



2024:CGHC:47327

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 6172 of 2024

1. Shreya Ormaila D/o Shri Vinod Kumar Ormalia Aged About 28 Years R/o 4 / B2 Sonal Towers, Near Star Childern Hospital, Agrasen Chowk, Bilaspur, C.G. 495001

---- **Petitioner**

versus

1. State Of Chhattisgarh Through Secretary Department Of Lawand Legislative Affairs, Mantralay, Mahanadi Bhawan, Naya Raipur, C.G.
2. Registrar General High Court Of Chhattisgarh, Bilaspur, Dist.- Bilaspur, C.G.
3. Chhattisgarh Public Service Commission Through Its Secretary, North Block Sector 19, Atal Nagar, Naya Raipur, C.G.
4. Examination Controller Chhattisgarh Public Service Commission, Through Its Secretary, North Block Sector 19, Atal Nagar, Naya Raipur, C.G.

---- **Respondents**

WITH

WPS No. 6902 of 2024

1. Suresh Kumar Chauhan S/o U.R. Chauhan Aged About 49 Years Hig 49, Chhattisgarh Housing Board Colony Pirda - 2 Ring Road 3 Raipur Chhattisgarh
2. Pragya Pandey D/o Jagdeesh Pandey Aged About 31 Years R/o Ward No. 3 Bilaigarh District - Sarangarh Bilaigarh Chhattisgarh
3. Gayatri Sahu D/o Aswant Das Sahu Aged About 26 Years R/o In Fornt Of Hardew Lala Mandir Tikrapara Raipur Chhattisgarh
4. Bhavana Khatwani D/o Tarun Kumar Khatwani Aged About 28 Years R/o F- 10 In Front Of Doordarshan Office Dharampura 1 Jagdalpur Chhattisgarh
5. Richa Rennie Tigga Alexander Tigga Aged About 26 Years R/o B/72 Avinash Capital Homes Phase 1 Saddu Raipur Chhattisgarh
6. Rameshwari Jangde D/o Tchhannulal Jangde Aged About 35 Years R/o Civil Lines Vidyanagar Khairagarh District - Khairagarh Chuikhadan Gandai (C.G.)
7. Priyanka Tiwari D/o Ajay Tiwari Aged About 29 Years R/o G-3/303, Gad Complex Kabir Nagar Raipur (C.G.)
8. K Ankit Pillay S/o Kishore Kumar Pillay Aged About 31 Years House

- No. 2630 Street - 8 Shanti Nagar Shankar Nagar District - Raipur (C.G.)
9. Vidya Bharti D/o Krishan Bharit Aged About 27 Years R/o Bhathagaon (Kokadi) School Para, 51, Baloda Bazar District - Baloda Bazar - Bhatapara (C.G.)
 10. Vandana Sahu D/o Chhannu Lal Sahu Aged About 28 Years R/o Boriyakala Raipur (C.G.)
 11. Jyotiraditya Tiwari S/o Rakesh Tiwari Aged About 25 Years R/o Chikhali Rajnandgaon District - Rajnanadgaon (C.G.)
 12. Chhaya Sahu D/o Kheluram Sahu Aged About 25 Years R/o Moti Nagar Boriyakhurd Raipur (C.G.)
 13. Tripti Agrawal D/o Anand Agrawal Aged About 25 Years R/o House No. 85 Ward 08, Purani Basti Kargi Road Kota District - Bilaspur (C.G.)
 14. Smita Dansena D/o Sadanand Dansena Aged About 25 Years R/o T.V. Tower Attarmuda Raigarh District - Raigarh (C.G.)
 15. Shekhar Kanwar S/o Sanjay Kanwar Aged About 26 Years R/o House No. 112 Shyhimudi Jailgaon Korba (C.G.)
 16. Anamika Singh D/o Tribhuvan Singh Aged About 27 Years R/o Mangla Chowk Behind Laxmi Super Market Bilaspur (C.G.)
 17. Unnati Verma D/o Kranti Kumar Verma Aged About 25 Years R/o Kasdol Paras Nagar Sector 2, Baloda Bazar Bhatapara (C.G.)
 18. Tejas Bhoi S/o Kailash Chandra Bhoi Aged About 28 Years R/o Shyam Nagar Telibandha Near Maharana Pratap Udhyan District - Raipur (C.G.)
 19. Hemant Prasad S/o Kabir Prasad Aged About 24 Years R/o Karvahi Para Baheratoli Village Khajuriyadih P/o And P/s Chando District - Balrampur (C.G.)
 20. Snehlata Sonwani D/o Mahadev Sonwani Aged About 32 Years R/o Haldibadi Chirmiri District - Manendragarh Chirmiri Bharatpur Chhattisgarh
 21. Pragati Upadhyay D/o Drona Upadhyay Aged About 28 Years R/o Rajkishor Nagar Bilaspur Chhattisgarh

----**Petitioners**

Versus

1. State Of Chhattisgarh Through Secretary Department Of Law And Legislative Affairs Mantralaya Mahanadi Bhawan Naya Raipur (C.G.)
2. High Court Of Chhattisgarh Registrar General Bilaspur Distirct - Bilaspur (C.G.)
3. Chhattisgarh Public Service Commission Through Its Secretary North Block Sector 19, Atal Nagar Naya Raipur (C.G.)
4. Examination Controller Chhattisgarh Public Service Commission Through Its Secretary North Block Sector 19, Atal Nagar Naya Raipur (C.G.)

