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## HIGH COURT OF CHHATTISGARH AT BILASPUR

Judgment reserved on: 28.01.2026

Judgment delivered on: 03.02.2026

### WA No. 661 of 2025

Ravi Tiwari S/o Rampol Tiwari, Aged About 33 Years R/o 5N, Street 12, Bhilai Nagar, Civic Center, Bhilai, Dist Durg, Chhattisgarh

... Appellant

**versus**

1 - State Of Chhattisgarh Through Secretary, Department Of Panchayat And Rural Development Department, Mahanadi Bhavan, Mantralaya, Naya Raipur, District Raipur, C.G.

2 - Under Secretary Department Of Panchayat And Rural Development Department, Mahanadi Bhavan, Mantralaya, Naya Raipur, District Raipur, C.G.

3 - Engineer In Chief Department Of Rural Engineering Services, Vikas Bhawan, Sector 19, Nava Raipur, Dist Raipur, Chhattisgarh.

4 - B. Chnadrashekhar Presently Posted As Sub Engineer Rural Engineering Services, Raigarh Distt. Raigarh Chhattisgarh.

5 - Ravi Shankar Sahis Presently Posted As Sub Engineer Rural Engineering Services, Balrampur, Distt. Balrampur, Chhattisgarh

6 - Manish Dev Jain Presently Posted As Sub Engineer Rural Engineering Services, Ambikapur Distt. Sarguja, Chhattisgarh

7 - Sagar Marchattikar Presently Posted As Sub Engineer Rural Engineering Services, Durg, Distt. Durg Chhattisgarh

8 - Pallavi Bhardwaj Presently Posted As Sub Engineer Rural Engineering Services, Bilaspur, Distt. Bilaspur, Chhattisgarh

**9** - Shahina Anjum Khan Presently Posted As Sub Engineer Rural Engineering Services, Baloda Bazar, Distt. Baloda Bazar, Chhattisgarh

**10** - Shafak Siddiqui (deleted as per order dated 28.01.2026)

**11** - Jyoti Kujur Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Bhatapara Distt. Baloda Bazar Chhattisgarh

**12** - Hempushpa Patel Presently Posted As Sub Engineer Rural Engineering Services, Jagdalpur, Distt. Bastar, Chhattisgarh

**13** - Muvish Lahre Presently Posted As Sub Engineer Rural Engineering Services, Bijapur, Distt. Bijapur, Chhattisgarh

**14** - Raj Kishor Kapil Presently Posted As Sub Engineer Rural Engineering Services, Kawardha, Distt. Kabirdham, Chhattisgarh

**15** - Praveen Kumar Singh Presently Posted As Sub Engineer Rural Engineering Services, Surajpur, Distt. Surajpur, Chhattisgarh

**16** - Raj Kishore Tigga Presently Posted As Sub Engineer Rural Engineering Services, Ambikapur, Distt. Sarguja, Chhattisgarh

**17** - Arun Kumar Birje Presently Posted As Sub Engineer Rural Engineering Services, Rajpur, Distt. Balrampur, Chhattisgarh

**18** - Dinesh Kumar Singh Presently Posted As Sub Engineer Rural Engineering Services, Janpad Panchayat Pondi Uprora, Distt. Korba, Chhattisgarh

**19** - Manoj Kumar Markam Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Bagicha Distt. Jaspur Chhattisgarh

**20** - Mohammad Farhan Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Surajpur, Distt. Surajpur, Chhattisgarh

**21** - Heman Bhushan Dhariya Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Narharpur, Distt. Kanker, Chhattisgarh

**22** - Chhatrapal Sahu Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Kawardha, Distt. Kabirdham Chhattisgarh

**23** - Bhimdev Kurre Presently Posted As Sub Engineer Rural Engineering Services, Korba, Distt. Korba, Chhattisgarh

**24** - Bindu Dansena Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Pusaur Distt. Raigarh Chhattisgarh

**25** - Gitanjali Sahu Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Raipur (Dharsiwa), Distt. Dhamtari, Chhattisgarh

**26** - Manjari Behra Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Raigarh, Distt. Raigarh Chhattisgarh

**27** - Anjula Kanwar Presently Posted As Sub Engineer Rural Engineering Services, Bemetara, Distt. Bemetara Chhattisgarh

**28** - Yashkwat Jyoti Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Gurur, Distt Balod, Chhattisgarh

**29** - Neelam Sen Presently Posted As Sub Engineer Rural Engineering Services, Rajnandgaon, Distt Rajnandgaon, Chhattisgarh

**30** - Shraddha Kushwaha Presently Posted As Sub Engineer Rural Engineering Services, Collectorate Parisar Raipur, Distt Raipur, Chhattisgarh

**31** - Vinay Kumar Dewangan Presently Posted As Sub Engineer Rural Engineering Services, Dhamtari, Distt. Dhamtari, Chhattisgarh

**32** - Pramod Kumar Nirmalkar Presently Posted As Sub Engineer Rural Engineering Services, Baloda Bazar, Distt. Baloda Bajar Chhattisgarh

**33** - Manvendra Kumar Singh Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Surajpur, Distt. Surajpur, Chhattisgarh

**34** - Kamlesh Kumar Chandrakar Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Palari, Distt. Raipur Chhattisgarh

**35** - Virendra Kumar Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Ambikapur, Distt. Sarguja, Chhattisgarh

**36** - Alok Khobragade Presently Posted As Sub Engineer Rural Engineering Services, Rajnandgaon, Distt. Rajnandgaon, Chhattisgarh

**37** - Dharmendra Kumar Saw Presently Posted As Sub Engineer Rural Engineering Services, Janpad Panchayat Raigarh, Distt. Raigarh

Chhattisgarh

**38** - Amitesh Gupta Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Narayanpur Distt. Narayanpur Chhattisgarh.

**39** - Aditya Chandrakar Presently Posted As Sub Engineer Rural Engineering Services, Raipur, Distt. Raipur Chhattisgarh

**40** - Mohan Netam Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Dhamtari, Distt. Dhamtari Chhattisgarh

**41** - Zeeshan Kazi Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Katghora, Distt. Korba Chhattisgarh

**42** - Vividh Kumar Singh Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Chhindgar, Distt. Sukma Chhattisgarh

**43** - Avinash Raj Sinha Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Pratappur, Distt. Surajpur, Chhattisgarh

**44** - Vibhor Sahu Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Sahaspur Lohara Distt. Kabirdham Chhattisgarh

**45** - Anil Kumar Banjare Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Saraipali, Distt. Mahasamund, Chhattisgarh

**46** - Pradeep Kumar Baghel Presently Posted As Sub Engineer Rural Engineering Services, Janpad Panchayat Chhindgar Distt. Sukma Chhattisgarh

**47** - Sandeep Markam Presently Posted As Sub Engineer Rural Engineering Services, Janpad Panchayat Konta, Distt. Sukma Chhattisgarh

**48** - Ganga Kaushik Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Balod, Distt. Balod Chhattisgarh

**49** - Krishna Singha Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Donda, Distt. Balod Chhattisgarh

**50** - Tulika Sharma Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Baikunthpur Chhattisgarh

**51** - Varsha Patel Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Dongargaon, Distt. Rajnandgaon Chhattisgarh

**52** - Renu Sharma Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Bastar, Distt. Bastar Chhattisgarh

**53** - Lata Hasti Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Kawardha Distt. Kabirdham Chhattisgarh

**54** - Kirti Jaiswal Presently Posted As Sub Engineer Rural Engineering Services, Janpad Panchayat Sonhat, Distt. Koriya Chhattisgarh

**55** - Varsha Dubey Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Masturi, Distt. Mungeli, Chhattisgarh

**56** - Sangeeta Patel Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Baramkela Distt. Raigarh Chhattisgarh

**57** - Lakshmi Chandrakar Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Khairagarh, Distt. Rajnandgaon Chhattisgarh

**58** - Yogeshwari Sahu Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Kanker, Distt. Kanker Chhattisgarh

**59** - Monika Chandrakar Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Raipur (Mukhyalay) Distt. Raipur Chhattisgarh

**60** - Akanksha Singh Presently Posted As Sub Engineer Rural Engineering Services, Kawardha, Distt. Kabirdham Chhattisgarh

