

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.24282 of 2019**

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Aarav Jain S/o Shri Rakesh Jain R/o Shakunt Bhawan near GPO Circular Road, Rewari, Haryana (123401)

... .. Petitioner/s

Versus

1. The Bihar Public Service Commission through its Secretary 15 Jawahar Lal Nehru Marg (Bailey Road), Patna- 800001.
2. Joint Secretary cum Examination Controller, Bihar Public Service Commission, 15 Jawahar Lal Nehru Marg (Bailey Road), Patna- 800001.
3. The State of Bihar through the Secretary, Department of Law, Government of Bihar, Patna- 800001.
4. Registrar General, Patna High Court, Patna- 800001.
5. Principal Secretary, General Administration Department, Govt. of Bihar, Patna.
6. Sudha Rani Daughter of Sukhviri Resident of Mohalla- Godara, Village and Post- Juglan, P.S. and Tehsil- Hisar, District- Hisar, Haryana, 125001.
7. Ashish Kumar Pandey Son of Vinod Kumar Pandey Resident of Village Engilsh Thana, P.S.- Mairwa, District- Siwan, Bihar, 841239.
8. Dinesh Mani Tripathi Son of Ram Nath Tripathi Resident of Village and P.O.- Saray Bhogi, P.S.- Sujaanganj, Tehsil- Machhli Sahar, District- Jaunpur, U.P. 222201.
9. Amit Kumar Singh Son of Mr. Satyendra Pratap Singh Resident of Mohalla- Behind Police Hospital, Tarakpur Road, Parampur, District- Mirzapur, U.P. 231001.
10. Khushboo Anand Resident of C/o Upendra Prasad, Village- Asha Nagar South, Holding No. 507, P.O.- Soh Sarai, P.S.- Soh Sarai, District- Nalanda, Bihar 803118.
11. Ajay Kumar Resident of Village- Barkamor, Post- Nahuana, P.S.- Sasaram, District- Rohtas, Bihar 821315.
12. Aditya Kumar Sharma Son of Indradeo Sharma Resident of Bhola Tola English, P.O. and P.S., District- Lakhisarai, Bihar, Pin- 811311.
13. Avichal Gyanesh S/o Suresh Prasad Resident of Thana Chowk, Sidhighat, Near Town Police Station, P.S. and P.O.- Khagaria, Bihar, 851204.
14. Varsha Kumari Daughter of Upendra Mandal Resident of Village- Mangraura, P.O.- Jamalpur, P.S.- East Colony, District- Munger, Bihar, Pin- 811214.
15. Rakesh Ranjan Son of Sudama Prasad Resident of Village- Chaman Bigha, P.O.- Karauna, P.S.- Jhanabad, District- Jhanabad, Bihar 804417.
16. Anurag Gaurav Son of Sri Om Prakash Narayan Resident of C/o Late Dulli Chand Prasad, Kisan Colony, Phase- 02, Anishabad, Patna, Bihar 800002.

... .. Respondent/s



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**Appearance**

For the Petitioner : Mr. Rohit Kumar, Adv.  
For the BPSC : Mr. Lalit Kishore, Sr. Adv.  
Mr. Sanjay Pandey, Adv.  
For the Patna High Court : Mr. Piyush Lal, Adv.  
For the private respondent : Mr. Y.V. Giri, Sr. Adv.  
Mr. Pranav Kumar , Adv.

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**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY  
and  
HONOURABLE MR. JUSTICE PARTHA SARTHY  
CAV JUDGMENT  
(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)**

**Date : 04-05-2021**

1. Heard Mr. Rohit Kumar, learned counsel for the petitioner, Mr. Lalit Kishore, learned Senior Counsel assisted by Mr. Sanjay Pandey, learned Counsel for the Bihar Public Service Commission, Mr. Piyush Lal learned Counsel for the Patna High Court and Mr. Y.V. Giri, learned Senior Counsel assisted by Mr. Pranav Kumar for the private respondents.