---- **Respondents**

WITH

WPS No. 6963 of 2024

1. Angad Ram Kewant S/o Girdhari Lal Aged About 31 Years R/o Arsiya Jaijaipur, Post- Jaijaipur, Dist- Sakti Chhattisgarh Pin- 495690
2. Anita Yadav D/o Ramlal Yadav Aged About 37 Years R/o Mahalpara Saraipali Dist-Mahasamund, Pin 493558
3. Hemu Bhardwaj D/o Anjani Kumar Bhardwaj Aged About 25 Years R/o Mq 109 Urja Nagar, Gevra Project, Korba Chhattisgarh Pin 495452

4. Kahkasha Begum D/o M.D Jafar, Aged About 26 Years R/o Behind Shitla Mandir Rajendra Nagar, Bilaspur Chhattisgarh, Pin 495001
5. Shreyansh Dutta S/o Debabrata Dutta Aged About 23 Years R/o Flat No. 414 Block A, Sai Bhoomi Torwa, Bilaspur, Chhattisgarh, Pin 495001
6. Priya Somawar D/o Dinesh Somawar Aged About 25 Years R/o Near Head Post Office Opposite Vitthal Mandir Tilak Nagar Chantapara, Bilaspur Chhattisgarh, Pin 495001
7. Ritu Netam D/o Kamal Singh Netam Aged About 30 Years R/o Ward No.08 Gond Para, Rani Gaon Lormi, Dist- Mungeli, Chhattisgarh, Pin 495115
8. Sucheta Chandrakar D/o Dheeraj Chandrakar Aged About 24 Years R/o Shankar Nagar Kurud, Dist- Dhamtari, Chhattisgarh Pin 493663
9. Rukmani Thakur D/o Bhagwati Thakur, Aged About 33 Years R/o Gali No.2 Ward No. 10 Rengakathera, Post Punderdehi, Rengakathera, Post-Punderdehi, Rengakathera, Dist- Balod Chhattisgarh, Pin 491223
10. Ruby Thakur D/o Ashok Thakur Aged About 32 Years R/o Bhanupratappur, Uttar Bastar, Dist- Kanker Chhattisgarh, Pin- 494669
11. Parth Kumar Jha S/o Pawan Kumar Jha Aged About 24 Years R/o Hig - A-5 Parijat Extension, Nehru Nagar, Bilaspur Chhattisgarh, Pin 495001
12. Nikhil Yadav S/o Ramesh Yadav Aged About 24 Years R/o Kunti Niwas, Near Shahid Avinash Sharma Garden, Srknada, Bilaspur, Chhattisgarh, Pin 495001

----**Petitioners**

Versus

1. State Of Chhattisgarh Through Secretary Department Of Law And Legislative Affairs, Mantralay, Mahandi Bhawan, Naya Raipur (C.G)
2. Registrar General, High Court Of Chhattisgarh, Bilaspur, Dist- Bilaspur
3. Chhattisgarh Public Service Commission, Through Its Secretary, North Block Sector 19, Atal Nagar , Naya Raipur (C.G)
4. Examination Controller Chhattisgarh Public Service Commission, Through Its Secretary, North Block Sector 19 Atal Nagar, Naya Raipur (C.G.)

---- **Respondents**

WITH

WPS No. 7677 of 2024

1. Prateek Kant S/o Ravi Kurre Aged About 34 Years R/o S-5 Shrishti Samridhi Colony Bodri, Bilaspur – Chhattisgarh
2. Megah Jangel D/o Rajkumar Jangel Aged About 25 Years R/o Rhea Bird Of Paradise Near Anandm Word City Kachna Raipur , Chhattisgarh
3. Ankush Usendi S/o Ashok Usendi Aged About 30 Years R/o Makan No. 00, Sargipal Para Kondagaon (C.G.)
4. Shail Kumari Jaiswal W/o Rajendara Aged About 34 Years R/o Hanshika Home Near Sai Anandam Marriage Hall Uslapur Bilaspur (C.G.)
5. Rashi Kankarwal D/o Pankaj Kankarwal Aged About 28 Years R/o House No. 231, Ward No. 23, In Front Of Polytechnique Hostel Kaserpara Chakradhar Nagar Raigarh (C.G.)

