasthan Police Subordinate Service Rules, 1989, for the TSP and non-TSP areas. The controversy pertains to the non-TSP area, therefore, we are not dealing with any of the posts meant to be reserved for the TSP area. The advertisement dated 05.10.2016, the subsequent corrigendum dated 05.12.2018, and the corrigendum dated 23.08.2019 have been referred to by both sides, and for ready reference, we are reproducing Annexure-1 (the advertisement dated 05.10.2016); Annexure-3 (the corrigendum dated

05.12.2018); and Annexure-4 (the corrigendum dated 23.08.2019), as under:-

Annexure-1 (Dated 05.10.2026)

विस्तृत विज्ञापन

राजस्थान लोक सेवा आयोग, अजमेर

विज्ञापन संख्या : 05 / SI-PC / परीक्षा / 2016-17

दिनांक : 05.10.2018

आयोग द्वारा गृह (ग्रुप-1) विभाग हेतु गैर टी.एस.पी. क्षेत्र (सामान्य) हेतु राजस्थान पुलिस अधिनस्थ सेवा नियम, 1989 के अन्तर्गत एवं टी.एस.पी. क्षेत्र हेतु राजस्थान पुलिस अधिनस्थ, लिपिकवर्गीय और चतुर्थ श्रेणी सेवा (भर्ती एवं सेवा की अन्य शर्तों) नियम, 2014 के अन्तर्गत उप निरीक्षक/प्लाटून कमाण्डर के पदों हेतु ऑनलाइन न आमंत्रित किए जाते हैं। पद स्थाई हैं एवं विभाग से प्राप्त कुल रिक्त पदों (पदों में कमी/वृद्धि की जा सकती है) की वर्गवार संख्या निम्नानुसार है :-

पदों की संख्या	सामान्य पद				अनुसूचित जाति वर्ग				अनुसूचित जनजाति वर्ग				पिछड़ा वर्ग				विशेष पिछड़ा वर्ग			
	सामान्य	सामान्य महिला	विधवा	परिवरकता	सामान्य	सामान्य महिला	विधवा	परिवरकता	सामान्य	सामान्य महिला	विधवा	परिवरकता	सामान्य	सामान्य महिला	विधवा	परिवरकता	सामान्य	सामान्य महिला	विधवा	परिवरकता
उप निरीक्षक (ए.पी.) 147 पद																				
सामान्य पद 136 पद	16	4	2	0	33	9	4	0	22	6	3	0	21	6	3	0	5	2	0	0
टी.एस.पी.क्षेत्र 11 पद	5	1	0	0	0	0	0	0	4	1	0	0	0	0	0	0	0	0	0	0
दण्डवत आरक्षण - भूतपूर्व सैनिक 18 पद																				
उप निरीक्षक (आई.बी.) 65 पद																				
सामान्य पद 60 पद	3	1	0	0	7	2	0	0	8	2	0	0	24	7	3	0	3	0	0	0
टी.एस.पी.क्षेत्र 5 पद	3	0	0	0	0	0	0	0	2	0	0	0	0	0	0	0	0	0	0	0
दण्डवत आरक्षण - भूतपूर्व सैनिक 8 पद																				
प्लाटून कमाण्डर (आर.ए.सी.) 114 पद																				
सामान्य पद 105 पद	37	10	4	1	11	3	1	0	9	2	1	0	15	4	2	0	4	1	0	0
टी.एस.पी.क्षेत्र 9 पद	4	1	0	0	0	0	0	0	3	1	0	0	0	0	0	0	0	0	0	0
दण्डवत आरक्षण - भूतपूर्व सैनिक 14 पद																				
उप निरीक्षक (एम.बी.सी.) 4 पद																				
सामान्य पद 4 पद	1	0	0	0	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0

(1) केवल टी.एस.पी. क्षेत्र के निवासित अभ्यर्थी टी.एस.पी. क्षेत्र/गैर टी.एस.पी. क्षेत्र (सामान्य क्षेत्र) के संबंध में अपनी प्राथमिकता क्रम आवश्यक रूप से अंकित करें, अन्यथा उन्हें टी.एस.पी. क्षेत्र हेतु आरक्षित पदों के विरुद्ध लाभ देय नहीं होगा।

(2) सभी अभ्यर्थी उपरोक्त चारों शाखाओं (AP/IB/RAC/MBC) के संबंध में अपनी प्राथमिकता क्रम आवश्यक रूप से अंकित करें।

वीनतम जानकारी हेतु अभ्यर्थी आयोग की वेब-साइट <http://www.rpsc.rajasthan.gov.in> का समय-समय पर अवलोकन करते रहें।

अनिवार्य शैक्षणिक योग्यता :
Must hold a Degree of any of the Universities incorporated by an Act of the Central or State Legislature in India or other Educational Institution established by an Act of Parliament or State Legislature or declared to be deemed as University Under Section 3 of the University Grants Commission Act, 1956 or posses an equivalent qualification recognized by the Government in consultation with the Commission.

Annexure-3 (05.12.2018)

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राजस्थान लोक सेवा आयोग, अजमेर

शुद्धि पत्र संख्या - 28/2018-19

क्रमांक : एफ. 6 (05) परीक्षा / EP-I/SI-PC / 2016-17/301

दिनांक : 05.12.2018

आयोग द्वारा उप निरीक्षक/प्लाटून कमाण्डर के पदों हेतु जारी विस्तृत विज्ञापन संख्या 05/SI-PC/परीक्षा/2016-17 दिनांक 05.10.2018, शुद्धि पत्र संख्या 08/2018-17 दिनांक 07.10.2018 एवं शुद्धि पत्र संख्या 01/2018-19 दिनांक 03.04.2018 एवं शुद्धि पत्र संख्या 26/2018-19 दिनांक 19.11.2018 के अतिरिक्त नवीन संशोधित वर्गवार वर्गीकरण निम्न प्रकार अधिसूचित किया जाता है :-

पदों की संख्या	सामान्य पद				अनुसूचित जाति वर्ग				अनुसूचित जनजाति वर्ग				पिछड़ा वर्ग				अति पिछड़ा वर्ग			
	सामान्य	सामान्य महिला	विधवा	परिवरकता	सामान्य	सामान्य महिला	विधवा	परिवरकता	सामान्य	सामान्य महिला	विधवा	परिवरकता	सामान्य	सामान्य महिला	विधवा	परिवरकता	सामान्य	सामान्य महिला	विधवा	परिवरकता
उप निरीक्षक (ए.पी.) 220 पद																				
सामान्य पद 202 पद	28	9	3	0	49	14	5	1	33	10	3	0	32	10	3	0	2	0	0	0
टी.एस.पी.क्षेत्र 17 पद	7	2	0	0	0	0	0	0	6	2	0	0	0	0	0	0	0	0	0	0
सहश्रिया 1 पद																				
सामान्य पुरुष, 1																				
दण्डवत आरक्षण - भूतपूर्व सैनिक 27 पद																				
उप निरीक्षक (आई.बी.) 97 पद																				
सामान्य पद 90 पद	16	5	1	0	12	4	1	0	10	3	1	0	26	8	2	0	1	0	0	0
टी.एस.पी.क्षेत्र 7 पद	3	1	0	0	0	0	0	0	3	0	0	0	0	0	0	0	0	0	0	0
दण्डवत आरक्षण - भूतपूर्व सैनिक 12 पद																				
प्लाटून कमाण्डर (आर.ए.सी.) 171 पद																				
सामान्य पद 158 पद	54	16	6	1	19	5	2	0	10	3	1	0	28	9	3	0	1	0	0	0
टी.एस.पी.क्षेत्र 13 पद	5	2	0	0	0	0	0	0	5	1	0	0	0	0	0	0	0	0	0	0
दण्डवत आरक्षण - भूतपूर्व सैनिक 21 पद																				
उप निरीक्षक (एम.बी.सी.) 6 पद																				
सामान्य पद 6 पद	3	0	0	0	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0

