

[2026 LiveLaw \(SC\) 253](#)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
SANJAY KAROL; J., PRASHANT KUMAR MISHRA; J.
MARCH 17, 2026

CIVIL APPEAL NO. 3446 OF 2026 (ARISING OUT OF S.L.P. (CIVIL) NO.16533/2025)
CHARAN PREET SINGH versus MUNICIPAL CORPORATION CHANDIGARH & ORS.

Service Law – Recruitment – Judicial Review of Answer Keys – Ambiguity in Multiple Choice Questions (MCQs) – Selection for the post of Law Officer – Dispute over the correct answer to a question regarding the immunity of the Ninth Schedule of the Constitution from judicial review – Recruiting body considered "Ninth Schedule" (Option B) as correct, while the respondent claimed "None of the above" (Option D) was correct based on the 'Basic Structure' doctrine – Held: When High Court Judges themselves hold divergent views on the interpretation of Constitutional provisions and Supreme Court precedents spanning decades, law graduates appearing for a recruitment exam cannot be expected to reach a singular "correct" conclusion by such complex interpretation – Both candidates found to be deserving of accommodation as both answers could be considered correct from different perspectives.

Equitable Relief – Creation of Supernumerary Post – To balance the equities between a candidate already in service (Appellant) and a deserving candidate deprived of selection due to a contested answer (Respondent No. 3), Supreme Court directed the creation of a supernumerary post – Appellant to retain seniority over the new appointee. [Relied on *Vikas Pratap Singh and Others vs. State of Chhattisgarh and Others* (2013) 14 SCC 494; Paras 7 - 11]

For Petitioner(s): Mr. R. H. A. Sikander, AOR Mr. Jatin Bhatt, Adv. Mr. Sanawar, Adv. Mr. Kshitij Singh, Adv. Ms. Nuzhat Naseem, Adv. Mr. Sikander Raza, Adv. Mr. Faisal Mohammed, Adv. Mr. Chirag Verma, Adv.

For Respondent(s): Mr. Gaurav Pachnanda, Sr. Adv. Mr. Shubham Saigal, AOR Mr. Siddharth Jain, Adv. Ms. Shreya Bansal, Adv. Ms. Shruti Priya Mishra, Adv. Mr. Ashish Shukla, Adv. Mr. Shubham Bhalla, AOR Mr. Alex Noel Dass, Adv. Ms. Ragini Sharma, Adv. Ms. Neha Verma, Adv. Mr. Rohit Pandey, Adv. Mr. Aman Khatri, Adv. Mr. Yash, Adv. Mr. Amitoj Bir Singh, Adv.

J U D G M E N T

PRASHANT KUMAR MISHRA, J.

1. Leave granted.
2. This Appeal would call in question the judgment dated 29.5.2025 rendered by the Division Bench of the Punjab and Haryana High Court in LPA No.286-2022 (O&M) to set aside the judgment dated 7.2.2022 passed by the learned Single Judge in CWP No.1007 of 2022 whereby the writ petition preferred by the third respondent – Amit Kumar Sharma was dismissed. Consequently, the writ petition filed by the third respondent stands allowed and the official respondents were directed to revise the third respondent's score in the recruitment exam for one post of Law Officer in the Municipal Corporation, Chandigarh and, accordingly, to reconsider his case for selection to the said post. As a result of such reconsideration, the present appellant, who was selected in the recruitment, would secure less marks than the third respondent and, thus, could be ousted from consideration.
3. To put the facts in hand very briefly and concisely, the first respondent – Municipal Corporation, Chandigarh, issued an advertisement inviting applications for various posts, including for one post of Law Officer. The selection for the post of Law Officer was to be

made only on the basis of a written test where 100 questions of multiple-choice type carrying one mark each were to be attempted. For each wrong answer, 1/4th mark was to be deducted as negative marking. The appellant and the third respondent applied for the said post.

4. In the abovesaid examination, one of the questions, question no.73, was asked as under:

“73. Which of the following schedule of the Constitution is immune from judicial review on the grounds of violation of fundamental rights?

- A) Seventh Schedule
- B) Ninth Schedule
- C) Tenth Schedule
- D) None of the above”

5. The dispute in the present matter relates to the correct answer to the abovesaid question. The third respondent/writ petitioner answered and claimed that option ‘D’ (None of the above) is the correct answer, whereas, according to the recruiting body, option ‘B’ (Ninth Schedule) is the correct answer. According to the recruiting body, the third respondent gave a wrong answer. The third respondent secured one mark less for giving a wrong answer and further 1/4th mark was deducted by way of negative marking. The learned Single Judge dismissed the writ petition preferred by the third respondent on the reasoning that Article 31B of the Constitution of India which provides immunity from challenge to the law on mere violation of a fundamental right still exists in the Constitution and the validity thereof has been upheld by this Court in **Shankari Prasad Singh Deo vs. Union of India and State of Bihar**¹, which was not only followed with approval, rather it was reiterated with more emphasis in the case of **Sajjan Singh and Others vs. State of Rajasthan and Others**², though in the later decision in the matter of **C. Golak Nath and Others vs. State of Punjab and Another**³, this Court declared Article 31B as invalid prospectively. However, the same survived for a short time as decision rendered in **C. Golak Nath** (supra) was overruled by this Court in **His Holiness Kesavananda Bharati Sripadagalvaru vs. State of Kerala and Another**⁴ and, thus, Article 31B again became valid and constitutional, which was further reinforced by this Court in the matter of **I.R. Coelho (Dead) by LRs vs. State of T.N.**⁵.

