



**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.P.(C) No.34888 of 2022**

An application under Articles 226 and 227 of the Constitution of India.

***Monali Routray***

....

***Petitioner***

*Mr. D. Mohapatra, Advocate*

***-versus-***

***State of Odisha & others***

....

***Opp. Parties***

*Mr. D. Mohapatra, A.S.C.*

*Mr. S. Swain, Advocate for OSSC*

*Mr. B. Routray, Senior Advocate  
for O.P. Nos.9 to 15*

*Mr. B.K. Dash, Advocate  
for O.P. Nos.7 & 8*

**W.P.(C) No.2158 of 2024**

***Chinmayee Mohapatra***

....

***Petitioner***

*Mr. K.K. Nayak, Advocate*

***-versus-***

***State of Odisha & others***

....

***Opp. Parties***

*Mr. D. Mohapatra, A.S.C.*

**CORAM:**

**JUSTICE A.K. MOHAPATRA**

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**Date of hearing : 13.05.2024 | Date of Judgment: 28.06.2024**

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**A.K. Mohapatra, J. :**

**W.P.(C) No.34888 of 2022:-**

1. The present writ application has been filed at the behest of unsuccessful candidates who participated in the recruitment process pursuant to advertisement dated 31.12.2019 under Annexure-1 for recruitment two different Group-C technical posts on contractual basis, under the Directorate of Printing, Stationery and Publications, Odisha and Commerce and Transport Dept., Govt. of Odisha. The Petitioner further seeks to challenge the final selection made pursuant to the advertisement under Annexure-1 and the final result thereof under Annexure-4 on the ground that the same is contrary to law and that the entire selection is vitiated. Alternatively, it has also been prayed for a direction to conduct the selection process through an independent committee without involving the persons interested and to act upon the recommendation of such independent committee. She has also prayed for a declaration to the effect that the Petitioner has been selected in the said selection process. A further prayer has also been made for a direction to hold a detailed investigation by an independent agency with regard to illegalities and corruption committed in course of such selection process.

2. The factual matrix of the Petitioner's case, in a narrow compass, is that an advertisement was published under Annexure-1



to the writ application for selection to the post of copy holder to be appointed under the Directorate of Printing, Stationery and Publications Odisha. The Odisha Staff Selection Commission was the recruiting agency which had published the advertisement on 31.12.2019 for recruitment two different Group-C technical posts on contractual basis. Pursuant to the aforesaid advertisement, the present petitioner along with other eligible candidates participated in the recruitment process. On 14.10.2022, a list of provisionally short-listed candidates was published inviting such candidates to appear in the professional trade test (practical). Both the Petitioner as well as the private-Opposite Parties, having qualified in the written examination, were invited to appear in such professional trade test.

3. After conclusion of the entire selection process, a final merit list was prepared and the selected candidates, including the Petitioner, were asked to appear for their certificate verification process before the Opposite Party No.4-Commission on 23.11.2022. After such verification, the final select list of Copy Holders was published by the Opposite Party No.4 on 28.11.2022. The said final list includes the name of the private-Opposite Parties. However, since the Petitioner was found unsuccessful, her name was not included in the final select list under Annexure-4 to the writ



application. Being aggrieved by such conduct of the Opposite Party No.4, the Petitioner has approached this Court by filing the present writ application with a prayer which has been narrated in detail in the preceding paragraph.

**W.P.(C) No.2158 of 2024:-**

4. The above noted writ application has been filed by the Petitioner, who happens to be a selected candidate for the post of Copy Holder and her name finds place in the final select list, for a direction to the Opposite Parties to issue necessary appointment letter as per order dated 25.07.2023 passed in W.P.(C) No.34888 of 2022 and for further direction to the Opposite Parties to keep one post reserved out of Serial Nos.7 and 9.

5. The factual background of the present case leading to filing of the present writ application is that the Petitioner is a +3 graduate with I.T.I. (COPA) and has acquired experience by undergoing training at the Odisha Govt. Press. An advertisement dated 31.12.2019 issued by the Opposite Party No.4 for recruitment to various posts including 9 nos. of post of Copy Holder. Out of the said 9 nos. of post of Copy Holder, 3 posts have been horizontally reserved for candidates belonging to the women category. The Petitioner, who falls under the women category, applied for the post of Copy Holder and was assigned the Roll No.191918400073. The



Petitioner participated in the recruitment process and cleared the Main Written examination. Thereafter, she was called to appear in the Professional Trade Test and subsequently for the verification of her certificate. The writ petition further reveals that the Petitioner was selected for the post as she had secured 79.5 mark. Whereas, the Petitioner in the other writ application i.e. W.P.(C) No.34888 of 2022 had secured only 75.5 marks. It has further been averred in the writ petition that in the other writ application, i.e. W.P.(C) No.34888 of 2022, this Court while admitting the said writ application had stayed any further action pursuant to the advertisement under Annexure-1, which was subsequently modified vide order dated 25.07.2023 to the extent that one post of Copy Holder befitting to the status of the Petitioner in the other writ application shall be kept reserved till final disposal of the said writ application and any appointment made in the meantime shall be subject to the final outcome of the said writ application. It appears that in view of the modified interim order, the case of the present petitioner has not been considered and she has not been given appointment despite being duly selected in the recruitment process. As a result, the Petitioner was compelled to approach this Court by filing the writ application bearing W.P.(C) No.40055 of 2023. This Court disposed of the aforesaid writ application vide order dated



08.12.2023 by reiterating the order dated 25.07.2023 and by directing to the Opposite Parties to consider the case of the Petitioner for appointment subject to her suitability and eligibility as well as the availability of posts for such appointment.

6. It has been alleged in the aforementioned writ application that despite the order dated 08.12.2023, the Opposite Party No.2 did not take any decision thereon. On the contrary, the Opposite Party No.2 has referred the matter to the Govt. for taking a final decision. It has also been alleged that although two selected candidates at Sl. Nos.7 and 9 were issued with show-cause notices, so far as their eligibility is concerned, however, instead of keeping one post reserved out of Sl. Nos.7 and 9, the Opposite Parties preferred to reserve the post which should have been filled up by giving appointment to the present Petitioner. Furthermore, it has been alleged that since the selection of candidates at Sl. Nos.7 and 9 are disputed, the Opposite Parties should have reserved one of such post instead of reserving the post which is meant to be filled up by appointing the present Petitioner. Further, referring to the counter affidavit filed by the Opposite Party Nos.2 and 3 in W.P.(C) No.34888 of 2022, the Petitioner has stated that although 20 posts of Copy Holder, which are sanctioned posts, are available to be filled, only 9 posts were advertised to be filled up leaving another



11 posts of Copy Holder to remain unfilled. It has also been stated in the writ application that there is an acute shortage of Copy Holders in the Govt. Press and the same causes immense difficulty in performing the work assigned to the Odisha Govt. Press by the Government. The writ petition further referred to the decision of the Empowered Committee meeting held on 05.10.2018 which had approved filling of 9 vacant posts of Copy Holder and accordingly, the OSSC has issued the advertisement in question.

