



CGHC010270392025



2026:CGHC:32107

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 7976 of 2025

Devendra Kumar Sen S/o D.R. Sen Aged About 47 Years Presently Working In The Office Of Directorate Fisheries, Indravati Bhawan, 4th Floor, B-Block R/o Hig-55/103, Near Registry Office, Sector- 29, Atal Nagar, Nava Raipur C.G.-492101

--- **Petitioner**

versus

1 - State Of Chhattisgarh Through Secretary, Department Of Fishries, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nava Raipur, District-Raipur C.G.

2 - Director Directorate Of Fishries, Indravati Bhawan, 4th Floor, B-Block, Nava Raipur, Atal Nagar, Raipur C.G.

--- **Respondents**

WPS No. 7978 of 2025

1 - Savitri Luxmi Chandrakar W/o Dr. Gajendra Baghel Aged About 48 Years Presently Working As Pharmacist Grade - li At Dr. Br Ambedkar Memorial Hospital Medical College Raipur And Residing At Behind Balaji Hospital Prakash Furniture Lane, Dubey Colony, Mowa Raipur (C.G.)

---**Petitioner**

Versus

1 - State Of Chhattisgarh Through Secretary, Department Of Fishries Mantralaya, Mahanadi Bhawan, Atal Nagar, Nava Raipur District - Raipur (C.G.)

2 - Director Directorate Of Fishries, Indrawati Bhawan , 4th Floor, B-Block Nava Raipur Atal Nagar, Raipur (C.G.)

--- Respondents

WPS No. 8003 of 2025

1 - Jageshwar Prasad Sahu S/o Late I.R. Sahu Aged About 47 Years Presently Working In The Office Of Deputy Director, Fisheries, Raipur And R/o House No. P2b/ 425, Near Krishna Public School, Sector 27, Nava Raipur Chhattisgarh 492015

---Petitioner

Versus

1 - State Of Chhattisgarh Through Secretary, Department Of Fishries, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nava Raipur District Raipur Chhattisgarh

2 - Director, Directorate Of Fishries, Indravati Bhawan, 4th Floor, B-Block, Nava Raipur Atal Nagar Raipur Chhattisgarh

....Respondents

For Petitioners	: Mr. S.C. Verma, Sr. Advocate with Mr. Ashish Tiwari, Advocate
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For State	: Mr. Y.S. Thakur, Addl. Adv. General with Ms Anuja Sharma, Dy. Govt. Advocate
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For Caveator	: Mr. C.J.K. Rao, Advocate
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Hon'ble Shri Bibhu Datta Guru, J
Order on Board

27/07/2026

1. Since all the petitions assail the common order and involve interconnected issues, they were heard and being disposed of by

this common order. For the sake of convenience, the pleadings and the documents placed in WPS No.8003/2025 are being referred.

2. By these petitions, the petitioners have prayed for following reliefs:

“a) Issue a writ of certiorari or any other appropriate writ order or direction quashing the the result published by Respondents on 30/04/2025 and 19/05/2025 (ANNEXURE P/1), and/or;

b) Issue a writ of mandamus or any other appropriate writ order or direction thereby directing the Respondents to take fresh interview of the Petitioner for consideration and appointment on the post of Assistant Fisheries Officer or may constitute an independent committee for taking the interview of petitioner in just, fair and proper manner, and/or;

c) Pass any other order that this court may deem fit in the facts and circumstances of the case.”

3. (i) Learned senior counsel appearing for the petitioners submits that on 03/03/2014 (Annexure-P/2), respondent No. 2 issued an advertisement to fill eight (08) posts of Assistant Fisheries Officer. The petitioners, being duly qualified, applied for the post. However, the Petitioner's candidature was rejected through a letter dated 30/05/2014 whereby the petitioners have been declared ineligible. Thereafter, the petitioners filed writ petition bearing WPS No. 2667/2014 & other connected matters

before this Court. The said writ petitions were dismissed by this Court on 18/04/2023 (Annexure-P/3). Aggrieved by the said order, petitioners preferred Writ Appeal No. 317/2023 & other connected matters. On 16/08/2023 (Annexure-P/4), the Division Bench of this Court allowed the appeals, by setting aside the order of learned Single Bench and remanded the matter for fresh consideration.