(पी.सी. बेरवाल)
सचिव

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**Annexure-4 (23.08.2019):-**

राजस्थान लोक सेवा आयोग, अजमेर
शुद्धि पत्र संख्या - 08/2019-20

क्रमांक : एफ. 6 (05) परीक्षा /EP-I/SI-PC/2016-17/129 दिनांक : 23.08.2019

आयोग द्वारा उप निरीक्षक/प्लाटून कमाण्डर के पदों हेतु जारी विस्तृत विज्ञापन संख्या 05/SI-PC/परीक्षा/2016-17 दिनांक 05.10.2016, शुद्धि पत्र संख्या 08/2016-17 दिनांक 07.10.2016, शुद्धि पत्र संख्या 01/2018-19 दिनांक 03.04.2018, शुद्धि पत्र संख्या 06/2018-19 दिनांक 19.11.2018, शुद्धि पत्र संख्या 28/2018-19 दिनांक 05.12.2018 के अतिरिक्त में (प्रक्रियाधीन भर्तियों में एम.बी.सी. वर्ग को 5 प्रतिशत आरक्षण प्रदान किये जाने के फलस्वरूप) नवीन संशोधित वर्गवार वर्गीकरण निम्न प्रकार अधिसूचित किया जाता है :-

पदों की संख्या	सामान्य पद				अनुसूचित जाति वर्ग				अनुसूचित जनजाति वर्ग				पिछड़ा वर्ग				अन्य पिछड़ा वर्ग			
	सामान्य	महिला	विधवा	परिवरिता	सामान्य	महिला	विधवा	परिवरिता	सामान्य	महिला	विधवा	परिवरिता	सामान्य	महिला	विधवा	परिवरिता	सामान्य	महिला	विधवा	परिवरिता
उप निरीक्षक (ए.पी.) 228 पद																				
सामान्य पद 210 (202+8)	28	9	3	0	49	14	5	1	33	10	3	0	32	10	3	0	8	2	0	0
टी.एस.पी.क्षेत्र 17 पद	7	2	0	0	0	0	0	0	6	2	0	0	0	0	0	0	0	0	0	0
सहरीया 1 पद																				
सामान्य पुरुष, 1																				
दण्डवत आरक्षण - भूतपूर्व सैनिक 27 पद																				
उप निरीक्षक (आई.बी.) 100 पद																				
सामान्य पद 93 (90+3)	16	5	1	0	12	4	1	0	10	3	1	0	26	8	2	0	4	0	0	0
टी.एस.पी.क्षेत्र 7 पद	3	1	0	0	0	0	0	0	3	0	0	0	0	0	0	0	0	0	0	0
दण्डवत आरक्षण - भूतपूर्व सैनिक 12 पद																				
प्लाटून कमाण्डर (आर.ए.सी.) 177 पद																				
सामान्य पद 164 (158+6)	54	16	6	1	19	5	2	0	10	3	1	0	28	9	3	0	6	1	0	0
टी.एस.पी.क्षेत्र 13 पद	5	2	0	0	0	0	0	0	5	1	0	0	0	0	0	0	0	0	0	0
दण्डवत आरक्षण - भूतपूर्व सैनिक 21 पद																				
उप निरीक्षक (एम.बी.सी.) 6 पद																				
सामान्य पद 6	3	0	0	0	0	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0

(के.के. शर्मा)
सचिव

28. The aforementioned documents clearly indicate that the advertisement was initially issued on 05.10.2016 but, by way of the subsequent corrigendum, no terms of the advertisement dated 05.10.2016 were otherwise changed. By way of the corrigendum dated 05.12.2018, a new classification was introduced, therefore, except for the increase in the number of posts, no other changes were made. By way of the corrigendum dated 23.08.2019, an additional 5% reservation was granted to the MBC category, and accordingly, the corrigendum was issued. Except the same, no other change in the number of posts in the category of General SC, ST or OBC has been made.

G. Objections and Grounds raised by the Advoate General and Others.



29. The learned Advocate General and learned counsel for the RPSC, along with learned counsel for the private respondents, have raised serious objections regarding the filing and consideration of these writ petitions after participation by the petitioners in the selection process. Admittedly, the initial determination was made public on 05.10.2016, and same has been reproduced as Annexure-1, though there is no details about the determination of posts in various categories. The first corrigendum dated 05.12.2018 has been referred to as Annexure-3, whereas the last corrigendum dated 23.08.2019 has been referred to as Annexure-4.

30. The only contention raised in these petitions is allocation of more than 50% of the vacancies to OBC, SC, ST and MBC categories, thereby leaving less than 50% of the vacancies for the General or Open Category (UR). Before considering the main issue, it is appropriate to consider the objections and grounds raised by learned AG and learned counsel for the respondents regarding the locus, entertainability and objections about these writ petitions.

31. Learned Senior Advocate appearing on behalf of the petitioners has referred the doctrine of approbate and reprobate, to counter the objections raised by the respondents, whereas the learned Advocate General has referred the judgment in the case of ***Union of India and Others v. N. Murugesan and Ors. (supra)*** to canvass his arguments about locus of the petitioners to challenge the determination of vacancies after participation. In the case of ***Mumtaz Yadur Dowla Wakf v. M/s Badam***



Balakrishna Hotel Private Limited and Another, reported as 2023 INSC 949, the Hon'ble Supreme Court considered the doctrine of "approbate and reprobate" along with ratio in the case of **N. Murugesan (supra)**. We are reproducing the relevant paragraphs as under:

"Approbate and reprobate"

26. These phrases are borrowed from the Scots law. They would only mean that no party can be allowed to accept and reject the same thing, and thus one cannot blow hot and cold. The principle behind the doctrine of election is inbuilt in the concept of approbate and reprobate. Once again, it is a principle of equity coming under the contours of common law. Therefore, he who knows that if he objects to an instrument, he will not get the benefit he wants cannot be allowed to do so while enjoying the fruits. One cannot take advantage of one part while rejecting the rest. A person cannot be allowed to have the benefit of an instrument while questioning the same. Such a party either has to affirm or disaffirm the transaction. This principle has to be applied with more vigour as a common law principle, if such a party actually enjoys the one part fully and on near completion of the said enjoyment, thereafter questions the other part. An element of fair play is inbuilt in this principle. It is also a species of estoppel dealing with the conduct of a party. We have already dealt with the provisions of the Contract Act concerning the conduct of a party, and his presumption of knowledge while confirming an offer through his acceptance unconditionally.