7. The writ petition further reveals that although the Petitioner was selected, and in view of the modified interim order dated 25.07.2023 the Petitioner should have been issued with an appointment letter in respect of one Copy Holder post coming under UR (W) Category, however, the Opposite Parties have failed to issue any appointment letter in favour of the Petitioner. It has also been stated that pursuant to the order dated 25.07.2023, the Opposite Parties have filled up 6 posts out of 9 posts which were advertised. Therefore, the Opposite Parties have left out Sl. Nos.7, 8 & 9 of the merit list. The writ petition further reveals that the present petitioner stands at Sl. No.8 under UR (W) category. So far Sl. Nos.7 and 9 are concerned, the Opposite Parties have issued letters dated 26.09.2023 to each one of them pointing out certain irregularities in the certificate verification for which the committee



has observed that they are not eligible for such appointment. In view of such fact, the Petitioner has claimed in the writ petition that she should have been appointed ignoring the case of the persons whose name finds place at Sl. Nos.7 and 9, since the said persons are not eligible to be appointed to the post of Copy Holder pursuant to the advertisement.

8. In the writ petition, the Petitioner has also claimed that since 11 nos. of sanctioned posts are still lying vacant, the Opposite Parties could have kept one post reserved out of the aforesaid 11 posts. Furthermore, as per the order dated 25.07.2023, this Court had directed to keep only one post reserved out of the 9 advertised posts. However, the Opposite Parties have filled up only 6 posts keeping 3 posts vacant out of the total advertised 9 posts. In support of her contention, the Petitioner has also averred that she has secured 79.5 % marks and as such she was selected and placed at Sl. No. 8 of the final select list and that there were no irregularities detected in the certificate produced by the Petitioner. On such ground, it is alleged that the interim order dated 25.07.2023 has not been carried out in its letter and spirit by the Opposite Parties. Similarly, it was also contended that the order dated 08.12.2023 passed in W.P.(C) No.40055 of 2023 has also not been carried out by the Opposite Parties.





9. It is pertinent to mention here that in W.P.(C) No.2158 of 2024, no counter affidavit has been filed. However, vide order dated 13.05.2024, this Court had directed that the matter shall be heard finally along with W.P.(C) No.34888 of 2022. Therefore, the fate of the present case depends on the outcome of the dispute involved in W.P.(C) No.34888 of 2022.

10. Reverting back to the dispute involved in W.P.(C) No.34888 of 2022, this Court heard Shri D. Mohapatra, learned counsel for the Petitioner and learned Additional Standing Counsel appearing for Opposite Party Nos.1 & 3 and Mr. S. Swain, learned counsel appearing for the OSSC-Opposite Party No.4 and Mr. B. Routray, learned Senior Counsel appearing for the Opposite Party Nos.9 to 15 and Shri B.K. Dash, learned counsel appearing for the Opposite Party Nos.7 and 8. Perused the pleadings of the respective parties as well as their written note of submissions and other materials placed before this Court for consideration. Considering the submissions made by Mr. Mohapatra, learned counsel for the Petitioner who had alleged bias and has challenged the selection process on the ground of that such selection was not fair and proper, this Court had directed the learned counsel for the OSSC to produce the entire record before this Court. Pursuant to the order passed by this Court Mr. Sanjib Swain, learned counsel appearing for the



OSSC produced the records pertaining to the selection process pursuant to the advertisement under Annexure-1 before this Court.

11. Mr. D. Mohapatra, learned counsel appearing for the Petitioner at the outset submitted that the Opposite Party No.4-OSSC in its counter affidavit for the first time brought out Annexure-B/4 dated 24.04.2024. The said document reveals that out of 9 posts of Copy Holder advertised, 6 posts were for General and 3 posts out of 6 posts were for General (Women) candidates. He further contended that the advertisement prescribes the qualification for the post of Copy Holder which was in accordance with Odisha Govt. Press Industrial Employees, Classification, Recruitment, Promotion, Conditions of Service and Appeal Rules, 1978 (hereinafter referred to as “Rules, 1978”). Such qualification for the post of Copy Holder provides; “Matriculate with proficiency in literary subjects and flare for grammar and composition. Preference will be given to those passing National Trade Certificates in Hand composing trade.” He had further assailed that the advertisement was published on 09.12.2021, i.e. almost two years after the same was published in the website. As such it was alleged that there was no wide publication of such detailed advertisement. He further contended that the aforementioned advertisement provides qualification for the post of Copy Holder



which is different from and contrary to the qualification for the same post provided under Rules, 1978, i.e., the advertisement provides for Bachelor's Degree in any discipline and a preference in the form of weightage mark @ 5% of the mark secured in the written examination to be awarded to candidates having NTC/NAC certificate in printing trade. In such view of the matter, it was contended that the advertisement in question is not in conformity with the Recruitment Rules, 1978. He further assailed that due to delay in publishing the advertisement in the newspaper, limited response was received throughout the state i.e. a total of only 91 candidates had applied for the post of Copy Holder. Referring to the above, learned counsel for the Petitioner submitted that a fair selection procedure has not been followed.

12. Learned counsel for the Petitioner further submitted that the qualification specified in the advertisement is contrary to the Rules, 1978 and as such it was contended that the same will not stand the scrutiny of law. In the aforesaid context, learned counsel for the Petitioner drew attention of this Court to the judgment of the Hon'ble Supreme Court in *Malik Mazhar Sultan and anr. vs. U.P. Public Service Commission and others* reported in (2006) 9 SCC 507. Learned counsel for the Petitioner specifically referred to the observation of the Hon'ble Supreme Court in para-21 of the said



judgment. He also referred to the judgment of the Hon'ble Supreme Court in *Asish Kumar vs. The State of Uttar Pradesh and others* reported in *(2018) 3 SCC 55*, specifically to para-27 of the said judgment and contended that any part of the advertisement which is contrary to the statutory rules has to give way to the statutory prescription. Thus, learned counsel for the Petitioner submitted that the eligibility prescribed in the advertisement being contrary to the Rules, 1978 shall pave way for the statutory rules and the statutory rules shall therefore prevail and take precedence over the conditions laid down in the advertisement.