**61** - Santoshi Patel Presently Posted As Sub Engineer Rural Engineering Services, Raigarh Distt. Raigarh Chhattisgarh

**62** - Keshu Chandrakar Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Kawardha, Distt. Kabirdham Chhattisgarh

**63** - Salini Luv Toppo Presently Posted As Sub Engineer Rural Engineering Services, Surajpur Distt. Surajpur Chhattisgarh

**64** - Abhishek Bhardwaj Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Chhura, Distt. Gariaband Chhattisgarh

**65** - Evin Varghese Presently Posted As Sub Engineer Rural Engineering Services, Surajpur, Distt. Surajpur Chhattisgarh

**66** - Tamradhwaj Patel Presently Posted As Sub Engineer Rural Engineering Services, Surajpur, Distt. Surajpur Chhattisgarh

**67** - Praveen Tiwari Presently Posted As Sub Engineer Rural Engineering Services, Bemetara Distt Bemetara Chhattisgarh

**68** - Devesh Kumar Kherkar Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Tokapal Distt. Bastar Chhattisgarh

**69** - Vasudev Dhorte Presently Posted As Sub Engineer Rural Engineering Services, Janjgir Champa, Distt. Janjgir Champa Chhattisgarh

**70** - Rakhi Patel Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Baloda Distt. Janjgir-Champa Chhattisgarh

**71** - Lalita Bandrakar Presently Posted As Sub Engineer Rural Engineering Services, Sub Division Dhamtari, Distt. Dhamtari Chhattisgarh

**72** - Naseeb Kumar Kosle Presently Posted As Sub Engineer Rural Engineering Services, Raipur, Distt. Raipur Chhattisgarh

**73** - Ramsaroj Soni Presently Posted As Sub Engineer Rural Engineering Services, Raipur, Distt. Raipur Chhattisgarh

**... Respondent(s)**

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For Petitioner(s) : Mr. Shalvik Tiwari, Advocate

For Respondents : Mr. P.K. Bhaduri, Deputy Advocate General

No.1 to 3/State

For Respondents : Mr. Matin Siddiqui, Advocate

No.4, 15, 22, 33,

41, 43, 44, 51

For Respondents : Mr. Manoj Paranjape, Senior Advocate

No.5, 28, 32, 40, assisted by Mr. Kabeer Kalwani, Advocate

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52, 57, 58, 62, 71

For Respondents : Mr.Ankur Agrawal, Advocate

No.7, 8, 16, 31,

34, 39, 42, 46, 59

For Respondent : Mr.Rajeev Shrivastava, Senior Advocate

No.10 assisted by Ms.Kajal Chandra, Advocate

For Respondents : Mr.Moulik Shrivastava, Advocate

11, 12, 30, 50, 53,

54, 60

For Respondents : Mr.Vinod Kumar Sharma, Advocate

No.13, 72, 73

For Respondent : Ms.Debolina Maity, Advocate

No.20

For Respondents : Mr.Sudeep Johri, Advocate

No.24, 26, 27, 56,

61, 63, 70

For Respondent : Mr.Kishore Bhaduri, Senior Advocate assisted

No.55 by Mr.Pawan Kesharwani, Advocate

For Respondent : Dr.K.S.Chauhan, Senior Advocate assisted by

No.64 Mr.Ravi Prakash and Mr.Abhyuday Singh,  
Advocates

For Respondent : Mr.Tushar Dhar Diwan, Advocate

No.67

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**Hon'ble Shri Ramesh Sinha, Chief Justice**

**Hon'ble Shri Ravindra Kumar Agrawal, Judge**

**C.A.V. Judgment**

**Per Ramesh Sinha, Chief Justice**

1. Heard Mr.Shalvik Tiwari, learned counsel for the petitioner as well as Mr.P.K.Bhaduri, learned Deputy Advocate General appearing for respondents No.1 to 3/State, Mr.Matin Siddiqui, learned counsel appearing for respondents No.4, 15, 22, 33, 41, 43, 44,

51, Mr. Manoj Paranjape, learned Senior Advocate assisted by Mr. Kabeer Kalwani, learned counsel appearing for respondents No.5, 28, 32, 40, 52, 57, 58, 62, 71, Mr. Ankur Agrawal, learned counsel appearing for respondents No.7, 8, 16, 31, 34, 39, 42, 46, 59, Mr. Rajeev Shrivastava, learned Senior Advocate assisted by Ms. Kajal Chandra, learned counsel appearing for respondent No.10, Mr. Moulik Shrivastava, learned counsel appearing for respondents 11, 12, 30, 50, 53, 54, 60, Mr. Vinod Kumar Sharma, learned counsel appearing for respondents No.13, 72, 73, Ms. Deblina Maity, learned counsel appearing for respondent No.20, Mr. Sudeep Johri, learned counsel appearing for respondents No.24, 26, 27, 56, 61, 63, 70, Mr. Kishore Bhaduri, learned Senior Advocate assisted by Mr. Pawan Kesharwani, learned counsel appearing for respondent No.55, Dr. K. S. Chauhan, learned Senior Advocate assisted by Mr. Ravi Prakash and Mr. Abhyuday Singh, learned counsel appearing for respondent No.64 and Mr. Tushar Dhar Diwan, learned counsel appearing for respondent No.67.

2. The appellant has filed this writ appeal against the order dated 11.07.2025 passed by learned Single Judge in WPC No. 3571 of 2025 by which learned Single Judge has dismissed the writ petition filed by the writ petitioner / appellant herein.
3. Brief facts of the case are that the recruitment in question pertains to the posts of Sub Engineer (Civil) under the Department of

Panchayat and Rural Development, Government of Chhattisgarh. An advertisement for filling up 275 vacant posts was issued on 23.02.2011. The recruitment process was conducted by the Chhattisgarh Vyavsayik Pariksha Mandal (CG Vyapam), an autonomous body under the control of the State Government. The application process commenced on 28.02.2011 and the last date for submission of applications was 23.03.2011.

4. As per the terms of the advertisement and the applicable recruitment rules, candidates were required to possess the prescribed educational qualifications on or before the cut-off date. The eligibility criteria included 3-year diploma in Civil Engineering, or two-year Post Diploma in Rural Technology and Management, or an equivalent higher qualification.
5. After the written examination, 712 candidates were called for certificate verification. During verification, several candidates were found to be ineligible on various grounds, including non-possession of essential educational qualifications as on the cut-off date, invalid or absent caste certificates, over-age, and non-renewal of employment registration. A list dated 09.09.2011 was thereafter published categorising candidates as eligible, ineligible and doubtful. Despite the said classification, appointments were made in favour of several candidates who had been declared ineligible. Ultimately, 383 candidates came to be appointed, which exceeded the notified strength of 275 posts by 108 appointments,

giving rise to serious allegations of irregularity in the selection process.

6. A specific issue was raised with respect to 89 candidates who had acquired the requisite educational qualifications only after the last date of application, i.e. 23.03.2011. In pursuance of administrative directions issued under NSP-13, three committees were constituted vide Office Order dated 28.11.2016 to examine the said irregularities. All three committees, in their respective reports, concluded that the said 89 candidates were ineligible, as they did not possess the essential qualifications on the cut-off date, rendering their appointments void ab initio. Out of the said 89 appointees, 19 candidates vacated their posts; however, the remaining candidates, including Private Respondents No. 4 to 73, continue to hold the posts of Sub-Engineer (Civil). The matter was thereafter examined at the level of the Joint Secretary and Under Secretary, and it was noted in the official record that such appointments were illegal and liable to be cancelled. Notwithstanding the same, no action was taken by the State Government to terminate their services. It is also on record that the State Government initiated criminal proceedings against the officials involved in the recruitment process by filing an application under Section 156(3) CrPC. Pursuant thereto, FIR No. 225/2022 dated 16.04.2022 was registered at Police Station Civil Lines, Raipur. However, despite initiation of criminal action against the appointing authorities, the services of the allegedly ineligible

appointees were not terminated and they continue to draw salary from the State exchequer.