27. We would like to quote the following judgments for better appreciation and understanding of the said principle:

27.1. Nagubai Ammal v. B. Shama Rao [Nagubai Ammal v. B. Shama Rao, 1956 SCR 451 : AIR 1956 SC 593] : (AIR pp. 601-02, para 23)

"23. But it is argued by Sri Krishnaswami Ayyangar that as the proceedings in OS. No. 92 of 1938-39 are relied on as barring the plea that the decree and sale in OS. No. 100 of 1919-20 are not collusive, not on the ground of res judicata or estoppel but on the principle that a person cannot both approbate and reprobate. It is immaterial that the present appellants were not parties thereto, and the decision in Verschures Creameries Ltd. v. Hull & Netherlands Steamship Co. Ltd. [(1921) 2 KB 608 (CA)], and in particular, the observations of Scrutton, LJ., at p. 611 were quoted in support of this position. There, the facts were that an agent delivered goods to the customer contrary to the instructions of the principal, who thereafter filed a suit against the purchaser for price of goods and obtained a decree. Not





having obtained satisfaction, the principal next filed a suit against the agent for damages on the ground of negligence and breach of duty. It was held that such an action was barred. The ground of the decision is that when on the same facts, a person has the right to claim one of two reliefs and with full knowledge he elects to claim one and obtains it, it is not open to him thereafter to go back on his election and claim the alternative relief. The principle was thus stated by Bankes, L.J. : (Verschures Creameries Ltd. case [(1921) 2 KB 608 (CA)] , KB p. 611) '... Having elected to treat the delivery to him as an authorised delivery they cannot treat the same act as a misdelivery. To do so would be to approbate and reprobate the same act.'

The observations of Scrutton, L.J. on which the appellants rely are as follows : (Verschures Creameries Ltd. case [(1921) 2 KB 608 (CA)], KB pp. 611-12)'...

A plaintiff is not permitted to "approbate and reprobate". The phrase is apparently borrowed from the Scotch law, where it is used to express the principle embodied in our doctrine of election — namely, that no party can accept and reject the same instrument : Ker v. Wauchope [(1819) 1 Bligh PC 1 at p. 21 : 4 ER 1 at p. 8] : Douglas-Menzies v. Umphelby [1908 AC 224 at p. 232 (PC)] . The doctrine of election is not however confined to instruments. A person cannot say at one time that a transaction is valid and thereby obtain some advantage, to which he could only be entitled on the footing that it is valid, and then turn round and say it is void for the purpose of securing some other advantage. That is to approbate and reprobate the transaction.'

It is clear from the above observations that the maxim that a person cannot "approbate and reprobate" is only one application of the doctrine of election, and that its operation must be confined to reliefs claimed in respect of the same transaction and to the persons who are parties thereto. The law is thus stated in Halsbury's Laws of England, Vol. XIII, p. 464, para 512:

'On the principle that a person may not approbate and reprobate, a species of estoppel has arisen which seems to be intermediate between estoppel by record and estoppel in pais, and may conveniently be referred to here. Thus a party cannot, after taking advantage under an order (e.g. payment of costs), be heard to say that it is invalid and ask to set it aside, or to set up to the prejudice of persons who have relied upon it a case inconsistent with that upon which it was founded; nor will he be allowed to go behind an order made in ignorance of the true facts to the prejudice of third parties who have acted on it.'





27.2.State of Punjab v. Dhanjit Singh Sandhu [(2014) 15 SCC 144] : (SCC pp. 15354, paras 22-23 & 25-26)

"22. The doctrine of "approbate and reprobate" is only a species of estoppel, it implies only to the conduct of parties. As in the case of estoppel it cannot operate against the provisions of a statute. (Vide CIT v. MR. P. Firm Muar [AIR 1965 SC 1216] .)

23. It is settled proposition of law that once an order has been passed, it is complied with, accepted by the other party and derived the benefit out of it, he cannot challenge it on any ground. (Vide Maharashtra SRTC v. Balwant Regular Motor Service [AIR 1969 SC 329]). In R.N. Gosain v. Yashpal Dhir [(1992) 4 SCC 683] this Court has observed as under : (R.N. Gosain case [(1992) 4 SCC 683] , SCC pp. 687-88, para 10)

'10. Law does not permit a person to both approbate and reprobate. This principle is based on the doctrine of election which postulates that no party can accept and reject the same instrument and that 'a person cannot say at one time that a transaction is valid and thereby obtain some advantage, to which he could only be entitled on the footing that it is valid, and then turn round and say it is void for the purpose of securing some other advantage'.

25. The Supreme Court in Rajasthan State Industrial Development & Investment Corpn. v. Diamond & Gem Development Corpn. Ltd. [(2013) 5 SCC 470 : (2013) 3 SCC (Civ) 153] , made an observation that a party cannot be permitted to "blow hot and cold", "fast and loose" or "approbate and reprobate". Where one knowingly accepts the benefits of a contract or conveyance or an order, is estopped to deny the validity or binding effect on him of such contract or conveyance or order. This rule is applied to do equity, however, it must not be applied in a manner as to violate the principles of right and good conscience.

26. It is evident that the doctrine of election is based on the rule of estoppel, the principle that one cannot approbate and reprobate is inherent in it. The doctrine of estoppel by election is one among the species of estoppel in pais (or equitable estoppel), which is a rule of equity. By this law, a person may be precluded, by way of his actions, or conduct, or silence when he has to speak, from asserting a right which he would have otherwise had."

27.3. Rajasthan State Industrial Development & Investment Corpn. v. Diamond & Gem Development Corpn. Ltd. [(2013) 5 SCC 470 : (2013) 3 SCC (Civ) 153] : (SCC pp. 480-81, paras 15-16) "





I. Approbate and reprobate

15. A party cannot be permitted to "blow hot-blow cold", "fast and loose" or "approbate and reprobate". Where one knowingly accepts the benefits of a contract, or conveyance, or of an order, he is estopped from denying the validity of, or the binding effect of such contract, or conveyance, or order upon himself. This rule is applied to ensure equity, however, it must not be applied in such a manner so as to violate the principles of what is right and of good conscience. [Vide Nagubai Ammal v. B. Shama Rao [1956 SCR 451 : AIR 1956 SC 593] , CIT v. V. MR. P. Firm Muar [AIR 1965 SC 1216] , Ramesh Chandra Sankla v. Vikram Cement [(2008) 14 SCC 58 : (2009) 1 SCC (L&S) 706] , Pradeep Oil Corpn. v. MCD [(2011) 5 SCC 270 : (2011) 2 SCC (Civ) 712] , Cauvery Coffee Traders v. Hornor Resources (International) Co. Ltd. [(2011) 10 SCC 420 : (2012) 3 SCC (Civ) 685] and V. Chandrasekaran v. Administrative Officer [(2012) 12 SCC 133 : (2013) 2 SCC (Civ) 136 : (2013) 4 SCC (Cri) 587 : (2013) 3 SCC (L&S) 416].

