



2025:AHC:206148

AFR

2025:AHC:206148

Reserved :- Nov. 13, 2025

Delivered :- Nov. 19, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 7520 of 2025

Nitish Maurya and 4 others

.....Petitioner(s)

Versus

State of U.P. and 4 others

.....Respondent(s)

Counsel for Petitioner(s) : Siddharth Khare, Sr. Advocate

Counsel for Respondent(s) : A.k.s.parihar, C.S.C.

Connected Cases

WRIT - A Nos. 15574/2025 and 20898/2024

Court No. - 32

HON'BLE SAURABH SHYAM SHAMSHERY, J.

1. Petitioners in all writ petitions have participated in a selection process commenced in pursuance of Adv. No. 01/2016 issued by U.P. Secondary Education Service Selection Board, Allahabad for appointment of Assistant Teachers (LT Grade) in privately managed recognized and aided Higher Secondary Schools in the State. The advertisement was for filling up 7950 posts of Assistant Teachers (LT Grade) in 22 different subjects.

2. Petitioners after crossing hurdle of written examination participated in interview on different dates in the year 2020 and finally result was declared on different dates from

December, 2020 to July, 2021. Name of petitioners were not found in merit list as well as in waiting list which was initially comprised of 10% of total selected candidates.

3. In view of above, petitioners have approached this Court by way of filing Writ A No. 14121 of 2022 which was decided vide a judgment dated 29.09.2022 with following directions :-

"23. Accordingly, following directions are issued to be complied with by the Board and the State authorities to fill up all vacancies existing as on date, except where specific Court orders already exist with respect to individual posts and or candidates. Those may be identified as on 30.09.2022.

(I) The Directorate of Secondary Education and the Board shall cause to be hosted on their respective websites, the Scheme for allotment of vacant posts, to wait listed candidates, as provided by this order, together with date lines. This exercise may be completed by 07.10.2022.

(II) The Directorate, Secondary Education, shall intimate to the Board the existing vacancies together with subject and group wise description, as on 30.9.2022, by 15th October 2022.

(III) Upon receipt of those details, the Board shall offer the vacant posts to the candidates available on the wait list, in order of merit in the appropriate subject and group category.

(IV) At that stage, a further publication shall be made and hosted by the Board on its official website containing a complete chart of all vacant posts identified. It shall specify the post/s to be left out of this Scheme, in view of any interim order passed in any case/s. This exercise may be completed by 15th November 2022.

(V) Thereupon, the wait listed candidates may be invited to submit their fresh choice of institution/s in Rule 12 (9) of the Rules. Necessary communication in that regard be made by the Board to the candidates through the same mode as may have been adopted by the

Board while inviting the candidates for interview/original allotment.

(VI) Thus, the Board shall:

(i) call for such options/ choice on its Web Portal that may be suitably adapted and enabled to serve the purpose.

(ii) register the choice/s so expressed against the registered email id of each candidate, linked to their mobile phone no.

(iii) the choice once registered may be acknowledged and confirmed to the individual candidates at their registered email id and mobile number.

(iv) not allow any change of choice, after its registration and acknowledgment, as above.

(VII) To express their choice, the Board shall allow the concerned candidates, three days' time to register their choice/s. In the facts of the present case that exercise may be completed between 28th November 2022, to 30th November 2022.

(VIII) Upon completion of that process, the Board will prepare Supplementary Panel-I, specific to Advertisement No.1/2016, and make available, the same to all D.I.O.S., with due intimation to the concerned Joint Directors (as may have been done at the stage of original panel being prepared), within next two weeks, not later than 15th December 2022.

(IX) The Supplementary Panel-1 thus prepared may be simultaneously hosted on the website of the Board and the Directorate. It may contain the details of email id of each candidate, against his/her name.

(X) Upon that receipt of the Supplementary Panel-I, the concerned D.I.O.S. shall issue necessary letters to the concerned management and candidates in terms of Rule 13(1) of the Rules within 15 days from the date of issuance of such Supplementary Panel-I, i.e., latest by 31st December, 2022, in the facts of this case. E-mail communication in that regard may also be dispatched to the concerned candidate/s.