7. Aggrieved by the continued inaction of the State authorities, the appellant approached this Court seeking issuance of a writ of quo warranto by way of WPC No.3571/2025. Learned Single Judge dismissed the writ petition on the ground of lack of locus standi. The appellant has assailed the said order in the present writ appeal, contending that in a petition seeking a writ of quo warranto, locus standi is immaterial where the appointment is contrary to statutory rules and the appointees lack the prescribed eligibility.
8. Mr. Shalvik Tiwari, learned counsel for the appellant submits that the action of the respondent State, as emerging from the record, reflects a degree of arbitrariness and callousness which cannot be countenanced in matters relating to public employment. Appointments to public posts are required to be made strictly in accordance with the statutory rules and the eligibility criteria prescribed for the post. Any deviation therefrom strikes at the very root of fairness and transparency in public administration. It is evident that the recruitment process pursuant to the advertisement dated 23.02.2011 specifically required candidates to possess the prescribed educational qualifications and valid certificates as per the terms of the advertisement. The eligibility criteria mandated a three-year Diploma in Civil Engineering or a two-year Post

Diploma in Rural Technology and Management or an equivalent higher qualification. Compliance with the said requirement on the relevant date was a sine qua non for appointment. The record further discloses that, although only 275 posts were notified, as many as 383 candidates came to be appointed, resulting in 108 excess appointments. Such appointments, made beyond the notified vacancies, by themselves indicate serious irregularities in the selection process and cannot be sustained in law. He further submits that a specific issue relating to 89 candidates, who had admittedly acquired the essential educational qualifications after the cut-off date of 23.03.2011, was examined by three committees constituted vide office order dated 28.11.2016 pursuant to administrative note NSP-13. All the committees uniformly concluded that the said candidates were ineligible as they did not possess the requisite qualifications on the last date of application, and consequently, their appointments were void ab initio. Despite such categorical findings, and notwithstanding the fact that the matter was examined at the level of the Joint Secretary and Under Secretary with notesheets clearly recording that the appointments were illegal and liable to be cancelled, no effective action was taken by the respondent State. While 19 such appointees vacated their posts, the remaining candidates, including Private Respondente No. 4 to 73, continue to hold public office and discharge duties on posts to which they were never legally entitled. He also submits that the inaction of the State becomes even more

inexplicable in light of the fact that criminal proceedings were initiated against the officials responsible for the illegal recruitment. An application under Section 156(3) CrPC was filed by the State Government itself, leading to registration of FIR No. 225/2022 dated 16.04.2022 at Police Station Civil Lines, Raipur. However, initiation of criminal proceedings against the selecting authorities has not been followed by any corresponding action to annul the illegal appointments. It is a settled principle of service jurisprudence that a person who does not possess the essential qualifications prescribed for a post cannot lawfully be appointed to that post, and any appointment made in contravention of the statutory rules is void *ab initio*. Subsequent acquisition of qualification does not cure the initial illegality, nor can an ineligible appointee claim any right to continue in public service. Appointments to public offices must be in strict conformity with the statutory scheme governing the field. Any appointment made in violation of such scheme is without authority of law. In the present case, the continued retention of candidates who admittedly lacked the prescribed qualifications on the relevant date amounts to permitting usurpation of public office, which cannot be sustained in the eyes of law. As such, the writ appeal deserves to be allowed and the impugned order passed by learned Single Judge deserves to be set aside. Consequently, the writ petition deserves to be allowed by issuance of a writ of quo warranto against the private respondents holding the posts of Sub Engineer (Civil), Rural

Engineering Services under the Department of Panchayat and Rural Development, declaring that they are not eligible to hold the said posts. The State Government be further directed to take appropriate steps to cancel and/or debar private respondents No. 4 to 73 from continuing to work on the posts of Sub Engineer (Civil), Rural Engineering Services under the Department of Panchayat and Rural Development, in the interest of justice. He relied upon the judgments of the Supreme Court in the matters of **Central Electricity Supply Utility of Odisha v. Dhobei Sahoo & Ors., (2013) 14 S.C.R. 621 (para 18)**, **Amrit Yadav v. The State of Jharkhand and Ors., (2025) 3 S.C.R. 24 (paras 19, 31 & 36)**, **Sakshi Arha v. The Rajasthan High Court & Ors (2025) 4 S.C.R. 714 (paras 27 & 28)** and **Tej Prakash Pathak & Ors. v. Rajasthan High Court & Ors.(2024) 12 S.C.R. 28 (para 42)**.

9. On the other hand, Mr.P.K.Bhaduri, learned Deputy Advocate General appearing for respondents No.1 to 3/State opposes the submissions made by learned counsel for the appellant and submits that the private respondents were duly selected and appointed to the post of Sub Engineer (Civil) under the Rural Engineering Services, Department of Panchayat and Rural Development. It is not disputed that pursuant to the selection process conducted for 275 posts of Sub Engineer (Civil), an issue arose regarding the eligibility of certain candidates with respect to possession of the minimum educational qualification as on the date of application. Upon due consultation and deliberation, the

Department took a conscious decision that this was not a case where the selected candidates lacked the prescribed minimum educational qualification, namely Diploma in Civil Engineering or B.E. (Civil), as required under the advertisement. Since the selected candidates had acquired the requisite qualification, it was appropriate and lawful for the Department to grant appointments to the private respondents. He further submits that considering the fact that the selected candidates have rendered a considerable length of service in the Department and were otherwise fulfilling the mandatory educational qualifications prescribed under the recruitment rules and the advertisement, a policy decision was taken not to disturb their services. He also submits that the respondent Department has not lodged any FIR alleging fraud against the selected candidates. One Bhartendu Kumar Kamal filed a private complaint against certain candidates alleging offences punishable under Sections 420 and 468 of the IPC. Cognizance was taken on the said complaint and an FIR was registered on 16.04.2022, pursuant to which investigation is presently pending. He contended that the allegation made by the appellant that the private respondents were not qualified in terms of the recruitment rules and the advertisement is emphatically denied. The private respondents possessed the minimum educational qualification required for appointment to the post of Sub Engineer (Civil) strictly in accordance with the relevant statutory rules. The appellant has alleged that 383 appointments

were made pursuant to the advertisement dated 23.02.2011, exceeding the notified vacancies of 275 posts, thereby rendering the recruitment process illegal. It is not disputed that the advertisement initially notified 275 vacancies. However, the advertisement itself clearly stipulated that the number of vacancies was variable. VYAPAM conducted the examination and prepared a merit list of 1419 candidates. Subsequently, in view of the departmental requirements, due sanction and approval were obtained from the competent authority, and appointment orders were issued against 492 sanctioned vacant posts. Therefore, the appointments made beyond 275 posts are legally permissible and the contention raised by the appellant is untenable. He further contended that the issue regarding acquisition of educational qualification after the cut-off date, i.e., 23.03.2011, was examined by three separate committees. It was found that 89 appointees had acquired the requisite qualification after the cut-off date and were, therefore, ineligible. However, the cases of the present private respondents were examined independently and it was found that they possessed the mandatory minimum educational qualification as on the cut-off date. Hence, there is no illegality in continuing their services. The appellant's allegation that notesheets at the level of Joint Secretary and Under Secretary concluded that the appointments were illegal and liable to be cancelled is categorically denied. At no point was it concluded that the appointments were illegal. The matter was examined at multiple

levels with respect to possession of minimum educational qualifications, and upon being satisfied that the private respondents fulfilled the eligibility criteria, appointment orders were issued and acted upon. He also contended that the allegation that the State Government itself moved an application under Section 156(3) CrPC against officials responsible for illegal appointments is wholly incorrect. It was the private complainant, Bhartendu Kumar Kamal, who approached the learned Magistrate under Section 156(3) CrPC, pursuant to which the FIR dated 16.04.2022 was registered. The State Government has not initiated such proceedings and mere registration of an FIR does not warrant cancellation of appointments, particularly when the investigation is still pending and no finding of criminal conspiracy or wrongdoing has been recorded against the private respondents. Premature cancellation would be arbitrary and unjustified. The advertisement dated 23.02.2011 expressly provided that the final decision regarding eligibility or ineligibility of candidates shall rest with the Development Commissioner, Chhattisgarh, Raipur. Unless this condition itself is challenged, the appellant cannot question the exercise of powers vested in the competent authority.