(ii) Learned senior counsel further submits that upon remand, the learned Single Bench reconsidered the matter and, by judgment dated 19/10/2023 (Annexure-P/5), allowed the writ petitions and directed the respondents to issue appointment orders to the petitioners. Despite the said order passed in favour of the petitioners, the respondents neither complied with the directions nor challenged the order. Consequently, the petitioners initiated contempt petition bearing Cont No. 558/2024 for non-compliance of the said order. Subsequently, after a delay of 297 days, the Respondents/State filed Writ Appeal No. 678/2024 challenging the order of Single Bench dated 19/10/2023. On 21/10/2024 (Annexure-P/7), the Division Bench disposed of the appeal in terms of its decision rendered in Writ Appeal No. 673/2024 dated 18/10/2024, wherein, the Division Bench set aside the order of the learned Single Judge and directed the authorities to reconsider the case of the writ petitioners along with all the other persons, on their own merits.

(iii) According to the learned counsel, after the Division Bench directed reconsideration of their candidature, the petitioners apprehended that the interview would be a mere formality to protect the appointments made in 2014, as those candidates were due for promotion. On learning that 8 posts of Assistant Fisheries Officer were vacant, the petitioners filed WPS No. 7734/2024 & other connected matters, seeking appointment against the vacant posts without disturbing the existing appointees. By order dated 22/01/2025 (Annexure-P/10), this Court allowed the petitions and directed the Respondents to decide the petitioner's candidature in light of the letter dated 15/01/2025 (page 69 of WPS No.8003 of 2025) within 45 days. Despite the said facts, the authorities are not following the order of this Court and on the contrary they conducted the interview of the petitioners in a manner that was neither fair nor transparent. By altering the procedure midway through the selection process, the respondents effectively changed the rules, rendering the entire exercise arbitrary, unreasonable, and legally unsustainable. The increase in the strength of the interview panel and the alteration of the interview process were contrary to the directions issued by the Division Bench in Writ Appeal No. 673/2024. Such deviation vitiates the entire selection process. The manner in which the interview was conducted demonstrates that it was only an eyewash to create an appearance of compliance with the orders of this Court, while the

Respondents had a predetermined intention to deny the petitioners' appointment. Learned counsel would submit that the Division Bench of this Court, while deciding first round of Writ Appeal No. 317/2023, categorically held that the petitioner's rejection on the ground of ineligibility was illegal and that the petitioners possessed the requisite qualifications. The Respondents were therefore under a legal obligation to consider the Petitioners' candidature fairly and objectively, instead of adopting a process designed to frustrate the relief granted by this Court. Learned counsel submits that owing to the respondents' unlawful actions, the petitioners have been deprived of appointment for over a decade despite repeatedly succeeding before this Court. The Respondents manipulated the interview process and proceeded with promotions of existing appointees, thereby frustrating the very object of the litigation and causing grave injustice to the petitioners.

(iv) According to the petitioners, the respondents violated the order passed by the Division Bench and gave promotion to one of the candidates namely' Ms. Neha Nayak on 07/04/2025 even before considering the case of petitioners along with said candidate. Further, Respondents, tinkered with rules in between by not only increasing the strength of interview panel from "three member" to "five members" without any prior notice or justification but also inducted a panelist who himself was facing a disciplinary

enquiry for corruption/misuse of funds.