----**Petitioners**

Versus

1. State Of Chhattisgarh Through Secretary Department Of Law And Legislative affairs Mantralaya Mahanadi Bhawan Naya Raipur Chhattisgarh
 2. Registrar General High Court Of Chhattisgarh Bilaspur District - Bilaspur (C.G.)
 3. Chhattisgarh Public Service Commission Through Its Chairman North Block Sector 19, Atal Nagar Nava Raipur (C.G.)
 4. Exam Controller Chhattisgarh Public Service Commission Through Its Secretary North Block Sector 19, Atal Nagar Nava Raipur (C.G.)
- Respondents

Date of Hearing: 27.11.2024

Date of Order : 02.12.2024

For Petitioners	: Ms. Nupoor Sonkar, Adv. (In WPS No. 7172 of 2024) Mr. Harsh Dave, Adv._ (in WPS No. 6902 of 2024) Mr. Anand Dadariya, Adv. along with Mr. Siddhant Das, Adv. (In WPS No. 6963 of 2024) Mr. Ishan Verma, Adv. (In WPS No. 7677 of 2024)
For State	: Mr. Dilman Rati Minj, G. A.
For Respondent-High Court	: Mr. Anurag Dayal Shrivastava, Adv. (In WPS No. 6172 of 2024) Mr. Ashish Tiwari, Adv. (In WPS No. 6902 of 2024) Mr. Prasoon Kumar Bhaduri, Adv. (In WPS No. 6963 of 2024) Mr. Manoj Paranjpe, Adv. Along with Mr. Shashwat Mishra, Adv. (In WPS No. 7677 of 2024)
For Respondent-C.G.P.S.C.	: Dr. Sudeep Agrawal, Adv.

Hon'ble Shri Justice Rakesh Mohan Pandey

CAV Order

1. In this batch of petitions, the petitioners are aggrieved with the issuance of the result of the Civil Judge (Entry Level) Examination, 2023 which was published on 08.10.2024 by the Chhattisgarh Public Service Commission. The petitioners have filed these petitions on the ground that their answer sheets were not evaluated.
2. Facts pertaining to these cases are as under:-

(i) Chhattisgarh Public Service Commission (for short, "C.G.P.S.C.") issued an advertisement on 07.06.2023 for filling up 49 posts of Civil Judge-Junior Division in State Judiciary. The eligibility criteria were outlined; selection process was described in detail.

(ii) The petitioners, being law graduates and aspirants for the post of Civil Judge (Entry Level) Examination, 2023, submitted their applications along with requisite documents and also paid the prescribed fee for the examination. The petitioners were issued admit cards for the Preliminary Examination which was scheduled to be held on 03.09.2023. The result of the Preliminary Examination was declared on 24.01.2024 which the petitioners successfully cleared.

(iii) Notification was issued by C.G.P.S.C. on 12.06.2024 for the Main Examination and accordingly, the petitioners applied for the same; admit cards were issued to the petitioners for the Main Examination which was scheduled to be conducted on 25.08.2024. The petitioners appeared in the Main Examination at their respective centers.

(iv) It is pleaded that the petitioners found certain irregularities during the conduct of the said examination which adversely affected their examination and complaints were made before the authorities concerned. It is further pleaded that the Main Examination involved a sudden requirement to follow a specific serial order as instructed in the answer sheets which was a deviation from previous practice while answering questions. Previously, there was no order of choice to answer any question

but for the first time; the candidates were required to answer serially. It is also pleaded that this change was neither communicated in advance via a formal notification nor conveyed by invigilators during the examination. The petitioners have averred that they started solving questions in the order that best suited their preparation and knowledge and later on, came to know that they solved the questions in the wrong sequence. To substantiate their claims, the petitioners moved applications requesting CCTV footage from the examination centres to demonstrate that 10 minutes to read the instructions carefully as envisaged in the Question-Answer Booklet was not provided to the petitioners. It is further averred that on account of the denial of the allotted time, the petitioners could not properly comprehend the instructions concerning attempting questions in their serial order in the answer sheets. It is also averred that C.G.P.S.C. informed that their answer sheets would not be checked due to their failure to follow the serial order while answering.

(v) The petitioners submitted that aforesaid irregularities are violative of Articles 14 and 21 of the Constitution of India and the same is arbitrary and unreasonable on the part of the respondents. It is further submitted that the examination process has gravely prejudiced the petitioners and their legitimate expectations. It is also submitted in these writ petitions that the rule of the game was changed during the recruitment process which is not permissible. It is further stated that earlier WPS No. 5785/2024 was preferred before this Court

whereby a direction was issued to the respondents to decide the representations submitted by the petitioners within a period of 30 days. Subsequently, representations made by the petitioners were rejected by a non-speaking and unreasoned order.

