

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

W.P. (C) No. 366 of 2023

1. Mr. Nungleppamcha Lanleiba, aged about 29 years, S/o N. Joykumar Singh, a resident of Koirou Thongju Part II, P.O. Manipur University (Canchipur), P.S. Singjamei, Imphal East District, Manipur, Pin No. 795003 & 2 Ors.
2. Miss Heisnam Puspa Devi, aged about 24 years, D/o H. Ibungo Singh, a resident of Mayang Imphal Kokchai Awang Leikai P.O. & P.S. Mayang Imphal, Imphal West District, Manipur, Pin No. 795132.
3. Mr. Saihmingi Kashung, aged about 25 years, S/o Simeon Kashung, a resident of Mary Kom Complex, National Game Village, P.O. & P.S. Lamphelpat, Pin No. 795004.

..... PETITIONER/S

- Versus -

1. The State of Manipur, represented by the Chief Secretary, Secretariat South Block, Babupara, Imphal West District, Manipur-795001.
2. The Manipur Public Service Commission (MPSC), represented by its Secretary, North AOC, Imphal East, Manipur-795001.

.....RESPONDENT/S

with

WP(C) No. 370 of 2023

1. Mr. Arbind Salam, aged about 40 years, S/o Salam Shyam Chandra Singh, a resident of Ningthoukhong

Kha Leikai, Ward No. 6, P.O. & P.S. Bishnupur, Bishnupur District, Manipur-795011.

2. Mr. Yaikhomba Yengkhom, aged about 26 years, S/o Yengkhom Nabachandra Singh, a resident of Khuyathong, Thangmeiband, P.O. & P.S. Lamphel, Imphal West, Manipur-795004.
3. Mr. Ganendrajit Elangbam, aged about 26 years, S/o Elangbam Pabitra Singh, currently residing at Lamphel Sanakeithel Quarter No. 2, Type III Block-A, P.O. & P.S. Lamphel, Imphal West District, Manipur-795004.
4. Mr. Khundrakpam Samanda Singh, aged about 26 years, S/o Kh. Saratchandra Singh, a resident of Ningthoukhong Kha Leikai, ward No. 9, Bishnupur, P.O. Ningthoukhong, P.S. Bishnupur, Manipur, Pin No. 795011.
5. Mr. Nongthombam Nganba Singh, aged about 22 years, S/o N. Inaocha Singh, a resident of Haraorou, P.O. Pangei Yangdong, P.S. Sagolmang, Imphal East, Manipur-795114.

.....Petitioners

Vs.

1. The State of Manipur, represented by the Chief Secretary, Secretariat South Block, Babupara, Imphal West District, Manipur-795001.
2. The Manipur Public Service Commission (MPSC), represented by its Secretary, North AOC, Imphal East, Manipur-795001.

.....Respondents

B E F O R E
HON'BLE THE ACTING CHIEF JUSTICE M.V. MURALIDARAN
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA

For the petitioner	::	Mrs. G. Pushpa, Advocate in WP(C) No. 366 of 2023, Mr. K. Kishan, Ms. Girija Jain, Ms. Ranjita and Ms. N. Tejpriya in WP(C) No. 370 of 2023
For the respondent	::	Mr. H. Debendra, Dy. A.G. for the State and Mr. M. Rarry, Advocate for the MPSC
Date of hearing	::	26.04.2023
Date of Judgement & Order	::	28.04.2023

Judgement & Order (CAV)

A. Guneshwar Sharma, J.

[1] The petitioners in WP(C) No. 366 of 2023 and WP(C) No. 370 of 2023 have filed the present writ petitions inter-alia challenging the notification or advertisement No. 01 of 2022 issued by the Manipur Public Service Commission (MPSC) vide No. 7/10/2022-MPSC(DR) dated 07.12.2022. By the impugned notification No. 01 of 2022 dated 07.12.2022, MPSC invited application for the Manipur Public Services Combined Competitive Preliminary Examination, 2022 under the Manipur Public Services Combined Competitive Examination, 2022 for selecting to the main examination for recruitment to 100 nos. of vacancies for appointment to Manipur Civil Service Grade II, Manipur Police Service Grade II, Manipur Finance Service Grade III, Sub-Deputy Collector and Manipur Secretariat Service Category VI.