2. The petitioner has filed the instant writ application for the following reliefs:

*“A. That the respondent Commission may be directed to immediately release the final mark of the petitioner before the further process of appointment takes place;*

*B. That if petitioner qualifies for the final list of the candidature in the 30<sup>th</sup> Bihar Judicial Services Competitive Examination, declares him successful into the final merit list or through addendum list of successful candidates.*

*C. That the respondent Commission may be directed to consider the representation dated 23.10.2019 and 26.10.2019 in which the original character certificate as mandated was submitted by the petitioner.*



*D. That the Hon'ble Court may award the cost in favour of the petitioner on ground of litigation cost, mental harassment and mental pain and agony caused to the petitioner.*

*Or any other, order, direction by the Hon'ble Court in light of justice, equity and good conscience as this Hon'ble Court may deem fit."*

3. The case of the petitioner in brief is that the respondent Bihar Public Service Commission (hereinafter referred to as 'the Commission') came out with Advertisement no.6 of 2018 for holding the 30<sup>th</sup> Bihar Judicial Services Competitive Examination for filling up 349 vacant seats of Civil Judge (Junior Division). The petitioner applied and was allotted Roll no.100345. He cleared the preliminary competitive examination and was called for the mains written examination. The petitioner appeared in the mains written examination and in the result published by the Commission on 5.10.2019, he was declared successful. As per the schedule declared by the Commission, the petitioner appeared for interview on 21.10.2019, however, in the final result declared by the Commission on 29.11.2019, the petitioner's candidature was shown as rejected along with 31 others for the reason of non production/verification of the documents.

4. It is further case of the petitioner that in the interview letter issued by the Commission on 18.10.2019, the letter mentioned in detail the documents which the candidates had to



carry for verification at the time of interview. The petitioner having completed his LLB from the Campus Law Centre, Delhi in the Academic Session 2015-18 and being an aspirant for judicial service in the past, had appeared for different judicial examination held in different States. The petitioner was enrolled as an Advocate with the Delhi Bar Council with Enrolment no. D/6583/2018. At the time of interview the petitioner was required to carry, besides other documents as mentioned in the interview letter, the character certificate issued by the College/University where the candidate had last studied.

5. It is the case of the petitioner that he called up the Joint Secretary-cum- Examination Controller of the Commission on telephone on 15.10.2019 and 16.10.2019 and with respect to the character certificate enquired as to whether the character certificate of SDM will suffice or did the candidates specifically need the character certificate issued from the College. It is stated by the petitioner that the Controller of Examination clarified that any character certificate with original copy will be sufficient. The petitioner accordingly appeared, his documents were verified and he was permitted to appear for the interview by the concerned authority of the Commission. The petitioner was carrying the original copy of character certificate dated



16.1.2019 issued by the SDM, Rewari, the original copy of bonafide cum character certificate dated 23.7.2018 issued by the Faculty of Law, Delhi along with copy of character certificate dated 29.8.2019 issued by the College. The same were produced in front of the concerned authority prior to interview and thereafter the petitioner was allowed to appear for interview.

6. It is submitted by learned counsel for the petitioner that the petitioner's original copy of character certificate issued by the College on completion of his Law Degree was submitted by the petitioner with the Bar Council of Delhi at the time of his enrollment as an Advocate. The said original character certificate issued by the College could not be produced by the petitioner on the date of interview. The petitioner requested the concerned authority to give him time to submit his original character certificate and for the same the concerned authority directed him to post and email the original certificate to the Commission. The petitioner approached the Bar Council, Delhi on 22.10.2019 to release his original character certificate which was released in favour of the petitioner and the petitioner emailed the same to the Commission on 23.10.2019 and also sent/submitted the original character certificate by speed post on 26.10.2019. The said character certificate was received by the



Commission on 30.10.2019.

7. It is submitted by learned counsel for the petitioner that the purpose of character certificate is limited only to see the over all character of the individual in public dealing and reflect his moral conduct. Though issued by different State authority, the nature and purpose of the character certificate remain the same. The petitioner was carrying a copy of the character certificate along with the original issued by the SDM and also one by the petitioner's College but it appears that both were not considered by the Commission although both verified and fulfilled the objective and purpose of the character certificate. Referring to the minutes of the meeting of the Members of the Commission held on 27.11.2019 at 3 pm (Annexure-H to the counter affidavit of BPSC), it is submitted that although the candidature of the petitioner (having Roll no.100345) was cancelled for want of verification of the character certificate with its original, the respondent-Commission discriminated against the petitioner in not cancelling the candidature of a number of other students having Roll nos. 104914, 107687, 108083, 110209, 111508, 111832 and 111833. It is submitted that the candidature of these persons should also have been cancelled by the Commission or the petitioner should also have



been given opportunity to produce the original character certificate. It is further submitted that so far as two candidates namely Shivendra Singh (Roll no.101482) and Pritosh (Roll no.109365) are concerned, the respondent Commission changed the date of interview without assigning any specific reason. In the case of Shivendra Singh the date of interview was changed after the initial date of his interview notified, had passed. Referring to the contents of the supplementary counter affidavit filed on behalf of the Commission, it has been submitted that the reasons given in the same are not to be found in the advertisement and is an arbitrary act on part of the Commission. Similarly, with respect to the certificate of the University of Delhi brought on record as Annexure-J series to the supplementary counter affidavit of the Commission, it has been submitted that the same is in violation of the terms of the advertisement. Either the Commission should have cancelled the candidature of other candidates also, whose roll numbers have been referred to above or should have been permitted the petitioner to produce the original character certificate issued by the College.