4. (A) *Per contra*, learned Additional Advocate General appearing for the respondents/State submits that they complied with the directions of the Division Bench of this Court by reconsidering the petitioners' case through a properly constituted interview panel. Learned counsel further submits that the addition of a fifth panelist was also justified to provide subject expertise and did not alter the selection process. The petitioners' allegations of *mala fides* are unsustainable because the concerned panel members have not been impleaded as parties. Regarding promotion of Ms Neha Nayak as an Assistant Director, Fisheries, learned counsel submits that it relates to a different cadre, does not prejudice the petitioner, and has neither been challenged nor has she been made a party to the proceedings.

(B) Learned counsel further submits that the interview panel was constituted in accordance with Rules 13 and 14 read with Schedule IV of the Chhattisgarh Fisheries Non-Gazetted Class-III (Executive) Service, Recruitment Rules, 2009 (henceforth 'the Rules, 2009'), the evaluation criteria were finalized on 07.04.2025, and the petitioner was interviewed on 29.04.2025 after being called by letter dated 22.04.2025. The petitioners secured less marks than the marks secured by the wait list candidate, Ku. Tajeshwari, and accordingly, the petitioners were found ineligible

for appointment. The respondents therefore contend that the entire process was conducted fairly, lawfully, and in compliance with the directions of this Court. There is no illegality or irregularity on the part of the respondents.

5. Learned counsel appearing for the caveators submits that the case of the caveators may also be considered in the instant case as they appointed in the year 2018 and they will be effected if the case of the petitioners along with others will be reconsidered in accordance with the decision rendered by the Division Bench of this Court.
6. I have heard learned counsel for the parties and perused the pleadings and the documents appended thereto.
7. Before examining the rival contentions on merits, it would be appropriate to deal with the preliminary objection raised on behalf of the caveators.
8. The submission of the caveators is that since they are presently working on the post in question, any interference with the impugned selection process may adversely affect their service rights. The said objection does not merit acceptance.
9. The controversy in the present batch of petitions arises out of the recruitment process initiated pursuant to the advertisement dated 03.03.2014. The appointments of the caveators were admittedly

made subsequently in the year 2018. The validity of their appointments is neither under challenge in the present proceedings nor has any substantive relief been claimed against them. The limited issue which falls for consideration is whether the respondents have faithfully implemented the directions issued by the Division Bench while reconsidering the candidature of the petitioners. Therefore, the caveators cannot claim any independent right to oppose the adjudication of the present petitions merely on the apprehension that the eventual outcome may incidentally affect them. The preliminary objection is, accordingly, rejected.

10. Upon consideration of the rival submissions, the principal questions which arise for consideration and adjudication of the present *lis* are :
 - Whether the respondents have faithfully complied with the directions issued by the Division Bench while reconsidering the candidature of the petitioners ?
 - Whether the Interview Committee was constituted in accordance with the Rules, 2009 ?
 - Whether the impugned result dated 30.04.2025 together with the consequential publication dated 19.05.2025 can be sustained in law ?
11. The controversy centres around the scope and effect of the directions issued by the Division Bench of this Court in Writ

Appeal No.673 of 2024, which subsequently governed the reconsideration undertaken by the respondents.

12. For proper appreciation, it would be apposite to reproduce the relevant paras 9 to 12 of the decision rendered by the Division Bench in Writ Appeal No.673 of 2024, which read thus :

“9. From perusal of the impugned order, it transpires that learned Single has observed that after dismissal of the writ petitions by a co-ordinate Single Bench vide order dated 18.04.2023, the writ petitioners filed writ appeals before the Division Bench and vide order dated 16.08.2023, the writ appeals were allowed to the extent of setting aside the aforesaid order and remitting the matter for fresh consideration. Thus, considering the facts and circumstances of the present case, the observations of the Division Bench as mentioned above, the learned Single Judge, after hearing the parties, allowed the writ petitions filed by the writ petitioners and set aside the order dated 30.05.2014, with a direction to the respondent authorities / appellants herein to issue appointment order in favour of the writ petitioners and appoint them on the post of Assistant Fisheries Officer from 07.08.2014, the date when other similarly situated candidates were appointed on the said post.