(vi) State authorities as well as C.G.P.S.C. in their return have pleaded that there was no deviation from any established procedure of law / practice and the petitioners have not pleaded any specific instance as to which provision / rule has been changed mid-way during the selection process. They have further pleaded that the result of the Preliminary Examination was declared on 24.01.2024 and 542 candidates were declared eligible to participate in the Main Examination. It is also pleaded in the return that the result of the Main Examination was declared on 08.10.2024 and 151 candidates were shortlisted for Viva-Voce. It is categorically submitted that the allegation made by the petitioners to the effect that only 3-4 minutes prior to the commencement of the examination the Question-Answer Booklet were distributed to them is not a correct statement. It is held that a hand-written representation was submitted by one of the petitioners on the date of examination but there is no allegation with regard to the distribution of the Question-Answer Booklet only 3-4 minutes prior to the commencement of examination and this allegation is just an after-thought. It is further held that the petitioners have tried to carve out their case by adding additional grounds through subsequent representation dated 13.09.2024 which was sent through e-

mail. It is also held that additional grounds with regard to delay in the distribution of Question-Answer Booklets; insufficient time for reading instructions, and; limited time for filling in the details were not mentioned in the initial representation. It is mentioned in the reply that the petitioners failed to array the centre head of the examination hall to demonstrate their allegations.

(vii) It is averred that the Question-Answer Booklet contained instructions for the candidates on the initial pages itself. In the Question-Answer Booklet, Instruction No. 1 states that "*Extra time of 10 minutes will be given before starting of examination for careful reading and understanding Instruction as well as for making required entries in Question Paper and Question-cum-Answer Booklet (QAB).*"

Instruction No. 7 states that "*Answer of every question is expected at specified space. Answer will not be checked if there is change in place of answer.*" They have further mentioned that despite there being clearly laid out mandatory instructions, the petitioners deviated from the standard procedure and failed to write answers at appropriate spaces in the Question-Answer Booklet. It is also mentioned in the reply that no prudent person would commit such a mistake as the Question-Answer Booklet contained the question and the necessary blank space has been provided just below the question and therefore by no stretch of imagination it can be said that such a mistake would have been committed by a candidate who is ambitious to become a part and parcel of the justice delivery system. It is also averred that the advertisement nowhere stipulates the

format for the answering pattern however on the contrary it clearly stipulates that the entire selection process will be carried out in three phases i.e. Preliminary Examination, Main Examination and Interview.

3. Learned counsels appearing for the petitioners submit that the rule of the game was changed by the C.G.P.S.C. during the recruitment process. They further submit that no notification was issued with regard to the pattern of the Main examination. They also submit that previously it was common practice to write the answer to any question at any place but for the first time, a new pattern was introduced whereby candidates were directed to answer the questions at a specific place and the answers would not be checked if there is a change in place of answer. They contend that no information was given by the invigilators to the candidates and therefore, the petitioners wrote answers in the order that best suited their preparation and knowledge. They further contend that C.G.P.S.C. ought to have deducted a few marks for putting answers in incorrect spaces and should have at least checked them first but instead exhibited an unfair and arbitrary exercise of power to not evaluate the answer sheets of the petitioners. They also contend that the pattern of the Main Examination was not disclosed in the advertisement; no prior notification was issued in this regard on the website of C.G.P.S.C. and even this fact was not disclosed by the invigilators to the petitioners, therefore, the manner in which examination was conducted is arbitrary and contrary to the well-settled principle of law. In support thereof, they placed reliance on the judgment rendered by the Hon'ble Supreme Court in the matter of ***Tej Prakash Pathak & Ors. Versus Rajasthan***

High Court & Ors., 2024 SCC OnLine SC 3184. Relevant paras are reproduced herein below:-

1. A three-Judge Bench of this Court while accepting the salutary principle that once the recruitment process commences the State or its instrumentality cannot tinker with the "rules of the game" insofar as the prescription of eligibility criteria is concerned, wondered whether that should apply also to the procedure for selection. In that context, doubting the correctness of a coordinate Bench decision in *K. Manjusree* for not having noticed an earlier decision in *Subash Chander Marwaha*, vide order dated 20 March 2013, it was directed that the matter be placed before the Chief Justice for constituting a larger Bench for an authoritative pronouncement on the subject.

8. However, in regard to changing the rules of the game qua method or procedure for selection, the three-Judge Bench in the reference order doubted the correctness of the decision in *K. Manjusree (supra)* inter alia on the ground that it failed to notice an earlier decision in *Subash Chander Marwaha (supra)*. Accordingly, the reference order seeks an authoritative pronouncement in that regard from a larger Bench of this Court. The scope of the reference is therefore limited to (a) whether *K. Manjusree (supra)* lays down the correct law; and (b) whether the rules of the game qua method and manner of making selection can be changed or altered after commencement of the recruitment process.

10. (b) Candidates have a right to know, before the selection process commences, the standards/criteria on which they will be assessed/evaluated so that they could modulate their level of preparedness accordingly.