(XI) The concerned candidate/s may intimate his willingness to join at the allotted

institution, by post and/or by e-mail to the D.I.O.S. as also the institution concerned. That information may be considered by the D.I.O.S., at the appropriate stage if there are unexplained delays caused by the management in allowing the said candidate to join at that institution.

(XII) The individual management shall have one month time therefrom to pass appropriate resolution and issue appointment letter/s to the selected candidate/s. Thus, such letter/s may be issued by each management with a copy to the D.I.O.S. together with proof of dispatch made to the candidates. In the facts of the present case, such compliance may be made by 31st January 2023.

Provided, in case of further time required, the concerned Management may issue the appointment letter/s within 15 further days with due intimation to the D.I.O.S concerned. In present facts, such compliance may be made, not later than 15th February 2023.

Provided further in case any appointment letter is not issued by the Management within the first 30 days or next 15 days or if no intimation is received by the D.I.O.S. concerned (as above), he may at the instance of the affected candidate, intervene and ascertain the correct facts. If warranted, the D.I.O.S may cause issuance of such letter of appointment, at that stage, in that eventuality, subject to any order by a Court of law.

(XIII) Joining by the selected candidates, may be ensured preferably within a period of 15 days from the receipt of the appointment letter and in any case not later than two months from the date of receipt of the appointment letter by selected candidate. Such exercise may be completed by 15th April, 2023.

(XIV) On 30th April 2023, all D.I.O.S. may again account for all still existing/surviving vacancies, if any. They shall send a necessary confirmation of appointment granted and joining allowed in terms of Supplementary Panel-I prepared and circulated by the Board, together with surviving vacancies, if any, to the Joint Director, Secondary Education.

(XV) In the event of any further vacancy surviving and subject to any wait listed candidate/s being available on the wait list (who may yet not have been invited), at the end of five months, the aforesaid exercise may be repeated for preparation of Supplementary Panel-II and so on so forth till all vacancies are filled up or till all wait listed candidates have been offered an opportunity (as above), whichever is earlier.

24. The above Scheme may be applied by the Board and the Directorate of Secondary Education to all other pending and future, similar recruitments (governed by same provisions of the Act), subject to any contrary direction already issued, as on date. These directions may also be made applicable while preparing original select panel, in future.

25. With the aforesaid directions, present writ petition stands disposed of."

4. The State has preferred an Appeal against aforesaid order and the Division Bench of this Court vide order dated 21.12.2022 passed in Special Appeal No. 679 of 2022 have passed following directions :-

"In such circumstances, we deem it appropriate to require the State Authorities including the Director of Secondary Education, Govt. of U.P., to collect the data from all districts of the State of Uttar Pradesh in respect of unfilled vacancies that were advertised vide Advertisement No. 1 of 2016 within a period of next three weeks from today. After collecting the data, the details of the institutions and the advertised posts lying vacant there shall be published on the website of the Directorate of Secondary Education within next two weeks thereby inviting applications from candidates placed in the select panel, if they have not already joined allocated institutions and their right for placement has not been extinguished, and wait-listed candidates, who have not been allocated an institution thus far, for their options regarding placement in such institution/colleges in the same manner as they were to submit their options at the time of initial selection. Such options shall be required to be submitted within three weeks

of publication of those unfilled vacancies. After those options are submitted by such candidates, the State Authorities shall process the applications, and for the purpose of processing the applications they may take assistance of the Board. After processing the applications so submitted, the State Authorities shall prepare a fresh panel of candidates in light of the guiding principles enshrined in the provisions of 1982 Act and the 1998 Rules for placement in the institutions/colleges notified. Such panel shall be prepared within four weeks from the last date fixed for submission of the options.

Let this matter be listed on 01st March, 2023.

By the next date, an affidavit of compliance shall be filed. In the meantime, if there is any contempt proceeding pending against the officials of the Board or of the State Authorities, concerning disputes with regard to placement of candidates under Advertisement No. 1 of 2016, they would be at liberty to seek adjournment by citing this order.