13. Learned counsel for the Petitioner further referred to the counter affidavit filed by the Opposite Party Nos.1 & 3 and submitted that the qualification in question was revised pursuant to the decision taken in the meeting held on 21.08.2020. Such a decision was taken by the committee keeping in view the development of modern (Printing Technology). While countering the same, learned counsel for the Petitioner submitted that the development in technology has no nexus with the qualification criteria for the post of Copy Holder. He further submitted that the proposal of the Committee for change in the qualification criteria cannot be said to have attained finality as the rule was not suitably modified with the approval of State Cabinet. Further, referring to



the Annexure-D/4 of the counter affidavit filed by the Opposite Party No.4, learned counsel for the Petitioner submitted that such amendment was to take effect from 06.02.2024. Therefore, it was contended by learned counsel for the Petitioner that the advertisement runs contrary to the Rule, 1978.

14. In the course of his argument, learned counsel for the Petitioner further emphatically alleged that some of the selected candidates were taking training at the govt. press. It was also alleged that some of the candidates are near and dear ones of some responsible officers of the govt. press. It was also submitted that such candidates were being given training by the Odisha govt. press under the supervision of some officers who are also part of the selection process. Learned counsel for the Petitioner also referred the certain photographs which reveal that a group of candidates were interacting with some of officers of Govt. Press during their training in a copy holding section of the Govt. Press. In such factual background, learned counsel for the Petitioner alleged bias basing on the allegation that some of the candidates had undergone training at the Odisha Govt. Press and in course of training, they had the occasion to interact with some of the officers who were later found to be a part of the selection process. Accordingly, it was alleged that the Opposite Parties have failed to follow a fair and



transparent recruitment process while selecting candidates for the post of Copy Holders. In the aforesaid context, learned counsel for the Petitioner also referred to the judgment of the Hon'ble Supreme Court in the matter of ***Sachin Kumar & ors. vs. Delhi Subordinate Service Selection Board*** reported in ***(2021) 4 SCC 631***.

15. To further highlight his contention with regard to failure on the part of the Opposite Parties to follow a fair and transparent procedure, learned counsel for the Petitioner also referred to the counter affidavit filed by the Opposite Party Nos.1 & 3. He placed specific reference to para-13 of the Counter Affidavit wherein the Opposite Party Nos.1 & 3 have admitted that some of the ex-students of the School of Printing and Allied Trades, Cuttack had met the Head Readers of the Press Proper Unit during recreational hours and enquired about the duties and responsibilities of the Copy Holder and such interaction was confined to a verbal questionnaire. It was also contended that the aforesaid fact came to the knowledge of the Petitioner only after the examination was over. It was specifically alleged by learned counsel for the Petitioner that such candidates are placed at Sl. Nos.9, 10 and 11 and are the ex-students of Mr. Nehru Dhamel, who happens to be the principal of SPAT (School of Printing and Allied Trades). In course of his argument, learned counsel for the petitioner placed heavy reliance



on the copies of the photographs of such interaction and made every attempt to persuade this Court to accept his contention that such interaction has breached the fairness and transparency of the selection procedure. Learned counsel for the Petitioner fairly admitted that the present Petitioner happens to be the daughter of one Ullash Chandra Routray, who was an ex-employee of Govt. Press. In course of his argument, he also referred to the fact that some of the candidates are closely related to some officers of the govt. press and in the said context, he also referred to a complaint under Annexure-6 to the writ application. He also referred to the letter under Annexure-7, issued by the Secretary, OSSC, dated 02.12.2022, pertaining to the illegal training in Odisha Govt. Press. In course of his argument, learned counsel for the Petitioner also raised some dispute with regard to awarding of marks including the weightage mark. On such basis it was contended by learned counsel for the petitioner that the conduct of the Opposite Parties creates suspicion about the fairness of the selection procedure followed in the present case.

16. On a careful analysis of the submissions made by learned counsel for the Petitioner, this Court is of the observation that the Petitioner has tried to make out the case on the basis of the counter affidavit filed by the Opposite Parties although the same were not



originally pleaded in the writ petition by the Petitioner. However, on a careful analysis of the submissions made and taking into consideration the entirety of the allegation with regard to selection process, this Court thought it proper to call for the entire record of the selection process and to examine the same. Accordingly, records pertaining to the selection process were produced before this Court and have been duly examined in course of hearing.

17. Finally, learned counsel for the Petitioner submitted that the Rule 11 of the Rules, 1978 provides for direct appointment through recruitment process. Moreover, the said rule provides that once the selection list is drawn up, the same will remain valid for one year. He further contended that the Petitioner has collected information through an application under the RTI Act to the effect that there are 18 nos. of vacancies in the post of Copy Holder at Odisha Govt. Press. Therefore, it was contended that since the Petitioner is eligible for such appointment, her case be considered against such 18 nos. of post of Copy Holder which are lying vacant. It was also contended that in the meantime two Copy Holders have been given promotion thereby increasing the number of vacancies number has increased to 20. It was also submitted that one of the selected candidates namely, Rosana Swain, is ineligible to be appointed in view of the irregularities in her certificate and as such the case of





the Petitioner can very well be considered against such available vacancies.

18. On the basis of the facts pleaded in the writ petition as well as referring to the averments made in the counter affidavit, learned counsel for the Petitioner addressed this Court on the following broader issues; I) Whether allowing Opposite Party Nos.9, 10 & 11, who were trained by the Head Reader in press, to participate in the recruitment vitiates the selection process? II) Whether advertisement made is contrary to the Rules, 1978 and as a result whether such selection process is unsustainable in law? III) Whether the principle of “Approbate and Reprobate” applies to the facts of the present case? IV) Whether the role of Mr. Nehru Dhamel can be ignored in the matter of selection of his ex-students i.e. Opposite Party Nos.9, 10 & 11? V) Whether the vacancies existing and/ or arising during one year on and from the date of selection can be filled up as per Recruitment Rules? VI) Whether selection of Opposite Party Nos.7 and 9 can be sustained in spite of their submitting Education Certificate which is unsustainable in the eyes of law?