6. Thus, on the above reasoning, the learned Single Judge held that the question and answer, which the official respondents have framed in the subject recruitment exam, are fully supported by even the bare language of the Constitution. According to the learned Single Judge, once Article 31B, which excluded violation of fundamental right as the test for pronouncing upon the validity of the laws, was upheld, there was no alternative except to reconcile with such validity. However, an alternate test to pronounce upon the validity of laws included in the Ninth Schedule has been devised and, accordingly, the tests of extent and nature of violation of some of the fundamental rights considered as basic feature of the Constitution or impact of such violation on some essential features of the Constitution, has been devised. The net result is that the immunity granted to the Ninth Schedule laws *qua* violation of fundamental rights has not been done away with and it

¹ 1951 SCC 966: (1952) SCR 89

² 1964 SCC OnLine SC 25: AIR 1965 SC 845

³ 1967 SCC OnLine SC 14: (1967) 2 SCR 762

⁴ (1973) 4 SCC 225

⁵ (2007) 2 SCC 1

continues. But some effect of such violation has been brought within the purview of the judicial review so as to reclaim power to pronounce upon the validity of laws included in the Ninth Schedule. But the reference test for such invalidity is not the violation of the fundamental rights, *per se*, but the effect of the same on the 'basic features' of the Constitution, which are spread over the entire body of the Constitution, even beyond the fundamental rights. The learned Single Judge quoted paragraphs 126 and 148 of the *I.R. Coelho* (supra). Thus, according to the learned Single Judge, the laws included in the Ninth Schedule are immune from judicial review on the ground of violation of fundamental rights even today and the recruiting body was, therefore, right by mentioning option 'B' as the correct answer.

7. In the intra-court appeal, the Division Bench, in its judgment, which is impugned herein, has again referred to paragraph 148 of *I.R. Coelho* (supra) to observe that while Article 31B grants certain immunities to laws placed in the Ninth Schedule, these immunities are not absolute and are subject to test of basic structure. Consequently, it is incorrect to state, in categorical terms, that the Ninth Schedule is immune from judicial review merely on the ground of violation of fundamental rights. Therefore, the Division Bench held that the third respondent's⁶ selection of option 'D' (None of the above) was legally correct and aligned with the settled position of law as laid down by this Court. According to the Division Bench, the reliance placed by the respondents (before the learned Single Judge) on paragraph 148 of *I.R. Coelho* (supra) is misplaced as it overlooks the core contention of the third respondent herein (Amit Kumar Sharma) that no Schedule of the Constitution, including the Ninth Schedule, is absolutely immune from judicial review merely for infringing the fundamental rights.

8. The Division Bench, thus, found that the third respondent (Amit Kumar Sharma), being a law graduate, answered the question in consonance with the binding law declared under Article 141 of the Constitution and deduction of 1.25 marks materially altered his merit ranking and deprived him of fair consideration for selection. As regards the appointment of the appellant (Charan Preet Singh), the Division Bench observed that though he has already joined services, the Constitutional right of a deserving candidate cannot be defeated solely on account of delay in judicial determination. The Division Bench further observed that this Court in *Vikas Pratap Singh and Others vs. State of Chhattisgarh and Others*⁷ authorises creation of a supernumerary post in such circumstances to balance equities.

9. We have heard the learned counsel for the parties at great length and perused the material on record.

10. Question No.73 was included in the recruitment test for selection to the post of Law Officer in the Municipal Corporation, Chandigarh. To evaluate as to whether Option 'D' (None of the above) answered by the third respondent was correct or Option 'B' (Ninth Schedule) which according to the recruiting body is correct, the learned Single Judge and the Division Bench as well have considered the Constitutional provisions and the decisions rendered by this Court in its celebrated judgments in the matter of *Shankari Prasad Singh Deo* (supra); *Sajjan Singh* (supra); *C. Golak Nath* (supra); *His Holiness Kesavananda Bharati Sripadagalvaru* (supra); and *I.R. Coelho* (supra). When the Judges of the High Court are at variance in their opinion as to the correct answer to Question No.73, it is least expected from mere law graduates, who are competing for a post of Law Officer in the Municipal Corporation, to reach to a correct conclusion while answering the multiple-

⁶ Appellant before the Division Bench of the High Court

⁷ (2013) 14 SCC 494

choice question by process of interpretation of Constitutional provisions involving this Court's judgments in several decades. Thus, we are of the considered view that both the candidates deserve to be accommodated. From a law graduate's point of view, both the answers may be correct, although Option 'B' (Ninth Schedule) appears to be more appropriate considering the language of the question asked. However, on a deeper analysis of this Court's judgments mentioned above, Option 'D' (None of the above) can also be considered to be correct as has been held by the Division Bench.

11. In the above view of the matter, we direct the Municipal Corporation, Chandigarh, to accommodate both, the appellant as well as the third respondent/writ petitioner, by creating a supernumerary post and appoint the third respondent as well. Upon appointment of the third respondent, the appellant, who was initially selected and joined and presently working on the post, will be treated as senior.

12. The Appeal is disposed of in the above stated terms.

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