



2025:CGHC:43888-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WA No. 586 of 2025

Saroj Kshemanidhi (V.I.H. Candidate) S/o Shri Kshemanidhi Aged About 27 Years Candidate In Exam 2019 Of Assistant Professor, Roll No. 190206100316, R/o H.No. 68/2, Rawatpara, Village And Post - Bhagdola (Correct Name Is Baghadola), Tahsil - Pussore, District - Raigarh (C.G.), Mb.- 8305186458, (Petitioner)

... Appellant

versus

1 - Chhattisgarh Public Service Commission Raipur Through The Secretary, Chhattisgarh Public Service Commission Raipur, Shankar Nagar Road, Raipur, Tahsil And District - Raipur, Chhattisgarh

2 - State Of Chhattisgarh Through The Secretary, Higher Education Department, Atal Nagar, New Raipur, Tahsil And District - Raipur, Chhattisgarh

... Respondents

(Cause title is taken from CIS)

For Appellant	: Mr. Saroj Kshemanidhi in Person
For Respondent No.1	: Mr. Anand Mohan Tiwari, Advocate
For Respondent/ State	: Mr. Y. S. Thakur, Additional Advocate General

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Bibhu Datta Guru, Judge

Order on Board

Per Ramesh Sinha, Chief Justice

29.08.2025

1. I. A. No.3/2025, application filed by Vijay Kumar Deshmukh, Advocate for withdrawal of his power as the appellant himself wants to argue the matter.
2. On due consideration and for the reasons mentioned in the application, the same is allowed and the appellant is permitted to argue the matter in person.
3. Heard Mr. Saroj Kshemanidhi, Appellant in Person. Also heard Mr. Y.S. Thakur, learned Additional Advocate General appearing for the respondent/ State as well as Mr. Anand Mohan Tiwari, learned counsel for the respondent No.1/ CGPSC.
4. The present writ appeal has been preferred by the appellant against the order dated 09.06.2025 passed by the learned Single Judge of this Court in WPS No.1329/2021 (Saroj Kshemanidhi vs. Chhattisgarh Public Service Commission, Raipur & Anr.), whereby the learned Single Judge has dismissed the writ petition.
5. The appellant/writ petitioner preferred the writ petition by contending that on 23.1.201, respondent No. 1/Chhattisgarh Public Service Commission (for short “the CGPSC”) issued an advertisement for total 1384 posts for Assistant Professor including 184 posts for commerce subject. The date for submission of applications through online was from 04.02.2019 to 05.03.2019. On 23.02.2019, respondent No. 1/CGPSC issued a corrigendum amending the number of posts for physical handicapped persons. The petitioner applied for the said post on 14.03.2019, appeared in the written test conducted by CGPSC on

05.11.2020 & 07.11.2020 and cleared the same, as such he was called for interview, however, he could not find place in the final selection list, hence this petition for issuing direction to respondent No. 1 CGPSC to issue corrigendum by providing reservation to the extent of 2% for blind and low vision for current vacancy as well as for backlog vacancies for commerce faculties of Assistant Professor. The petitioner has also prayed for restraining the respondent No.1 to fill up the vacancy in this category.

6. After hearing the parties, the learned Single Judge passed the impugned order observing as follows :-

13. The appointing authority being best judge to assess suitability of the candidates for its establishment or to run his administration and the Court normally should not direct employer to choose particular employee for particular assignment. The posts which are reserved for OA and OL of commerce faculty are looking to the nature of duty to be performed by them. This Court cannot lose sight of the fact that commerce and science faculty not only require to impart oral lecture but also require lot of writing of numerals and figures. The appointing authority in its wisdom taking into consideration this difficulty likely to be faced by them has chosen not to provide reservation to the persons with VH. This is a subjective matter of appointing authority which cannot be found faulty or warrants interference by this Court in view of limited scope of power of interference by this Court.

*14. The learned counsel for the petitioner to substantiate his submission has referred to the judgment rendered by Hon'ble the Supreme Court in case of **National Federation***

of Blind (supra). This judgment also supports the stand taken by the respondents as in paragraph 38 of the judgment, Hon'ble the Supreme Court has held that if a post is not suitable for one category of disability the same could be identified as suitable for another category or categories of disabilities entitled to the benefits of reservation. Similarly, the proviso to Section 34 of the Act of 2016 also empowered the appropriate Government to interchange the post within 5 categories with the prior approval of the appropriate Government. The State Government taking into consideration the difficulty likely to be faced by the VH candidate has already granted reservation for commerce faculty in OA and OL category. Thus, the judgment of Hon'ble Supreme Court as well as the Proviso Clause has been duly complied by the respondents. Therefore, the action of the respondent No. 2 in not providing reservation for persons with VH disability cannot be found faulty or illegal which warrants interference by this Court. Thus, the issue determined by this Court is answered against the petitioner by recording the finding that this Court in view of bar contained in Section 34 of the Act cannot issue Writ of Mandamus to the respondent No. 2 to provide 2% reservation for commerce faculty to the VH candidate as they have already provided reservation to OA and OL for commerce subject.

