IN THE HIGH COURT OF MADHYA PRADESH

AT INDORE

BEFORE

HON'BLE SHRI JUSTICE JAI KUMAR PILLAI

WRIT PETITION No.10277 of 2021

ANUSUIYA PRAJAPATI

Versus

THE STATE OF MADHYA PRADESH AND OTHER

WITH

WRIT PETITION No. 18396 of 2022

SMT. SARITA MEHRA

Versus

DEPARTMENT OF TRIBAL AFFAIRS AND OTHERS

WRIT PETITION No. 19690 of 2022

SMT. RENU MEWATI

Versus

TRIBAL AFFAIRS DEPARTMENT AND OTHERS

WRIT PETITION No. 19986 of 2022

SMT. VIJETA SHRIVASTAVA

Versus

DEPARTMENT OF TRIBAL AFFAIRS AND OTHERS

WRIT PETITION No. 20187 of 2022

SMT. ARPITA KATTHA

Versus

DEPARTMENT OF TRIBAL AFFAIRS AND OTHERS

WRIT PETITION No. 4358 of 2023

MRS. KAVITA DEVDA

Versus

THE STATE OF MADHYA PRADESH DEPARTMENT OF SCHOOL EDUCATION AND OTHERS

Appearance:

Shri L.C. Patne - Advocate for the petitioners.

Shri Anirudh Mapani – Government Advocate for respondents/State

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Reserved on : 08/12/2025

Post on : 12/01/2026

O R D E R

These writ petitions arising out of various impugned orders passed by the respondent Authorities cancelling the candidatureship of the petitioners in different selection processes for appointment to the post of Uchha Madhyamik Shikshak (different streams).

2. Since common questions of facts and law are involved, all the petitions have been heard analogously and are being decided by this common order.

3. It is the case of the petitioners that they are residing within the territorial jurisdiction of this Court. Prior to marriage, the concerned petitioners were residing in another State and belongs to a reserved class community, for which a valid Other Backward Class (OBC) certificate / SC / ST Caste certificate was issued by the Competent Authority of that State.

4. It is further the case of the petitioners that upon marriage with a permanent resident of the State of Madhya Pradesh, the petitioners shifted her residence and was issued a domicile certificate of the State in accordance with the prevailing Government policy and circulars. After acquiring domicile status, the petitioners claim entitlement to all statutory and constitutional benefits available to members of the said reserved class in the State.

5. It is also the case of the petitioners that the petitioners possess the requisite educational qualifications prescribed under the applicable Recruitment Rules governing the teaching cadre. The Rules, framed under Article 309 of the Constitution of India, provide for reservation for women candidates and prescribe postgraduation and professional teaching qualifications as essential eligibility criteria.

6. It is further the case of the petitioners that pursuant to an advertisement issued by the Competent Examining Authority, applications were invited for appointment to the post of Uchha Madhyamik Shikshak (different streams). The petitioners applied under the respective SC/ST/OBC category, participated in the selection process, qualified the written examination on merit and was accordingly called for document verification.

7. It is lastly the case of the petitioners that at the stage of document

verification, the petitioner's candidatureship was cancelled without issuance of any show-cause notice or affording an opportunity of hearing, solely on the ground of non-submission of caste certificate issued by the State of Madhya Pradesh. Resulting in denial of reservation benefits and prompting the filing of the present petition.

8. *Per contra*, Learned Government Advocate for the respondents/State submits that though the petitioners qualified the High School Teacher Eligibility Test-2018, they failed to produce a valid Domicile/Caste Certificate of Madhya Pradesh at the stage of document verification and had falsely declared herself as a domicile of Madhya Pradesh in the online application. The Tehsildar, after due scrutiny, rightly rejected their applications for caste certificate, against which an alternative statutory remedy of appeal was available but not availed. In absence of a valid OBC/SC/ST Caste Certificate of Madhya Pradesh and in view of the applicable recruitment rules, the petitioners were rightly held ineligible and their candidatureship was lawfully rejected, entitling them no relief or interim relief as claimed.