16. Thus, it is evident that the doctrine of election is based on the rule of estoppel—the principle that one cannot approbate and reprobate is inherent in it. The doctrine of estoppel by election is one among the species of estoppel in pais (or equitable estoppel), which is a rule of equity. By this law, a person may be precluded, by way of his actions, or conduct, or silence when it is his duty to speak, from asserting a right which he would have otherwise had."

(emphasis supplied)

32. In the case of **Ashok Kapil Vs. Sana Ullah (Dead) v., reported as (1996) 6 SCC 342**, the Hon'ble Supreme Court considered the maxim "Nullus commodum copere potest de injuria sua propria". It means no man can take advantage of his own wrong as it is salient tenets of equity. This maxim was further referred in the case of **Eureka Forbes Limited v. Allahabad Bank, reported as (2010) 6 SCC 193**.

31. The main objections raised by learned Advocate General related to the filing of these writ petitions on two grounds: firstly,





that the petitioners participated in the selection process and approached this Court only after the declaration of the result; and secondly, delay and laches. A Reliance has been placed upon the judgments in the cases of **Anupal Singh and Ors. v. State of Uttar Pradesh (supra)** and **Union of India and Others v. N. Murugesan (supra)**.

33. In the case of **Anupal Singh and Ors. v. State of Uttar Pradesh, (supra)** the relevant portion is reproduced as under.

51. Observing that the result of the interview cannot be challenged by a candidate who has participated in the interview and has taken the chance to get selected at the said interview and ultimately, finds himself to be unsuccessful, in *Madan Lal and Others v. State of J&K and Others* (1995) 3 SCC 486, it was held as under:-

“9. The petitioners also appeared at the oral interview conducted by the Members concerned of the Commission who interviewed the petitioners as well as the contesting respondents concerned. Thus the petitioners took a chance to get themselves selected at the said oral interview. Only because they did not find themselves to have emerged successful as a result of their combined performance both at written test and oral interview, they have filed this petition. It is now well settled that if a candidate takes a calculated chance and appears at the interview, then, only because the result of the interview is not palatable to him, he cannot turn round and subsequently contend that the process of interview was unfair or the Selection Committee was not properly constituted.”

52. In *K.H. Siraj v. High Court of Kerala and Others* (2006) 6 SCC 395, it was held as under:-

“73. The appellant-petitioners having participated in the interview in this background, it is not open to the appellant-petitioners to turn round thereafter when they failed at the interview and contend that the provision of a minimum mark for the interview was not proper.....”.

53. In *Union of India and Others v. S. Vinodh Kumar and Others* (2007) 8 SCC 100, it was held as under:- “19. In *Chandra Prakash Tiwari v. Shakuntala Shukla* (2002) 6 SCC 127, it was further observed:- “34. There is thus no doubt





that while question of any estoppel by conduct would not arise in the contextual facts but the law seem to be well settled that in the event a candidate appears at the interview and participates therein, only because the result of the interview is not 'palatable' to him, he cannot turn round and subsequently contend that the process of interview was unfair or there was some lacuna in the process." Same principle was reiterated in *Sadananda Halo and Others v. Momtaz Ali Sheikh and Others* (2008) 4 SCC 619 wherein, it was held as under:-

"59. It is also a settled position that the unsuccessful candidates cannot turn back and assail the selection process. There are of course the exceptions carved out by this Court to this general rule. This position was reiterated by this Court in its latest judgment in *Union of India v. S. Vinodh Kumar* (2007) 8 SCC 100 The Court also referred to the judgment in *Om Prakash Shukla v. Akhilesh Kumar Shukla* 1986 Supp SCC 285, where it has been held specifically that when a candidate appears in the examination without protest and subsequently is found to be not successful in the examination, the question of entertaining the petition challenging such examination would not arise....."

60. In the present case, before the High Court, the contentions raised were the same and common arguments were advanced. The High Court dealt with the batch of writ petitions and disposed all of them by common judgment. Since it is a common judgment with common reasonings, the present batch of appeals before us would not result in any inconsistent decree or order as all of them arise out of the common judgment containing common operative portion of the judgment.

63. Before the High Court in several writ petitions, unsuccessful candidates challenged the revised notification dated 12.10.2014 and also the result dated 21.05.2015 published on 22.05.2015. In all the writ petitions, some contentions were raised and the writ petitions were disposed of by the common judgment. Thus, the contentious issues raised by the parties stood determined on the same set of facts and on the same reasonings. There is no merit in the contention that the judgment passed by this Court would bind only the parties in Writ-C No.34196 of 2015 and that the other judgments passed by the High Court would stand and operate as *res judicata*. As held in *M/s Shenoy and Co.* and other judgments, to do so is to ignore the binding nature of a judgment of this Court under Article 141 of the Constitution of India.

34. In the case of ***Union of India and Others v. N.***

Murugesan (supra), the following paragraph has been referred:-





20. The principles governing delay, laches, and acquiescence are overlapping and interconnected on many occasions. However, they have their distinct characters and distinct elements. One can say that delay is the genus to which laches and acquiescence are species. Similarly, laches might be called a genus to a species by name acquiescence. However, there may be a case where acquiescence is involved, but not laches. These principles are common law principles, and perhaps one could identify that these principles find place in various statutes which restrict the period of limitation and create non-consideration of condonation in certain circumstances. They are bound to be applied by way of practice requiring prudence of the Court than of a strict application of law. The underlying principle governing these concepts would be one of estoppel. The question of prejudice is also an important issue to be taken note of by the Court.

LACHES:

21. The word laches is derived from the French language meaning "remissness and slackness". It thus involves unreasonable delay or negligence in pursuing a claim involving an equitable relief while causing prejudice to the other party. It is neglect on the part of a party to do an act which law requires while asserting a right, and therefore, must stand in the way of the party getting relief or remedy.

22. Two essential factors to be seen are the length of the delay and the nature of acts done during the interval. As stated, it would also involve acquiescence on the part of the party approaching the Court apart from the change in position in the interregnum. Therefore, it would be unjustifiable for a Court of Equity to confer a remedy to a party who knocks its doors when his acts would indicate a waiver of such a right. By his conduct, he has put the other party in a particular position, and therefore, it would be unreasonable to facilitate a challenge before the Court. Thus, a man responsible for his conduct on equity is not expected to be allowed to avail a remedy.

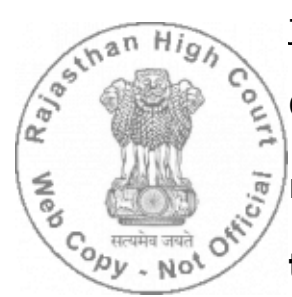
23. A defence of laches can only be allowed when there is no statutory bar. The question as to whether there exists a clear case of laches on the part of a person seeking a remedy is one of fact and so also that of prejudice. The said principle may not have any application when the existence of fraud is pleaded and proved by the other side. To determine the difference between the concept of laches and acquiescence is that, in a case involving mere laches, the principle of estoppel would apply to all the defences that are



available to a party. Therefore, a defendant can succeed on the various grounds raised by the plaintiff, while an issue concerned alone would be amenable to acquiescence.