It is further provided that if the State Authorities seek for assistance from the Board for preparation of the fresh panel, as directed above, the Board shall extend full cooperation."

5. Meanwhile, State Government had enforced the provisions of U.P. Education Service Selection Commission, 2023 in the month of August, 2023.

6. On 19.09.2023, Secretary, U.P. Secondary Education Service Selection Board, Prayagraj has issued a communication to Director of Education (Secondary) regarding counselling on vacant posts under waiting list. For reference, communication dated 19.09.2023 is quoted below in its entirety :-

"महोदय,

उपर्युक्त विषयक निदेशालय के पत्रांक-सामान्य (1) द्वितीय/3171/2023-24 दिनांक 15.09.2023 एवं पत्रांक-सामान्य (1) द्वितीय/2942/2023-24 दिनांक 06.09.2023 के संदर्भ में यह कहने का निदेश हुआ है कि :-

1. उ०प्र० माध्यमिक शिक्षा सेवा चयन बोर्ड नियमावली 1998 के नियम 12(8) में दी गयी व्यवस्थानुसार पैनल प्रवक्ता और प्रशिक्षित स्नातक श्रेणी में अध्यापकों के पदों के लिये रिक्तियों की संख्या से अधिक (किन्तु पच्चीस प्रतिशत से अनधिक) होगी।

2 विज्ञापन संख्या-1/2016 के सापेक्ष विषयवार, श्रेणीवार, वर्गवार विज्ञापित पदों पर नियमावली के उक्त व्यवस्था के दृष्टिगत अन्तिम चयन परिणाम तैयार करने की प्रक्रिया बोर्ड द्वारा की गयी जिसमें विज्ञापित रिक्तियों की संख्या व रिक्तियों की संख्या से अधिक के पैनल में कितने प्रतिशत अभ्यर्थी होंगे इसका निर्धारण किया गया, इसी के अनुरूप रिक्तियों की संख्या से अधिक का पैनल बोर्ड द्वारा घोषित किया गया, जिसे पूर्व में ही चयनबोर्ड कार्यालय के पत्रांक: 4019/ चयन / 157-2022/2022-23 दिनांक 07.01.2023 को भेजा जा चुका है इसके अतिरिक्त अन्य कोई रिक्तियों की संख्या से अधिक की सूची चयनबोर्ड में उपलब्ध नहीं है।

3. यहाँ यह भी संज्ञान में लाना है कि याचिका संख्या-14121/2022 मनोज कुमार पाण्डेय बनाम उ०प्र० राज्य व अन्य में पारित आदेश दिनांक 29.09.2021 के पैरा-23. खण्ड-15 में निम्नवत् आदेश दिया गया है :-

'In the event of any further vacancy surviving and subject to any wait listed candidate/s being available on the wait list (who may yet not have been invited), at the end of five months, the aforesaid exercise may be repeated for preparation of Supplementary Panel-11 and so on and so forth till all vacancies are filled up or till all wait listed candidates have been offered an opportunity (as above), whichever is earlier.'

4. माननीय उच्च न्यायालय के उपर्युक्त आदेश से अवगत होने एवं तद्वसार आवश्यक कार्यवाही करने हेतु उपर्युक्त आख्या सादर प्रेषित है।"

7. Thereafter counselling of selected candidates were also conducted and it stood completed and thereafter process to identify the vacancies and to publish waiting list commenced and since proceedings were not expedited, therefore, petitioners again approached this Court by way of filing Writ A No. 707 of 2025 and other connected cases which were disposed of vide order dated 13.02.2025. For reference, said order is quoted below in its entirety :-

"1. Heard S/Sri Ashok Khare, learned Senior Advocate assisted by Sri Kauntey Singh, learned counsel for petitioners in Writ A No. 707/2025, Sri Alok Mishra, learned counsel for petitioners in Writ A No. 782/2024 and

4067/2024 and Sri Ram Singh, learned counsel for petitioner in Writ A No. 2499/2024 and Sri A.K.S. Parihari, learned counsel for respondent-Board/Commission.