9. Heard learned counsel for the both parties at length and examined the entire record available before this Court.

10. This Court holds that the benefit of reservation can be extended only to those candidates who possess a valid domicile certificate of the

State of Madhya Pradesh. In the present case, although the petitioners were originally residents of another State, upon their marriage to permanent resident of the State of Madhya Pradesh, they are not to be treated as migrants and for all service and reservation-related purposes, they shall be reckoned as domiciled residents of the State of Madhya Pradesh, subject to fulfillment of the prescribed statutory requirements.

11. This Court further notes that the candidates are governed by a common examination and are subject to the same statutory framework, namely the Madhya Pradesh School Education Service (Teaching Cadre) Service Conditions and Recruitment Rules, 2018, which came into force with effect from 01/07/2018 for regulating the terms and conditions of service of employees of the Teaching Cadre. The advertisement in question has admittedly been issued in pursuance of the said Rules.

12. Upon perusal of the Recruitment Rules, 2018, this Court finds that there is no clear, specific or express clause stipulating that only those candidates who possess a Caste Certificate issued by the Competent Authority of the State of Madhya Pradesh would be eligible for appointment, nor is there any clause declaring candidates holding

Caste Certificates issued by authorities of other States to be ineligible.

The Clause related to the reservation reads as follow:-

"12. आरक्षण

उच्च माध्यमिक शिक्षक के पर्दा का आरक्षण राज्य के निर्धारित रोस्टर के अनुक्रम में नियुक्तिकर्ता अधिकारी स्तर पर किया जाएगा।

आरक्षण से संबंधित स्पष्टीकरणः-

(1) मध्यप्रदेश लोक सेवा (अनुसूचित जातियों, अनुसूचित जनजातियों और अन्य पिछडे वर्गों के लिये आरक्षण) अधिनियम, 1994 (क्रमांक 21 सन् 1994) के उपबंध, उच्च माध्यमिक शिक्षक के नियोजन पर लागू होगे।

(2) मध्यप्रदेश लोक सेवा (अनुसूचित जातियों, अनुसूचित जनजातियों और अन्य पिछड़े वर्गों के लिये आरक्षण) अधिनियम, 1994 (क्रमांक 21 सन् 1994) के उपबंधों, सामान्य प्रशासन विभाग द्वारा उसकी अधिसूचना क्रमांक एफ-1/2002/090/एक, दिनांक 19 सितम्बर 2002 दवारा जारी किए गए अनुदेशों के अनुसार, मध्यप्रदेश लोक सेवा (अनुसूचित जातियों, अनुसूचित जातियों और अन्य पिछडे वर्गों के लिए आरक्षण) नियम, 1998 और राज्य शासन द्वारा, समय-समय पर जारी किए गए आदेश के अनुसरण में, अनुसूचित जातियों, अनुसूचित जनजातियों और अन्य पिछडे वर्गों के अभ्यर्थियों के लिये पद आरक्षित किए जाएंगे। इस आरक्षण का लाभ मध्यप्रदेश के मूल निवासियों को प्राप्त होगा ।

(3) रिक्त पदों के प्रत्येक प्रवर्ग यथा अनुसूचित जातियों, अनुसूचित जन जातियों, अन्य पिछड़ा वर्गों एवं अनारक्षित वर्ग के लिये निम्नानुसार आरक्षण रहेगा:-

(एक) महिलाओं के लिये 50 प्रतिशतः

(दो) दिव्यांगजन अधिकार अधिनियम, 2016 और मध्यप्रदेश दिव्यांगजन अधिकार अधिनियम, 2017 के अनुसार 6 प्रतिशत पदों का आरक्षण प्रत्येक श्रेणी के

लिये 1.5 प्रतिशत की सीमा में निम्नानुसार रहेगा :-

(1) दृष्टिबाधित और कमदृष्टि ।

(2) बहरे और कम सुनने वाले ।

(3) लोकमोटर डिसेबिलेटी जिसमे सेरेब्रल पाल्सी, कुष्ठ रोग मुक्त, बौनापन, एसिड अतेक पीड़ित, मसकुलर डिस्ट्रोफी सम्मिलित हैं।

(4) बहुविक्लान्गता उपरोक्तानुसार (1) (2) एवं (3) को सम्मिलित करते हुये ।

(तीन) भूतपूर्व सैनिकों के लिये 10% :