35. The issue pertains to participation and rule of estoppel. The judgment in case of **Tata Chemicals Ltd. vs. Commissioner of Customs (Preventive), Jamnagar, (2015) 11 SCC 628** as relied by Hon'ble Supreme Court in case of **Krishna Rai (Dead) through LR's and others vs. Banaras Hindu University through Registrar and others (2022) 8 SCC 713** and clearly laid down that there is no estoppel against law, if law requires something to be done in a particular manner, then it must be done in that manner and if it is not done in that manner, then it would have no existence in the eyes of law. A Three Judge bench of Hon'ble Supreme Court in case of **Chandra Kishore Jha Vs. Mahavir Prasad & Ors. (1999) 8 SCC 266** after placing reliance upon judgment in case of **Nazir Ahmed Vs King Emperor AIR 1936 PC 253 (II)**, has held that it is a well-settled salutary principle that if a statute provides for a thing to be done in particular manner, then it has to be done in that manner in no other manner. Both the cases were referred in case of **Union of India Vs Mahendra Singh (2022) SCC OnLine SC 909**.

36. In case of **Amrit Yadav Vs. State of Jharkhand 2025 INSC 176**, while considering the issue of public employment in reference to Article 14 and 16 of the Constitution of India and also dealing arbitrariness vis-a-vis equality of opportunity, Hon'ble Supreme Court has strike down the appointment made in pursuant to advertisement dated 29.07.2010. Various judgment as referred by Hon'ble Supreme Court clearly laid down that if fair and transparent process is not adopted then selection and





appointment is nullity and selected candidates have no right to continue in public employment.

37. In the aforementioned case of **Krishna Rai (Dead) through LRs and others vs. Banaras Hindu University through Registrar and others (supra)**, Hon'ble Supreme Court has clearly laid down that the principles of estoppel or acquiescence would not apply to a selection process, if same is conducted contrary to the relevant Rules. In the case of **R.C. Shankar Deodhar v. State of Maharashtra (supra)**, a Constitution Bench, while considering the enforcement of fundamental rights under Article 16 of the Constitution of India, clearly laid down that delay may not stand in the way of the enforcement of fundamental rights.

38. A coordinate Bench of this Court has also considered the aforesaid principle in the case of **Mangilal v. State of Rajasthan, Civil Writ Petition No. 4704/2005**, decided on 26.05.2005, and held that relief under Article 226 of the Constitution of India could not be denied on the ground of delay and laches. Therefore, considering the legal position explained hereinabove, these writ petitions cannot be dismissed on the ground that the petitioners participated in the selection process and, after being unsuccessful, challenged the recruitment process on the ground that the determination of vacancies in various categories resulted in less than 50% of the posts being available to the open or General (UR) category. There is no delay or laches in the instant case, so the judgments referred by learned Advocate General are not applicable to support his contentions.



39. The learned Advocate General has also placed reliance upon the judgment in the case of **Gaurav Pradhan and Another v. State (supra)** to buttress his argument that vacancies filled pursuant to judgments passed by this Court have to be duly accounted for. There is no doubt about the principles laid down by the Hon'ble Supreme Court, that whomsoever has challenged the process of recruitment, and if successful in demonstrating his case then he is entitled to get a relief and in order to protect his fundamental rights he/she has to be given appointment. This Court is also conscious of the fact that the petitioners were aware of the recruitment process and the relevant developments. However, in view of the legal position discussed hereinabove, we are not inclined to dismiss these writ petitions merely on the grounds of participation in the selection process and delay and laches.

H. Analysis and Discussions:-

40. We must also point out that none of the learned counsel appearing on behalf of the petitioners has submitted anything about earlier appointments or any process adopted prior to the advertisement in question.

41. The only contention raised by the petitioners is that the reservation policy must be implemented in accordance with the applicable Rules and the policy of the State Government, and not beyond that. Therefore, the judgments referred by learned Advocate General in this regard have no application to the controversy involved in the present case.

42. The judgment in the case of **Kanta Parihar v. State of Rajasthan (supra)** is also not applicable to the facts of the





present case, as the petitioners have not challenged any order, circular or qualification, including the three notifications referred to as Annexure-1, Annexure-3 and Annexure-4; rather, the question pertains to determination of vacancies and the alleged non-implementation of the reservation policy, therefore, the judgment in the case of **Kanta Parihar (supra)** is not applicable to the facts of the present case.

43. The learned Advocate General has also referred to the judgment in the case of **PGI, Chandigarh and Another v. K.L. Narasimhan and Another (supra)**, wherein it was observed that every direct recruitment is made only against vacant posts. The terms "vacancies" and "posts" have been used interchangeably in this context. However, in the case of **R.K. Sabharwal v. State of Punjab (supra)**, the Hon'ble Supreme Court considered the principles governing reservation in the context of the roster system and the constitutional scheme.

44. The judgment in the case of **Anupal Singh and Ors. v. State of Uttar Pradesh (supra)** is also not applicable, as the said case relates to a matter that had already been decided. Moreover, in the case of **Amrit Yadav v. State of Jharkhand (supra)**, while considering a grievance relating to public employment after completion of the selection process and appointments on merits, the Hon'ble Supreme Court not only set aside the selection process on the ground of violation of Articles 14 and 16 of the Constitution of India but also dealt with defects in the selection process that went to the root of the matter.

45. In case of **Abhimeet Sinha and Others Vs High Court of Judicature at Patna and Others reported as 2024 INSC 381,**



Hon'ble Supreme Court has observed as under while rejecting similar objections:-

At the outset, it is apposite to address the issue of the maintainability of the writ petitions. It is argued by Mr. Gautam Narayan and Mr. Purvish Jitendra Malkan learned counsel that after having participated in the recruitment process, the writ petitioners having not succeeded, cannot turn around and challenge the recruitment process or the vires of the Recruitment Rules. It is submitted that all candidates knew about the prescription of minimum marks for viva voce, well before the selection process commenced and the principle of estoppel will operate against the unsuccessful challengers. On the other hand, the learned counsel representing the writ petitioners argued that the principle of estoppel would have no application when there are glaring illegalities [Raj Kumar vs. Shakti Raj, (1997) 9 SCC 527] in the selection process. Further, estoppel is not applicable when the arbitrariness affects fundamental rights under Articles 14 and 16 of the Constitution of India. [Basheshwar Nath vs. Commissioner of Income Tax, Delhi, AIR 1959 SC 149, Olga Tellis vs. Bombay Municipal Corporation, AIR 1986 SC 180, Nar Singh Pal vs. Union of India and Others, (2000) 3 SCC 588]

As argued by the learned counsel for the High Courts, the legal position is that after participating in the recruitment process, the unsuccessful candidates cannot turn around and challenge the recruitment process. [Madan Lal vs. State of J&K, (1995) 3 SCC 486, Dhananjay Malik vs. State of Uttaranchal, (2008) 4 SCC 171, Ramesh Chandra Shah vs. Anil Joshi, (2013) 11 SCC 309, Anupal Singh v State of Uttar Pradesh, (2020) 2 SCC 173] However, it is also settled that the principle of estoppel cannot override the law. [Krishna Rai vs. Banaras Hindu University, (2022) 8 SCC 713] Such legal principle was reiterated by the Supreme Court in Dr. (Major) Meeta Sahai vs. Union of India, (2019) 20 SCC 17 where it was observed as under:

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





therefrom, 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. 20. Guided by the above ratio, in matters like this, to non-suit the writ petitioners at the threshold would hardly be reasonable particularly when the alleged deficiencies in the process could be gauged only by participation in the selection process.