8. Learned counsel for the petitioner in support of his contention relied on the judgment in the case of *Parvaiz Ahmad*



*Parry versus State of Jammu and Kashmir* [2016 (1) PLJR 132 (SC) ], more particularly paragraph 24 thereof. He further relies on the judgment in the case of *General Manager, South Central Railway, Secunderabad and Anr. vs A.V.R Siddhanti and Ors.* (AIR 1974 SC 1755), more particularly paragraph 21 thereof.

9. Mr. Lalit Kishore, learned Senior Counsel appearing for the Commission referring to various clauses of Advertisement no.6 of 2018 as contained in Annexure-1 to the writ application, submitted that one has to keep in mind the fact that the matter relates to selection of Civil Judge, who has to discharge a very important duty. The candidates had to be conscious of all the terms of the advertisement and more particularly clauses 8, 9 and 10. From perusal of clauses 8, 9 and 10 it has been submitted that the same provided that after the applications had been filed, the candidates would download the filled application and would retain two printed copies thereof. At the time of interview or on demand by the Commission at any stage, the candidates would produce hard copies of the same as also the concerned certificates. It was submitted that clause 9 specifically provides that the date of issuance of the concerned certificates should be a date prior to last date of filing up of the application. Clause 10 provided that



at the time of interview the applicants/candidates would compulsorily be required to produce the original of all the marksheets and certificates. In case the same was not done, the Commission would be at liberty to take a decision with respect to such candidates. It was submitted that there was no ambiguity in the relevant clauses of the advertisement, as mentioned above. It was further submitted that clause 3 of the interview programme dated 15.10.2019 (Annexure-F series to the counter affidavit of BPSC) clearly provided that the candidates must bring the original certificates for verification as stated in the advertisement and interview letter along with two self attested copies of the same on the date of interview, including the character certificate issued by the College/University where the candidates last studied. It further provided that in case any candidate does not produce the original certificates on the date of interview, then no further time would be given for the same and the Commission would be free to take appropriate decision with respect to eligibility of such candidates. Clause 7 of the said interview programme contained in letter dated 15.10.2019 provided that the candidature of the candidate being called for interview is fully provisional and mere participation in the interview does not confirm the candidature of the candidate. It



has been submitted that the said stipulations mentioned hereinabove are also mentioned in Clause 3(iv) and 6 of the interview letters sent individually to the candidates. So far as the petitioner is concerned, although he appeared in the interview on 21.10.2019 but he did not produce the original character certificate issued by the College/University. Thus the candidature of the petitioner has been cancelled by the Commission on 27.11.2019. The Commission published the final result of the successful candidates under Advertisement no.6 of 2018 and sent the recommendation of the finally selected candidates to the General Administration Department on 2.12.2019.

10. In reply, to the contention of the petitioner with respect to discrimination, it has further been submitted by learned Senior counsel appearing for the Commission that so far as the change of dates of candidates Shivendra Singh and Pritosh are concerned, the same was done by the Commission after taking into consideration their application/representation. In the case of Shivendra Singh he had prayed for change in date as there was a clash in dates as he had to appear for interview of UPPSC Main Examination, 2018 on 22.10.2019. So far as the case of Paritosh is concerned, it has been submitted that he had



filed an application requesting for change of interview date as he had met with a fatal accident on 26.10.2019 resulting in multiple fractures. Along with his application he had enclosed his certificate of hospitalization. There were reasons for change of interview programme of both Shivendra Singh and Pritosh and was fixed for 27.11.2019. With respect to the other candidates it has been submitted that on the date of interview, a certificate issued by the University of Delhi was submitted wherein it clearly mentioned that the candidates had passed the Bachelor of Law (LLB) Examination and further that the degree of the candidates had not been issued yet and will be issued in due course of time. Thus it has been submitted that along with the application good reasons and supporting documents were submitted by the other candidates and so far as the petitioner herein is concerned, he had not filed any application for shifting of his interview date. It has been submitted that the case of the petitioner has to stand on its own legs and a legal right has to be established before, then the petitioner could be permitted to raise the point of discrimination. The petitioner not having submitted his original certificate as specifically required, the petitioner has no legal right and thus there is no merit in the instant application filed by the petitioner. On the other hand, in