10. Mr. Bhaduri emphasizes that the appellant has no locus standi to challenge the appointments made under the advertisement dated 23.02.2011, as the appellant has failed to establish any direct legal or personal stake in the matter. The appellant is not one of the candidates who applied for the post of Sub Engineer (Civil), nor is

he personally aggrieved by the appointments. Consequently, any grievance raised by the appellant regarding the appointments made beyond the initially notified 275 posts or the qualifications of the selected candidates must be seen in the light of the appellant's indirect interest, which does not confer the necessary locus standi to initiate or pursue the writ appeal. The dispute at hand pertains to the legitimacy of the appointments made for the positions of Sub Engineer (Civil) in the Rural Engineering Services, which concerns the State's recruitment process. The State has already taken all required actions in accordance with its statutory rules, as well as examined the eligibility of the selected candidates. The matter of qualification and eligibility was comprehensively reviewed by multiple committees, and the Department took the view that the private respondents meet the requisite qualifications as stipulated in the advertisement, particularly with respect to the educational qualifications acquired on or before the cut-off date. As such, the writ appeal deserves to be dismissed. He relied upon the judgment of this Court in **Virendra Pandey v. State of C.G. and another, 2016 SCC OnLine Chh 2428** and the judgment of the Supreme Court in **Dhampur Sugar (Kashipur) Ltd. v. State of Uttarakhand and others, (2007) 8 SCC 418 (para 83)**.

11. Dr.K.S.Chauhan, learned Senior Advocate assisted by Mr.Ravi Prakash and Mr.Abhyuday Singh, learned counsel appearing for respondent No.64 submits that the allegations raised by the learned counsel for the appellant regarding the alleged ineligibility

of respondent No. 64 are wholly misconceived, factually incorrect, and contrary to the material available on record. It is submitted that respondent No. 64, namely Mr. Abhishek Bhardwaj, had duly acquired the degree of Bachelor of Rural Technology & Management from Guru Ghasidas University, Bilaspur (C.G.) in the year 2009, and the declaration of his final result was made on 11.06.2009, i.e., much prior to the cut-off date prescribed under the advertisement dated 23.02.2011. Further, respondent No. 64 subsequently acquired his Master's Degree in M.Sc. Rural Technology from the same University during the session 2010–2011, as evidenced by Annexure R-2, thereby possessing a qualification higher than the minimum educational qualification prescribed in the advertisement. It is also submitted that pursuant to the selection process, the official respondent issued order dated 28.04.2012, wherein the name of respondent No. 64 appears at Serial No. 7, and the appointment was made subject to a probation period of two years (Annexure R-3). In pursuance thereof, respondent No. 64 joined service on 02.05.2012, as evidenced by Annexure R-4. Upon successful completion of the probation period and after due verification of all credentials, the services of respondent No. 64 were duly confirmed by the competent authority vide order dated 16.12.2016, which is on record as Annexure R-5. This confirmation itself establishes that respondent No. 64 was found fully eligible and suitable for the post after thorough scrutiny. Learned Senior Advocate also submits that although a committee

was constituted by the State Government to examine alleged discrepancies in the recruitment process and an FIR No. 225/2022 dated 16.04.2022 was registered at Police Station Civil Lines, Raipur, the mere registration of an FIR cannot, in law or fact, invalidate a lawful appointment which had already attained finality after confirmation of service. It is further submitted that respondent No. 64 fully satisfied all eligibility conditions prescribed in the advertisement dated 23.02.2011, including:

- being a native of Chhattisgarh, as evidenced by the domicile certificate (Annexure R-7); and
- being registered with the District Employment Exchange, Bilaspur, on 03.08.2010, well prior to the cut-off date (Annexure R-8).

In view of the above facts and circumstances, the submissions made by the learned counsel for the appellant alleging ineligibility of respondent No. 64 are liable to be rejected, and the appointment and continuation of respondent No. 64 deserves to be upheld. He relied upon the judgment of this Court in the matter of **Raman Sahani v. State of Chhattisgarh, through the Additional Chief Secretary and Others, 2023 SCC OnLine Chh 883 (paras 8, 10, 17, 30, 31 & 32)** and the judgment of the Supreme Court in the matter of **University of Mysore v. C.D. Govinda Rao and another, AIR 1965 SC 491**.

12. Mr.Kishore Bhaduri, learned Senior Advocate assisted by

Mr.Pawan Kesharwani, learned counsel for respondent No.55 submits that the present writ appeal is wholly misconceived, devoid of merit, and liable to be dismissed at the threshold, as it seeks to reopen a concluded selection process after an inordinate delay, without any specific or substantiated allegation against the respondent. It is submitted that respondent No. 55, Ms. Varsha Dubey, possessed the requisite educational qualification well before the cut-off date prescribed under the advertisement dated 23.02.2011. She obtained her Bachelor of Rural Technology & Management from Guru Ghasidas University, Bilaspur (C.G.), with the final result declared on 14.07.2009, which squarely satisfies the eligibility criteria of "higher educational qualification" as mentioned in the advertisement. The contrary observation in the verification report alleging acquisition of qualification after the cut-off date is factually incorrect and demonstrably erroneous. He further submits that respondent No. 55 further obtained her M.Sc. Rural Technology in the year 2011, strengthening her academic credentials. Pursuant to a valid selection process, her name appeared in the appointment order dated 22.03.2012, and she joined service on 30.03.2012 after due compliance with all conditions, including probation. After successful completion of the prescribed probation period, the services of respondent No. 55 were confirmed vide order dated 27.09.2016, following full verification of eligibility, documents, and service record. This confirmation itself reflects that the competent authority, after due

scrutiny, found no infirmity in her appointment. He also submits that respondent No. 55 is a native of Chhattisgarh and was duly registered with the District Employment Exchange, Bilaspur on 03.10.2009, i.e., much prior to the cut-off date. Hence, all essential eligibility conditions stood satisfied at the relevant time. He contended that it is not disputed that the State Government has constituted a high-level committee to examine alleged irregularities in recruitment and has initiated criminal proceedings against persons allegedly responsible for illegal appointments. It is well settled by a catena of judgments of the Hon'ble Supreme Court that a writ of quo warranto can be issued only when the appointment is ex facie illegal and contrary to statutory provisions.

13. Mr. Tushar Dhar Diwan, learned counsel appearing for respondent No. 67 – Praveen Tiwari, submits that respondent No. 67 cleared his B.E. (Civil) examination in the year 2010. Upon declaration of the result, he became eligible for issuance of a provisional degree, on the basis of which he applied pursuant to the advertisement dated 23.03.2011. Thereafter, respondent No. 67 received his permanent degree, which was issued on 26.08.2011 (copy annexed with the reply as Annexure R/67/1). The degree certificate clearly certifies that respondent No. 67 secured Second Class in the year 2010. Therefore, it is submitted that respondent No. 67 possessed the requisite qualification as on the cut-off date, as he was eligible for the provisional degree upon declaration of his result in the year 2010. Learned counsel further submits that the

petitioner as well as the respondent-department have misinterpreted the date of issuance of the permanent degree as the date of acquisition of qualification, whereas, in fact, respondent No. 67 became qualified on the date of declaration of the result. In support of his submission, reliance was placed upon the judgment of the Hon'ble Supreme Court in **Rakesh Kumar Sharma v. State (NCT of Delhi) and Others, (2013) 11 SCC 58**, wherein it has been held that a person possesses the requisite qualification only on the date of declaration of the result. Paragraph 21 of the said judgment reads as under:

“21. ... The legal proposition that emerges from the settled position of law as enumerated above is that the result of the examination does not relate back to the date of examination. A person would possess qualification only on the date of declaration of the result ....”