19. In course of his argument, learned counsel for the Petitioner referred to the judgment of the Hon’ble Supreme Court in *Asish Kumar vs. The State of Uttar Pradesh and others* reported in



(2018) 3 SCC 55. By referring to the aforesaid judgment, learned counsel for the Petitioner laid emphasis that in a case where the advertisement and the statutory rules are at variance, the statutory rules would take precedence. In the aforesaid context, learned counsel for the Petitioner specifically referred to educational qualification of the candidates for the post of Copy Holder as provided in the advertisement as well as in the statutory rules. He further contended that although in the statutory rules of the year 1978, which was in force at the time of selection, the educational eligibility criteria was prescribed as HSC pass, however, the same was subsequently modified in the advertisement so as to reflect the educational eligibility criteria as a graduate in any discipline. Similarly, he also relied upon the judgment of the Hon'ble Supreme Court in the matter of *Malik Mazhar Sultan and anr. vs. U.P. Public Service Commission and others* reported in (2010) 3 SCALE 342. By referring to the aforesaid judgment, learned counsel for the Petitioner laid emphasis on the finding of the Hon'ble Supreme Court to the effect that "undoubtedly, the excluded candidates were of eligible age as per the advertisement, but the recruitment to the service can only be made in accordance with the Rules and the error, if any, in the advertisement cannot override the Rules and create a right in favour of a candidate if



otherwise not eligible accordingly to the Rules.” In the above noted judgment the Hon’ble Supreme Court has finally come to a conclusion that those candidates who were eligible as on 01.07.2002 and on 07.07.2004 would be eligible to be considered for appointment to the post of Civil Judge (Jr. Division). Accordingly, the appeals were allowed.

20. He also referred to the judgment of the Hon’ble Supreme Court in *Sachin Kumar & ors. vs. Delhi Subordinate Service Selection Board* reported in **2021 (4) SCC 631** to emphasize on the point that Article 14 and 16 mandates that the selection process conducted by the public authorities to make recruitment have to be fair, transparent and accountable. On a careful reading of the aforesaid judgment, this Court is of the considered view there exists no quarrel with regard to the proposition laid down by the Hon’ble Supreme Court in the above noted judgments and that the basic requirement of any selection process is that it should be fair, transparent and accountable. Further, while examining the facts of the present case, this Court shall keep in mind the aforesaid principle.

21. Mr. Budhadev Routray, learned Senior Counsel appearing on behalf of the Opposite Party Nos.9 to 15 at the outset contended that the selection process followed by the OSSC is fair, transparent



and proper. He further contended that the Petitioner has failed to make out any case to impeach the fairness and transparency of the selection process followed by the OSSC. It was also contended that pursuant to the advertisement under Annexure-1 the candidates participated in the recruitment process which was conducted by an independent recruitment agency i.e. OSSC. The OSSC conducted the examination on the basis of the relevant recruitment rule as well as the terms and conditions mentioned in the advertisement under Annexure-1. On the basis of the assessment of inter-se merit of the candidates, who participated in the recruitment process, a final select list was published. Since, the name of the Petitioner did not find place in the final select list, being aggrieved by such fact the Petitioner has filed the present writ application. Learned Senior Counsel appearing for the Opposite Party Nos.9 to 15 at the outset contended that having participated in the selection process pursuant to the advertisement and on failing to qualify in the recruitment test, the Petitioner has challenged the terms of the advertisement as well as the entire recruitment process. He further submitted that it is not the case of the petitioner that she had raised any objection/ protest at the first instance. It is only after failing to qualify in the recruitment test, the Petitioner has approached this Court by filing the present writ application.



22. In course of his argument, learned Senior Counsel appearing for the Private-Opposite Party Nos.9 to 15 contended that initially the Petitioner did not challenge the advertisement under Annexure-1 in her writ petition. She had only challenged the selection process on the ground of alleged illegalities in the process of selection. Referring to the allegations made in the writ petition, learned Senior Counsel submitted that the additional affidavit filed by the Opposite Party No.4 is very clear in this regard. The Opposite Party No.4 in its additional affidavit has categorically stated that no weightage of preference was given to any of the selected candidates except Opposite Party No.7, who was placed at Sl. No.3 of the select list dated 28.11.2022 and as such was selected under UR (M) category. So far the present Petitioner is concerned, he further contended that the Petitioner had secured 75.5 marks out of a total of 150 marks. Whereas, the last selected candidate under UR (W) category i.e. Opposite Party No.10 had secured 79.5 marks which is definitely higher than the mark secured by the present Petitioner.

23. With regard to the educational qualification required for the post of Copy Holder, learned Senior Counsel for the private-Opposite Party Nos.9 to 15 submitted that the advertisement provided that a candidate must be a bachelor in any discipline and



that candidate having National Trade Certificate/ National Apprentice Certificate and Printing Trade shall be given preference in form of weightage mark @5% of the mark secured in the written examination. He further contended that the Petitioner having bachelor degree was eligible to participate in the selection process and accordingly she participated in such process along with all other eligible candidates. Since the eligibility is not an issue with the present Petitioner and she was allowed to participate in the recruitment process, it is not open to the Petitioner to question the eligibility criteria in the present writ application. Although, a candidate not possessing graduate degree and having the HSC qualification could challenge the advertisement fixing a higher eligibility criteria. In any case, since the Petitioner is not aggrieved by the fixation of such higher qualification and in the absence of any such aggrieved candidates having come forward to challenge the educational qualification clause in the advertisement, the issue raised by the Petitioner with regard to educational qualification is redundant.

24. With regard to preferential treatment or weightage mark, learned Senior Counsel appearing for the Opposite Party Nos.9 to 15 submitted that no candidate has been given preference except Opposite Party No.7. It was also argued that word “preference”



connotes that when one or more candidates are found to be equally positioned, only the additional qualification criteria can be taken as a deciding factor while preparing the merit list. Such additional factor guiding selection of one candidate from amongst equally positioned candidates may be considered as preference. However, preference does not mean *en bloc* preference irrespective of inter-se merit and suitability. He further contended that in view of the settled position of law, the selected candidates shall not be made to suffer without any mistake on their part particularly when the fairness and transparency of such selection process remains unimpeached.

25. Learned Senior Counsel appearing for the Opposite Party Nos.9 to 15 referred to the judgment of this Court in ***Subhashree Sundar Ray vs. State of Odisha and others*** in ***W.P.(C) No.14640 of 2022*** decided on 28.06.2023. By referring to the aforesaid judgment, learned Senior Counsel contended that fixing a higher qualification is not a bar. He also referred to the judgment of the Hon'ble Supreme Court in the matter of ***Tajvir Singh Sodhi v. State (UT of J&K)*** reported in ***2023 SCC OnLine SC 344***. In the context of a candidate having participated in the recruitment process without any protest to the same, such candidate is estopped from challenging the same at subsequent stages. In the aforesaid



context, he also referred to the judgment of this Court in ***Siva Prasad Panda vs. State of Odisha & ors.*** in ***W.P.(C) No.13681 of 2022*** and a batch of similar other matters decided on 20.09.2022 and ***Ranjan Kumar & ors. vs. State of Bihar & ors.*** reported in ***2014 16 SCC 187***. Similarly, reliance was also placed on ***AIR 2008 SC 1913*** (Dhananjay Malik & ors. vs. State of Uttaranchal & ors.) to persuade this Court that the Petitioner having participated in the selection process without any protest with regard to the terms and conditions contained in the advertisement, upon his failure to be selected finally, the Petitioner is estopped from turning back and challenging the advertisement as well as the selection process.