2. Issue before this Court can be crystalized that whether respondent U.P. Secondary Education Service Selection Board (now "U.P. Education Service Commission") has a discretion to prepare panel of those found suitable for appointment up to 25 % of the number of vacancies or mandatory only up to be 25% of the number of vacancies.

3. A chart is placed by learned advocates for petitioners which indicates some arbitrariness in regard to percentage of panel list whereas learned counsel appearing for Commission has placed reliance on a procedure to prepare waiting list issued by Controller of Examination, U.P. Education Service Commission wherein certain percentage has been fixed, however, it does not appear that such notification was approved at level of Commission as well as whether views of concerned State respondents were considered or not.

4. Therefore, without interfering with impugned order, all writ petitions are disposed of with a direction that above referred Board ("now Commission") will take a reasoned and conscious decision at the level of Commission after taking views from State respondents also.

5. Since now there is a change of Statute so far as Board and Commission is concerned, therefore, it is observed that Commission itself can take a decision though selection process in question was conducted by Board and since matter is of appointments, therefore, a decision will be taken within 3 weeks and it will be published on official website of the Commission and Commission will also consider a letter sent by Director of Education dated 06.09.2023 annexed as Annexure-7 to this writ petition."

8. Aforesaid directions were not immediately complied with, therefore, a contempt petition was filed and finally, concerned respondent has passed impugned order dated

16.05.2025 that there is no ground to modify the waiting list earlier published. Aforesaid order is impugned in this writ petition. For reference, relevant part of it is mentioned below :-

“11. उपर्युक्त विन्दु संख्या-10 में वर्णित प्रक्रिया को तत्समय परिचालन द्वारा बोर्ड की सहमति दिनांक 06.01.2020 को प्राप्त होने के पश्चात् उपरोक्त व्यवस्था के क्रम में विज्ञापन संख्या-1/2016 प्रशिक्षित स्नातक के समस्त विषयों की प्रतीक्षा सूची जारी की गयी है जो नियमानुसार है।

12. इस संदर्भ में यह भी उल्लेखनीय है कि विज्ञापन संख्या-1/2016 प्रशिक्षित स्नातक में 25 प्रतिशत प्रतीक्षा सूची निर्गत कराने को लेकर एक अन्य याचिका संख्या-6812/2021 अम्बरीश कुमार व 30 अन्य बनाम उ०प्र० राज्य व अन्य में मा० उच्च न्यायालय द्वारा दिनांक 23.07.2021 को आदेश पारित किया गया है जिसका क्रियात्मक अंश निम्नवत् है:-

As is evident upon a bare perusal of Rule 12 (8), the language used is "not larger than twenty-five percent". The expression "not larger than..." clearly indicates that it is the inaximum and in any case does not mandate the Board to necessarily declare a list of candidates equivalent to 25% of the total number of vacancies advertised. The clear command of the statute is that the Board shall not draw up a select list of candidates numbering more than 25% of the total vacancies advertised. It is essentially a command mandating that the Board shall not exceed the 25% limit as prescribed. It principally places a negative restraint upon the Board to ensure that the maximum ceiling of 25% is not breached.

It becomes relevant to note that the provision does not employ the phrase "not less than.." which may have then lent some credence to the submission of learned senior counsel that the Board was obliged to prepare a list of candidates numbering at least 25% of the total vacancies. In any case as the Rule stands the Court notes that the Board cannot be held to bear a mandatory obligation to draw up a list equalling at least 25% of the total number of vacancies which were advertised. In light of the Interpretation accorded to Rule 12(8) above and since no other argument was urged or addressed, the Court is of the view that the writ petition must fall.

It shall accordingly stand dismissed.