15. Accordingly, the Writ Petition sans merit and it is dismissed. The interim order passed by this Court on 24.03.2021 is vacated and the respondents are directed to issue appointment order within 60 days to a suitable candidate whose appointment has been deferred in view of the interim order passed by this Court."

7. The appellant/writ petitioner in person would submit that the impugned action of the respondent of not providing 2% reservation to blind and low vision person i.e. present petitioner in the subject Commerce, in the impugned advertisements for the post of Assistant Professor is bad-in-law as well as in facts and it is violation of fundamental rights of the petitioner and other blind and low vision candidates guaranteed under Article 16(1) of Constitution of India. He would further submit that in the earlier advertisement which was published on 10.09.2014 for the post of Assistant Professor reservation was granted to Visually Handicapped for Commerce subject, however, contrary to the previous advertisement, no reservation has been provided in the Advertisement dated 23.01.2019 as well as Corrigendum dated 23.02.2019. He would further submit that pursuant to order dated 26.03.2019 and final order dated 24.04.2019 the respondent has not considered reservation and no corrigendum has been issued. Thus, action of the respondents is arbitrary and illegal. He would submit that the learned Single Judge while passing the order impugned has not at all appreciated the entire facts of the case in its true perspective, therefore, he would pray for allowing the instant appeal; quashment of the impugned order passed by the learned Single Judge and also for allowing the writ petition.
8. On the other hand, learned counsel for respondent No. 1/CGPSC would submit that identification of the post for reserved category is the prerogative of the employer and they are only recruiting agency, as such, they have no authority to consider the claim of the petitioner,

however, he would submit that since the selection process has been completed by complying the procedure, direction issued by the State Government as well as the provisions of the Rights of Persons with Disabilities Act, 2016 (for short, “the Act of 2016”) and order passed by this Court in WPPIL No. 1470/2007 and WPS No. 1137/2019. He would submit that the learned Single Judge after appreciating the entire facts and circumstances of the case has rightly dismissed the writ petition and the same is just and proper and hence he prays for dismissal of the present appeal.

9. Learned counsel for respondent No. 2/ State while supporting the aforesaid submission of the CGPSC would submit that 100 point Roster has been followed in the recruitment process giving 7% amended reservation as per the order dated 10.04.2019 which has been issued as per the Policy dated 27.09.2014 framed by the State Government. As per the order, the post of Assistant Professor in Arts subjects has been identified for visually impaired candidates and no reservation has been provided to Science, Commerce and Computer Application, therefore, no illegality or infirmity has been committed by the respondents in not providing reservation to the visually impaired candidates. Even otherwise, the petitioner has participated in the examination without any demur and after being unsuccessful in the selection process he is raising the objection and as such the same is not sustainable. He would also submit that from the pleadings of the petitioner it is evident that he is not claiming any relief for himself and is trying to espouse a cause in the nature of public interest and as such

he has no locus in the instant appeal. Learned counsel would submit that the identification of the post for PH category in an establishment is the prerogative of the department as well as the State Government, hence the petitioner has no right to claim for identification of post in an establishment as a matter of right. Thus, at this belated stage, he cannot challenge the select list. According to the learned counsel, since the recruitment process has already been completed, nothing remains in this appeal for adjudication and hence the same may be dismissed.

10. We have heard learned counsel for the parties and perused the documents appended herein.
11. For the sake of convenience, it would be relevant to quote the provisions of Section 2(b), 33 & 34 of the Act, 2016, which read thus :

“2(b) "appropriate Government" means-

(i) in relation to the Central Government or any establishment wholly or substantially financed by that Government, or a Cantonment Board constituted under the Cantonments Act, 2006, the Central Government;

(ii) in relation to a State Government or any establishment, wholly or substantially financed by that Government, or any local authority, other than a Cantonment Board, the State Government.