(चार) उपलब्ध रिक्तियों की 25 प्रतिशत रिक्तियों अतिथि शिक्षक वर्ग के नियोजन के लिये आरक्षित की जायेगी, जिनके द्वारा न्यूनतम तीन शैक्षणिक सत्रों में एवं न्यूनतम 200 दिवस शासकीय विद्यालयों में अतिथि शिक्षक के रूप में अध्यापन कार्य किया गया है।

परन्तु अतिथि शिक्षक के लिये आरक्षित पदों की पूर्ति नहीं हो पाने की स्थिति में रिक्त रहे पदों को अन्य पात्रताधारी अभ्यर्थियों से भरा जायेगा।"

13. On a plain reading of the aforesaid Rules, this Court is of the considered opinion that in absence of any express condition of ineligibility, the matter necessarily stands on a different footing. In such circumstances, the Recruiting Authority is required to undertake an examination as to whether the caste or community to which the petitioners belong is recognized as a reserved category in both the State from which the Caste Certificate was originally issued and the State of Madhya Pradesh where they have been married.

14. Hence, this Court is of the further opinion that upon examination, if it is found that the caste or community of the petitioners falls under the same reserved category, namely SC, ST or OBC, as the case may be, in both the States, then merely because the Caste Certificate was issued by the Competent Authority of another State, the petitioners cannot be held to be

ineligible for the consideration, in absence of any express Clause creating any embargo for her selection.

15. Further, the denial of candidatureship solely on the ground that the Caste Certificate was not issued by the Competent Authority of the State of Madhya Pradesh, in the absence of any express prohibition in the Recruitment Rules or the advertisement, would be arbitrary and unsustainable in law. Accordingly, the Caste Certificate issued by the Competent Authority of the other State shall, for the limited purpose of determining eligibility, be treated as valid for consideration in the State of Madhya Pradesh.

16. The aforesaid view stands fortified by the decision of the Division Bench of this Court in the case of **Dr. Alka Singh v. State of M.P., decided on 13.07.2012 in Writ Appeal No. 310 of 2012 (G) and reported as 2012 (III) MPWN 84**, wherein the Court examined the applicability of the State Government Circular dated 11/07/2005 issued under Article 46 of the Constitution of India. The Court held that where a lady, belonging to a caste notified as OBC in both the State of her birth and the State to which she is married, cannot be treated as a migrated person merely on account of marriage. It was further held that clauses 3(1) to 3(4) of the said circular are not applicable in such a situation. Consequently, such a lady is entitled to

issuance of a permanent Caste Certificate in the OBC category in the State after marriage.

17. In view of the settled legal position, it is trite law that the conditions of eligibility as prescribed in the advertisement are binding upon both the candidates and the Recruiting Authority and must be strictly complied with. The Hon'ble Supreme Court in **Bedanga Talukdar v. Saifudaullah Khan & Ors., (2011) 12 SCC 85,** has categorically held that the terms and conditions mentioned in the advertisement cannot be relaxed or deviated from unless such power is expressly reserved. Thus, where the advertisement specifically mandates submission of a caste certificate issued by the Competent Authority of the State of Madhya Pradesh and further declares candidates holding caste certificates of other States as ineligible, failure to fulfil such condition renders the candidate ineligible, and cancellation of candidature cannot be faulted with.

18. However, the cases in hand, where the advertisement does not contain any clear, specific or express stipulation requiring submission of a Caste Certificate issued only by the State of Madhya Pradesh, the respondents cannot introduce such a condition at a later stage, as the rules of the game cannot be changed after the selection process has

commenced, as held by the Hon'ble Supreme Court in **K. Manjusree v. State of Andhra Pradesh, (2008) 3 SCC 512** which reads as under :-