the special circumstances, the Commission has acted reasonably and in the given facts and circumstances of the case it cannot be said that there is any violation of Article 14 of the Constitution. The action of the Commission could not be faulted. Learned Senior counsel for the Commission in support of his contentions relied on the judgments in the case of *Director of Settlements AP and Ors. vs M.R. Appa Roy and Anr.* [(2002) 4 SCC 638], *Bedanga Talukdar vs Saifudaullah Khan* [(2011) 12 SCC 85] and *State of Odisha and Anr. vs Anup Kumar Senapati and Anr.* [(2019) 19 SCC 626].

11. Mr. Piyush Lal learned counsel appearing for the Patna High Court submitted that the contents of advertisement including paragraphs 8, 9 and 10 were very clear that the certificates which were being filed by the candidates at the time of online application, original thereof had to be produced by them at the time of interview. The said condition was mandatory. It has been submitted that paragraph no. 11 of the advertisement further provided in clear terms that the candidates will ensure at the time of filing of the application itself that the original certificates are available with them. It is submitted that the Bihar Civil Service (Judicial Branch) (Recruitment) Rules, provides for regulating the recruitment to Bihar Civil Service



(Judicial Branch). Learned counsel for the Patna High Court placed specific reliance on Rules 7(b) and 9 and 2nd note to Rule 9. He submitted that the advertisement for the main examination was published by the Commission on 12.1.2019 (Annexure-D to the counter affidavit of BPSC). Clause 8(1)(f) of the same provides that the candidate had to send two self attested copies of their character certificate also. Clause 9 and 10 of Annexure-D provides that the certificates should remain in possession of candidate prior to date of the online application and it would be mandatory for the candidates to produce the original thereof at the time of interview. In case the candidates failed to produce the original, the Commission would be free to take a decision. With respect to the petitioner, it has been submitted that from perusal of the petitioner's online application form (Annexure-E to the counter affidavit of BPSC) it would transpire that the last page of the application contained the list of the certificates enclosed by the petitioner. At serial no.5 of the said list, the character certificate bearing no.916 dated 29.8.2018 has been mentioned. It has been submitted that a copy of the said certificate has been brought on record by the petitioner as Annexure-P-3 series at page no. 53 to the writ application. The petitioner did not produce the original of the same at the time of



interview.

12. In response to the contention of the petitioner that he had applied for the original to be returned by the Bar Council of Delhi and on receiving the same produced it before the Commission through speed post, it has been submitted by learned counsel for the Patna High Court that the date of enrollment of the petitioner, as evident from his provisional identity card (Annexure-P-2 to writ application) issued by the Bar Council of Delhi is 16.10.2018. The advertisement to the main examination was published by the Commission on 12.1.2019. The petitioner was to produce the original documents/certificates/mark sheets at the time of his interview which was held on 21.10.2019. It has been submitted by the learned counsel for the Patna High Court that no explanation has been furnished by the petitioner as to what steps the petitioner took from the date of his enrollment in October, 2018 or from the date of advertisement of the main examination in January, 2019 till the date of the petitioner's interview in October, 2019. It has been submitted that the petitioner had violated the mandatory condition as provided in the advertisement, the delay and laches are on the part of the petitioner alone and which, in the facts and circumstances, cannot be condoned. The



Recruitment Rules of 1955 do not permit for relaxation to be given by the BPSC to the petitioner. Learned counsel in support of his contention further relied on the judgment in the case of *Municipal Corporation of Greater Bombay and Ors versus Dr. Sushil V Patkar and Ors*. [1991 (Suppl II) SCC 432] and in the case of *Bedanga Talukdar versus Saifudaullah Khan* [(2011) 12 SCC 85].