[2] The petitioners are eligible candidates waiting to appear in the upcoming Manipur Civil Service Combined Competitive Examination (in

short MCSCCE), 2022 and they came to know that the MPSC is going to conduct the aforesaid examination with the same MPSC Examination Rules 2011 which has not been modified in accordance with the direction passed by this Hon'ble Court in the order dated 18.10.2019 in WA No. 19 of 2017 and the other connected matters which attained finality. In the aforesaid order, the Division Bench of this Court while setting aside the Manipur Public Service Examination, 2016, the notification dated 07.04.2016 was quashed and the appointment orders of the successful candidates were also quashed and directed to conduct MPSC Examination afresh after due notice to the candidates.

[3] In the aforesaid order, the Division Bench of this Court suggested to make amendments in the MPSC Examination Rules with respect to the discrepancies pointed out. The petitioners herein apprehend that the ensuing examination to be held in pursuance to the notification dated 07.12.2022 will suffer from the same defects and irregularities as occurred in the quashed MPSC Examination of 2016. In the writ petitions, the petitioners have pointed out lacuna in Rule 26 (A) of the Manipur Public Service Commission (Procedure & Conduct of Business) Rules, 2011 as amended on 22.06.2017, 04.06.2020, 14.06.2020 and 07.09.2020. Rule 26 (A) prescribes procedures to be followed for conducting examination, evaluation of answer scripts and interview. It is stated that recently concluded re-examination of MCSCCE Main Examination, 2016 (held in 2022) was conducted by MPSC under the Examination Rules, 2011 and

several lapses, irregularities and illegalities have arose. If examination under advertisement No. 1 of 2022 is to be conducted under the same Rules, 2011 such illegalities, irregularities and manipulation would likely to occur.

[4] The prayer in the writ petitions being WP(C) No. 366 and 370 of 2023 are reproduced herein below:

“WP(C) No. 366 of 2023:

- i) to issue *Rule nisi*
- ii) to quash and set aside the impugned Advertisement No 01/2022 issued by the MPSC vide No.7/10/2022-MPSC(DR) dated 07/12/2022 for recruitment of various posts of MCS G-II, MPS G-II, MFS G-III, SDC and MSS Category VI under the Government of Manipur and its subsequent Notification 7/10/2022-MPSC(DR)/I dated 20/02/2023 issued by the MPSC, through its Controller of Examination thereby fixing the date Preliminary Examination on 30/04/2023 (Sunday).
- (iii) to direct the MPSC to frame/amend the existing MPSC Exam Rules with proper provisions without any defects keeping in consideration of the Judgment and Order passed by the Special Division Bench of the High Court of Manipur vide Judgment and order dated 18/10/2019 passed in W.A No. 19 of 2017 and batch, and also to direct the respondents to act in accordance to the order dated 11.05.2022 passed in W.P.(C) No. 312 of 2022 before conducting Manipur Civil Service Combined Competitive Examination 2022-23, before the conduct of the examination as per Notification dated 07/12/2022.

Or, in the alternative

- iv) to pass order(s)/ direction(s) to handover the Examination under Advt. No 01/2022 vide No.7/10/2022-MPSC(DR) dated 07/12/2022 issued by the MPSC to the Union Public Service Commission (UPSC) as the MPSC has failed to amend the Examination Rules as per

directives of the Hon'ble High Court of Manipur which has attained finality

Further

v) to pass an order(s)/direction(s) to investigate into the conduct of the erring officials of the Manipur Public Service Commission who are involved in committing illegalities in the Manipur Civil Service Combined Competitive Examinations, and thereafter to terminate/remove/dismiss from their respective Services and to withhold such other service benefits such as Pensionary benefits etc. in case the Manipur Civil Service Combined Competitive Examination 2023 is conducted, and whose involvement if any Irregularities or Illegalities or malpractice or manipulation arise after conducting the MCSCCE 2022 examination.