10. The learned counsel for the appellant/State has pointed out that the impugned order passed by the learned Single Judge directing that the respondent authorities to make an appointment in favour of the writ petitioners on the post of Assistant Fisheries from,

07.08.2014, the date when other similarly situated candidates were appointed on the said post and further, the writ petitioners would be entitled for all consequential benefits from the date of their appointment except the monetary benefits, it appears to be not sustainable in the eyes of law as the case of the writ petitioner would be considered afresh along with the similarly situated candidates who are already working and the appointment was subject to the outcome to the said writ petition.

11. In view of the above, the observation made by the learned Single Judge vide the impugned order at paragraph 7 to the extent that 'the respondent authorities are directed to issue appointment order in favour of the petitioners and appoint them on the post of Assistant Fisheries Officer from 07.08.2014, the date when other similarly situated candidates appointed on the said post', is accordingly set aside and the authorities are directed to reconsider the case of the writ petitioners along with all the other persons, on their own merits.

12. With the aforesaid observations / directions, the instant writ appeal stands disposed off. No order as to cost(s)."

(emphasis added)

13. A plain reading of the aforesaid directions leaves little scope for ambiguity. The Division Bench did not merely direct the respondents to conduct a fresh interview of the petitioners. Rather, it mandated a fresh and comprehensive reconsideration of

their candidature **along with all the other persons**, who formed part of the recruitment process, on their own merits. The emphasis laid by the Division Bench on collective reconsideration was neither incidental nor ornamental; it constituted the very foundation of the remand and was intended to ensure that the petitioners were subjected to the same standards and parameters as every other candidate who participated in the selection process.

14. The expression "*along with all the other persons*" employed by the Division Bench cannot be read in isolation or rendered otiose. It necessarily required the respondents to undertake a common and comparative assessment of all the candidates whose appointments emanated from the recruitment process in question. Such comparative consideration was the very object of the remand, so that the petitioners' candidature could be evaluated on an equal footing with every other candidate and not by adopting a truncated or selective exercise confined to only one individual.
15. The record, however, does not disclose that the respondents undertook the exercise in the manner directed by the Division Bench. On the contrary, the defence set up by the respondents proceeds on the footing that the petitioners secured lesser marks than the wait-listed candidate, namely, Ku. Tajeshwari, and were therefore not found suitable for appointment. The stand taken by

the respondents itself demonstrates that the exercise of reconsideration was confined to a comparison with the wait-listed candidate instead of a fresh comparative assessment of all the candidates forming part of the recruitment process.

16. Such an exercise, in the considered opinion of this Court, cannot be regarded as faithful compliance with the directions issued by the Division Bench. Once the respondents were required to reconsider the candidature of the petitioners along with all the persons who participated in the recruitment process, it was not open to them to restrict the exercise to a comparison with only the wait-listed candidate. By adopting a procedure inconsistent with the express mandate of the Division Bench, the respondents have substantially departed from the scope of the remand, thereby rendering the entire exercise legally unsustainable.
17. Learned Additional Advocate General has sought to justify the impugned action by contending that the petitioners secured lesser marks than the wait-listed candidate and were, therefore, rightly found unsuitable for appointment. The submission, though attractive at first blush, overlooks the distinction between the decision-making process and the decision itself. The legality of an administrative action is required to be examined primarily on the touchstone of the procedure adopted in arriving at the decision. Once the process of reconsideration is found to be contrary to the

binding directions issued by the Division Bench, the ultimate result of such exercise cannot be sustained merely because the petitioners secured lesser marks in the process so undertaken.