(d) If eligibility cut-off marks is to be prescribed, it should be done before the test or the interview so that both the examinee and the examiner are aware as to how many marks would qualify a candidate for further consideration.

12. (b) Basis of the doctrine that 'rules of the game' must not be changed during the course of the game, or after the game is played;

(d) Whether the above doctrine applies with equal strictness qua method or procedure for selection as it does qua eligibility criteria;

15. The principle of fairness in action requires that public authorities be held accountable for their representations. Good administration requires public authorities to act in a predictable manner and honour the promises made or practices established unless there is good reason not to do so.

29. The ultimate object of any process of selection for entry into a public service is to secure the best and the most suitable person for the job, avoiding patronage and favoritism. Selection based on merit, tested impartially and objectively, is the essential foundation of any useful and efficient public service.

So, open competitive examination has come to be accepted almost universally as the gateway to public services. It is now well settled that while a written examination assesses a candidate's knowledge and intellectual ability, an interview test is valuable to assess a candidate's overall intellectual and personal qualities. While written examination has certain distinct advantages over the interview test there are yet no written tests which can evaluate a candidate's initiative, alertness, resourcefulness, dependableness, cooperativeness, capacity for clear and logical presentation, effectiveness in discussion, effectiveness in meeting and dealing with others, adaptability, judgment, ability to make decision, ability to lead, intellectual and moral integrity. Thus, the written examination assesses the man's intellect and the interview test the man himself and "the twain shall meet" for a proper selection.

42. *We, therefore, answer the reference in the following terms:*

(1) Recruitment process commences from the Issuance of the advertisement calling for applications and ends with filling up of vacancies;

(2) Eligibility criteria for being placed in the Select List, notified at the commencement of the recruitment process, cannot be changed midway through the recruitment process unless the extant Rules so permit, or the advertisement, which is not contrary to the extant Rules, so permit. Even if such change is permissible under the extant Rules or the advertisement, the change would have to meet the requirement of Article 14 of the Constitution and satisfy the test of non-arbitrariness;

(3) The decision in K. Manjusree (supra) lays down good law and is not in conflict with the decision in Subash Chander Marwaha (supra). Subash Chander Marwaha (supra) deals with the right to be appointed from the Select List whereas K. Manjusree (supra) deals with the right to be placed in the Select List. The two cases therefore deal with altogether different issues;

(4) Recruiting bodies, subject to the extant Rules, may devise appropriate procedure for bringing the recruitment process to its logical end provided the procedure so adopted is transparent, non -discriminatory/non-arbitrary and has a rational nexus to the object sought to be achieved.

(5) Extant Rules having statutory force are binding on the recruiting body both in terms of procedure and eligibility. However, where the Rules are non-existent, or silent, administrative instructions may fill in the gaps;

(6) Placement in the select list gives no indefeasible right to appointment. The State or its instrumentality for bona fide reasons may choose not to fill up the vacancies. However, if vacancies exist, the State or its instrumentality cannot arbitrarily deny appointment to a

person within the zone of consideration in the select list.

The Hon'ble Supreme Court in the matter of ***Union of India & Ors. Versus Gudura Raja Surya Naveen, Special Leave to Appeal No. 18592/2016***, observed and held thus:-

4. The observations/directions as contained in the order of the High Court granting the general relief sheets to all candidates reads as under: of evaluation of answer

"All the unemployed young persons may not have adequate financial support to carry on with litigation. It is not the petitioner who has approached the Court alone who might get the ultimate relief, but it might be the one which may not have the necessary wherewithal to approach the Court who should be getting the actual relief, if he is better candidate than the one who has approached the Court. But, that would depend upon the relative merit of the candidates. In fact, this is the very same principle applied while dealing with the litigation relating to admission to medical colleges, engineering colleges and other institutions higher educational is pursued by the Courts. Therefore, a similar approach is called for even in the matter of public employment. The writ petition is accordingly, dismissed but however, without costs.

Therefore, we direct the staff selection commission to undertake evaluation of the answer sheets of all such candidates who might have made an error in not thickening/blackening the appropriate circles relating to one column or the other for hall ticket number, roll number and accordingly, declare their results at the earliest".

5. Since we have limited the relief to the respondent-herein, the above said general direction shall stand set aside and we reiterate and clarify that the relief granted by the High Court would stand limited to the case of the respondent- herein.