**In the interim and during the pendency of the writ
Petition**

vi) to stay the operation of the impugned advertisement and its subsequent Notification dated 20/02/2023 issued by the Controller of Examination MPSC or to direct the MPSC not to conduct the MCSCCE 2022 examination before amending the procedure and conduct of business Rules appropriately and suitably.

WP(C) No. 370 of 2023:

- i) to issue *Rule nisi*
- ii) to quash and set aside the impugned Advertisement No. 01/2022 issued by the MPSC vide No.7/10/2022-MPSC(DR) dated 07/12/2022 for recruitment of various posts of MCS G-II, MPS G-II, MFS G-III, SDC and MSS Category VI under the Government of Manipur and its subsequent Notification 7/10/2022-MPSC(DR)/I dated 20/02/2023 issued by the MPSC, through its Controller of Examination thereby fixing the date of Preliminary Examination on 30/04/2023 (Sunday).
- (iii) to direct the MPSC to quash/frame/amend the existing MPSC Exam Rules with proper provisions without any defects keeping in consideration of the Judgment and Order passed by the Special Division

Bench of the High Court of Manipur vide Judgment and order dated 18/10/2019 passed in W.A No. 19 of 2017 and batch, and also to direct the respondents to act in accordance to the order dated 11.05.2022 passed in W.P.(C) No. 312 of 2022 before conducting Manipur Civil Service Combined Competitive Examination 2022-23, before the conduct of the examination as per Notification dated 07/12/2022.

Or, in the alternative

iv) to pass order(s)/ direction(s) to handover the Examination under Advt. No 01/2022 vide No.7/10/2022-MPSC(DR) dated 07/12/2022 issued by the MPSC to the Union Public Service Commission (UPSC) as the MPSC has failed to amend the Examination Rules as per directives of the Hon'ble High Court of Manipur which has attained finality

Further

v) to pass an order(s)/direction(s) to investigate into the conduct of the erring officials of the Manipur Public Service Commission who are involved in committing illegalities in the Manipur Civil Service Combined Competitive Examinations, and thereafter to terminate/remove/dismiss from their respective Services and to withhold such other service benefits such as Pensionary benefits etc. in case the Manipur Civil Service Combined Competitive Examination 2023 is conducted, and whose involvement if any Irregularities or Illegalities or malpractice or manipulation arise after conducting the MCSCCE 2022 examination.

**In the interim and during the pendency of the writ
Petition**

vi) to stay the operation of the impugned advertisement and its subsequent Notification dated 20/02/2023 issued by the Controller of Examination MPSC or to direct the MPSC not to conduct the MCSCCE 2022 examination before amending the procedure and conduct of business Rules appropriately and suitably."

[5] Mr. K. Kishan, learned counsel for the petitioners in WP(C) No. 370 of 2023, submits that MPSC has not made necessary

amendments in its Rule as directed by the Division Bench of this Court in the order dated 18.10.2019 in a batch of petitions being WA No. 19 of 2017, etc. If the examination is conducted under the same defective Rule, it would likely to repeat the illegalities and irregularities as happened in the quashed MPSC Main Examination, 2016. He further points out that in the OMR Sheet used by the Manipur Public Service Commission, there is no space for signature of the Supervisor of the examination and as such, there is scope for manipulation. He prays that at least examination be postponed for one month so that all necessary correction in the Rules as suggested by the Division Bench of this Court Court in WA No. 19 of 2017 and the connected matters can be made.

[6] Mrs. G. Pushpa, learned counsel for the petitioners in WP(C) No. 366 of 2023, adopts the submission of Mr. K. Kishan, learned counsel for the petitioner in WP(C) No. 370 of 2023 and she relies on the judgment of the Hon'ble Supreme Court reported as **(2010) 13 SCC 586** at para 6 and 7 which held that adverse impact of lack of probity in discharge of functions of the Public Service Commission would result in defect not only in the process of selection but also of the appointment to the Public Offices which would affect the effectiveness of the administration. It is also submitted that principle of public accountability and transparency in the functioning of an institution is essential for its proper governance. It is prayed that the notification be set aside and the MPSC be directed to

amend its Rules in terms of the direction passed by the Division Bench of this Court in WA No. 19 of 2017 and the connected matters.