33. Identification of posts for reservation - The appropriate Government shall-

(i) identify posts in the establishments which can be held by respective category of persons with

benchmark disabilities in respect of the vacancies reserved in accordance with the provisions of section 34;

(ii) constitute an expert committee with representation of persons with benchmark disabilities for identification of such posts; and

(iii) undertake periodic review of the identified posts at an interval not exceeding three years.

34. Reservation – *(1) Every appropriate Government shall appoint in every Government establishment, not less than four per cent. of the total number of vacancies in the cadre strength in each group of posts meant to be filled with persons with benchmark disabilities of which, one per cent. each shall be reserved for persons with benchmark disabilities under clauses (a), (b) and (c) and one per cent. for persons with benchmark disabilities under clauses (d) and (e), namely:-*

(a) blindness and low vision;

(b) deaf and hard of hearing;

(c) locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy;

(d) autism, intellectual disability, specific learning disability and mental illness;

(e) multiple disabilities from amongst persons under clauses (a) to (d) including deaf-blindness in the posts identified for each disabilities:

Provided that the reservation in promotion shall be in accordance with such instructions as are issued by the appropriate Government from time to time:

Provided further that the appropriate Government, in consultation with the Chief Commissioner or the State Commissioner, as the case may be, may, having regard to the type of work carried out in any Government establishment, by notification and subject to such conditions, if any, as may be specified in such notifications exempt any Government establishment from the provisions of this section.

(2) Where in any recruitment year any vacancy cannot be filled up due to nonavailability of a suitable person with benchmark disability or for any other sufficient reasons, such vacancy shall be carried forward in the succeeding recruitment year and if in the succeeding recruitment year also suitable person with benchmark disability is not available, it may first be filled by interchange among the five categories and only when there is no person with disability available for the post in that year, the employer shall fill up the vacancy by appointment of a person, other than a person with disability:

Provided that if the nature of vacancies in an establishment is such that a given category of person cannot be employed, the vacancies may be interchanged among the five categories with the prior approval of the appropriate Government.

(3) The appropriate Government may, by notification, provide for such relaxation of upper age limit for employment of persons with benchmark disability, as it thinks fit.”

12. From the above stated provisions of law, it is quite vivid that for initiating the recruitment process in the State Service, the State

Government will be the appropriate Government for identification of the posts for reservation and for providing reservation. Accordingly the State Government issued circular dated 27.09.2014. The Clause 3 of the Circular provides the identification of the services/posts for providing reservation to the persons with physical disability. This Clause further provides that list issued by the Social Welfare Department, Govt. of Chhattisgarh dated 25.09.2014 will be included in the identified posts but this list is not exhaustive and the head of the department has discretionary power to identify other posts but the posts which have been identified by the head of the department will not supersede the posts which have already been included in the list issued by the Social Welfare Department on 25.09.2014.

13. Clause 11 of the circular provides that a 100 point roster has to be prepared for providing reservation to the persons with physical disability and Clause 11 provides for maintaining the roster register. Clause 11(i) provides that all the vacancies posts which have to be filled up by direct recruitment shall be entered in the roster register and if the appointing authority does not find suitable particular to be reserved for persons with physical disability or if it finds that it has to be filled up from the categories of other disable persons, then also this post will be deemed to be reserved for persons with physical disability. This process has to be adopted uniformly for filling up all the categories of the posts which include Class I, II, III and IV. Accordingly, the appointing authority deems fit to provide reservation for OA and OL category candidates only as they have to impart

education and to work in the laboratory also or any other administrative work assigned to them by the Principle which may cause difficulty towards discharging their duties to the candidates who are suffering from eye disabilities.

14. The proviso to Section 34 of the Act of 2016 provides to interchange the post within 5 categories with the prior approval of the appropriate Government. The State Government taking into consideration the difficulty likely to be faced by the VH (Visually Handicapped or Visually Impaired) candidate has already granted reservation for commerce faculty in OA (one Arm) and OL (one Leg) category. Thus, the judgment of the Supreme Court as well as the Proviso Clause has been duly complied by the respondents. Therefore, the action of the respondent No. 2 in not providing reservation for persons with VH disability cannot be found faulty or illegal which warrants interference by this Court. Thus, the issue determined by this Court is answered against the petitioner by recording the finding that this Court in view of bar contained in Section 34 of the Act cannot issue Writ of Mandamus to the respondent No. 2 to provide 2% reservation for commerce faculty to the VH candidate as they have already provided reservation to OA and OL for commerce subject.
15. It is the trite law that a candidate taking a calculated chance by appearing in the examination after knowing fully well the procedural norms, eligibility qualifications and only because the result of examination was not palatable to him, could not turn around and subsequently, question the method of selection/ eligibility

qualification.