इस प्रकार मा० उच्च न्यायालय के उपर्युक्त आदेश के आधार पर भी तत्कालीन चयन बोर्ड के लिये गये निर्णय दिनांक 06.01.2020 के क्रम में जारी की गयी प्रतीक्षा सूची का सही एवं विधि सम्मत होना सुस्थापित होता है।

14. याचिका संख्या-14121/2022 मनोज कुमार पाण्डेय बनाम उ०प्र० राज्य व अन्य में पारित मा० उच्च न्यायालय के आदेश दिनांक 29.09.2022 के आधार पर तत्कालीन चयन बोर्ड द्वारा कार्यालय के पत्रांक:-4019/ चयन/157-2022/2022-23 दिनांक 07.01.2023 द्वारा विज्ञापन संख्या-1/2016 प्रशिक्षित स्नातक के समस्त विषयों की प्रतीक्षा सूची को शिक्षा निदेशक माध्यमिक उ०प्र० प्रयागराज को प्रेषित की जा चुकी है तथा शिक्षा निदेशक के पत्र दिनांक 06.09.2023 से यह स्पष्ट है कि विज्ञापन संख्या-01/2016 प्रशिक्षित स्नातक विषयों के प्रतीक्षा सूची में स्थित सभी अभ्यर्थियों को संस्था आवंटित किये जाने की कार्यवाही की जा चुकी है. इसके पश्चात रिक्ति अवशेष है। इस संदर्भ में उल्लेखनीय है कि तत्कालीन चयन बोर्ड के पत्रांक:-807/ चयन/157-2022/2023-24 दिनांक 19.09.2023 द्वारा शिक्षा निदेशक (माध्यमिक) को अवगत कराया गया था कि उक्त पैनल व प्रतीक्षा सूची के अतिरिक्त अन्य कोई रिक्तियों की संख्या से अधिक की सूची चयन बोर्ड में उपलब्ध नहीं है। यह भी उल्लेख किया जाना प्रासंगिक है कि याचिका संख्या 18731/2024 गौरव कुमार व अन्य बनाम उ०प्र० राज्य व अन्य एवं अन्य सम्बद्ध याचिकाओं में मा० उच्च न्यायालय इलाहाबाद द्वारा निम्नवत् आदेश पारित किया गया है :-

.....16. The Supreme Court has reiterated in Sudesh Kumar Goyal vs. State of Haryana and others, 2023 INSC 842 (2023) 10 SCC 54 that even a selected candidate has no indefeasible right of appointment and there must be a timeline to conclude a process and in present case, recruitment process was initially initiated in 2013 i.e. about 12 years ago and last supplementary select list was published in 2018 i.e. 7 years ago and to continue such process after so many years could not be reasonable.

इस प्रकार नवीन प्रतीक्षा सूची की माँग मा० न्यायालय के आदेश के अनुरूप नहीं है।

15. आयोग द्वारा अपनी बैठक संख्या-26 दिनांक 07.05.2025 में सम्यक विचारोपरान्त यह पाया कि विज्ञापन संख्या-01/2016 प्रशिक्षित स्नातक की प्रतीक्षा सूची निर्गत किये जाने के संदर्भमें तत्कालीन चयन बोर्ड द्वारा सम्यक रूप से दिनांक 06.01.2020 को निर्णय लिया गया था जो उ०प्र० शिक्षा सेवा चयन बोर्ड नियमावली 1998 की धारा 12 (8) के प्राविधानों के अनुकूल एवं सुसंगत था जिसे मनमानापूर्ण नहीं कहा जा सकता है जिसे कालान्तर में मा० उच्च न्यायालय द्वारा पूर्वोक्त प्रस्तरो में वर्णित निर्णयादेशों में विधिसम्मत होना सुस्थापित हुआ है। शिक्षा निदेशक माध्यमिक द्वारा प्रेषित पत्र संख्या सामान्य (1)/द्वितीय/ 2942 / 2023-24 दिनांक 06.09.2023 में प्रतीक्षा सूची के समस्त अभ्यर्थियों की नियुक्ति के पश्चात अतिरिक्त पैनल की मांग की गयी थी जिसका प्रतिउत्तर तत्समय तत्कालीन चयन बोर्ड द्वारा अपने

पत्रांक:-807/ चयन/157-2022 /2023-24 दिनांक
19.09.2023 के माध्यम से भेजा जा चुका है।