13. Mr. Y.V Giri, learned Senior Counsel assisted by Mr. Pranav Kumar, learned Counsel appearing for the private respondents, while adopting the submissions made on behalf of the Commission as also the Patna High Court submitted that so far as the private respondents were concerned, no relaxation in any manner had been given to them by the Commission in the process of selection and thus they should not have been impleaded as party respondents in the instant case. Learned Senior Counsel submitted that so far as the contention of the petitioner with respect to giving opportunity to other candidates to produce their original character certificate is concerned, the petitioner not having been able to establish his right, he could not take the plea of violation of Article 14 of the Constitution of India as the same does not envisage negative equality. In support of his contention learned Senior Counsel relied on the



judgments in the case of State of U.P & Ors vs. Raj Kumar Sharma & Ors. [(2006) 3 SCC 330], Basawaraj and Anr vs. Special Land Acquisition Officer [(2013) 14 SCC 81] and P. Singaravelan and Ors. vs. District Collector, Tiruppur and D.T & Ors [(2020) 3 SCC 133]. It has been submitted that the terms of the advertisement is clear that the original certificate should be available with the applicant on the date of filling of the form itself. From perusal of the form of the petitioner it would be evident that he had enclosed with the same the character certificate dated 29.8.2018 and the original of the same not having been produced by the petitioner as required in the advertisement, no relief can be granted to the petitioner in the instant application.

14. In reply it has been submitted by learned counsel for the petitioner that the original certificate could not be produced as the same was deposited with the Delhi Bar Council at the time of enrollment. Nowhere in the advertisement has been it mentioned as to which character certificate had to be produced. The same should have been clearly stated in the advertisement. Relying on the judgment in the case of Parvaiz Ahmad Parry (supra) it has been submitted that it is well settled that the benefit of any ambiguity or vagueness in the advertisement shall



in favour of candidate.

15. Heard learned counsel for the parties and perused the materials available on record.

16. The facts not in dispute are that the Commission came out with Advertisement no. 6 of 2018 for holding the 30<sup>th</sup> Bihar Judicial Service Competitive Examination as per the Bihar Civil Services (Judicial Branch) Recruitment Rule, 1955 for filling up 349 vacant posts of Civil Judge, Junior Division. The petitioner belonging to the general category applied and was allotted Roll no. 100345. He cleared the preliminary examination as also the main written examination. He was called for and appeared in the interview on 21.10.2019, however, in the final result declared on 29.11.2019 the candidature of the petitioner along with 31 others was rejected for the reason of non-production/verification of the original character certificate on the date of interview.

17. The contention of the petitioner is that on having been called for interview, he made enquiries on telephone from the Joint Secretary-cum-Examination Controller of the Commission as to whether the character certificate of the SDM will suffice or did the candidates specifically need the character certificate issued by the college. It was the case of the petitioner that on the controller of examination clarifying that any character certificate



with original copy will suffice, the petitioner appeared with his documents which were verified and he was permitted to appear for interview by the concerned authority of the Commission. He was carrying the original copy of the character certificate issued by the SDM, Rewari which was produced by him. He could not produce the original copy of the character certificate issued by the college as on completion of his law degree, at the time of his enrollment as an Advocate, the said original certificate had been submitted by the petitioner with the Bar Council of Delhi. After his interview on 21.10.2019, the petitioner approached the Bar Council of Delhi on 22.10.2020 for release of his original character certificate and the same was released in favour of the petitioner which the petitioner sent the same through e-mail to the Commission on 23.10.2019 and also sent the original by speed post on 26.10.2019. The said character certificate was received by the Commission on 30.10.2019.

18. It may be mentioned here that in exercise of powers conferred under Article 234 of the Constitution of India, the Governor of Bihar after consultation with the High Court of Judicature at Patna and the Bihar Public Service Commission was pleased to frame the Bihar Civil Service (Judicial Branch) Recruitment Rules, 1955 (hereinafter referred to as 'the Rules')



in short). The selection process for appointment on the post of Civil Judge, Junior Division was started by the Commission as per the said Rules. Rule 7(b) provides that a candidate must satisfy the Commission that his character is such as to qualify him for appointment to the service. Further, Rule 9 provides that a candidate may be required to produce the original certificates and other documents before the Commission at the time of the viva voce test.

19. Further relevant parts of Clause 7(ii), Clause 8 (i), 9, 10 and 11 of the Advertisement no. 6 of 2018 are being quoted herein below for ready reference.