It was further submitted that though the registration with the Employment Exchange was obtained on 13.07.2011, i.e., after submission of the application pursuant to the advertisement, this issue stands settled by the Full Bench of this Court in **State of Chhattisgarh and another v. Roshni Sahu, Writ Appeal No. 411/2014**, decided on 21.10.2016, wherein it has been held that mandating production of a live employment exchange registration certificate on the cut-off date is neither permissible nor can it be made mandatory as a pre-condition for offering employment when the candidate is otherwise meritorious and has secured a position in the select list.

14. Mr. Main Siddiqui, learned counsel appearing for respondents No.4, 15, 22, 33, 41, 43, 44 and 51 submits that the advertisement dated 23.03.2011 did not prescribe any specific cut-off date for possession of the requisite educational qualification. The respondents were in the final semester of their engineering course at the time of the advertisement and successfully completed the degree during the selection process and prior to appointment. In the absence of a prescribed cut-off date, the settled position of law is that the qualification must be acquired before completion of the selection process, which condition was duly satisfied. He further submits that the issue regarding eligibility of final-semester candidates was duly examined by the competent authority. Pursuant to departmental proceedings dated 26.08.2011 and the clarification issued by the Joint Secretary on 17.11.2011, candidates who had appeared in the final semester examination but whose degrees were yet to be issued were held eligible, with provision for reserving seats till issuance of degrees. The respondents were considered strictly in accordance with this uniform and reasoned departmental decision. He also submits that the respondents were never declared ineligible. They were placed in the "doubtful" category only pending clarification and were considered after issuance of the departmental decision dated 17.11.2011. Their selection was based purely on merit and not on any arbitrary or preferential treatment. The allegation regarding non-registration or non-renewal of employment exchange

registration is denied. In any event, registration with the employment exchange was neither a mandatory requirement under the recruitment rules nor under the advertisement. The Full Bench judgment of this Court in **Roshni Sahu** (supra), relying upon **Union of India v. Pritilata Nanda, (2010) 11 SCC 674** conclusively settles that absence of live registration cannot invalidate a merit-based selection. He contended that the increase in the number of posts during the recruitment process was carried out strictly in accordance with law and administrative approval. Approval was granted for filling up 526 posts vide letter dated 29.02.2012, prior to finalization of the selection process. The respondents were appointed within the sanctioned strength and after due process. The allegation that appointments exceeded the advertised posts is factually incorrect and misleading. Appointments were made only against duly approved and sanctioned vacancies. The allegation that an FIR was filed by the State Government against the respondents is false. The FIR referred to was lodged by a private individual and not by any government authority, and the appellant has deliberately attempted to mislead the Court by attributing it to the State. He contended that complaints regarding the recruitment were subsequently examined by the competent authorities, and vide orders dated 07.08.2020 and 14.08.2020, the appointments were found to be valid and in compliance with eligibility criteria, leading to closure of the matter. In view of the above facts, departmental clarifications,

settled legal position, and findings of competent authorities, the writ appeal is devoid of merit and deserves to be dismissed. He relied upon the judgment of the Supreme Court in the matter of **Sanjay Kumar Mishra and Ors. v. District Judge, Ambedkar Nagar (U.P.), MANU/SC/1441/2025.**

15. Mr. Ankur Agrawal, learned counsel appearing for respondents No.7, 8, 16, 31, 34, 39, 42, 46 and 59 adopted the submissions made by Mr. Matin Siddiqui, learned counsel appearing for respondents No.4, 15, 22, 33, 41, 43, 44 and 51.
16. Mr. Manoj Paranjape, learned Senior Advocate assisted by Mr. Kabeer Kalwani, learned counsel appearing for respondents No.5, 28, 32, 40, 52, 57, 58, 62 and 71 submits that it is an admitted position that the aforesaid respondents were appointed during 2011–12 and have rendered uninterrupted service for about 14 years. They neither committed any fraud nor made any misrepresentation at any stage. Their selection was merit-based, followed by successful completion of probation, regularisation, and in some cases even promotion. At this belated stage, they cannot be penalised for no fault of theirs. He further submits that the respondents applied pursuant to advertisement dated 23.02.2011, appeared in the written examination held on 24.04.2011, were placed in the select list dated 19.05.2011, and were thereafter called for document verification. The verification process commenced in June 2011 and continued up to July 2012. The

respondents produced their educational qualifications within the extended verification period, as permitted by the authorities. He also submits that though the respondents were in the final year of Degree/Diploma courses on the date of advertisement, this issue was examined at the highest administrative level. Official note sheets dated 26.08.2011 and the decision dated 17.11.2011, issued after consultation with the General Administration Department, clearly permitted candidates appearing in final examinations to be considered and to submit qualifications at the time of counselling. Equal opportunity was afforded to all such candidates. Repeated complaints regarding participation of final-year students were examined by the State Government, Law and Legislative Department, and other competent authorities. Note sheets dated 05.12.2018 and 07.08.2020 categorically recorded that the candidates were not at fault, had made no misrepresentation, and that the appointments were in accordance with administrative decisions. The matter was accordingly closed. He contended that the FIR relied upon by the appellant arose from a private complaint under Section 156(3) CrPC and not from any governmental finding. The respondents have already been granted anticipatory bail by this Court. The FIR, by itself, cannot invalidate long-settled appointments, particularly when departmental inquiries have exonerated the aforesaid respondents. He further contended that the advertisement did not stipulate that the educational qualification must be possessed on the date of application.

Consequently, several final-year students applied. In the absence of a specific cut-off date, qualifications acquired before appointment are legally sufficient, especially when permitted by a conscious policy decision. Initially, 275 posts were advertised, which were later enhanced to 526 by order dated 29.02.2012. Out of 1419 candidates who appeared, only 492 were appointed and many posts remained vacant due to non-availability of eligible candidates. In this background, the State took a pragmatic decision to consider final-year candidates. Even today, 363 candidates from the same selection are continuing in service. He also contended that after 14 years of service, regularisation, and promotions, the respondents' appointments cannot be set aside on a technical objection regarding the date of qualification. Courts have consistently held that innocent appointees should not be made to suffer for administrative decisions. The Recruitment Rules of 1999 were applicable. Rule 10 empowers the Selection Committee to determine eligibility, whose decision is final, and Rule 20 confers power upon the State Government to relax the rules. The respondents' cases were considered and approved in exercise of these statutory powers. In the first round of counselling, candidates already possessing qualifications were considered. Thereafter, pursuant to the State Government's decision, the respondents were considered in the second round, their documents verified, and appointment orders issued. This phased process was transparent and lawful. Considering the aforesaid

facts, the writ appeal deserves to be dismissed. He relied upon the judgment of the Supreme Court in the matter of **Vikas Pratap Singh and others v. State of Chhattisgarh and others, (2013) 14 SCC 494 (paras 20, 22, 23, 24 and 27).**

17. Mr. Sudeep Johri, learned counsel appearing for respondents No.24, 26, 27, 56, 61, 63 & 70, Mr.Moulik Shrivastava, learned counsel appearing for respondents No.11, 12, 30, 50, 53, 54 & 60, Mr.Vinod Kumar Sharma, learned counsel appearing for respondents No.13, 72 & 73 and Ms.Debolina Maity, learned counsel appearing for respondent No.20 adopted the submissions made by Mr.Manoj Paranjape, learned Senior Advocate appearing for respondents No.5, 28, 32, 40, 52, 57, 58, 62 and 71.

18. We have heard learned counsel appearing for the parties, considered their rival submissions made hereinabove, and also went through the through the records with utmost circumspection.