इस प्रकार आयोग द्वारा अपनी बैठक दिनांक 07.05.2025 में सम्यक् विचारोपरान्त सर्वसम्मति से यह मत स्थिर किया गया कि विज्ञापन संख्या-01/2016 प्रशिक्षित स्नातक के अन्तिम परिणाम घोषित करने के सन्बंध में तत्कालीन चयन बोर्ड द्वारा तैयार की गयी प्रतीक्षा-सूची तत्समय प्रभावी उ०प्र० माध्यमिक शिक्षा सेवा चयन बोर्ड नियमावली 1998 में सुसंगत प्राविधानों के अनुकूल होते हुए पूर्णतः विधिसम्मत व नियमानुसार है जिसमें इस आयोग के द्वारा किसी प्रकार के परिवर्तन/विचलने किये जाने का अवसर नहीं है।

अतः प्रश्नगत याचिका संख्या-707/2025 नितीश मौर्या व अन्य बनाम उ०प्र० राज्य व अन्य के साथ सम्बद्ध याचिका संख्या-782/2024, 2499/2024 तथा 4067/2024 के संदर्भ में की गयी मांग को माननीय आयोग द्वारा पूर्व प्रस्तरो में उल्लिखित तथ्यों व विवेचना के सापेक्ष निराधार है व विधिसम्मत नहीं पाया गया है। आयोग की बैठक संख्या-26 दिनांक 07.05.2025 के द्वारा मा० उच्च न्यायालय के आदेश दिनांक 13.02.2025 के समादर में सर्वसम्मति से उपरोक्तानुसार निर्णीत कर आयोग के निर्णय को आयोग / बोर्ड की वेबसाइट पर प्रदर्शित करने का निर्णय लिया गया। तदुसार आयोग के निर्णय को वेबसाइट पर प्रकाशित / प्रदर्शित कराया जाये।”

9. S/Sri Ashok Khare and R.K. Ojha, learned Senior Advocates assisted by S/Sri Mohd. Yaseen and L.K. Pandey, learned advocates for petitioners have submitted that respondents were directed to prepare list up to 25%, however, they have published waiting list on their own will without having any uniformity and applied different criteria on basis of number of posts advertised in particular subject. They have referred following table mentioned in the impugned order :-

| क्र०सं० | विज्ञापित रिक्तियों की संख्या | पैनल में रिक्तियों की संख्या से अधिक अभ्यर्थियों की संख्या/ प्रतिशत के अनुसार संख्या | पैनल |
|---------|-------------------------------|--|--|
| 1 | 1 से 5 | 1 अभ्यर्थी | विज्ञापित रिक्तियों की संख्या+1 |
| 2 | 6 से 15 | 2 अभ्यर्थी | विज्ञापित रिक्तियों की संख्या+2 |
| 3 | 16 से 30 | 20 प्रतिशत | विज्ञापित रिक्तियों की संख्या+ विज्ञापित रिक्तियों की संख्या का 20 प्रतिशत |
| 4 | 31 से 100 | 15 प्रतिशत | विज्ञापित |

| | | | |
|---|-------------|------------|--|
| | | | रिक्तियों की संख्या+ विज्ञापित रिक्तियों की संख्या का 15 प्रतिशत |
| 5 | 101 से 500 | 10 प्रतिशत | विज्ञापित रिक्तियों की संख्या+ विज्ञापित रिक्तियों की संख्या का 10 प्रतिशत |
| 6 | 500 से अधिक | 5 प्रतिशत | विज्ञापित रिक्तियों की संख्या+ विज्ञापित रिक्तियों की संख्या का 05 प्रतिशत |

10. They have further submitted that vacancies are still available and in case a proper waiting list is prepared, in all likelihood, being very close to last selected candidate in merit, petitioners will be qualified for appointment on post of Assistant Teacher (LT Grade) for particular subject.

11. Sri Dhananjay Singh, learned Standing Counsel for State and Sri K. Shahi along with Sri Akash Rai, learned counsel for respondent-Board/Commission have supported the impugned order and submitted that it is not mandatory that in each recruitment process, waiting list is published to the extent of 25%. The words used are “up to the extent”, therefore, it may be below 25%, depending upon circumstances of the case. A reasonable decision was taken to fix a percentage of waiting list which was neither arbitrary nor contrary to any provision of law.