“7 (ii) उपर्युक्त विज्ञापन के अन्तर्गत ऑनलाइन आवेदन भरने से संबंधित आवश्यक (विस्तृत) निर्देश इस विज्ञापन के साथ संलग्न है।

अभ्यर्थी ऑनलाइन आवेदन भरने के पूर्व उक्त दिशा निर्देशों का भली भाँति अध्ययन कर लेंगे तथा ऑनलाइन आवेदन भरने के क्रम में सभी सूचनाएँ सही-सही एवं सुस्पष्ट अंकित करेंगे। ऑनलाइन आवेदन भरने हेतु आवश्यक (विस्तृत) निर्देश का अक्षरशः अनुपालन नहीं करने पर एवं ऑनलाइन आवेदन भरने के क्रम में अभ्यर्थी द्वारा की गयी प्रविष्टि में किसी प्रकार की त्रुटि के लिए आयोग जिम्मेवार नहीं होगा। इस संबंध में किसी प्रकार के सुधार/परिवर्तन हेतु अभ्यावेदन पर विचार नहीं किया जाएगा।

ऑनलाइन आवेदन में भरी गयी सूचनाओं को मूल प्रमाण पत्र/अंक पत्रों से मिलान करने के क्रम में किसी भी प्रकार की त्रुटि पाये जाने पर उम्मीदवारी रद्द कर दी जाएगी।



8. महत्वपूर्ण निर्देश :-

(i) अंतिम रूप से भरे गए ऑनलाइन आवेदन को सबमिट करने के बाद अभ्यर्थी उसी समय पुनः Login कर डैशबोर्ड पर उपलब्ध "Download Filled Application Section" से भरा हुआ आवेदन डाउनलोड कर उसकी दो प्रति निश्चित रूप से प्रिंट करेंगे। विज्ञापन से संबंधित वर्णित सभी प्रमाण पत्र/कागजात, परीक्षा शुल्क भुगतान की बैंक रसीद की प्रति अवश्य सुरक्षित रखेंगे। आयोग द्वारा साक्षात्कार के समय या किसी भी समय मांगे जाने पर उम्मीदवार को उक्त हार्ड कॉपी एवं सभी संबंधित प्रमाण-पत्र निश्चित रूप से प्रस्तुत करना होगा।

9. योग्यता संबंधी प्रमाण-पत्र वही मान्य होंगे, जिनका उल्लेख उम्मीदवार ने अपने मूल आवेदन-पत्र में किया है। योग्यता से संबंधित प्रमाण-पत्र के निर्गत होने की तिथि, आवेदन की निर्धारित अंतिम तिथि के पूर्व का होना आवश्यक है।

10. आवेदन प्रपत्र में वर्णित सभी प्रमाण-पत्र, अंक-पत्र साक्षात्कार के समय मूल रूप से प्रस्तुत करना अनिवार्य होगा। उक्त निर्देश का अनुपालन नहीं करने वाले अभ्यर्थियों की अर्हता के संबंध में निर्णय लेने हेतु आयोग स्वतंत्र रहेगा।

11. आवेदक यह सुनिश्चित करेंगे कि सभी वांछित प्रमाण-पत्र मूल रूप में उनके पास आवेदन भरते समय उपलब्ध हैं।“

20. From perusal of the terms of the clauses of the advertisement quoted herein above it would appear that Clause 7 has provided that if on comparison with the original certificate/mark sheet, the information provided in the online examination is not found to be correct, the candidature of the candidate will be cancelled. Further Clause 8(i) provided that after the candidate has submitted his online application, he should download the same from the website from the section



marked “Download Filed Application Section” and thereafter keep two printed copies of the same along with all documents and money receipt. It provided that on being asked by the Commission for the same at the time of interview or any other time, the applicant would produce the hard copy and all connected certificates. Clause 9 of the advertisement provided that only those certificates will be accepted by the Commission which have been mentioned by the applicant in his original application form and which have been issued on a date prior to the last date of filling-up of the application. Clause 10 provided that at the time of interview/viva voce, the applicant would mandatorily be required to produce all the certificates as also mark sheet which have been mentioned by him in his application form. In case the same is not done by the applicant, the Commission would be at liberty to take a decision with respect to his candidature. Clause 11 provides that the applicant shall ensure that original of all the certificates are available with the applicant at the time of filling-up of the form.

21. Thus, from perusal of the relevant clauses of the advertisement mentioned herein above, it is clear that there is no ambiguity in the same. The applicants were required to have in their possession the certificates as also mark sheet, both in



original, at the time of filling-up of the form and all these certificates and mark sheet were to be of a date prior to the last date of filling-up of the application form. It has further been provided that the applicant were required to produce the original certificate and or mark sheet at the time of interview or as and when required by the Commission.

22. So far as the instant case is concerned, from perusal of a copy of the application form of the petitioner, a copy of which has been brought on record as Annexure E to the counter affidavit of the Commission, it would transpire that the last page of the same, just below the petitioners signature contains the list of 10 enclosures. At serial no. 5 is the character certificate enclosed by the petitioner bearing certificate no. 916 issued on 29.8.2018. With respect to production of the said character certificate, the petitioner has categorically stated in the writ application that the original character certificate issued by the Campus Law Centre was submitted with the Bar Council of Delhi and therefore the original copy of the same could not be produced on the date of interview.