Mr. Ishan Verma has also placed reliance on the judgment rendered by Hon'ble Supreme Court in the matter of ***Harkirat Singh Ghuman Versus Punjab & Haryana High Court and Ors.*** reported in **2022 SCC OnLine SC 1111** whose para 32 is held as under:-

32 . *At this stage, the Court cannot be oblivious of the fact that the Punjab/Haryana Superior Judicial Service Examination, 2019 has been held after 4-5 years and since the fate of the examination 2019 is still sub-judice in this Court, fresh selection process could not have been initiated and if this irregularity pointed out can be possibly eliminated from the process of selection, particularly in the written examination, the endeavour of the Court should always be to salvage the selection as possible and taking in totality of the matter, this Court is of the view that it will serve the purpose to accept the latter option and the respondents may be directed to value question nos. 1, 2, 3 and 5 of Paper V (Criminal Law) of 160 marks and we make it clear that question no. 4 which was supplemented at a later stage of 40 marks has to be excluded while valuating the marks secured by the candidates in Paper V (Criminal Law) and this, in our view, may serve the purpose and also salvage the examination process which was initiated by the respondents in 2019 but could be finalised for one or other reason and cancellation or holding the examination afresh of Paper V (Criminal Law) will not be in the interest of either of the parties.*

- 4.** On the other hand, learned counsels appearing on behalf of respective respondents oppose. They submit that C.G.P.S.C. has not changed any rules of the game during the course of the recruitment process. The pattern of examination was Preliminary examination, Main examination and Interview which was notified in the advertisement. They further submit that the petitioners with open eyes participated in the Main examination. In the Question-Answer Booklet, questions were quoted in bold letters and necessary blank space was provided just below the questions which ran in 20 pages. All questions (Questions No. 1 and 2) contained 20 blank pages to write answers at specific places only. They also submit that it is not expected from candidates who are aspiring to become Civil Judges to overlook such an instruction and the pattern of writing answers. In support of their submissions, they placed reliance on the judgment rendered by the

Hon'ble Supreme Court in the matter of ***the State of Tamil Nadu & Ors. Versus G. Hemlathaa & Anr., (2020) 19 SCC 420*** whereby the Apex Court held that instructions issued by the Commission are mandatory having force of law and they have to be strictly complied with. Relevant paras 8, 10 and 13 are reproduced herein below:-

8. *We have given our anxious consideration to the submissions made by the learned Senior Counsel for the respondent. The Instructions issued by the Commission are mandatory, having the force of law and they have to be strictly complied with. Strict adherence to the terms and conditions of the Instructions is of paramount importance. The High Court in exercise of powers under Article 226 of the Constitution cannot modify/relax the Instructions issued by the Commission.*

10. *In spite of the finding that there was no adherence to the Instructions, the High Court granted the relief, ignoring the mandatory nature of the Instructions. It cannot be said that such exercise of discretion should be affirmed by us, especially when such direction is in the teeth of the Instructions which are binding on the candidates taking the examinations.*

13. *After giving a thoughtful consideration, we are afraid that we cannot approve the judgment of the High Court as any order in favour of the candidate who has violated the mandatory Instructions would be laying down bad law. The other submission made by Ms Mohana that an order can be passed by us under Article 142 of the Constitution which shall not be treated as a precedent also does not appeal to us.*

The Hon'ble Division Bench of the High Court of Jharkhand in the matter of ***Jharkhand Public Service Commission & Anr. Versus Hulash Nayak, LPA No. 392 of 2022*** while dealing with a similar issue in para 17 held as under:-

17. *In view of the aforesaid judicial pronouncements, this Court is of the considered view that filling up OMR Sheets as per the given instructions was mandatory and such instructions have the force of law and errors committed by the candidates in filling up the circles of the digits of the roll number leading to rejection of such OMR Sheets would lead to rejection of candidature of such candidates and no mandamus can be issued to correct the OMR Sheets manually. Such OMR Sheets suffer from fatal defects and are not capable of being evaluated through the electronic device meant for examining such OMR Sheets. The writ petitioners who had committed errors in circling the digits of the roll numbers have to take responsibility and face the consequences of the rejection of their candidature as such OMR*

Sheets get rejected directly by the electronic device even if the roll numbers have been correctly written in handwriting in the OMR Sheets. Since the electronic device would not evaluate the OMR Sheets having errors in encircling the digits of the roll number, the only way to evaluate such OMR Sheets would be manual which is not permissible considering the scheme of the examination process. Such errors do not fall under the category where the OMR Sheets are evaluated by the electronic device but there are other discrepancies pointed out by the authorities.

They argued that these petitions deserve to be dismissed.

5. I have heard learned counsel appearing for the respective parties at length, considered their rival submissions made herein above and carefully perused the documents placed on the record.
6. I perused the sample answer sheet provided by C.G.P.S.C., wherein on Page No. 1, instructions for candidates are given. Here, Instruction No. 6 states **“Please read further instructions related to QAB on the backside of this page.”** Now coming to the next page, again instructions for candidates are laid down where Instruction No. 1 says that **“Extra time of 10 minutes will be given before starting of examination for careful reading and understanding Instruction as well as for making required entries in Question Paper and Question-cum-Answer Booklet (QAB).”** Instruction No. 7 says that **“Answer of every question is expected at specified space. Answer will not be checked if there is change in place of answer.”**

On the next page, Question No. 1 is quoted in both, Hindi & English language. Question No. 1 runs on six pages; following 20 blank pages left to write the answer. Therefore, Question No. 2 is quoted in two pages and again 20 blank pages are left to write its answer. Thereafter, Question No. 3(i) (Translation from English to Hindi) is quoted in ½ page and below it, a blank space of 2 ½ page is

provided. Thereafter, Question No. 3(ii) (Translation from Hindi to English) is quoted in ½ page and a blank space of 2 ½ page is provided. The last two pages are for Rough Work.