46. Aforesaid Principle has been relied by a 3 Judge bench of Hon'ble Supreme Court in case of ***Salam Samarjeet Singh VS High Court of Manipur At Imphal reported as 2024 INSC 647.***

47. Admittedly, the issue relating to reservation in public employment has been considered by the Hon'ble Supreme Court on several occasions, including in ***M.R. Balaji v. State of Mysore AIR 1963 SC 649, T. Devadasan v. The Union of India AIR 1964 SC 179, State of Kerala v. N.M. Thomas AIR 1976 SC 490*** and ***K.C. Vasanth Kumar v. State of Karnataka AIR 1985 SC 1495.*** These judgments were delivered by Benches of the Hon'ble Supreme Court comprising five Judges.

48. In the case of ***M.R. Balaji v. State of Mysore (supra)***, the Hon'ble Supreme Court observed that reservation should ordinarily remain below 50%. In ***T. Devadasan v. Union of India (supra)***, Hon'ble Supreme Court considered the application of the 50% limit to a carry-forward rule and held that the carry-forward arrangement could not be applied in a manner that resulted in excessive reservation in a particular year. In ***State of Kerala v.***



N.M. Thomas (supra), it was observed that the 50% limit was not an absolute rule but was a rule of caution. In **Indra Sawhney v. Union of India 1992 Suppli (3) SCC 2178**, a nine-Judge Bench of the Hon'ble Supreme Court delivered a landmark judgment and same is applicable till date.

49. After the 103rd Amendment in Constitution of India an additional reservation of 10% was introduced for Economically Weaker Sections (EWS). The constitutional validity of the amendment was challenged before the Hon'ble Supreme Court. By a majority of 3:2, the Constitution Bench upheld the amendment, holding that the provision for EWS reservation was constitutionally valid notwithstanding the existing 50% ceiling applicable to other reservation categories, under the relevant constitutional provisions including Articles 15(4), 15(5), 15(6), 16(4) and 16(6) of the Constitution of India. The constitutional validity of the EWS reservation and its relationship with the existing reservation framework are considered by the Hon'ble Supreme Court in the aforesaid case of **Janhit Abhiyan Vs. Union of India Writ Petition (c) 55 of 2019 decded on 07.11.2022**. Thus, in subsequent decisions concerning reservation in public employment, wherein the Hon'ble Supreme Court has reiterated that the 50% ceiling is the general rule, subject to the recognized exception of extraordinary circumstances.

50. The principle of reservations are quite clear, and the same is evident from the circular dated 24.06.2008 issued by the DOP. Very recently, the 50% ceiling rule has been examined by the Division Bench of the Karnataka High Court at Bengaluru Bench in **Writ Petition No. 200448/2025 with Writ Petition No.**



25515/2025 between **Mahendra Kumar Mitra Vs. The Secretary to The Government of India** while allowing the writ petition under Article 226 of the Constitution of India, and quashing the Act No. 1 of 2003, the Karnataka Scheduled Castes and Tribes (Reservation of Seats in Educational Institutions and of Appointments or Posts in the Service under the State) Act, 2022, as ultra vires and unconstitutional insofar as it relates to an increase in reservation from 15 to 17% for persons belonging to Scheduled Castes (SC) and 3% to 7% for persons belonging to Scheduled Tribes (ST), as it violates the 50% ceiling rule.

51. The Division Bench has considered the legislative history behind the introduction of reservation, and the challenges before the Hon'ble Supreme Court and the landmark judgment in the case of **Indra Sawhney (supra)** and **Dr. Jayashri Lakshmanrao Patil v. Chief Minister and Others**, (supra) along with the 103rd Amendment to the Constitution, and further the fact that the 103rd Amendment to the Constitution has been upheld by the Constitution Bench of the Supreme Court in the case of **Janhit Abhiyan (supra)**. The arguments advanced by the learned Senior Advocate appearing on behalf of the petitioners and the counsel appearing on behalf of the petitioners are almost identical and similar to those considered by the Division Bench of the High Court of Karnataka, and the same were answered in the following manner.

52. In the light of the aforementioned legal position, we are proceeding to consider these cases, except to examine for examining the factual aspects, we do not consider it necessary to burden this judgment by referring and reproducing the settled



position

of

law.

The only question raised by the petitioners before us is whether the advertisement Annexure-1, along with the subsequent corrigendum contained in Annexures-3 and 4, satisfies the reservation policy of the State or not.

53. The relevant material has been placed before us by the learned Advocate General, including by way of an additional affidavit filed subsequently to justify the position adopted by the respondents. The process of determination regarding the vacancies and their determination by the State of Rajasthan, as advertised by the RPSC, has already been reproduced hereinabove. Similarly, the contentions advanced on behalf of the petitioners, as submitted by the learned Senior Advocate, have also been reproduced hereinabove.

54. There is no dispute about the fact that the percentage of vacancies allocated to the reserved categories ranges from 70% to 80%, whereas the percentage of vacancies available to the general category (UR) varies from 20% to 25%, or may be up to 30%. In any case, the number of vacancies available to the open category (UR) is substantially below 50%, means reserved posts are over and above 50% of total posts.

55. The learned Advocate General has sought to justify the determination of vacancies by relying upon the additional affidavit filed by an officer of the State Government, which has been referred and taken note of by this Court. There is no mention in the advertisements about any carry-forward vacancies. If an advertisement is found to be defective, then it is the responsibility of the RPSC and the concerned departments to issue an





appropriate clarification or corrigendum and make the relevant position clear to the public. It is not for this Court to speculate upon matters that were not disclosed to the public at the relevant time or to presume the intention of the RPSC or the State Government in issuing the advertisements in question.

56. The grievance raised by the petitioners is founded upon the alleged violation of their fundamental rights, as the respondents are required to disclose the relevant particulars concerning the determination and computation of category-wise vacancies. However, the respondents failed to ensure that the requisite details were made public at the time of publication of the advertisements.

57. Before proceeding further, we consider it appropriate to observe that the State is duty-bound to implement the applicable constitutional and statutory provisions, including those relating to the protection of fundamental rights and the reservation of posts for Scheduled Castes, Scheduled Tribes, Other Backward Classes and other eligible backward classes. The State is expected to maintain transparency and accountability while undertaking recruitment to public employment. Any violation or infringement of right of any person of any category empowers this Court to undertake judicial review of the action of the State.