23. Clause 9 of the advertisement in clear terms mentions that only those certificates which have been mentioned by the applicant in the original application form would be acceptable.



Thus the petitioner having mentioned certificate no. 916 issued on 29.8.2018, issued by the Professor Incharge, Campus Law Centre, University of Delhi in his original application, and a copy of the which has been brought on record at page 53 as Annexure B-3 to the writ application, the petitioner was mandatorily required to produce the original of the said certificate at the time of interview.

24. The terms of the advertisement as discussed herein above being very clear that the candidate not only should be in possession of the certificates on the date of filling-up of the online application form but would be mandatorily required, as per Clause 10, to produce the same at the time of interview, the petitioner having accepted on affidavit in paragraph no. 20 of the writ application in clear terms that he could not produce the original certificate on the date of interview, in the opinion of the Court, the Commission committed no wrong in rejecting the candidature of the petitioner on the ground of non-production/verification of the character certificate on the date of interview. The Court does not find any error or illegality in the decision/order of the Commission.

25. In support of his contention the petitioner has relied on the judgment in the case of Parvaiz Ahmad Parry (supra) and



more particularly paragraph 24 thereof. In paragraph 24 of the said judgment the Hon'ble Apex Court had observed that if there was any ambiguity or vagueness in prescribing the qualification in the advertisement, then the same should have been clarified by the authority concerned in the advertisement itself. In case the same was not clarified then the benefit should have been given to the candidate rather than to the respondents. Paragraph 24 of the said judgment is being quoted herein below for ready reference :

“24. In our considered view, firstly, if there was any ambiguity or vagueness noticed in prescribing the qualification in the advertisement, then it should have been clarified by the authority concerned in the advertisement itself. Secondly, if it was not clarified, then benefit should have been given to the candidate rather than to the respondents. Thirdly, even assuming that there was no ambiguity or/and any vagueness yet we find that the appellant was admittedly having B.Sc. degree with Forestry as one of the major subjects in his graduation and further he was also having Masters degree in Forestry, i.e., M.Sc.(Forestry). In the light of these facts, we are of the view that the appellant was possessed of the prescribed qualification to apply for the post in question and his application could not have been rejected treating him to be an ineligible candidate for not possessing prescribed qualification.”

26. The decision in the case of Parvaiz Ahmad Parry (supra) is of no assistance to the petitioner herein. So far as the instant case is concerned, besides there being no ambiguity or vagueness in the advertisement, the petitioner himself on



affidavit accepted that he could not comply with the terms of the advertisement.

27. The petitioner further relied on the decision in the case of General Manager, South Central Railway, Secunderabad (supra), more particularly paragraph 21 of the said judgment, which is being quoted herein below for ready reference:

“21. The ratio of this Court's decision in Padam Singh Jhina's case, Civil Appeal No. 405 of 1967, D/-14-8-1967 (SC) (supra) is not applicable to the facts of the instant case. Jhina's contention was that he had been mala fide reduced in the list of seniority, from the 5th to the 7th place and that one Prem Sagar had been placed above him in contravention of the Rules. The validity or vires of the Rules was not in question. All the persons whose placement in the seniority list was controverted were not impleaded, and as such, had no opportunity of replying to the case set up by Jhina, and, in the absence of persons directly affected, it was not possible for the Court to adjudicate the matter. The ratio of Jhina's case does not help the appellant. The cases relevant for our purpose are [B. Gopalaiah v. Government of Andhra Pradesh](#), AIR 1969 Andh Pra 204; [J. S. Sachdev v. Reserve Bank of India](#), New Delhi, New ILR (1973) 2 Delhi 392 and [Mohan Chandra Joshi v. Union of India](#), Civil Writ No. 550 of 1970 (Delhi). We approve of the rule enunciated on this point in those cases.”

28. Neither the decision in the case of General Manager, South Central Railway, Secunderabad (supra) nor paragraph no. 21 of the same quoted hereinabove are of any assistance to the petitioner in the instant case.