[7] Mr. M. Rarry, learned counsel for the MPSC, submits that the writ petitions are based on mere assumptions and conjectures that there would be irregularities and illegalities in conduct of the examination and without any concrete pleading in this regard, the petitioners are praying for quashing of the Manipur Public Service Commission (Procedure and Conduct of Business) Rules, 2011 as amended on 22.05.2017, 04.05.2020, 14.08.2020 and 07.09.2020. The petitioners are not able to show any instances of violation of any fundamental and legal rights of the candidates by the said Rules and he submits that the writ petition is not maintainable. It is also pointed out that the common judgment and order dated 18.10.2019 passed in WA No. 19 of 2017 and connected matters was challenged by the State Government and the successful terminated candidates. The SLP No. 39519 of 2019 and connected matters before the Hon'ble Supreme Court against the judgment and order dated 18.10.2019 passed by the Division Bench of this Court in WA No. 19 of 2017 and other connected matters were dismissed on 22.11.2019 by the Hon'ble Supreme Court. The Hon'ble Supreme Court did not find any error in the report of the Commission appointed by this Court and directed the MPSC to hold Main Examination afresh as early as possible. After this, the State Government and terminated successful candidates filed 10 review petitions and by common judgement and order dated 17.12.2022 in Review Petition Nos. 3

to 12 of 2020, the review petitions were dismissed by the Division Bench of this Court. Against the order of Division Bench in review petitions, the State Government and other preferred SLP (Civil) Diary No. 5680 of 2021, etc. before the Hon'ble Supreme Court. Vide order dated 11.02.2022, the petition was disposed of directing the MPSC to conduct the quashed Main Examination, 2016 afresh within 4 (four) months keeping the questions of law open.

[7.1] Mr. M. Rarry, learned counsel for the MPSC, draws the attention of this Court that the petitioners herein have not disclosed the common judgment and order dated 02.05.2022 passed by a Single Judge of this Court in WP(C) No. 373, 375 and 378 of 2019 wherein the advertisement No. 1 of 2019 issued by the MPSC for recruitment of 72 posts of MCS, MPS, MFS, SDC and MSS was challenged with a prayer to conduct the examination afresh after amending Manipur Public Service Commission (Procedure and Conduct of Business) Rules, 2011 by complying directives of Single Judge of this Court in the order dated 28.02.2017 passed in WP(C) No. 803 and 817 of 2016 and 60 of 2017. The grounds raised in the aforesaid writ petitions are similar to those raised in the present writ petitions. Vide order dated 02.05.2022, Single Judge dismissed the writ petitions. It is stated that the judgment and order dated 02.05.2022 has not been challenged and hence attained finality. It is submitted that the present writ petitions are not maintainable as the question raised in the present writ petitions are already settled by judgment

and order dated 02.05.2022 passed in WP(C) 373 of 2019 and other connected matters. He prays that the writ petitions be rejected.

[7.2] Mr. M. Rarry, learned counsel for the MPSC, relies upon the judgment passed by the Hon'ble Supreme Court in the case of **State of Himachal Pradesh & Ors. vs. Satpal Saini** reported as **(2017) 11 SCC 42** which held that direction to enact/amend legislation cannot be issued since such power lies on the exclusive domain of the legislation. He further submits that recently re-conducted Main Examination, 2016 (2022) was conducted under the same Rules of 2011 as directed by the Hon'ble Supreme Court. Hence, the matter cannot be agitated again.

[8] Mr. H. Debendra, learned Dy. A.G. for the State respondent, adopts the submission of Mr. M. Rarry, learned counsel for the MPSC and prays that the writ petitions be rejected.

[9] We have heard the learned counsel for the parties and perused the materials available on record.