58. The entire recruitment process is required to disclose the determination of vacancies, the posts available in the respective categories and the specific formula and Rules applied by the respondents for such determination. In absence of these particulars, a candidate participating in the recruitment process may be unable to ascertain whether his or her rights have been



violated. Thus, when a candidate participate in the process then only he came to know about nitty-gritty of the selection process.

59. If the balance is unbalanced by the action of the State then certainly State is under an obligation to take steps for remedial measures in accordance with law. The constitutional remedies available under Articles 32 and 226 of the Constitution of India are intended to ensure the enforcement of fundamental rights. Therefore, a mere objection raised by the respondents cannot, by itself, validate a process that is otherwise contrary to the applicable constitutional or statutory provisions.

60. At the time of vacating the interim stay, a coordinate Bench had made it clear that all appointments would remain subject to the outcome of these writ petitions, therefore, all selected candidates are subject to decision of this case.

61. We further observe that the general category does not constitute a separate quota of reservation; rather, it represents the open or unreserved category, in which candidates belonging to all categories are eligible to compete, subject to the applicable rules of recruitment. This principle was reiterated by the Hon'ble Supreme Court in ***Rajasthan High Court and Others v. Rajat Yadav and Others, reported as MANU/SC/1737/2025.***

Candidates belonging to the SC, ST and OBC categories are also eligible for consideration against open-category (UR) vacancies. Where such candidates secure marks equal to or higher than the cut-off applicable to open-category candidates (UR), without availing any permissible relaxation or concession in the selection process. They cannot be excluded from consideration against open-category (UR) vacancies merely because they belong to a



reserved category. The decisive consideration is whether a candidate has competed on the same standard as candidates in the open category (UR). Where a candidate has availed of a substantive relaxation or concession in accordance with the applicable recruitment rules, then the question of adjustment against an open-category vacancy must be examined in the light of the governing legal principles and the nature of the relaxation availed.

62. Any selection or appointment in the General Category does not mean that a person belongs to any particular caste or community, such as Brahmin, Vaishya or Rajput, rather, it means that the candidate is meritorious and has not claimed any of the posts reserved (meant) for the reserved categories. The General Category is an open category, in which candidates are considered on the basis of merit.

63. The essence of the judgments pronounced by the Hon'ble Supreme Court in the cases referred hereinabove clearly lays down that the Government, while implementing constitutional guidelines and achieving development and social harmony, must also ensure that a meritorious candidate, irrespective of caste or religion, gets an equal opportunity. The same is only basis of the submissions made before this Court by the learned Senior Advocate and the learned counsel for the petitioners.

64. Another more important aspect referred is that of backlog vacancies. Admittedly, reservation is provided to SCs, STs and OBCs. In the case of direct recruitment, the rule of carry-forward is applicable to SCs and STs, but the same is not applicable to OBCs. Similarly, there is a prescribed carry-forward period for



vacancies reserved for SCs and STs. After the expiry of the prescribed period, such unfilled vacancies have to be treated as open or General Category vacancies. At no point of time the vacancies that have been converted into open vacancies be reverted to a reserved category which means no rule provides for carry forward what has been specifically provided.

65. The law over the point is well settled that there is a 50% ceiling in case of reservation under Articles 15(4) and 16(4) of the Constitution, and the reservation to all the SCs, OBCs, and MBCs cannot exceed a ceiling of 50%. The only exception to the 50% ceiling is the 103rd Amendment, which has been upheld by the Constitution Bench of Hon'ble Supreme Court in the case of ***Janhit Abhiyan (supra)***.

66. Now comes the explanation offered by the Advocate General, wherein he referred the additional affidavit and justification of determination, and computation of the vacancies as mentioned in Annexures 1, 3, and 4. Admittedly, neither in Annexure 1 nor in Annexure 3 or Annexure 4 it has been mentioned that what is the basis of the classification or determination of category wise vacancies. No explanation whatsoever has been offered by the Respondent RPSC. Similarly, no explanation has been offered by Respondent Nos. 1 and 2. The *ex-facie* advertisement indicate that the unreserved (UR) posts are between 20 to 30% as we have already referred hereinabove, therefore, for the sake of brevity, we are not referring the same again.

67. The explanation offered by the Advocate General is somewhat a justification of the determination on basis of advertisement, as he has mentioned large number of



appointments made prior to the advertisement of current vacancies, and accounted against UR (General) Categories. He placed reliance upon court judgments and submitted that certain vacancies were filled under the orders of the Court, whether by the Supreme Court or by the High Court. His insistence is upon the fact that whosoever has been appointed under the orders of the Court was accommodated against future vacancies, in UR categories, thus the number of vacancies in UR Category has been reduced, or availability of number of post for meritorious candidates have been reduced, and that is the shortfall that is being addressed to the Court.

68. Whatever be the explanation the Advocate General is offering, is not part of the record, as these justifications came only during the pendency of the writ petitions. A question cropped up in every mind as to whether this justification is permissible under the law. The issue before us is whether to believe his statement and just to reject the petitions only on the ground that the respondents are having a justification for not allocating 50% vacancies in the unreserved/general category.

69. In order to answer this, we place reliance upon a Constitution Bench judgment in the case of ***Mohinder Singh Gill and Anr. Vs. Chief Election Commissioner, New Delhi & Ors.*** reported in **(1978)1 SCC 405**. It is settled law that the existence of reasons must be seen in the impugned order itself and cannot be supplemented by a subsequent affidavit. The State is under an obligation to adopt the principle of transparency while making a decision about public employment. The reasons are missing from all the three notifications, (Annexures 1, 3, and 4), as to justify



the determination of vacancies to be filled by way of recruitment of the year 2016.

70. The determination and allocation of vacancies have to be judged from the advertisement or the document sent to the RPSC for records. The determination of vacancies has been justified subsequently by way of an additional affidavit, as the respondents could have come up with an affidavit and table to show how almost 30% of the vacancies to be filled from general or open candidates have been allocated or adjusted against the recruitment already taken place prior to the recruitment of the year 2016. The judgment of this Hon'ble Supreme Court in the case of **Mohinder Singh Gill (supra)**, has been followed till date. No such justification is permissible unless the reasons have been mentioned in the determination itself. There is no reason assigned by Respondent Nos. 2 and 3 in the advertisement for the recruitment request initially forwarded to the RPSC. Therefore, the arguments advanced by the Advocate General are against the settled law. He placed reliance upon a principle which is not applicable in the instant case.

71. In case of **Dr. (Major) Meeta Sahai Vs. State of Bihar and Ors. reported in (2019) 20 SCC 17**, Hon'ble Supreme Court has clarified that mere participation in the selection process does not preclude a candidate from assailing the illegality of the process where the challenge goes to the root of the procedure and the allegations are of violation of statutory and constitutional norms.