> *"**27.** But what could not have been done was the second change, by introduction of the criterion of minimum marks for the interview. The minimum marks for interview had never been adopted by the Andhra Pradesh High Court earlier for selection of District & Sessions Judges, (Grade II). In regard to the present selection, the Administrative Committee merely adopted the previous procedure in vogue. The previous procedure as stated above was to apply minimum marks only for written examination and not for the oral examination. We have referred to the proper interpretation of the earlier Resolutions dated 24-7-2001 and 21-2-2002 and held that what was adopted on 30-11-2004 was only minimum marks for written examination and not for the interviews. Therefore, introduction of the requirement of minimum marks for interview, after the entire selection process (consisting of written examination and interview) was completed, would amount to changing the rules of the game after the game was played which is clearly impermissible. We are fortified in this view by several decisions of this Court. It is sufficient to refer to three of them — **P.K. Ramachandra Iyer v. Union of India [(1984) 2 SCC 141 : 1984 SCC (L&S) 214] , Umesh Chandra Shukla v. Union of India [(1985) 3 SCC 721 : 1985 SCC (L&S) 919] and Durgacharan Misra v. State of Orissa [(1987) 4 SCC 646 : 1988 SCC (L&S) 36 : (1987) 5 ATC 148] .***
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> ***32.** In **Maharashtra SRTC v. Rajendra Bhimrao Mandve [(2001) 10 SCC 51 : 2002 SCC (L&S) 720]** this Court observed that "the rules of the game, meaning thereby, that the criteria for selection cannot be altered by the authorities concerned in the middle or after the process of selection has*

commenced". In this case the position is much more serious. Here, not only the rules of the game were changed, but they were changed after the game had been played and the results of the game were being awaited. That is unacceptable and impermissible."

19. The said principle has been reiterated and authoritatively affirmed by a Constitution Bench of the Hon'ble Supreme Court in **Tej Prakash Pathak & Ors. v. Rajasthan High Court passed in CIVIL APPEAL No.2634 OF 2013 (decided on 07.09.2024),** wherein it has been held that the doctrine prohibiting change of rules mid-way is founded on Article 14 of the Constitution of India and strikes at arbitrariness in matters of public employment governed by Article 16. The relevant and operative observations of the Hon'ble Supreme Court read as under:-

"13. The process of recruitment begins with the issuance of advertisement and ends with the filling up of notified vacancies. It consists of various steps like inviting applications, scrutiny of applications, rejection of defective applications or elimination of ineligible candidates, conducting examinations, calling for interview or viva voce and preparation of list of successful candidates for appointment.

(B) BASIS OF THE DOCTRINE

14. The doctrine proscribing change of rules midway through the game, or after the game is played, is predicated on the rule

against arbitrariness enshrined in Article 1412 of the Constitution. Article 16 is only an instance of the application of the concept of equality enshrined in Article 14. In other words Article 14 is the genus while Article 16 is a species. Article 16 gives effect to the concept of equality in all matters relating to public employment. These two articles strike at arbitrariness in State action and ensure fairness and equality of treatment. They require that State action must be based on valid relevant principles alike to all similarly situate and not to be guided by any extraneous or irrelevant considerations. In all its actions, the State is bound to act fairly, in a transparent manner. This is an elementary requirement of the guarantee against arbitrary State action which Article 14 of the Constitution adopts. A deprivation of the entitlement of private citizens and private business must be proportional to a requirement grounded in public interest.

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

16. Candidates participating in a recruitment process have legitimate expectation that the process of selection will be fair and non-arbitrary. The basis of doctrine of legitimate expectation in public law is founded on the principles of fairness and non-arbitrariness in government dealings with individuals. It recognises that a public authority's promise or past conduct will give rise to a legitimate expectation. This doctrine is premised on the notion that public authorities, while performing their public duties, ought to honour their promises or past practices. The legitimacy of an expectation can be inferred if it is rooted in law, custom, or established procedure.17 However,

the doctrine of legitimate expectation does not impede or hinder the power of the public authorities to lay down a policy or withdraw it. The public authority has the discretion to exercise the full range of choices available within its executive power. The public authority often has to take into consideration diverse factors, concerns, and interests before arriving at a particular policy decision. The courts are generally cautious in interfering with a bona fide decision of public authorities which denies legitimate expectation provided such a decision is taken in the larger public interest. Thus, public interest serves as a limitation on the application of the doctrine of legitimate expectation. Courts have to determine whether the public interest is compelling and sufficient to outweigh the legitimate expectation of the claimant. While performing a balancing exercise, courts have to often grapple with the issues of burden and standard of proof required to dislodge the claim of legitimate expectation."