26. Mr. Routray, learned Senior Counsel appearing for the private-Opposite Party Nos.9 to 15 also emphatically contended that the private-Opposite Parties having been selected through a valid, fair and, transparent selection process conducted by OSSC should not be made to suffer without any mistake on the part of the private-Opposite Parties. In the aforesaid context, he also referred to the judgment of the Hon'ble Supreme Court in ***Vikas Pratap Singh and ors. vs. State of Chattisgarh & ors.*** reported in ***AIR 2013 SC 3414***, as well as in the matter of ***Anmol Kumar Tiwari & ors. vs. State of Jharkhand & ors.*** reported in ***AIR 2021 SC 1139***. Finally, on the issue of preference and merit, learned Senior





Counsel for the Opposite Party Nos.9 to 15 relied and referred to the judgment of the Hon'ble Supreme Court in *State of UP and others vs. Om Prakash & ors.* reported in (2006) 6 SCC 474.

27. Mr. B.K. Dash, learned counsel appearing for the Opposite Party Nos.7 and 8 supported and adopted the arguments advanced by Mr. Routray, learned Senior Counsel appearing on behalf of Opposite Party Nos.9 to 15. Mr. Dash, learned counsel for the Opposite Party Nos.7 and 8, at the outset contended that the Petitioner having read and fully understood the terms and conditions mentioned in the advertisement and possessing the eligibility criteria of a bachelor degree, participated in the selection process along with other similarly situated candidates. Mr. Dash, learned counsel also repeated the arguments advanced by Mr. Routray, learned Senior Counsel for private-Opposite Party Nos.9 to 15 and submitted that the cutoff mark for UR (W) category was 79.5 whereas the Petitioner having participated in the recruitment process secured only 75.5 marks out of 150 marks. Therefore, he further contended that having failed to secure the required mark for selection and appointment as a Copy Holder, the Petitioner has turned back and has filed this writ application questioning the selection process. He further submitted that in view of the settled position of law, it is no more open to the Petitioner to question the



selection process or the terms of the advertisement after having participated in the said selection process and upon her failure to be selected for the post which was advertised under Annexure-1 to the writ application.

28. So far the selection process is concerned, Mr. Dash, learned counsel submitted that the same consists of three stages. Stage-I is the written examination, Stage-II is the Professional Trade Test (Practical), and finally the Stage-III consists of certificate verification. He further contended that after going through the aforesaid three stages, the Opposite Party Nos.7 and 8 were found selected as they have secured more marks than the Petitioner and accordingly their names were notified on 14.10.2022. He further submitted that the allegations made by the Petitioner in respect of the candidates who had undergone training at the Odisha Govt. Press are vague and baseless. He further specifically argued that the photographs produced by the Petitioner do not reveal the presence of the Opposite Party Nos.7 and 8. So far the complaint under Annexure-6 of the writ petition is concerned, it was contended that the same includes the name of the Petitioner at Sl. No.3. Therefore, it was submitted that such allegations that attempt to impeach the fairness and transparency of the selection procedure are absolutely irrelevant and baseless. He further argued that the present writ



application has been filed by the Petitioner out of her frustration after failing to be selected for appointment to the post of Copy Holder. It was contended that the present writ application is therefore based on completely baseless and vague allegation and wastes the valuable time of this Court. Learned counsel for the Opposite Party Nos.7 and 8 referred to the judgment of the Hon'ble Supreme Court in the matter of ***Om Prakash Shukla vs. Akhilesh Kumar Shukla*** reported in ***AIR 1986 SC 1043*** and ***Dr. Pratima Sarangi vs. Commissioner-cum-Secretary to Govt. of Odisha & ors.*** reported in ***2019 (Supl) OLR 300***.

29. This Court on perusal of the judgment in ***Pratima Sarangi***'s case (supra) is of the observation that the same was rendered by the Coordinate Bench of this Court wherein the candidate, having participated in the process of selection and having failed to secure the appointment, had approached this Court by filing a writ application with a prayer for quashing the selection of the Opposite Parties in that case. The learned Coordinate Bench after elaborate discussion of the factual background of the present case has observed that the Petitioner having participated in the process of selection and having failed to come out successful, cannot turn around and challenge the same. Accordingly, the writ petition was dismissed.



30. A counter affidavit has also been filed Opposite Party Nos.1 & 3. In the said counter affidavit, it has been stated that the Directorate of Printing, Stationary and Publication of Odisha is facing immense hardship to cope with the existing work load of printing work due to shortage of manpower in the post of Copy Holder. It has also been stated that out of a total sanctioned post of 20 numbers of Copy Holder at present only 2 Copy Holders are available. Taking into consideration the aforesaid difficulty, the Empowered Committee in its meeting held on 05.10.2018 approved the decision to fill up 9 vacant posts of Copy Holder and accordingly, the OSSC was moved to initiate the selection process to fill up the vacant posts. It has also been stated that the OSSC after conducting the selection process, finally notified the name of the valid selected candidates on 28.11.2022. It has also been contended that the OSSC has selected 9 Copy Holders on the basis of the requisition made by Opposite Party No.3. It has been categorically asserted that no malpractice was adopted by any of the candidates in course of the selection process and that the selection was entirely fair and transparent. It was also contended that the advertisement was given wide publicity and candidates equal to thrice the total number of posts were selected through the written examination and were asked to appear in Professional Trade Test



which is Stage-II. Accordingly, 26 candidates including the petitioner as well as private-Opposite Parties participated in Stage-II of the selection process.

31. The counter affidavit of Opposite Party Nos.1 & 3 further reveals that pursuant to the request of OSSC vide their letter dated 27.10.2022, Shri Nehru Dhamel, Joint Director and Shri Prabodh Kumar Patnaik, Deputy Director of the Directorate were nominated as members of the Professional Trade Test Board vide letter dated 05.11.2022. The Opposite Party No.3 has categorically denied any training programme having been arranged in the reading branch of the Govt. Press before the practical examination was conducted by the OSSC for the post of Copy Holder. However, it has been admitted in the counter affidavit that some of the ex-students of School of Printing and Allied Trades, Cuttack had met the Head Readers of Press Proper Unit during recreational hours and enquired about the duties and responsibilities of the Copy Holder and such interaction was confined to a verbal questionnaire.