72. Considering the principle of law, the petitioners have a right to challenge the very basis of determination of the vacancies and





further corrigendum thereof. Thus, the arguments advanced by the Advocate General on behalf of Respondent Nos. 1 to 3, and the counsel appearing on behalf of the RPSC and the private respondents, have no force, and the petitioners have been able to establish the fact that the determination and advertisement of vacancies are primarily violative of the 50% ceiling rule and are against the reservation policy adopted and approved by the Courts.

73. In case of **Chairman-Cum-M. D., Coal India Ltd. VS Ananta Saha (2011) 5 SCC 142** Hon'ble Supreme Court has observed as under:

It is a settled legal proposition that if initial action is not in consonance with law, subsequent proceedings would not sanctify the same. In such a fact-situation, the legal maxim *sublato fundamento cadit opus* is applicable, meaning thereby, in case a foundation is removed, the superstructure falls.

74. The determination and allocation of vacancies in different categories are discriminatory and contrary to a settled principles. Thus, it is a colourable exercise by Respondent Nos. 1 and 2. Since the exercise is colourable and discriminatory towards the meritorious candidates, therefore, this Court has has no option except exercise its jurisdiction and authority under Article 226 of the Constitution of India, as it empowers the Court to undertake judicial review.

I. Conclusion

75. The legal position discussed herein-above clearly demonstrates that the reservation under Articles 15 and 16 for SC, ST and backward classes should be within the permissible





limit and the same should not exceed the outer limit of 50%. The rule is only to advance the goal of substantive equality among the backward classes under the reservation policy and also the persons who are not entitled to get any benefit under reservation policy.

76. In the case of **Indra Sawhney (supra)**, a Nine-Judge Bench of Hon'ble Supreme Court while upholding 27% reservation for OBCs, has reaffirmed the ceiling of fifty per cent of reservation as held in the case of **Balaji v. State of Mysore (supra)**. This 50% ceiling rule has further been considered in the case of **Dr. Jayashri Lakshmanrao Patil v. Chief Minister and Others (supra)**. There is no exception to the rule in the State of Rajasthan, therefore, in matters of public employment and educational institutions in Rajasthan, baseline reservation under Articles 15 and 16 cannot exceed the basic rule of 50%.

77. The rule of carry-forward of backlog vacancies has already been clear, and in matters of direct recruitment, the backlog vacancies of SC/ST categories are permitted to be carried forward, but only for a permissible period. There is no rule authorizing respondent Nos. 1 and 2 to carry forward any of the OBC vacancies to a subsequent year when the matter pertains to direct recruitment. Otherwise also, there is no reservation in promotion for the OBC category.

78. We are placing reliance upon the circular dated 24.06.2008 issued by the DoP (A-I), Government of Rajasthan. The reservation prior to the judgment in the case of **R.K. Sabharwal (supra)** was vacancy-based, but thereafter, post-based reservation was introduced. Thus, there is applicability of post-



based reservation. The Point No. 15 in the circular dated 24.06.2008 clearly indicate that vacancies, after including backlog vacancies of SC/ST, can exceed 50%, but when there is no backlog vacancy then the 50% rule has to be followed, and the same is the basic rule in every situation, till 103rd Amendment. It has to be applied in letter and spirit by respondent Nos. 1, 2 and 3 in direct recruitment.

79. Now, the issue is that, during the pendency of the writ petition, appointments have been made and several private respondents and other persons have joined the services. The Court has only a median way out, so as to adopt a policy not to unsettle too many, to give effect to the reservation policy, and also to do complete justice. Thus, considering the circumstances, it is appropriate, and in the totality of the circumstances, that the vacancies may be redetermined, considering the 50% rule, carry-forward rule for SC/STs, upto permissible limit. No vacancy of any other category be carried forward, and accordingly a final determination be made, and seniority or cadre change be accordingly permitted, as per roster points in considering case of ***R.K. Sabharwal (supra)***.

80. Similarly, all those who were ousted from the selection process are required to be accommodated, and, for this purpose, the State have to make all possible endeavors so as to treat a meritorious candidate equally with others. The protection and the right to equality is also applicable to a meritorious candidate, and the State is duty-bound to ensure equality for a meritorious candidate.



81. The discussion made herein-above clearly reflect that 50% is an outer arithmetic limit applied to all reservation categories in the direct recruitment process or admission process in any educational institution during the academic year. In order to carve out a case for an exception, the State has to make out a case as provided in the case of ***Indra Sawhney (supra)***. However, in the instant case, there is no exception to the rule particularly, respondent Nos. 1, 2 and 3 are under an obligation to give effect not only to the constitutional goals of providing proper reservation but also to protect the Fundamental Rights of the petitioners and all other meritorious candidates from all categories.

82. The right to equality not only guarantees equal treatment and equal protection under the law but also provides protection against systemic discrimination. No person, including these petitioners, can be denied equality before the law. Article 15 prohibits discrimination, and Article 16 empowers the petitioners to claim equality, particularly in public employment. Thus, the reservation policy has to be given effect to only in accordance with the constitutional provisions and the ratio as laid down by the Hon'ble Supreme Court. Thus, the petitioners have succeeded in making out a case in their favor, and these writ petitions deserve to be allowed as per the discussion made herein-above.

J. Order

82. In view of the discussion made herein-above, these writ petitions are partially allowed and disposed of in the following manner:-



(i) Respondent Nos. 1 to 3 are directed to recompute and redetermine the category-wise posts , advertised by way of the advertisement dated 05.10.2016, and corrigendum dated 05.12.2018, and 23.08.2019, considering the rule of reservation i.e. 50% ceiling rule with carry-forward of vacancies of SC/STs, and that too for the permissible years;

(ii) The exercise of re-computation and re-determination shall be undertaken within a period of 90 days, and the same shall be published on the website of the DOP and RPSC.

(iii) All the candidates who have passed and have been subsequently appointed pursuant to the result dated 01.09.2020, and if found a place in the revised merit list, their position shall be reshuffled strictly in accordance with merit position. The reshuffling shall be carried out within 60 days, after re-determination, and accordingly they shall be allotted cadre and seniority.

(iv) The remaining posts of the unreserved category (UR) shall be filled strictly in accordance with the merit list.

(v) The Government is free to create adequate number of posts in order to accommodate the General (UR) category candidates, so as to ensure that, 50% of the posts are filled from meritorious candidates. The entire exercise shall be completed within a period of 180 days.



(vi) The seniority list shall be prepared in accordance with the roster points as directed by the Hon'ble Supreme Court, and no violation of any nature shall be made to accommodate anyone.

83. Before parting with the order, we want to make it clear that no person who has been appointed pursuant to the result dated 01.09.2020 shall be terminated or discharged, even if he does not find a place against the number of vacancies available in respective category. The respondents shall ensure that the required and adequate number of supernumerary posts are created in the particular category, just to wipe the tears of successful candidates, as they are victim of wrongful act of respondents Nos. 1 and 2.

84. In view of the foregoing elaborate deliberations and the conclusions arrived at herein-above, all these writ petitions stand disposed of accordingly, with pending application(s), if any.

(ASHOK KUMAR JAIN),J

8-18/MONU KAMRA/SA