19. The advertisement issued by the office of the Development Commissioner dated 23.02.2011 states as under:-

विकास आयुक्त, कार्यालय  
छत्तीसगढ़, रायपुर  
विज्ञापन

विज्ञापन क्रमांक 947/बि-2/स्था./2011 / 2010

दिनांक 23-2-2011

भारतीय नागरिक और छत्तीसगढ़ शासन द्वारा मान्य श्रेणियों के उम्मीदवारों से छत्तीसगढ़ शासन, विभाग एवं ग्रामीण विकास विभाग, के अधीन उप अभियंता (सिविल), के रिक्त पदों की भर्ती हेतु निम्नलिखित कार्यों एवं प्रक्रियानुसार आवेदकों से छत्तीसगढ़ व्यावसायिक परीक्षा मण्डल, रायपुर द्वारा निर्धारित ओ.एम.आर. आवेदन पत्र आमंत्रित किये जाते हैं –

आवेदन पत्र डाकघर से प्राप्त करने की तिथि	: 28.02.11 से 21.03.11 तक
आवेदन पत्र डाकघर में जमा करने की अंतिम तिथि	: 23.03.2011
परीक्षा तिथि	: दिनांक – 24.04.2011
दिन – रविवार	

## खण्ड "अ"

रक्त पद, विभागीय नियम एवं पाठ्यक्रम

1. (अ) पद का नाम	— उप अभियंता (सिविल)
	(सेवा श्रेणी – तृतीय श्रेणी कार्यपालिक)
वेतनमान	— रु. 9300–348000 + ग्रेड वेतन 4200/-
	प्रतिमाह एवं अन्य भत्ता देय ।

संभावित रिक्तियों की संख्या — 272 पद

कुल 275 पदों हेतु आरक्षण की स्थिति निम्नानुसार है :-

क्र.	पद विभाग का नाम	(अ) कुल पद श्रेणीवार				(ब) कालम (अ) में दर्शाये गई कुल रिक्त पदों में से महिलाओं के लिए आरक्षित पदों की संख्या				(स) कालम (अ) में दर्शाये कुल पदों में से विकलांक	(द) कालम (अ) में दर्शाये कुल पदों में से भूतपूर्व सैनिकों के लिए				कालम (अ) का योग
		UR	SC	ST	OB	UR	SC	ST	OB		UR	SC	ST	OB	
1	उपभियंता (सिविल) पंयायत एवं ग्रामीण विकास विभाग	137	44	55	39	41	13	17	12	UR – 8 SC – 3 ST – 3 OB – 2	12	4	5	4	275
		137	44	55	39	41	13	17	12	16	12	4	5	4	275

टीप - UR = अनारक्षित, SC = अनुसूचित जाति, ST = अनुसूचित जनजाति, OBC = अन्य पिछड़ा वर्ग

पदों की संख्या परिवर्तनीय है ।

From perusal of the advertisement, it appears that the last date for submitting the application form at the post office is 23<sup>rd</sup> March 2011 and the tentative number of vacancies is 272. It is also stated that the number of posts is variable.

20. From a perusal of Annexure P/3 at page 55 of the writ petition, it transpires that the Joint Secretary, in his note sheet, recorded that the note dated 31.03.2017 submitted by the Legal Assistant, Raipur, be perused. As per the said note, Departmental Order No. 4229/2121/22/Vi-3/Grayanse/2011 dated 17.11.2011, addressed to the Development Commissioner, Chhattisgarh, Raipur, whereby permission was granted to consider the names of candidates on the basis of their appearance in the final year/final semester examination of the academic session 2010–11, was not found to be legally proper. Therefore, in respect of the 89 Sub-Engineers listed at Serial Nos. 22 to 31, who acquired the requisite educational qualification after the last date of the Vyapam advertisement, i.e., 23.02.2011, it was noted that it would be appropriate to obtain administrative approval for issuing one month's prior notice prior to passing orders for cancellation of their appointments and termination of their services. The matter was accordingly submitted for consideration to the Hon'ble Minister, with a request to give his opinion as to what action should be taken against those found responsible in the process.

21. The Supreme Court in the matter of **Dhobei Sahoo** (supra) has held as under:-

“18. From the aforesaid exposition of law it is clear as noon day that the jurisdiction of the High Court while issuing a writ of quo warranto is a limited one and can only be issued when the person holding the public

office lacks the eligibility criteria or when the appointment is contrary to the statutory rules. That apart, the concept of locus standi which is strictly applicable to service jurisprudence for the purpose of canvassing the legality or correctness of the action should not be allowed to have any entry, for such allowance is likely to exceed the limits of quo warranto which is impermissible. The basic purpose of a writ of quo warranto is to confer jurisdiction on the constitutional courts to see that a public office is not held by usurper without any legal authority. While dealing with the writ of quo warranto another aspect has to be kept in view. Sometimes a contention is raised pertaining to doctrine of delay and laches in filing a writ of quo warranto. There is a difference pertaining to personal interest or individual interest on one hand and an interest by a citizen as a relator to the court on the other. The principle of doctrine of delay and laches should not be allowed any play because the person holds the public office as a usurper and such continuance is to be prevented by the court. The Court is required to see that the larger public interest and the basic concept pertaining to good governance are not thrown to the winds."

22. The Supreme Court in **Amrit Yadav** (supra) has held as under:-

"19. Thus, the advertisements which fail to mention the number of posts available for selection are invalid and illegal due to lack of transparency. This Court further expounded in Renu (supra) that any appointment in violation of the mandate of Articles 14 and 16 of the Constitution of India is not only irregular but also illegal and cannot be sustained. It is a trite law that a valid

advertisement inviting applications for public employment must include the total number of seats, the ratio of reserved and unreserved seats, minimum qualification for the posts and procedural clarity with respect to the type and manner of selection stages, i.e., written, oral examination and interviews.

31. In our view, since the very selection and appointment of the appellant-employee was a nullity in the eyes of law, the learned Single Judge committed no error in directing the respondent-State to prepare fresh panel of selected candidates without hearing the candidates who were likely to get affected. In this regard, we are benefitted by the decision of this Court in *Union of India v. Raghuwar Pal Singh*, (2018) 15 SCC 463, wherein, it was held that when the appointment of the candidates is a nullity in law making them disentitled to hold the posts, the principles of natural justice were not required to be complied with, particularly when the same would be nothing short of an exercise in futility. The relevant portion is extracted hereinbelow: -

“20. For taking this contention forward, we may assume, for the time being, that the then Director Incharge H.S. Rathore, Agriculture Officer had the authority to issue a letter of appointment. Nevertheless, he could do so only upon obtaining prior written approval of the competent authority. No case has been made out in the original application that due approval was granted by the competent authority before issuance of the letter of appointment to the respondent. Thus, it is indisputable that no prior approval of the competent authority was given for the appointment of the respondent. **In such a case, the next logical issue that arises for consideration is : whether the appointment letter issued to the respondent, would be a case of nullity or a mere irregularity? If it is a case of nullity, affording opportunity to**

**the incumbent would be a mere formality and non-grant of opportunity may not vitiate the final decision of termination of his services.** The Tribunal has rightly held that in absence of prior approval of the competent authority, the Director Incharge could not have hastened issuance of the appointment letter. The act of commission and omission of the then Director Incharge would, therefore, suffer from the vice of lack of authority and nullity in law.

...

23. In State of Manipur [State of Manipur v. Y. Token Singh, (2007) 5 SCC 65 : (2007) 2 SCC (L&S) 107] , the appointment letters were cancelled on the ground that the same were issued without the knowledge of the department of the State. The Court after advertizing to the reported decisions concluded that the candidates were not entitled to hold the posts and in a case of such nature, principles of natural justice were not required to be complied with, particularly when the same would result in futility. ...”

(emphasis supplied)”

23. The Supreme Court in the matter of **State of U.P. v. U.P. State Law Officers' Assn., (1994) 2 SCC 204** while dealing with the back-door entries in public appointment observed as under: -

“19. ... The appointments may, therefore, be made on considerations other than merit and there exists no provision to prevent such appointments. The method of appointment is indeed not calculated to ensure that the meritorious alone will always be appointed or that the appointments made will not be on considerations other than merit. In the absence of guidelines, the appointments may be made purely on personal or political considerations, and be arbitrary. This being so those who come to be appointed by such arbitrary procedure can hardly complain if the termination of

their appointment is equally arbitrary. Those who come by the back door have to go by the same door. This is more so when the order of appointment itself stipulates that the appointment is terminable at any time without assigning any reason. Such appointments are made, accepted and understood by both sides to be purely professional engagements till they last. The fact that they are made by public bodies cannot vest them with additional sanctity. Every appointment made to a public office, howsoever made, is not necessarily vested with public sanctity. There is, therefore, no public interest involved in saving all appointments irrespective of their mode. From the inception some engagements and contracts may be the product of the operation of the spoils system. There need be no legal anxiety to save them.”