32. With regard to Rules, 1978, the counter affidavit of Opposite Party Nos.1 & 3 further reveals that the said rule came into force w.e.f. 22.01.1978. Furthermore, although the printing technology has undergone significant changes in the meanwhile owing to various sophisticated new machines and latest technology,



however, the said rule was never amended and as such the criteria with the regard to the requisite educational qualification for the post of Copy Holder remained unchanged for several decades. It has also been stated that taking into account the need of the modern printing technology, the educational qualification for the post of Copy Holder was duly reviewed and modified as per the recommendation of the Committee constituted by the Directorate as well as the suggestions by such Committee in its meeting held on 21.08.2020. Accordingly, a proposal was sent to the Govt. vide letter dated 09.10.2020 requesting amendment to the Rules, 1978. Furthermore, Govt. of Odisha in Commerce Dept. vide letter dated 04.03.2023 was pleased to approve the modification in respect of educational qualification and experience for recruitment to Group-C Industrial posts. Further, it is revealed that there exists no provision in the Rules, 1978 for awarding weightage/ preferential mark to the holders of National Trade Certificate. Since, the OSSC found it difficult to assess the candidates and award weightage/ preferential mark to said candidates, the OSSC suggested in its meeting held on 21.08.2020, that preference cannot be quantified when deciding the inter-se merit position of the candidates selected through the recruitment process. Therefore, it was decided the merit list shall be decided on the basis of the marks secured by the candidates in the



written examination and the Trade Test. Accordingly, the Commission suggested giving preference in the shape of weightage marks of 5 % of the mark secured in the written examination to the candidates having NTC/ NAC certificate in the printing trade. It has also been stated that the Petitioner was allowed to participate in the recruitment process since she satisfied the eligibility criteria fixed in the advertisement published by the OSSC.

33. The counter affidavit of the Opposite Party Nos.1 & 3 further reveals that the Joint Director of Directorate of Printing, Stationary & Publication, Cuttack is the Vice-Principal of the School of Printing and Allied Trades, Cuttack (SPAT). As such it has been stated that all students of SPAT are ex-students of Vice-Principal. Furthermore, it has also been stated that all candidates who got selected, as well as those who were not selected, are the ex-students of the Vice-Principal i.e. the Joint Director of Directorate of Printing, Stationary & Publication, Cuttack. It has also been categorically asserted in the counter affidavit that no practical training whatsoever was imparted to the selected candidates in the Government Press apart from a brief interaction with the Head Reader during recreational hours as has been admitted in the said counter affidavit.



34. The recruiting agency i.e. Odisha Staff Selection Commission has also filed a counter affidavit through its Secretary-in-Charge. In the said counter affidavit, the Opposite Party No.4 has stated that upon receipt of the requisition from the Opposite Party No.3, the advertisement under Annexure-1 was published to fill up the vacancies as mentioned in the said advertisement. Such vacancies also include 9 vacancies in the post of Copy Holder. Out of the 9 vacancies, 3 posts were horizontally reserved for Women Category. The Petitioner was a candidate for the post of Copy Holder. The counter affidavit further reveals that the Petitioner qualified in the main written examination and practical trade test. Thereafter, she appeared in the certificate verification process. The Petitioner had secured a total of 75.5 marks whereas the mark secured by the last selected candidate in her category is 79.5 marks. Since, she has secured less marks than the last selected candidate, the Petitioner's name was not included in the final merit list.

35. The counter affidavit of the Opposite Party No.4 further reveals that the advertisement was published on the basis of the requisition made by the Opposite Party No.3. Such advertisement categorically provides the educational qualification and other eligibility criteria such as additional age relaxation etc. It has also been stated that the draft advertisement was sent to the office of the





Opposite Party No.3 and the Opposite Party No.3 after receiving the same, has returned the draft advertisement to the Commission vide letter dated 13.08.2020 wherein certain modifications in the draft advertisement were suggested. Thereafter, on the basis of the proposal of the Opposite Party No.3, the Opposite Party No.4 conducted a meeting on 21.08.2020 with regard to awarding of weightage mark. The counter affidavit elaborately narrates the procedure followed during the process of selection. They have also stated that the delay in the recruitment process was due to the slowdown of the process during the Covid-19 pandemic. Finally, on 09.12.2021, the Opposite Party No.4 published the advertisement inviting application from the eligible candidates. The last date of submission of application was extended on a couple of occasions taking into consideration the inconvenience faced by the candidates and to facilitate the candidates who have failed to upload their form on the online portal. It has been categorically stated in the counter affidavit that the Opposite Party No.3 has followed a fair, transparent selection process while conducting the recruitment test for the posts which were advertised under Annexure-1.

36. The counter affidavit of Opposite Party No.4 further reveals that no examination plan has been prescribed in the recruitment rules. As per Rule-13 of OSSC Amendment Rules,



2015, the Commission has decided the plan and pattern of examination in consultation with the requisitioning authority. Rule-13 provides that where no syllabus or pattern prescribed in the relevant rules, the Commission shall decide the same in-consultation with the concerned department or the Govt. As such, the plan of examination was finalized in consultation with the requisitioning authority i.e. Opposite Party No.3. It has been categorically stated that although the Petitioner, who was eligible, was allowed to participate in the recruitment process, however, at no point of time has the Petitioner raised any objection with regard to any stipulation as well as with regard to the selection process notified in the advertisement. The Petitioner participated in the recruitment process having accepted and agreed to the terms and conditions laid down in the advertisement under Annexure-1. It further reveals that the Opposite Party No.4 received total 91 applications for the post of Copy Holder out of which total 41 was found to be valid. Accordingly, 35 candidates out of 41 candidates appeared in the written examination held on 18.06.2022. After the first stage of selection was over, a select list consisting of 25 candidates including the Petitioner was published on 14.10.2022. Where after they were asked to appear before the Professional Trade Test Board. Such Boards were constituted consisting of



several members including one Technical Member from the related field. Accordingly, for the post of Copy Holder, Shri Nehru Dhamel, Joint Director was nominated as a member of the Professional Trade Test Board. Otherwise also, the OSSC in view of Rule-3 (10) of the Rules, 1993 is empowered to nominate any expert to such boards.

37. The counter affidavit of the Opposite Party No.4 further reveals that the candidates appeared before the Board on 15.11.2022. It is further revealed that the Petitioner had secured 44 marks in the written examination and was awarded 31.5 marks in the professional trade test. As such the Petitioner has secured a total of 75.5 marks out of marks of 150, which is admittedly less than the last candidate, who has secured 79.5 marks. Further, the Commission admitted that as per the recommendation of the requisitioning authority, the minimum educational qualification was fixed as Bachelor's Degree in any discipline with proficiency in English Grammar and Composition. With regard to the preference, it has been categorically stated that a common formula was evolved for all the candidates to quantify the weightage by awarding 5% of the mark secured in the written examination to the candidates having NTC/ NAC certificates. A common standard was applied to all the candidates who had participated in such recruitment process



and none of the candidates have raised any doubt with regard to the standard procedure adopted by the recruiting agency.