[10] In the order dated 02.05.2022 in WP(C) No. 373 of 2019 and connected matters, the Single Judge has discussed Rule 26 (A) of the MPSC (Procedure and Conduct of Business) Rules, 2011 and held that the Rule has been amended and the grievances of the petitioners stand redressed. The relevant portions are at para 59, 60, 61, 62, 63 & 64, which are reproduced herein below:

“59. As could be seen from the records and submissions of the learned Additional Advocate General now the Rules of 2011 has been suitably amended and the amended Rules will

take care of the competitive examination in question. The learned Additional Advocate General has placed on record the amended rule regarding procedure to be followed for conducting examination, evaluation and interview as also the evaluation of answer scripts.

60. On a reading of the amended provisions, specifically, Rule 26(A) of the Rules of 2011, it is clear that the said provision deals with the procedure to be followed for conducting the examination, evaluation and interview. In view of the above, this Court is of the view that the respondents are to follow the procedure as laid down in the Rules of 2011 while conducting the competitive examination. Further, this Court is also of the view that now the Controller of Examinations has been appointed and the grievance of the petitioners stands redressed.

61. In view of the final order of the Hon'ble Supreme Court dated 11.2.2022 passed in SLP (Civil) Diary No.5680 of 2021 etc. batch, supra, this Court is of the view that now the petitioners cannot raise the aforesaid arguments as narrated infra since the Hon'ble Supreme Court directed the MPSC to conduct the main examination of MCSCC (Main) Examination, 2016 afresh within a period of four months.

62. There is no dispute that now a responsible officer is holding the charge of Controller of Examinations, MPSC. That apart, in view of the amendments made in the Rules of 2011, the petitioners have no right to challenge the impugned advertisement. Since the petitioners are aggrieved persons of the MCSCC (Main) Examination 2016 and the petitioners and similarly situated persons have been permitted to appear in

the main examination for MCSCCE 2016 to be conducted pursuant to the order of the Hon'ble Supreme Court dated 11.2.2022, now they have no right to challenge the impugned advertisement dated 8.1.2019.

63. In the light of the aforesaid discussions, this Court is of the view that the petitioners are not entitled to get the relief sought for in the writ petitions, as their grievances have been considered by the Hon'ble Supreme Court while passing the order dated 11.2.2022.”

[11] MPSC issued an Advertisement No. 1 of 2019 dated 08.01.2019 for recruitment of civil servants and the said notification was challenged by some of the aspirants by way of writ petitions being WP(C) Nos. 373 of 2019, 375 of 2019 and 378 of 2019 inter-alia on the grounds that the notification was issued without fully complying the directions of the Single Judge in order dated 28.02.2017 passed in WP(C) Nos. 803 of 2016, 817 of 2016 and 60 of 2017. Vide order dated 10.05.2019, this Court stayed the process of the conduct of the examination as notified by Advt. No. 1 of 2019.

[12] Vide common judgment and order dated 02.05.2022 in WP(C) Nos. 373 of 2019, 375 of 2019 and 378 of 2019, Single Judge dismissed the writ petitions by holding that amended Rule 26 (A) of the Rules of 2011 would take care of grievance of the petitioners and the Controller of Examination was also appointed. It was also observed that the matter attained finality as Hon'ble Supreme Court disposed of all the matters in this regard. Accordingly, MPSC was directed to conduct the examination as

per Advt. No. 1 of 2019 in terms of the amended Rules of 2011. The order dated 02.05.2022 has not been challenged and has attained finality.

GENESIS OF THE EVENTS IN GIST:

[13] In the first batch of petitions challenging the manner in which the conduct of the MCSCCE Main Examination 2016 in WP(C) Nos. 803 of 2016 and 817 of 2016 filed by some of the unsuccessful candidates and WP(C) No. 60 of 2017 questioning the finding of the Court Appointed Enquiry Commission, Single Judge, vide common judgment and order dated 28.02.2017, rejected the prayer for cancellation of the MCCS Main Examination 2016. While dismissing the writ petitions, Single Judge pointed out certain lacunae in the Manipur Public Service Commission (Procedure & Conduct of Business) Rules, 2011 specially with respect to Rule 26A and Rule 26B and in para 68 directed MPSC “...to do the needful in terms of the observations and directions made, more particularly in the preceding paragraphs no. 55 to 62 as regards codification, evaluation and other matters by laying down the guidelines/instruction so that such allegations and irregularities which form the cause of actions for filing these writ petitions are avoided in future and to ensure credibility of the examination system conducted by the Manipur Public Service Commission, which exercise has to be carried out by the MPSC before holding the next Manipur Civil Services Combined Competitive Examination and by making amendments in the Manipur Public Service Commission (Procedure and Conduct of Business) Rules, 2011, wherever necessary”. It may be noted