20. Further, where the caste/community of the petitioners is notified as a reserved category in both the State i.e. from which the Certificate was issued and the State of Madhya Pradesh, rejection of candidatureship solely on the ground that the Caste Certificate was issued by another State would be arbitrary and unsustainable. Reservation being a beneficial provision, it must receive a liberal and purposive interpretation, so as to advance its object and not defeat it on technical grounds, as held by the Hon'ble Apex Court in the case of **S. Pushpa & Ors. v. Sivachanmugavelu & Ors.,**

(2005) 3 SCC 1, and affirmed by the Constitutional Bench of the Hon'ble Apex Court in the case of **Indra Sawhney v. Union of India, 1992 Supp (3) SCC 217 : 1992 SCC (L&S) Supp 1 : (1992) 22 ATC 385 at page 433** which reads as follows:-

> ***"251.*** *Referring to the concept of equality of opportunity in public employment, as embodied in Article 10 of the draft Constitution, which finally emerged as Article 16 of the Constitution, and the conflicting claims of various communities for representation in public administration, Dr Ambedkar emphatically declared that reservation should be confined to 'a minority of seats', lest the very concept of equality should be destroyed. In view of its great importance, the full text of his speech delivered in the Constituent Assembly on the point is appended to this judgment. But I shall now read a few passages from it. Dr Ambedkar stated:*
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> > *"... firstly, that there shall be equality of opportunity, secondly, that there shall be reservations in favour of certain communities which have not so far had a 'proper look-in' so to say into the administration .... Supposing, for instance, we were to concede in full the demand of those communities who have not been so far employed in the public services to the fullest extent, what would really happen is, we shall be completely destroying the first proposition upon which we are all agreed, namely, that there shall be an equality of opportunity .... Therefore the seats to be reserved, if the reservation is to be consistent with sub-clause (1) of Article 10, must be confined to a minority of seats. It is then only that the first principle could find its place in the Constitution and effective in operation ... we have to safeguard two things, namely, the principle of equality of opportunity and at the same time satisfy the demand of communities which have not had so far representation in the*

State, ...". Constituent Assembly Debates, Vol. 7, pp. 701-702 (1948-49).

(emphasis supplied)

These words embody the raison d'etre of reservation and its limitations. Reservation is one of the measures adopted by the Constitution to remedy the continuing evil effects of prior inequities stemming from discriminatory practices against various classes of people which have resulted in their social, educational and economic backwardness. Reservation is meant to be addressed to the present social, educational and economic backwardness caused by purposeful societal discrimination. To attack the continuing ill effects and perpetuation of such injustice, the Constitution permits and empowers the State to adopt corrective devices even when they have discriminatory and exclusionary effects. Any such measure, in so far as one group is preferred to the exclusion of another, must necessarily be narrowly tailored to the achievement of the fundamental constitutional goal.

***252.** What the Constitution permits is the adoption of suitable and appropriate remedial measures to correct the continuing evil effects of prior discrimination. Over-inclusiveness in such measures by unduly widening the net of reservation to unjustifiably protect the ill deserved at the expense of the others would result in invidious discrimination offending the constitutional objective. Benign classification for affirmative action by reservation must stay strictly within the narrow bounds of remedial actions. Any such programme must be consistent with the fundamental objective of equality. Classes of people saddled with disabilities rooted in history of purposeful unequal treatment and consequently relegated to social, educational, economic and political powerlessness particularly qualify to demand the extraordinary and special protection of reservation.*

***253.** Reservation is meant to remedy the handicap of prior discrimination impeding the access of classes of people to public*

administration. It is for the State to determine whether the evil effects of inequities stemming from prior discrimination against classes of people have resulted in their being reduced to positions of backwardness and consequent under representation in public administration. Reservation is a remedy or a cure for the ill effects of historical discrimination.