12. Learned advocates for respondents have further submitted that procedure was commenced way back in the year 2016 and it cannot be continued for indefinite period. They have also placed reliance upon judgments of **Gaurav Kumar vs.**

State of U.P. and others, 2025:AHC:32016 and Ambrish Kumar and others vs. State of U.P. and others, 2021:AHC:72924.

13. I have considered above submissions and perused the records.

14. Above referred facts of present case are not disputed. Only question before this Court is whether it is mandatory to publish a select list having large number of candidates up to 25% and no discretion can be exercised to fix a criteria for waiting list.

15. In Gaurav Kumar (supra), this Court had considered recruitment process of TGT in different subjects of the year 2013 whereas present case is arising out of similar notification of the year 2016 and question involved in this writ petition was considered in **Gaurav Kumar (supra)**. For reference, relevant part of said judgment is quoted below :-

“12. As referred above, it is now much under dispute that number of posts were advertised, result was declared for reduced number of posts and on basis of above referred judgment of this Court, another select list was published and petitioners being despite fell within it, were not allotted schools.

13. Now the Court has to consider whether explanation given by the respondents that number of posts earlier advertised remained unverified due to various reasons assigned in detail in a long list (subject and institution wise) has substance. A brief chart being part of a communication dated 28.01.2023 (from Secretary, Secondary Education Selection Board to Director, Education (Secondary)), being relevant is extracted hereinafter :-

| क्र०सं० | विज्ञापित विषय | विज्ञापित पदों की संख्या | सत्यापित पदों की संख्या | असत्यापित पदों की संख्या |
|---------|-----------------|--------------------------|-------------------------|--------------------------|
| 1. | हिन्दी | 909 | 720 | 189 |
| 2. | संस्कृत | 472 | 369 | 103 |
| 3. | सामाजिक विज्ञान | 806 | 656 | 150 |

| | | | | |
|-----|----------------|------|-----|-----|
| 4. | जीव विज्ञान | 239 | 187 | 52 |
| 5. | शारीरिक शिक्षा | 194 | 170 | 24 |
| 6. | गृह विज्ञान | 135 | 113 | 22 |
| 7. | उर्दू | 35 | 27 | 08 |
| 8. | कला | 267 | 243 | 24 |
| 9. | विज्ञान | 929 | 713 | 216 |
| 10. | अंग्रेजी | 848 | 676 | 172 |
| 11. | गणित | 1036 | 805 | 231 |
| 12. | वाणिज्य | 45 | 36 | 09 |

14. As referred above, total number of verified posts are 4715 and number of unverified posts are 1200 and specific details are also provided in subject wise list annexed with personal affidavit such as चयन बोर्ड द्वारा चयनित, सत्यापन का कारण अंकित नहीं, पद भरा हुआ, पद दो बार अधियाचित है, सत्यापित/असत्यापित सूचना अप्राप्त, स्थानान्तरण हो चुका है, सामान्य जाति का कोटा पूर्ण, दोबारा अंकित हो गया, नवीन जनशक्ति में पद समाप्त या पद कम, मृतक आश्रित कोटे से पद भरा इत्यादि. Such details being part of a personal affidavit and without any contrary material could not be considered to be false. It is true that such exercise ought to be undertaken when initially number of posts were advertised. It appears that it were advertised in haste without proper verification of clear and vacant posts.

15. There is no material to dispute reasons assigned in the chart and details referred above and once there are no vacant posts, claim of petitioners cannot be accepted.