(emphasis supplied)

24. The Supreme Court in the matter of **Sakshi Arha** (supra) has held as under:-

“27. On the subject of absence of last date to showcase their eligibility by a candidate apropos their equivalent claim, this Court clarified the correct position of law in its decision in *Bhupinderpal Singh and Others v. State of Punjab and Others* (2000) 5 SCC 262, where, while upholding the view taken by High Court of Punjab and Haryana, held that the eligibility criteria for candidates aspiring public employment shall be determined pertaining to the cut-off date as outlined in the applicable rules of their respective service. In case the rules are silent, the decisive date is, ideally, indicated in the advertisement for recruitment.

However, in case of absence of specifications in both context, the eligibility is to be adjudged in lieu of the last date of submission of applications before the concerned authority or institute. This, thereby, ensures a clear temporal reference point for evaluating qualifications of a candidate as per the concerned advertisement.

28. This derivation of the position of law was from the decision of this Court in *Rekha Chaturvedi (Smt) v. University of Rajasthan and Others* (1993) Supp. 3 SCC 168 wherein the Bench explicitly observed that the proposition of assessing a candidate's qualification with reference to the date of selection, as opposed to the last date of applications is untenable and must be unequivocally dismissed. The indeterminate nature of the date of selection renders it impracticable for applicants to ascertain whether they meet the prescribed qualifications, particularly if such qualifications are yet to be attained. The relevant paragraph is reproduced as follows:

"10. The contention that the required qualifications of the candidates should be examined with reference to the date of selection and not with reference to the last date for making applications has only to be stated to be rejected. The date of selection is invariably uncertain. In the absence of knowledge of such date the candidates who apply for the posts would be unable to state whether they are qualified for the posts in question or not, if they are yet to acquire the qualifications. Unless the advertisement mentions a fixed date with reference to which the qualifications are to be judged, whether

the said date is of selection or otherwise, it would not be possible for the candidates who do not possess the requisite qualifications in praesenti even to make applications for the posts. The uncertainty of the date may also lead to a contrary consequence, viz., even those candidates who do not have the qualifications in praesenti and are likely to acquire them at an uncertain future date, may apply for the posts thus swelling the number of applications. But a still worse consequence may follow, in that it may leave open a scope for malpractices. The date of selection may be so fixed or manipulated as to entertain some applicants and reject others, arbitrarily. Hence, in the absence of a fixed date indicated in the advertisement/notification inviting applications with reference to which the requisite qualifications should be judged, the only certain date for the scrutiny of the qualifications will be the last date for making the applications. We have, therefore, no hesitation in holding that when the Selection Committee in the present case, as argued by Shri Manoj Swarup, took into consideration the requisite qualifications as on the date of selection rather than on the last date of preferring applications, it acted with patent illegality, and on this ground itself the selections in question are liable to be quashed. Reference in this connection may also be made to two recent decisions of this Court in A.P. Public Service Commission, Hyderabad v. B. Sarat Chandra [(1990) 2 SCC 669 : 1990 SCC (L&S) 377 : (1990) 4 SLR 235 : (1990) 13 ATC 708] and District Collector & Chairman, Vizianagaram Social Welfare

Residential School Society, Vizianagaram v. M. Tripura Sundari Devi [(1990) 3 SCC 655 : 1990 SCC (L&S) 520 : (1990) 4 SLR 237 : (1990) 14 ATC 766]."

25. The Supreme Court in the matter of **Tej Prakash Pathak** (supra) has held as under:-

"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."

## 26. The Supreme Court in the matter of **Dhampur Sugar (Kashipur) Ltd.** (supra) has held as under :-

"83. Allegations of mala fide are serious in nature and they essentially raise a question of fact. It is, therefore, necessary for the person making such allegations to supply full particulars in the petition. If sufficient averments and requisite materials are not on record, the court would not make "fishing" b or roving inquiry. Mere assertion, vague averment or bald statement is not enough to hold the action to be mala fide. It must be demonstrated by facts. Moreover, the burden of proving mala fide is on the person levelling such allegations and the burden is "very heavy" (vide *E.P. Royappa v. State of T.N.* (1974) 4 SCC 3). The charge of mala fide is more easily made than made out. As

stated by Krishna Iyer, J. in *Gulam Mustafa v. State of Maharashtra* (1976) 1 SCC 800 it is the last refuge of a losing litigant (see also *Ajit Kumar Nag v. GM(PJ), Indian Oil Corpn.* (2005) 7 SCC 764). In the case on hand, except alleging that the policy was altered by the Government, to extend the benefit to Respondent 4, no material whatsoever has been placed on record by the appellant. We are, therefore, unable to uphold the contention of the learned counsel that the impugned action is mala fide or malicious."

27. The present writ appeal raises a question of considerable importance touching the sanctity of public employment and adherence to statutory recruitment norms. The core issue for determination is whether the private respondents possessed the essential educational qualification prescribed under the advertisement dated 23.02.2011 on the relevant cut-off date, and if not, whether their continued occupation of public posts can be sustained in law.

28. The appellant has invoked the extraordinary jurisdiction of this Court seeking issuance of a writ of quo warranto, asserting that the appointments of private respondents No. 4 to 73 are illegal, void *ab initio*, and amount to usurpation of public office.

29. The law relating to issuance of a writ of *quo warranto* is well settled. The Supreme Court in **Dhobei Sahoo** (supra) has authoritatively held that such a writ lies when the appointment is contrary to statutory provisions, or the incumbent does not possess the eligibility prescribed under the rules. The Court further clarified

that questions of locus standi, delay, laches, or individual equities are of little relevance, as the focus is on preventing unauthorized occupation of public office in larger public interest. Therefore, once lack of eligibility is established, the Court is duty-bound to intervene, irrespective of the length of service rendered by the incumbent.

30. A substantial part of the defence advanced on behalf of the respondents rests on the contention that the advertisement did not prescribe a specific cut-off date, and final-semester candidates were permitted to participate and acquire qualifications before appointment.

31. This argument cannot be accepted in view of the settled position of law.

32. The Supreme Court in **Sakshi Arha** (supra), after surveying earlier precedents including **Rekha Chaturvedi** and **Bhupinderpal Singh**, has unequivocally held that if recruitment rules prescribe a cut-off date, eligibility must be judged accordingly. If the rules are silent, the last date for submission of applications becomes the decisive date. Eligibility cannot be determined with reference to an uncertain date such as the date of selection or appointment, as this would open the door to arbitrariness and manipulation.

33. In the present case, the advertisement dated 23.02.2011 clearly required candidates to possess the prescribed educational qualification, and the last date for submission of applications was

fixed. Consequently, possession of qualification on that date was mandatory.

34. The respondents heavily relied upon departmental notes and the clarification dated 17.11.2011 permitting consideration of candidates who had appeared in final examinations. This Court finds such reliance misplaced.

35. In the matter of **Tej Prakash Pathak** (supra), the Supreme Court has categorically held that eligibility criteria notified at the commencement of recruitment cannot be altered mid-stream. Even where administrative instructions fill gaps, they cannot override statutory rules. Any such change must satisfy the test of non-arbitrariness under Article 14 of the Constitution of India. The Recruitment Rules of 1999 do not empower the executive to relax essential educational qualifications by administrative fiat. Hence, the departmental decision permitting final-year candidates, though perhaps well-intentioned, lacked legal sanction.

36. Perusal of the documents annexed with writ appeal reveal that three committees constituted by the State Government examined the issue of eligibility of appointees. These committees unanimously concluded that 89 candidates had acquired the requisite qualification after the cut-off date, rendering their appointments illegal. Significantly, the notesheets at the level of the Joint Secretary expressly recorded that the departmental order dated 17.11.2011 was not legally proper, and administrative

approval should be sought for issuing notices prior to cancellation of appointments. These contemporaneous official records demolish the contention that no finding of illegality was ever recorded. Once the competent authorities themselves concluded that appointments were made contrary to eligibility norms, continued inaction cannot legalise what is otherwise void in law.