38. After finalization of the selection process, the Commission on 17.11.2022 notified 26 candidates for the post of Copy Holder and they were called upon to appear in the certificate verification which was conducted on 23.11.2022 in the office of Opposite Party No.4. After verification of certificate, the final select list was published on 14.10.2022 under Annexure-3 in order of merit category-wise (Trade-wise) by taking into consideration the total mark secured by each candidate who were called upon to participate in certificate verification process. Since, the Petitioner was found to have secured less mark than the last candidate in her category, she has not been selected and her name was not been included in the final selection list. With regard to the complaint lodged by one Bipin Behera, the Opposite Party No.4 has stated that the same has been considered by the Commission and a report has been called from the Opposite Party No.3.

39. Mr. Swain, learned counsel appearing for the OSSC (Opposite Party No.4) emphatically argued that the Opposite Party No.4 conducted the recruitment test in a fair and transparent manner and that no fault can be found in any of the actions taken by the Opposite Party No.4. He further submitted that absolute



transparency was maintained throughout the selection process and that the entire selection process was done under the surveillance of the CCTC and the same has been video-graphed. He further contended that the entire selection process was carried out strictly in terms of the conditions laid down in the advertisement under Annexure-1 to the writ application. It was also contended that since the petitioner failed to secure the required marks for being selected and appointed as a Copy Holder, her name was not included in the final merit list. On such grounds, Mr. Swain, learned counsel appearing for the OSSC submitted that the Opposite Party No.4 has not committed any illegality while conducting the selection process. As such it was submitted that the averments made in the writ application are all vague and baseless. He further contended that the allegations made with regard to the bias is also equally baseless as the Petitioner has failed to produce any specific material to establish that there exists any likelihood of bias in the entire selection process.

40. Having heard Mr. Dayananda Mohapatra, learned counsel appearing for the Petitioner, Mr. Budhadev Routray, learned Senior Counsel appearing for the Opposite Party Nos.9 to 15, Mr. B.K. Dash, learned counsel appearing for the Opposite Party Nos.7 and 8, Mr. Sanjib Swain, learned counsel appearing for the OSSC-



Opposite Party No.4 and learned Additional Standing Counsel for Opposite Party Nos.1 & 3. Further, on a careful analysis of the factual background of the present case as has been elaborately discussed hereinabove and on perusal of the pleadings as well as materials on record and, the records pertaining to the entire selection process which were produced by Mr. Swain, learned counsel appearing for OSSC, this Court is required to scrutinize the entire selection process as well as assess the validity of the final select list prepared by the Opposite Party No.4.

41. Before arriving at any conclusion on the basis of the aforesaid analysis of the fact as well as the law, this Court would like to reflect its observation with regard to the records produced by the Recruiting Agency-Opposite Party No.4. On perusal of the records pertaining to the selection of and recruitment two different Group-C posts as per the advertisement under Annexure-1, this Court observes that the entire selection process has been well documented by the Opposite Party No.4. Finally, the select list notified for the 9 posts of Copy Holder reveals that 3 persons namely, Susanta Kumar Nayak, Raj Prakash Nayak and Satya Ranjan Nayak, who have secured 105.75, 104.5 and 96.2 marks, were finally selected under UR (M) category. Similarly, three persons were selected for UR (W) category, namely, Chinmayee



Mohapatra, Rosana Swain, Chinmayee Mohapatra, who have secured 90, 82 and 79.5 marks respectively. In respect of the SEBC category, two candidates were finally selected, namely, Hemanta Kumar Palei and Milan Mohanty, who have secured 96 and 94.5 marks respectively. For the sole post of ST Category one Balabhadra Dehury was selected, who has secured 57 marks. On perusal of the record it appears that only one candidate has been awarded the weightage mark. One Satya Ranjan Nayak, whose name appears at Sl. No.3 of UR (M) category, has been awarded 2.7 marks as weightage mark. Further taking into consideration a total mark secured by the above named candidate i.e. 96.2 marks. This Court is of the considered view even if the weightage mark is deducted, the above named Satya Ranjan Nayak would have secured more marks than the present Petitioner. Moreover, the above named Satya Ranjan Nayak falls under a different category, there is no challenge to his selection in the present writ application. With regard to the UR (W) category, which is the subject matter of dispute in the present writ application it appears none of the candidates have been awarded any weightage mark. Furthermore, it appears that the selected candidates have secured 90, 82 and 79.5 marks respectively. Whereas the record reveals that the Petitioner has secured 75.5 marks. Therefore, it is the admitted position that



the Petitioner has failed to secure more marks than the marks secured by the last candidate of her category i.e. Chinmayee Mohapatra at Sl. No.13. Additionally, in the combined merit list of all 26 candidates, who have appeared for the certificate verification, the petitioner's name appears against Sl. No.15. Furthermore, three posts were horizontally reserved for UR (W) category. On a careful scrutiny of the combined merit list of all 26 candidates it appears three candidates belonging to the UR (W) category, have secured more marks than the Petitioner. It is pertinent to mention here that there exists some dispute with regard to the certificate submitted by one of the three candidates in the UR (W) Category, i.e. Rosana Swain, at Sl. No.12 of the merit list, who has secured 82 marks. Finally, on a careful scrutiny of the entire record, this Court is of the considered view that no irregularities and illegalities were found either in the record or in the entire selection process.

42. The next question that falls for consideration in the present writ application is with regard to the fixation of the minimum educational qualification. No doubt, in view of the provisions contained in Rules, 1978. the minimum educational qualification was HSC pass. However, the same was revised on the recommendation of the Empowered Committee and a recommendation was sent to the Govt. to amend the rules.