that in these batch of writ petitions, Single Judge constituted an Enquiry Commission which conducted a partial enquiry on the answer sheets and did not find any patent irregularity and accordingly, the writ petitions were dismissed.

[14] The common judgment and order dated 28.02.2017 passed by the learned Single Judge in WP(C) No. 803 of 2016 and connected matters was challenged before the Division Bench by way of writ appeals being WA Nos. 19 of 2017 and 29 of 2017. These writ appeals were tagged together with a batch of writ petitions being WP(C) Nos. 606 of 2017, 727 of 2017 & 313 of 2018 inter-alia praying for quashing the MCSCCE Main Examination 2016 due to malpractices and irregularities committed in the conduct of the examination. The Division Bench constituted a 2 Member Commission and directed to examine all the answer scripts and after thorough investigation, the Commission found certain irregularities in the conduct of Main Examination 2016. On the basis of the report submitted by the Commission, vide common judgment and order dated 18.10.2019, Division Bench set aside the judgment and order dated 28.02.2017 passed by the learned Single Judge in WP(C) Nos. 803 of 2016, 817 of 2016 and 60 of 2017 and allowed WP(C) Nos. 606 of 2017, 725 of 2017 and 313 of 2018. Consequently, the MCCS Main Examination 2016 was quashed and the appointment orders of the successful candidates were also quashed and set aside. In para 22, the Division Bench pointed out certain

drawbacks in the rules and conduct of the examination. However, no definite direction was issued in this regard.

[15] The terminated successful candidates of Main Examination 2016 and State Government challenged the judgment and order dated 18.10.2019 passed by the Division Bench quashing the examination and appointment orders issued in pursuant to the result before the Hon'ble Supreme Court by way of SLP(C) Diary No. 39519 of 2019 and connected matters. Vide order dated 22.11.2019, Hon'ble Supreme Court, while dismissing the Special Leave Petitions, did not find any infirmities in the order of the Division Bench as the same was based on a finding of the Commission after 'thorough investigation in transparent manner'. It was directed to hold main examination afresh as early as possible.

[16] After dismissal of the SLPs and on discovery of certain new facts, some of the terminated successful candidates and State Government preferred 10 review petitions being RP Nos. 3 to 12 of 2020 against judgement order dated 18.10.2019 passed by the Division Bench quashing the Main Examination 2016 and appointment orders. Vide order dated 17.12.2020, the Division Bench dismissed the review petitions and the common order in review petitions was challenged before the Hon'ble Supreme Court by way of SLP (C) Diary No. 5680 of 2021 and connected matters. Vide order dated 11.02.2022, Hon'ble Supreme Court disposed of the batch of Special Leave Petitions with a direction to MPSC to conduct

MCCS Main Examination 2016 afresh within 4 months leaving the questions raised left open.

[17] Thereafter the MCSCCE Main Examination 2016 was re-conducted in 2022 and appointment orders were issued to the successful candidates on the basis of the result declared in the re-conducted examination.

[18] MPSC issued an Advertisement No. 1 of 2019 dated 08.01.2019 for recruitment of civil servants and the said notification was challenged by some of the aspirants by way of writ petitions being WP(C) Nos. 373 of 2019, 375 of 2019 and 378 of 2019 inter-alia on the grounds that the notification was issued without fully complying the directions of the Single Judge in order dated 28.02.2017 passed in WP(C) Nos. 803 of 2016, 817 of 2016 and 60 of 2017. Vide order dated 10.05.2019, a Single Bench of this Court stayed the process of the conduct of the examination as notified by Advt. No. 1 of 2019.