7. It would be advantageous to refer to the Chhattisgarh Public Service Commission, Rules of Procedure dated 29.10.2024 applicable to C.G.P.S.C.

Part 1 entails the procedure of the Commission for selection / recruitment to posts or services. Rule 3 of Part 1 deals with prescribing regulations for selection or advising. Rule 4 deals with the issuance of advertisements. It describes that the advertisement will include a number of vacancies, eligibility criteria etc. Rule 5 deals with the procedure for preparing the merit list and consolidated merit list for selection. Rule 5.1 describes the procedure for selection by interview only. Rule 5.2 describes the procedure for written competitive examination and interview. Rule 5.3 describes the screening examination, main examination and interview.

The Civil Judge examination was conducted as per Rule 5.3 and the same is reproduced herein below:-

5.3. By screening examination, main examination and interview - where there is a provision to select candidates for a post/posts or service/services by screening examination, main examination and interview or in respect of state service examination for recruitment on such post/posts and service/services by screening examination, main examination and interview the commission will-

5.3.1. Conduct screening examination, main examination and interview.

5.3.2. On the basis of screening examination, fifteen times (or as described in recruitment rules or the ratio prescribed by the commission) the number of category wise and subcategory wise advertised vacancies, candidates shall be shortlisted for main examination on the basis of relevant category and subcategory and their

merit sequence on the merit list. In any category or subcategory, if there are candidates existing in the merit list who have the same score as the score of the last candidate shortlisted for main examination in that category or subcategory then all such candidates of the relevant category or subcategory will be shortlisted for main examination.

5.3.3. *The list of roll numbers of all the candidates shortlisted for main examination shall be released in the increasing order of roll numbers.*

5.3.4. *The date of main examination shall be declared for the candidates shortlisted for main examination. Any date one month after the declaration of screening examination result can be scheduled for the main examination.*

5.3.5. *On the basis of main examination, three times (or as described in recruitment rules or the ratio prescribed by the commission) the number of category wise and subcategory wise advertised vacancies, candidates shall be shortlisted for interview on the basis of relevant category and subcategory and their merit sequence on the merit list. In any category or subcategory, if there are candidates existing in the merit list who have the same score as the score of the last candidate of that category or subcategory shortlisted for interview then all such candidates of the relevant category or subcategory will be shortlisted for interview.*

5.3.6. *The list of roll numbers of all the candidates shortlisted for interview shall be released in the increasing order of roll numbers.*

5.3.7. *The date of interview shall be declared for the candidates shortlisted for interview. Any date 10 days after the declaration of main examination result can be scheduled for the interview.*

5.3.8. *Total marks for interview shall not exceed 12.2 percent of the total marks for the main examination.*

5.3.9. *There shall be no qualifying marks for the interview mean there will be no restriction on candidates of any category and subcategory to obtain a minimum mark in the interview.*

5.3.10. *The consolidated merit list of candidates shall be prepared on the basis of main examination and interview scores.*

A bare reading of Rule 5.3 would make it clear that a candidate has to cross three stages of examination first screening test, second main examination/written test and third interview. No specific pattern is

provided in this Rule to conduct the Main examination.

8. As argued by learned Advocates for the petitioners, the pattern of conducting the Main examination was not notified either in the rules or in the advertisement but in the opinion of this Court, there was no need to notify the pattern of examination and they had the right to know the syllabus “only”. The pattern of the Main examination and the questions to be asked in that examination are within the exclusive domain of the examination conducting body. The instructions were laid down in the Question-Answer Booklet and the petitioners should have read them over carefully before proceeding to write answers. Questions were quoted in bold letters followed by blank pages [20 pages each for Questions No. 1 and 2; 2 ½ pages each for Questions No. 3(i) and (ii)]. Any sensible person after going through the questions and blank pages placed immediately after them can understand that he / she has to write the answer pertaining to the specific question in the blank space given immediately after that question only.
9. The contention made by learned counsels appearing for the petitioners with regard to the change of rule of game is misconceived as the examination has been conducted strictly according to the Rules and advertisement. The CGPSC conducted a screening test and thereafter qualified candidates were called for the Main examination. As informed, 542 candidates participated in the Main examination, meaning thereby they followed the instructions given in the Question cum Answer Booklet. The ultimate object of the selection process is to secure the most suitable candidates and CGPSC succeeded in it. The candidates, who could not answer the questions in proper space, cannot be treated as suitable persons for the post of Civil Judge.