16. In the matter of **Madan Lal v. State of Jammu & Kashmir** reported in **(1995) 3 SCC 486** in similar fact situation, the Supreme Court has held that a candidate who consciously took part in the process of selection cannot turn around finding the decision unpalatable and question the method of selection. Paragraph 9 of the report states as under:-

"9. Before dealing with this contention, we must keep in view the salient fact that the Petitioners as well as the contesting successful candidates being Respondents concerned herein, were all found eligible in the light of marks obtained in the written test, to be eligible to be called for oral interview. Up to this stage there is no dispute between the parties. 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. In the case of Om Prakash Shukla v. Akhilesh Kumar Shukla¹ it has been clearly laid down by a Bench of three learned Judges of this Court that when the Petitioner appeared at the examination without protest and when he found that he would not succeed in examination he filed a petition challenging the said examination, the High Court should not have granted any relief to such a Petitioner."

17. Aforesaid judgment of the Supreme Court in **Madan Lal (supra)** has been followed with approval in the matters of **Dhananjay Malik and others v. State of Uttaranchal and others** reported in (2008) 4 SCC 171, **Vijendra Kumar Verma v. Public Service Commission, Uttarakhand and others** reported in (2011) 1 SCC 150, **Ramesh Chandra Shah and others v. Anil Joshi and others** reported in (2013) 11 SCC 309 and **Madras Institute of Development Studies and another v. Dr. K. Sivasubramaniyan and others** reported in AIR 2015 SC 3643.
18. In the matter of **Maharashtra State Board of Secondary and Higher Secondary Education and another v. Paritosh Bhupeshkumar Sheth and others** reported in (1984) 4 SCC 27, the Supreme Court has held that the courts should not ordinarily interfere in purely academic matters and should not substitute its own views by observing as under: -

“29. Far from advancing public interest and fair play to the other candidates in general, any such interpretation of the legal position would be wholly defeasive of the same. As has been repeatedly pointed out by this court, the Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day-to-day working of educational institutions and the departments controlling them. It will be wholly wrong for the Court to make a pedantic and purely idealistic approach to the problems of this nature, isolated from the actual realities and grass root problems involved in the working of the system and unmindful of the consequences which would emanate if a purely idealistic view as opposed to a pragmatic one were to be propounded. It is equally important that the Court should also, as far as possible, avoid any decision or interpretation of a statutory provision, rule or bye-law which would bring about the result of rendering the system unworkable in practice. It is unfortunate that this principle has not been adequately kept in mind by the High Court while deciding the instant case.”

19. From the material available on record, it is evident that the petitioner having appeared in recruitment process consciously and willingly, could not be allowed to question the process of selection. The petitioner took a calculated chance to get a berth in the said recruitment but finding that he was not selected, decided to file writ petition alleging that the selection process was not in accordance with law.
20. It is the trite law that ordinarily, the person who seeks a relief must have personal or individual right in the subject-matter and the word “ordinarily” includes, a person who has been prejudicially affected by an act or omission of an authority.

21. It is also the settled law that a person shall have no *locus standi* to file a writ petition if he is not personally affected by the impugned order or his fundamental rights have neither been directly or substantially invaded nor is there any imminent danger of such rights being invaded or his acquired interests have been violated ignoring the applicable rules. (See: *Vinoy Kumar v State of U.P. and Others*)¹.
22. Considering the entire facts and circumstances of the case, particularly considering the fact that after being unsuccessful in the selection process, the petitioner challenged the reservation roster and also the fact that he is not claiming any relief for himself and also the fact that he trying to expose the cause of public interest, we are of the considered view that the learned Single Judge has not committed any illegality, irregularity or jurisdictional error, warranting interference of this Court.
23. Accordingly, the writ appeal being devoid of merit is liable to be and is hereby **dismissed**.

Sd/-

(Bibhu Datta Guru)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice

S.Bhilwar/ Gowri

¹ (2001) 4 SCC 734

Head Note**WA No. 586 of 2025**

Under Section 34 of the Rights of Persons with Disabilities Act, 2016, the State is empowered to interchange vacancies among the five categories of specified disabilities if the nature of vacancies in an establishment does not permit employment of persons from a particular category; therefore, the reservation extended to candidates belonging to the “One Arm (OA)” and “One Leg (OL)” categories cannot be regarded as illegal.