18. The petitioners have also questioned the constitution of the Interview Committee by contending that under the Rules, 2009, read with Schedule IV, the Selection Committee is required to comprise three members, whereas the respondents constituted a five-member committee for interviewing the petitioners.
19. For the sake of convenience, it would be apt to quote relevant part of Schedule IV of the Rules, 2009 relating to subject post, which reads thus :

Name of the Department	Name of service or post from which promotion is to be made	Name of service or post on which promotion is to be made	Required service period for promotion	Member of the Departmental Promotion Committee and Selection Committee for director recruitment (see rule 14)
1	2	3	4	5
Fisheries Department Chhattisgarh	XXX	XXX	XXX	XXX
	(2) Fishery Inspector	Assistant Fishery Officer	5 year	1. Director Fisheries- Chairman 2. Joint Director Fisheries- Member 3. Deputy Director Fisheries- Member
	XXX	XXX	XXX	XXX

20. The respondents have attempted to justify the inclusion of two additional members by contending that one of them possessed subject expertise. However, no provision of the Recruitment Rules

has been brought to the notice of this Court which authorises departure from the composition prescribed under Schedule IV.

21. Recruitment to public service must strictly conform to the statutory Rules governing the field. Where the Rules prescribe the manner in which the selection is to be undertaken, the authorities are expected to adhere to the procedure so prescribed unless the Rules themselves provide otherwise.
22. It is a settled principle of law that if the manner of doing a particular act is prescribed under any statutes, the act must be done in that manner or not at all. The Supreme Court in ***Meera Sahni v. Lieutenant Governor of Delhi & Others, (2008) 9 SCC 177*** held thus at para 35:-

“35. It is by now a certain law that an action to be taken in a particular manner as provided by a statute, must be taken, done or performed in the manner prescribed and in no other manner. In this connection we may appropriately refer to the decision of this Court in Babu Verghese v. Bar Council of Kerala wherein it was held as under: (SCC pp. 432-33, paras 31-32)

"31. It is the basic principle of law long settled that if the manner of doing a particular act is prescribed under any statute, the act must be done in that manner or not at all. The origin of this rule is traceable to the decision in Taylor v. Taylor which was followed by Lord Roche in Nazir Ahmad v. King Emperor who stated as

under: (IA pp. 381-82)

'where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all.'

32. This rule has since been approved by this Court in Rao Shiv Bahadur Singh v. State of Vindh Pradesh¹⁰ and again in Deep Chand v. State of Rajasthan¹¹. These cases were considered by a three-Judge Bench of this Court in State of U.P. v. Singhara Singh¹² and the rule laid down in Nazir Ahmad case was again upheld. This rule has since been applied to the exercise of jurisdiction by courts and has also been recognised as a salutary principle of administrative law."

23. In the absence of any statutory provision enabling constitution of a committee different from that contemplated under Schedule IV, the respondents have failed to justify the departure adopted in the present case. The procedure followed by the respondents, therefore, suffers from a further legal infirmity.
24. The discussion aforesaid leads this Court to the inescapable conclusion that the impugned exercise of reconsideration suffers from two fundamental legal infirmities. Firstly, the respondents failed to undertake the comparative reconsideration directed by the Division Bench by restricting the exercise to the wait-listed candidate instead of considering all the candidates forming part of

the recruitment process. Secondly, the respondents have failed to demonstrate that the constitution of the Interview Committee was in conformity with the Rules, 2009. Either of these defects is sufficient to vitiate the process; taken together, they leave little room for sustaining the impugned action.

25. Consequently, this Court is unable to sustain the impugned result dated 30.04.2025 and the consequential publication dated 19.05.2025. The same are accordingly quashed, with a direction to the respondents to undertake a fresh exercise strictly in accordance with the Rules, 2009 and the directions issued by the Division Bench of this Court in Writ Appeal No.673 of 2024.
26. Accordingly, all the Writ Petitions are allowed to the extent indicated above.

SD/-
(Bibhu Datta Guru)
Judge

HEAD NOTE

Recruitment to public service must strictly conform to the statutory
Rules governing the field.