[19] Vide common judgment and order dated 02.05.2022 in WP(C) Nos. 373 of 2019, 375 of 2019 and 378 of 2019, Single Judge dismissed the writ petitions by holding that amended Rule 26A of the Rules of 2011 would take care of grievance of the petitioners and the Controller of Examination was also appointed. It was also observed that the matter attained finality as Hon'ble Supreme Court disposed of all the matters in this regard. Accordingly, MPSC was directed to conduct the examination as

per Advt. No. 1 of 2019 in terms of the amended Rules of 2011. The order dated 02.05.2022 has not been challenged and has attained finality.

[20] Some of the aspirants filed another writ petition being WP(C) No. 312 of 2022 on 02.05.2022 [on the day when WP(C) Nos. 373 of 2019, 375 of 2019 and 378 of 2019 were dismissed by common judgment and order dated 02.05.2022 by Single Judge rejecting prayer for amendment in Rules of 2011] before this Court inter-alia praying for quashing/amending the Rules of 2011 and for conducting the proposed Main Examination 2016(2022) by UPSC or any other State Public Service Commission so as to avoid irregularities, illegalities and manipulation cropped up in the conduct of the examination. Vide order dated 11.05.2022, a Division Bench of this Court observed that after the Division Bench judgment dated 18.10.2019 in WA No. 19 of 2017 & batch and judgment dated 17.12.2020 in Review Petition No. 3 of 2020 & batch, the matters attained finality and advised the MPSC to be mindful of the observations and findings arrived earlier.

[21] After the completion of re-conducted Main Examination 2016(2022), an application being MC(WP(C)) No. 33 of 2023 was filed in WP(C) No. 312 of 2022, inter-alia, to amend prayer for quashing the re-conducted Main Examination 2016(2022) as the same was held without complying the directions of this Courts as mentioned above. Vide order dated 13.03.2023, a Division Bench of this Court rejected the application for amendment as it would create a new cause of action and would change

the nature of the case. It was observed that the matter regarding Rules of 2011 attained finality after final judgment and order dated 22.05.2022 passed by Single Judge in WP(C) Nos. 373 of 2019, 375 of 2019 & 378 of 2019.

[22] Only after the dismissal of application being MC(WP(C)) No. 33 of 2023 on 13.03.2023, the present writ petitions, ie, WP(C) Nos. 366 of 2023 and 370 of 2023 were filed on 19.04.2023 and 20.04.2023 by new set of petitioners through the same counsel who have conducted the case on behalf of some of the unsuccessful candidates in the Main Examination 2016, raising the same issues which have attained finality. It may be noted that Mr. K. Kishan, learned counsel for the petitioners in WP(C) No. 370 of 2023, was one of the petitioners/appellants in the earlier round of litigations, i.e., in WP(C) Nos. 803 of 2016; 60 of 2017; 312 of 2019 and in WA No. 19 of 2017. Similarly, Smt. G. Puspa, learned counsel for the petitioners in WP(C) No. 366 of 2023 appeared in all these matters on behalf of some of the aspirants/unsuccessful candidates in Main Examination 2016 and in subsequent petitions seeking relief for quashing/amending the Rules of 2011.

FINDINGS AND REASONS THEREOF:

[23] In the present writ petitions, it is quite evident that the same have been filed on mere presumptions, assumptions and conjectures that irregularities, illegalities, fabrication, etc. would likely to happen in the proposed MCSCCE, 2022, as occurred in the Main Examination 2016.

Another writ petition being WP(C) No. 312 of 2019 was also pending inter-alia praying for quashing the Rules of 2011 and for handing over conduct of examination to UPSC or some other authority. The reliefs prayed for in all these petitions are substantially same.

[24] The question of the validity of the Rules of 2011 has already been settled by the judgment and order dated 02.05.2022 passed by Single Judge of this Court in WP(C) Nos. 373 of 2019, 375 of 2019 & 378 of 2019. As this order is not challenged, the finding attains finality. By the present writ petitions filed by another set of new petitioners, the issues which have attained finality are being re-agitated before this Court. The plea of the petitioners that they are not parties in the earlier round of litigations does not hold good when one of the petitioners in the earlier litigations and one of the counsel are the counsel in the present cases.