However, such amendment was not carried out till the entire selection process was over. Considering the fact that the Empowered Committee had suggested modification in the minimum educational qualification keeping in view the change in technology and the demand of time, the Opposite Parties have not committed any illegality in suggesting for modification of the educational qualification. Even otherwise also there is no bar to modify the educational qualification and in many judgments of the Hon'ble Supreme Court as well as of this Court it has been held that prescribing a higher educational qualification for any post in any recruitment process is not illegal provided the relevant rules support the same. In the present case, this Court observes that although the recommendation was made for enhancing the educational qualification to Bachelor's Degree in any discipline, however, by the time the selection was carried out the rule was not suitably amended. Moreover, the advertisement clearly prescribes the minimum educational qualification and on such basis 91 candidates submitted their application. So far the present Petitioner is concerned, she was having a graduate degree therefore she was eligible and accordingly she was allowed to participate in the entire recruitment process. In such view of the matter, this Court has no hesitation in coming to a conclusion that no prejudice has been



caused to the Petitioner even though the Rule was suitably amended and as such it is not open to the petitioner to challenge the advertisement and the educational qualification prescribe therein. In such view of the matter, the aforesaid issue raised by learned counsel for the Petitioner does not call for consideration in the present writ application. The next and very relevant question which requires adjudication in the present writ application is, whether it is open to the Petitioner to challenge the recruitment process and the advertisement after having participated in such recruitment process, more so, when no protests/ objections were raised at any stage of the entire selection process and after having accepted the terms and conditions as laid down in the advertisement. In this regard, this Court would like to refer the latest judgment of the Hon'ble Supreme Court in *Tajvir Singh Sodhi v. State (UT of J&K)* reported in *2023 SCC OnLine SC 344*, wherein the selection process for appointment of drug inspectors in the then State of Jammu and Kashmir, and the appointments published thereunder were in issue, the Hon'ble Apex Court after a detailed analysis of a catena of cases relating to the issue of challenge to the selection process after having participated in the same, have held in paras-69 & 70 of the judgment that:-



69. *It is therefore trite that candidates, having taken part in the selection process without any demur or protest, cannot challenge the same after having been declared unsuccessful. The candidates cannot approbate and reprobate at the same time. In other words, simply because the result of the selection process is not palatable to a candidate, he cannot allege that the process of interview was unfair or that there was some lacuna in the process. Therefore, we find that the writ petitioners in these cases, could not have questioned before a Court of law, the rationale behind recasting the selection criteria, as they willingly took part in the selection process even after the criteria had been so recast. Their candidature was not withdrawn in light of the amended criteria. A challenge was thrown against the same only after they had been declared unsuccessful in the selection process, at which stage, the challenge ought not to have been entertained in light of the principle of waiver and acquiescence.*

70. *This Court in **Sadananda Halo** has noted that the only exception to the rule of waiver is the existence of mala fides on the part of the Selection Board. In the present case, we are unable to find any mala fide or arbitrariness in the selection process and therefore the said exception cannot be invoked.*

In view of the aforesaid analysis, this Court is of the considered view that the law laid down by the Hon'ble Supreme Court in respect of the aforesaid issue in **Tajvir Singh Sodhi's** case (supra) is fully applicable to the facts of the present case. Accordingly, this Court has no hesitation in coming to a conclusion that the Petitioner is estopped from challenging the advertisement and the conditions laid down therein after having participated in the recruitment process, and particularly when she has failed to qualify for appointment to the post of Copy Holder.



43. Indisputably, fairness and transparency is the foundational stone upon which any selection/ recruitment process is based. Observance of fairness and transparency in the selection process is drawn from Article-14 and 16 of the Constitution of India. Therefore, any selection/ recruitment process to remain valid in law, must stand the test and scrutiny of fairness and transparency. So far the present case is concerned, this Court has analyzed the facts as presented before this Court with regard to the observance of fairness and transparency in the selection process. On perusal of the records as well as the counter affidavit and the statements made by learned counsel appearing for the OSSC, this Court is of the view that the entire selection process was conducted under CCTV surveillance and by providing equal opportunity to the aspiring candidates. The records further reveal that the entire process of selection has been well documented. Moreover, the Petitioner has not raised any objection with regard to the process of evaluation and the marks secured by her. On a comparative analysis of the marks secured by the candidates belonging to the Petitioner's category i.e. UR (W) category, it was observed that the Petitioner has secured less marks than the three candidates whose names have been recommended for appointment by the recruiting agency. Furthermore, the petitioner has admittedly secured 4 marks less



(75.5 marks) than the marks secured by the last candidate of UR (W) category i.e. 79.5 marks. It was further observed that no weightage mark has been given to any of the candidates in UR (W) category. Thus, the preparation of the final select list in no manner infringes the fairness and transparency requirement of the selection procedure.

With regard to the allegations made against the Joint Director, namely, one Nehru Dhamel, this Court examines the records as well as the pleadings of the respective parties. The counter affidavit filed by Opposite Party Nos.1 & 3 as well as Opposite Party No.4 explains the entire ground realities as well as the role of above named Nehru Dhamel. Merely because of the fact that the above named Nehru Dhamel, while working as the Joint Director, was also the Vice-Principal of SPAT and the inclusion of his name in the Trade Test Board does not make the constitution of Board invalid. The Petitioner has miserably failed to bring on record any specific material to establish either any bias or any likelihood of bias on the part of above named Joint Director. Moreover, mere interaction with the Head Readers of the Press Proper Unit of some of the candidates does not conclusively establish the element of bias in the process of selection as alleged by the Petitioner. Considering the selection process in its entirety



this Court is of the considered view that the Petitioner has failed to prove that there was any bias or any likelihood of bias in the selection of process.

44. As has been discussed hereinabove, on a careful scrutiny of the final merit list, this Court is of the considered view that since the Petitioner has failed to secure the marks for being selected and appointed as a Copy Holder, her name has not been rightly included in the final merit list. It further appears that she had secured 75.5 marks and that the last candidate in UR (W) category had secured 79.5 marks. Although it appears that there exists some dispute with regard to the selection of one candidate in UR (W) category i.e. one Rosana Swain, who had secured 82 marks and it also appears that no final decision has been taken with regard to the selection of above named, Rosana Swain, in the event, the above named Rosana Swain, is found to be disqualified for selection under UR (W) category, then automatically, the Petitioner would get chance for being selected and appointed as a Copy Holder. In such view of the matter, this Court while holding that the present writ application is devoid of merit and accordingly dismissing the same, would like to allow the connected writ application bearing W.P.(C) No.2158 of 2024. Accordingly, it is directed that the Petitioner in W.P.(C) No.2158 of 2024 be given appointment as expeditiously as possible



preferably within a period of six weeks from the date of communication of a certified copy of this judgment. So far the present Petitioner is concerned, the Opposite Parties are directed to take a final decision with regard to the candidature of above named Rosana Swain and in the event it is found that the above named Rosana Swain is disqualified on any ground, then the name of the present Petitioner be included in the final select list and her case be considered for appointment to the post of Copy Holder. However, in the event the above named Rosana Swain is found eligible, then it is open to the Opposite Parties to consider the case of the Petitioner as against the vacant posts as it is evident from record that there are several posts of Copy Holder still lying vacant.

45. With the aforesaid observations, the writ application W.P.(C) No.34888 of 2022 is dismissed and W.P.(C) No.2158 of 2024 is allowed, however, there shall no order as to cost.

**(A.K. Mohapatra)**  
**Judge**

*Orissa High Court, Cuttack*  
*The 28<sup>th</sup> June, 2024/ Anil, Jr. Steno*