29. The next contention of the petitioner is that he should



also have been given opportunity to produce the original character certificate as had been given to others. With respect to this contention, it is stated that the Hon'ble Apex Court in the case of Bedanga Talukdar (supra) has held that selection process has to be conducted strictly in accordance with the stipulated selection procedure. There cannot be any relaxation in the terms and conditions of the advertisement unless such a power is specifically reserved. Even if the power of relaxation is provided in the Rules, it must still be mentioned in the advertisement. No such power of relaxation in the Rules nor in the advertisement has been pointed out by learned counsel for the petitioner. Paragraph no. 29 of the judgment in the case of Bedanga Talukdar (supra) is being quoted herein below for ready reference:

“29. We have considered the entire matter in detail. In our opinion, it is too well settled to need any further reiteration that all appointments to public office have to be made in conformity with [Article 14](#) of the Constitution of India. In other words, there must be no arbitrariness resulting from any undue favour being shown to any candidate. Therefore, the selection process has to be conducted strictly in accordance with the stipulated selection procedure. Consequently, when a particular schedule is mentioned in an advertisement, the same has to be scrupulously maintained. There can not be any relaxation in the terms and conditions of the advertisement unless such a power is specifically reserved. Such a power could be reserved in the relevant Statutory Rules.



Even if power of relaxation is provided in the rules, it must still be mentioned in the advertisement. In the absence of such power in the Rules, it could still be provided in the advertisement. However, the power of relaxation, if exercised has to be given due publicity. This would be necessary to ensure that those candidates who become eligible due to the relaxation, are afforded an equal opportunity to apply and compete. Relaxation of any condition in advertisement without due publication would be contrary to the mandate of equality contained in Articles 14 and 16 of the Constitution of India.”

30. So far as the last contention of the petitioner with respect to violation of the Article 14 of the Constitution of India by the respondent authority is concerned, it may be stated here that on discussing the various clauses/terms of the advertisement herein above, the Court has come to the conclusion that in order to raise the point of discrimination and violation of Article 14 of the Constitution of India the petitioner has first to establish his legal right. The petitioner not having submitted his original certificate, which he accepts on affidavit and which is in clear violation of the terms of the advertisement, he cannot pray for grant of relief on the ground of violation of Articles 14 and 16 of the Constitution. It would be relevant to refer to the judgment in the case of Director of Settlement A.P and Ors v. M.R. Aparao and Anr. [(2002) 4 SCC 638], relevant portion of paragraph 17 of which is being quoted herein below for ready reference :



“17.....in order to obtain a writ or order in the nature of mandamus, the applicant has to satisfy that he has a legal right to the performance of a legal duty by the party against whom the mandamus is sought and such right must be subsisting on the date of the petition.....”

31. Further in the case of Basawaraj (supra) the Hon'ble Apex Court held that Article 14 of the Constitution does not envisage negative equality and is not made to perpetuate illegality or fraud even by extending the wrong decisions made in other cases. Paragraph no. 8 of the said judgment is quoted herein below for ready reference :

“8. It is a settled legal proposition that [Article 14](#) of the Constitution is not meant to perpetuate illegality or fraud, even by extending the wrong decisions made in other cases. The said provision does not envisage negative equality but has only a positive aspect. Thus, if some other similarly situated persons have been granted some relief/ benefit inadvertently or by mistake, such an order does not confer any legal right on others to get the same relief as well. If a wrong is committed in an earlier case, it cannot be perpetuated. Equality is a trite, which cannot be claimed in illegality and therefore, cannot be enforced by a citizen or court in a negative manner. If an illegality and irregularity has been committed in favour of an individual or a group of individuals or a wrong order has been passed by a Judicial forum, others cannot invoke the jurisdiction of the higher or superior court for repeating or multiplying the same irregularity or illegality or for passing a similarly wrong order. A wrong order/decision in favour of any particular party does not entitle any other party to claim benefits on the basis of the wrong decision. Even otherwise, [Article 14](#) cannot be stretched



too far for otherwise it would make functioning of administration impossible. (Vide: Chandigarh Adm. v. Jagjit Singh, Anand Buttons Ltd. v. State of Haryana, [K.K. Bhalla v. State of M.P.](#) and [Fuljit Kaur v. State of Punjab.](#)”

32. Thus, in view of the law laid down by the Hon’ble Apex Court in the case of Basawaraj (supra), even if some persons have been given the opportunity to produce their documents, which cannot be said to be in accordance with the provisions of the terms of the advertisement, the same would be of no help to the case of the petitioner herein. The Court finds no merit in this contention also of the petitioner and the same is rejected.

33. Having heard learned counsel for the parties and in view of the facts and circumstances as discussed herein above, the Court finds no merit in the writ application and the same is dismissed. There shall be no order as to costs.

**( Partha Sarthy, J)**

**(Shivaji Pandey, J)**

Prakash/-

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Transmission Date	