16. The Supreme Court has reiterated in **Sudesh Kumar Goyal vs. State of Haryana and others, 2023 INSC 842 : (2023) 10 SCC 54** that even a selected candidate has no indefeasible right of appointment and there must be a timeline to conclude a process and in present case, recruitment process was initially initiated in 2013 i.e. about 12 years ago and last supplementary select list was published in 2018 i.e. 7 years ago and to continue such process after so many years could not be reasonable. Relevant paragraph of Sudesh Kumar (supra) is quoted below :-

“18. In view of the reasoning given by the respondents for appointing only 13 selected candidates leaving the appellant who was at Sl. No. 14, we are of the opinion that the respondents have justified the appointments and have not acted in an arbitrary manner. The

respondents have acted fairly and logically without any malice against the appellant. Thus, on the touchstone of the decision cited on behalf of the appellant himself, we do not find any arbitrariness on the part of the respondents. Therefore, the decision of the Division Bench of the High Court is not liable to be disturbed on the above count, more particularly when the appellant has not acquired any indefeasible right to be appointed because he qualified in the selection process.

20. This apart, as may be noticed that the procedure for selection of superior/higher judicial service officers by direct recruitment from the Bar was initiated by the Punjab and Haryana High Court way back in the year 2007 and now we are in the year 2023 meaning thereby that 16 years have passed by in between. It would be a travesty of justice to keep open the selection process for such a long time and to direct at this stage to make any appointment on the basis of a selection process initiated so far back. For this additional reason also, we do not deem it proper to interfere with the impugned judgment and order [*Sudesh Kumar Goyal v. State of Haryana*, CWP No. 16211 of 2009 sub nom *Keshav Kaushik v. State of Haryana*, 2010 SCC OnLine P&H 5043] of the High Court."

17. Accordingly, present bunch of writ petitions are **dismissed.**"

16. In **Ambrish Kumar (supra)**, this Court has held as follows:-

"The sole question which therefore arises for consideration is whether the Board was obliged to prepare a select list comprising of names equivalent to 25% of the total number of vacancies which were advertised.

As is evident upon a bare perusal of Rule 12 (8), the language used is "not larger than twenty-five percent". The expression "not larger than.." clearly indicates that it is the maximum and in any case does not mandate the Board to necessarily declare a list of candidates equivalent to 25% of the total number of vacancies advertised. The clear command of the statute is that the Board shall

not draw up a select list of candidates numbering more than 25% of the total vacancies advertised. It is essentially a command mandating that the Board shall not exceed the 25% limit as prescribed. It principally places a negative restraint upon the Board to ensure that the maximum ceiling of 25% is not breached.

It becomes relevant to note that the provision does not employ the phrase "not less than.." which may have then lent some credence to the submission of learned senior counsel that the Board was obliged to prepare a list of candidates numbering at least 25% of the total vacancies.

In any case as the Rule stands the Court notes that the Board cannot be held to bear a mandatory obligation to draw up a list equalling at least 25% of the total number of vacancies which were advertised. In light of the interpretation accorded to Rule 12(8) above and since no other argument was urged or addressed, the Court is of the view that the writ petition must fail.

It shall accordingly stand dismissed."

17. In aforesaid circumstances, petitioners' petitioners have not disputed that waiting list could be published up to 25% of seats of vacancies declared. Therefore, an argument that there must be some criteria to five percentage of waiting list does not have much substance. At the request of petitioners, no direction could be issued to the respondents to publish a fresh waiting list to particular extent. It is discretion of respondents to publish waiting list to any extent up to 25%.

18. It is well settled that a person in waiting list has no absolute right for consideration to get appointed as well as that a waiting list cannot remain in existence for unlimited period or a particular selection process cannot remain pending for unlimited period.

19. It would be more appropriate if respondents have followed uniform criteria for fixing percentage of waiting list, but only on a ground that uniformity was not followed. A decision itself would not become arbitrary. Petitioners have failed to show that any statutory provision was violated. A direction was provided in Rules, which was earlier upheld, therefore, this Court cannot interfere with the decision in Writ jurisdiction.

20. In view of above, this Court does not find any ground to interfere with impugned order. The judgment passed in **Gaurav Kumar and Ambrish Kumar (supras)** are also against the case of petitioners. Number of vacancies are also not on record. Recruitment process has already been concluded. Discretion exercised by respondents does not suffer with malice or is not an arbitrary decision.

21. Accordingly, all writ petition lack merit, hence, these are **dismissed**.

(Saurabh Shyam Shamshery,J.)

November 19, 2025

<Nirmal Sinha>