254. *While affirmative action programmes by preferential treatment short of reservation in favour of disadvantaged classes of citizens may be justified as benign redressal measures based on valid classification, the more positive affirmative action adopting reservation by quota or other 'set aside' measures or goals in favour of certain classes of citizens to the exclusion of others must be narrowly tailored and strictly addressed to the problem which is sought to be remedied by the Constitution. Any such action by the State must necessarily be subjected to periodic administrative review by specially constituted authorities so as to guarantee that such policies and actions are applied correctly and strictly to permitted constitutional ends.*

255. *Reservation is not an end in itself. It is a means to achieve equality. The policy of reservation adopted to achieve that end must, therefore, be consistent with the objective in view. Reservation must not outlast its constitutional object, and must not allow a vested interest to develop and perpetuate itself. There will be no need for reservation or preferential treatment once equality is achieved. Achievement and preservation of equality for all classes of people, irrespective of their birth, creed, faith or language is one of the noble ends to which the Constitution is dedicated. Every reservation founded on benign discrimination, and justifiably adopted to achieve the constitutional mandate of equality, must necessarily be a transient passage to that end. It is temporary in concept, limited in duration, conditional in application and specific in object. Reservation must contain within itself the seeds of its termination. Any attempt to perpetuate reservation and upset the*

constitutional mandate of equality is destructive of liberty and fraternity and all the basic values enshrined in the Constitution. A balance has to be maintained between the competing values and the rival claims and interests so as to achieve equality and freedom for all.

256. *The makers of the Constitution were fully conscious of the unfortunate position of the Scheduled Castes and the Scheduled Tribes. To them equality, liberty and fraternity are but a dream; an ideal guaranteed by the law, but far too distant to reach; far too illusory to touch. These backward people and others in like positions of helplessness are the favoured children of the Constitution. It is for them that ameliorative and remedial measures are adopted to achieve the end of equality. To permit those who are not intended to be so specially protected to compete for reservation is to dilute the protection and defeat the very constitutional aim.*

257. *The victims of prior injustice are the special favourites of the laws. Their plight is a shameful scar on the national conscience. It is a constitutional command that prompt measures are adopted by the State for the promotion of these unfortunate classes of people specially to positions of comparative enlightenment, culture, knowledge, influence, affluence and prestige so as to place them on levels of equality with the more fortunate of our countrymen.*

258. *Reservation must one day become unnecessary and a relic of an unfortunate past. Every such action must be a transient self-liquidating programme. That is the hope and dream cherished by the Constitution Makers and that is the end to which the State has to address itself in making special provisions for the chosen classes of people for special constitutional protection, so that "persons will be regarded as persons, and discrimination of the type we address today will be an ugly feature of history that is instructive but that is behind us"; Per Justice T. Marshall, Regents of the University of California v. Allan Bakke [57 L Ed 2d 750 : 438 US 265 (1978)] . See also H. Earl Fullilove v. Philip M. Klutznick [448 US 448 : 65*

L Ed 2d 902 (1980)] ; Metro Broadcasting Inc. v. Federal Communications Commission [58 IW 5053 (decided on June 27, 1990)] ; Oliver Brown v. Board of Education of Topeka [347 US 483 : 48 L Ed 2d 873 (1954)] ; City of Richmond v. J.A. Croson Co. [488 US 469] ; Wendy Wygant v. Jackson Board of Education [476 US 267 : 90 L Ed 2d 260].”

21. Consequently, all the writ petitions are **allowed** in the aforesaid terms. The impugned orders are liable to be and are hereby **quashed** as the advertisement does not contain any explicit condition requiring submission of a Caste Certificate issued by the Competent Authority of the State of Madhya Pradesh only/alone. This Court thus directs the respondents to verify whether the caste or community of the petitioners are recognized as a reserved category in both the States or not and if it is found that the caste is a reserved caste in both the States, The Appropriate Authorities shall proceed with the appointments of petitioners who are found eligible, along with determination of seniority, notional pay fixation and grant of all consequential benefits from the date on which other candidates of the same examination/post were given appointment.

22. The respondents are directed to carry-out such verification and to take appropriate consequential action in accordance with law within a period of 60 days from date of receipt of certified copy of this order.

23. With the aforesaid directions, all the Writ Petitions are hereby **allowed** with no order as to costs.

24. A copy of this Order be kept in the records of all the connected cases.

25. Pending applications, if any, shall be **disposed of**.

(Jai Kumar Pillai)
Judge

Aiyer*/PS