10. The situation in hand is covered by the Latin maxim "*nullus commodum capere potest de injuria sua propria*" which means no person can take advantage of his own wrong. It is the tendency of a litigant to blame others for his own mistake. The Hon'ble Supreme Court in the matter of ***Municipal Committee Katra & others vs. Ashwani Kumar, AIR 2024 SUPREME COURT 2855*** in para 18 held as under:-

18. The situation at hand is squarely covered by the latin maxim 'nullus commodum capere potest de injuria sua propria', which means that no man can take advantage of his own wrong. This principle was applied by this Court in the case of Union of India v. Maj. Gen. Madan Lal Yadav observing as below: -

"28. ...In this behalf, the maxim nullus commodum capere potest de injuria sua propria - meaning no man can take advantage of his own wrong - squarely stands in the way of avoidance by the respondent and he is estopped to plead bar of limitation contained in Section 123(2). In Broom's Legal Maxim (10th Edn.) at p. 191 it is stated:

"... it is a maxim of law, recognised and established, that no man shall take advantage of his own wrong; and this maxim, which is based on elementary principles, is fully recognised in courts of law and of equity, and, indeed, admits of illustration from every branch of legal procedure."

The reasonableness of the rule being manifest, we proceed at once to show its application by reference to decided cases. It was noted therein that a man shall not take advantage of his own wrong to gain the favourable interpretation of the law. In support thereof, the author has placed reliance on another maxim frustra legis auxilium in-vocat quaerit qui in legem committit. He relies on Perry v. Fitzhowe [(1846) 8 QB 757 : 15 LJ QB 239] . At p. 192, it is stated that if a man be bound to appear on a certain day, and before that day the obligee puts him in prison, the bond is void. At p. 193, it is stated that "it is moreover a sound principle that he who prevents a thing from being done shall not avail himself of the non-performance he has occasioned". At p. 195, it is further stated that "a wrong doer ought not to be permitted to make a profit out of his own wrong". At p. 199 it is observed that "the rule applies to the extent of undoing the advantage gained where that can be

done and not to the extent of taking away a right previously possessed".

11. Admittedly, one of the petitioners made a complaint before the Head of the Examination Center on the date of examination but no objection was raised with regard to the examination pattern and after a few days, objections were raised in this regard. Thus the objections with regard to examination pattern were afterthought and were raised at a belated stage.
12. The Hon'ble Supreme Court in the matter of **G. Hemlatha (supra)** held that the instructions given in the OMR sheet have the force of law and errors committed by the candidates in filling up the circles of the digits of the roll number leading to rejection of such OMR Sheets would lead to rejection of candidature of such candidates and no mandamus can be issued to correct the OMR Sheets manually. In the present case also, the petitioners ignored instructions and committed mistakes in writing answers therefore no relief can be granted in their favor.
13. In **Tej Prakash Pathak (supra)**, it was held that candidates have a right to know before the selection process commences, the standards/criteria on which they will be assessed/evaluated so that they could modulate their level of preparedness accordingly. It is further held that if eligibility cut-off marks are to be prescribed, it should be done before the test or the interview so that both the examinee and the examiner are aware as to how many marks would qualify a candidate for further consideration. It is also observed and held that the basis of the doctrine is that the 'rules of the game' must not be changed during the course of the game, or after the game is played. However, the present is not a case where the rules of the game have been changed

midway, thus the aforesaid judgment would not apply to the facts of the present case.

14. The judgment rendered in ***Gudura Raja Surya Naveen (supra)*** cited by the petitioners deals with the evaluation of the answer sheets of candidates who made an error in not thickening/blackening the appropriate circles relating to one column or the other for hall ticket number, roll number etc.
15. In ***Harkirat Singh Ghuman (supra)***, it was a case where in the Main written examination for selection to Punjab & Haryana Superior Judicial Service Examination, 2019, there was no condition with regard to securing minimum marks in the Main written examination. Paper-V (Criminal Law) was of 200 marks but at the time of commencement of examination, questions handed over to the candidates were incomplete, whose common aggregate came to be 160 marks instead of prescribed 200 marks and despite repeated demands, respondents therein failed to provide the marks obtained by the candidates. It appears that facts of the ***Harkirat Singh Ghuman (supra)*** are entirely different from the present cases.
16. Present are not the cases where petitioners have committed some minor mistakes like mentioning wrong Roll Numbers, their respective categories, gender or any other trivial formalities.
17. In the light of the law and facts discussed above, in the considered opinion of this Court, no case is made out for interference, therefore, these petitions fail and are hereby **dismissed**. No cost(s).

Sd/-
Rakesh Mohan Pandey
JUDGE