[25] It will be apt to refer to the settled proposition of law that an advocate is an officer of the court and has to assist in finding the truth. In the case of **D.P. Chadha v. Triyugi Narain Mishra, (2001) 2 SCC 221**, Hon'ble Supreme Court held in para 26 as follow:

“26. A lawyer must not hesitate in telling the court the correct position of law when it is undisputed and admits of no exception. A view of the law settled by the ruling of a superior court or a binding precedent even if it does not serve the cause of his client, must be brought to the notice of court unhesitatingly. This obligation of a counsel flows from the confidence reposed by the court in the counsel appearing for any of the two sides. A counsel, being an officer of court, shall apprise the Judge with the correct position of law whether for or against either party.”

[26] It is the settled principle of law that there should be an end to litigation. In the case of **State of Haryana v. State of Punjab, (2004) 12 SCC 673 at Para 68, Hon'ble Supreme Court** held that the doctrine of resjudicata is fundamental to the administration of justice in all courts that there must be an end to litigation and it is applicable to writ proceedings also. Relevant para is reproduced below as:

“68. The doctrine of res judicata and Order 32 Rule 2 are not technical rules of procedure and are fundamental to the administration of justice in all courts that there must be an end to litigation. Thus, when this Court was called upon in **Daryao v. State of U.P.**¹⁹ to hold that res judicata could not apply in connection with proceedings before this Court under Article 32 because of the extraordinary nature of the jurisdiction, it was said: (AIR pp. 1461-62, para 9)

“9. But, is the rule of res judicata merely a technical rule or is it based on high public policy? If the rule of res judicata itself embodies a principle of public policy which in turn is an essential part of the rule of law then the objection that the rule cannot be invoked where fundamental rights are in question may lose much of its validity. Now, the rule of res judicata as indicated in Section 11 of the Code of Civil Procedure has no doubt some technical aspects, for instance the rule of constructive res judicata may be said to be technical; but the basis on which the said rule rests is founded on considerations of public policy. It is in the interest of the public at large that a finality should attach to the binding decisions pronounced by courts of competent jurisdiction, and it is also in the public interest that individuals should not be vexed twice over with the same kind of litigation. If these two principles form the foundation of the general rule of res judicata they cannot be treated as irrelevant or inadmissible even in dealing with fundamental rights in petitions filed under Article 32.”

“The binding character of judgments pronounced by courts of competent jurisdiction is itself an essential part of the rule of

law, and the rule of law obviously is the basis of the administration of justice on which the Constitution lays so much emphasis.”20

19. (1962) 1 SCR 574, 582, 583 : AIR 1961 SC 1457

20. *Ibid.*, at SCR p. 584 : AIR p. 1462, para 11.

[27] In the circumstances, the writ petitions are devoid of merits: (i) as the same are based on presumptions; (ii) the issues raised herein have already been settled in the judgment and order dated 02.05.2022 passed by a Single Judge Bench of this Court in WP(C) Nos. 373 of 2019, 375 of 2019 & 378 of 2019; (iii) the same have been filed after rejecting the application for amendment of WP(C) No. 312 of 2019 vide order dated 13.03.2022 passed by a Division Bench of this Court in MC(WP(C)) No. 33 of 2023; and (iv) non-disclosure by the learned counsel for the petitioners of the issues already settled by this Court in the writ petitions. Accordingly, the writ petitions are dismissed. No cost.

[28] However, to allay the fear and suspicion of the petitioners, this Court directs the Manipur Public Service Commission to make the supervisors to sign on the left margin on the OMR sheet, irrespective of the fact that space is provided or not for such signature.

JUDGE

ACTING CHIEF JUSTICE

FR/NFR

joshua

KH. JOSHUA
MARING

Digitally signed by
KH. JOSHUA MARING
Date: 2023.04.28
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