37. Much emphasis was laid on the fact that the respondents have served for nearly 14 years, have been confirmed, and have not committed fraud or misrepresentation. While these submissions evoke sympathy, they cannot override settled legal principles.

38. The Supreme Court in **Amrit Yadav** (supra) has held that appointments made in violation of statutory rules are nullities, and confirmation of service does not cure the defect, principles of natural justice need not be complied with where the appointment itself is void and equities cannot be claimed against the Constitution.

39. Similarly, in **U.P. State Law Officers' Association** (supra), the Supreme Court observed that those who enter public service through an illegal process cannot seek protection on grounds of fairness or hardship. Although the State has attempted to justify appointments beyond the advertised 275 posts by citing subsequent enhancement of sanctioned strength, this aspect is ancillary to the core issue. Even assuming availability of sanctioned posts, only eligible candidates could be appointed.

Sanctioned vacancies cannot legitimize appointments of ineligible persons.

40. A careful scrutiny of the records relating to respondents No. 55 and 64 reveals a materially different factual position. Both respondents had acquired their Bachelor's degree in Rural Technology & Management prior to the cut-off date. Their qualifications fall within the expression "higher qualification" contemplated in the advertisement. Their eligibility is supported by contemporaneous documents, verification records, and subsequent confirmation. No material has been placed before this Court to demonstrate that their appointments suffer from any statutory infirmity. Consequently, their cases stand on a distinct footing and cannot be clubbed with those respondents who admittedly acquired qualifications after the cut-off date.

41. Upon due consideration of the submissions advanced on behalf of respondent No. 67, this Court is unable to accept the contention that he possessed the requisite qualification as on the cut-off date. It is not in dispute that though respondent No. 67 claims to have cleared his B.E. (Civil) examination in the year 2010, the permanent degree certificate was admittedly issued only on 26.08.2011, which is much after the prescribed cut-off date under the advertisement dated 23.03.2011. No material has been placed on record to conclusively establish that a provisional degree had in fact been issued to respondent No. 67 prior to the cut-off date or

that such provisional degree was produced along with or before submission of the application.

42. The reliance placed upon the judgment of the Hon'ble Supreme Court in **Rakesh Kumar Sharma** (supra) does not advance the case of respondent No. 67. While it is true that the Hon'ble Supreme Court held that a candidate acquires the qualification on the date of declaration of the result, the said principle applies only where the declaration of the result is clearly established and recognized by the recruiting authority as conferring eligibility on the cut-off date. In the present case, the eligibility criteria under the advertisement required possession of the requisite degree qualification, and respondent No. 67 failed to demonstrate that he fulfilled the same as on the cut-off date, particularly when the formal degree was issued much later, on 26.08.2011, and the appointment order was issued in his favour on 24.08.2012.

43. Further, respondent No. 67 also did not possess a valid Employment Exchange registration on the cut-off date, as the certificate was obtained only on 13.07.2011, i.e., after submission of the application. The judgment of the Full Bench of this Court in **Roshni Sahu** (supra) cannot be read as dispensing with the requirement of eligibility conditions altogether, especially when the advertisement itself contemplated compliance with such conditions as on the relevant date, and the said Full Bench judgment was rendered only on 21.10.2016, whereas in the present case, the

advertisement was issued on 23.02.2011.

44.In view of the above, this Court holds that respondent No. 67 did not possess the requisite educational qualification as on the cut-off date, the degree having been issued only on 26.08.2011, and also did not hold a valid Employment Exchange registration on the said date. Consequently, respondent No. 67 was ineligible for consideration pursuant to the advertisement dated 23.03.2011.

45.In the present case, the private complainant, Bhartendu Kumar Kamal, approached the learned Judicial Magistrate First Class, Raipur, under Section 156(3) of the CrPC, pursuant to which an FIR was registered on 16.04.2022. He filed a private complaint against certain candidates, alleging offences punishable under Sections 420 and 468 of the IPC. Cognizance was taken on the said complaint, and the investigation is presently pending, while the respondents have already been granted anticipatory bail by this Court.

46.On the issue of locus standi, this Court finds that the objection raised by the respondents is devoid of merit.

47.It is a settled principle of constitutional law that in proceedings seeking issuance of a writ of *quo warranto*, the strict rules of locus standi applicable to service jurisprudence do not apply. The very nature and object of a writ of *quo warranto* is to enable the Court to examine whether a public office is being occupied by a person who lacks the eligibility prescribed by law or whose appointment is

contrary to statutory rules. The jurisdiction is exercised not to vindicate a private right, but to protect the public interest by ensuring that public offices are not usurped without legal authority.

48. The Supreme Court in **Dhobei Sahoo** (supra) has categorically held that questions of personal interest, locus standi, delay or laches have little relevance in *quo warranto* proceedings, as the Court acts as a sentinel to prevent unauthorized occupation of public office. What is material is not who brings the challenge, but whether the incumbent satisfies the statutory eligibility conditions.

49. In the present case, the appellant has approached this Court in the capacity of a citizen questioning the legality of appointments to public posts on the ground of lack of essential qualifications as on the cut-off date. The challenge goes to the root of the authority under which the private respondents continue to hold public office. Such a challenge squarely falls within the permissible contours of a writ of *quo warranto*. Once it is *prima facie* shown that the appointments are alleged to be contrary to the recruitment rules and the terms of the advertisement, the appellant cannot be nonsuited on the ground of lack of locus standi. The Court is duty-bound to examine the legality of such appointments in larger public interest, irrespective of whether the appellant is an aggrieved candidate or a mere relator. Accordingly, this Court holds that the appellant has the requisite locus standi to maintain the writ petition and the present writ appeal seeking issuance of a writ of *quo*

*warranto*. The objection raised by the respondents on this count is rejected.

50. In view of above, the judgments relied upon by the learned counsel for the respondents are not helpful to them and are distinguishable to the facts of the present case.

51. In light of the aforesaid discussion, this Court arrives at the following conclusions:

- I. Eligibility for public employment must be strictly assessed with reference to the cut-off date, and subsequent acquisition of qualification is legally irrelevant.
- II. Administrative instructions permitting dilution of eligibility criteria cannot override statutory rules.
- III. Appointments made in violation of essential eligibility conditions are void ab initio and amount to usurpation of public office.
- IV. Length of service, confirmation, or absence of fraud cannot sanctify an illegal appointment.
- V. Respondents No. 55 and 64 were eligible on the relevant date and are therefore entitled to protection.

52. Accordingly, the writ appeal is **partly allowed**. The impugned order passed by the learned Single Judge is set aside. Consequent to this, the writ petition, being WPC No. 3571/2025, filed on behalf of the writ petitioner/appellant herein, is **partly allowed**. The appointments of private respondents No. 4 to 73, excluding respondents No. 55 and 64, and respondent No. 10, who has already resigned from service on 09.05.2013, are declared illegal

and void ab initio. A writ of quo warranto is hereby issued against the said respondents, holding that they are not entitled to hold the posts of Sub Engineer (Civil) in the Rural Engineering Services, Department of Panchayat and Rural Development, and their appointments are cancelled / set aside. However, the appointments and continuance in service of respondents No. 55 and 64 shall remain undisturbed.

53. Considering that the aforesaid respondents have already rendered approximately 14 years of service to the respondent-Department, and that most of these respondents are now beyond the age limit to apply for alternative employment, the Court is inclined to take a sympathetic view. It is apparent that the respondent-State is at fault for not adhering to the specific cut-off date when conducting the selection process and issuing appointment orders in favor of these respondents. The delay and lapse in following proper procedures have unfortunately placed the respondents in a precarious position, having invested their time and efforts into their respective roles. In light of these circumstances, the Court recognizes the undue hardship that would be caused to these respondents if the payments and dues already made to them are to be recovered in pursuance of this judgment. Therefore, the Court holds that such payments and dues shall not be subject to recovery by the respondent-State. There shall be no order as to costs.

Sd/-

Sd/-

**(Ravindra Kumar Agrawal)**  
**Judge**

**(Ramesh Sinha)**  
**Chief Justice**

**HEAD-NOTE**

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 of India and satisfy the test of non-arbitrariness.