

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

**L.P.A No.538 of 2025**

1. The State of Jharkhand through the Chief Secretary, Government of Jharkhand having office at Project Building, Dhurwa PO Dhurwa PS Jagarnathpur District Ranchi.

2. The Principal Secretary, Department of School Education & Literacy, Government of Jharkhand, having office at Project Building, Dhurwa, P.O. Dhurwa, P.S. Jagarnathpur, District Ranchi.

3. The Director, Secondary Education, Government of Jharkhand, having office at Project Building, Dhurwa, P.O. Dhurwa, P.S. Jagarnathpur, District Ranchi.

**... .. Respondents/Appellants**

**Versus**

1. Abhijeet Kumar Sinha Son of Late Devendra Kishore Prasad aged about 42 years resident of: Ramnagar Road, Near Immanbara, PO: Boddom Bazar, PS: Sadar Hazaribagh (Jharkhand).

**Writ Petitioner/ Respondent**

2. The Jharkhand Staff Selection Commission, through its Secretary, having its office at Chaibagan Gali, Kali Nagar, P.O. & P.S. Namkum, District Ranchi.

3. The Controller of Examination, Jharkhand Staff Selection Commission, having its office at Chaibagan Gali, Kali Nagar, P.O. & P.S. Namkum, District Ranchi.

4. University Grants Commission (UGC), having office Bahadur Shahjafar Marg, New Delhi, P.O. & P.S.-New Delhi, District-New Delhi-110002 (Delhi)

5. National Council for Teachers Education (NCTE), having office at G-7, Sector 10, Dwarka, Near Metro Station, New Delhi, PO & PS: Dwarka, District New Delhi-110075 (Delhi).

**Performa Respondents/ Respondent**

**with**

**L.P.A. No. 376 of 2024**

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1. The State of Jharkhand.
2. The Principal Secretary, School Education & Literacy Department, Government of Jharkhand, Ranchi officiating from Project Bhawan, Dhurwa., P.O. Dhurwa, P.S. Jagarnathpur, District Ranchi.

**...Respondents/Appellants**

**versus**

- 1.Mukesh Ranjan, aged about 33 years, son of Shri Kouleshwar Das, resident of New Colony, Dipugarha, P.O. Hazaribagh, P.S. Sadar, District - Hazaribagh.

**.....Petitioner/Respondent**

- 2.The Jharkhand Staff Selection Commission, Ranchi through its Secretary officiating from Chai Bagan, Kali Nagar, Namkum, P.O. & P.S. Namkum, District Ranchi.
- 3.The Examination Controller, Jharkhand Staff Selection Commission, Ranchi officiating from Chai Bagan, Kali Nagar, P.O. & P.S. Namkum, District Ranchi.

**... Respondents/Proforma Respondents**

**CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD  
HON'BLE MR. JUSTICE SANJAY PRASAD**

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For the Appellants: Mr. Ashutosh Anand, AAG III  
Mr. Sahbaj Akhtar, AC to AAG III

For the Res.-writ petitioners  
: Mr. Amritans Vats, Advocate  
Mr. Arpan Manjash Ekka, Advocate  
Mr. Amartya Choubey, Advocate  
Mr. Shivam Pathak, Advocate  
For the JSSC :Mr. Sanjoy Piprawall, Advocate  
Mr. Prince Kumar, Advocate  
Mr. Jay Prakash, Advocate  
For the NCTE :Ms. Kumari Ruchika, Advocate  
[AC to Ms. Kushboo Katuraka, Adv]  
For the UGC : Mr. Atanu Banerjee, Advocate

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**C.A.V. on 6<sup>th</sup> July, 2026                      Pronounced on 06/08/2026**  
**Per Sujit Narayan Prasad, J.**

**I.A. No. 13992 of 2025 in LPA No. 538 of 2025**

**1.** The instant application has been filed for condonation of delay of 251 days in filing the appeal.

**2.** It has been submitted that the impugned order was passed on 22.11.2023 to which the appellant informed the Department and file was put up before the Under Secretary to examine the legal impact of outcome of order dated 22.11.2023 passed in W.P. (S) No. 5104 of 2023. On 10.01.2024, the Director of the Department was informed about the same requesting to take appropriate steps with respect to filing of appeal against order dated 22.11.2023 passed in W.P. (S) No. 5104 of 2023. The Director, after examining the record, forwarded the same to the Under Secretary for preparing grounds of appeal on 24.01.2024.

**3.** In the meantime, the JSSC, Ranchi was requested to provide necessary document so that appropriate steps be taken at the earliest.

**4.** On 01.02.2024, the case was put up before the Law Executive with a direction to prepare grounds of appeal. Accordingly, the grounds of appeal were prepared and the same was put up before the Legal Department. Thereafter, the Under Secretary presented the grounds of appeal before the Additional Secretary of the Department. Thereafter, several rounds of discussions were held and after discussion finally grounds of appeal were approved by the appellant-

department and a decision was taken to seek legal opinion from the learned Advocate General, State of Jharkhand for filing appeal against order dated 22.11.2023 passed in W.P. (S) No. 5104 of 2023. Accordingly, on 20.02.2024, the entire record along with grounds of appeal was endorsed to the learned Advocate General, State of Jharkhand for his valuable opinion with respect to filing of appeal.

**5.** On 22.02.2024, after examining the entire record along with the grounds of appeal, learned Advocate General advised the department to file appeal against order dated 22.11.2023 passed in W.P. (S) No. 5104 of 2023.

**6.** Thereafter, on 27.02.2024, the Deputy Secretary of the Department was authorized to prefer appeal, however, due to transfer of the Deputy Secretary in the light of order and direction passed in administrative side by the Personnel Administrative Reforms and Rajbhasha Department, the Joint Secretary of the department was authorized to prefer the appeal against order dated 22.11.2023 passed in W.P. (S) No. 5104 of 2023.

**7.** Accordingly, on 28.02.2024, the case was allotted to the office of learned Senior Standing Counsel-I to prefer memo of appeal against order dated 22.11.2023 passed in W.P. (S) No. 5104 of 2023, who prepared the memo of appeal and sent the same to the department for its approval. Thereafter, a series of discussions was held to discuss the implication of

order dated 22.11.2023 passed in W.P. (S) No. 5104 of 2023 and after getting the approval from the department finally the appeal was filed on 18.07.2024.

**8.** Submission has been made that for the reasons aforesaid, which was beyond the control of the appellants, the delay of 251 days has been caused in preferring the appeal.

**9.** Further submission has been made that there are good grounds in assailing order dated 22.11.2023 passed in W.P. (S) No. 5104 of 2023, by preferring the instant appeal and if the instant delay condonation application will not be allowed, the appellants will suffer irreparable loss.

**10.** Referring to the order/judgment passed in ***State of Manipur & Ors vs. Koting Lamkang [(2019) 10 SCC 408]*** submission has been made that in that case also there was delay of 312 days in preferring the appeal by the State, which was refused to be condoned by the High Court, but the Hon'ble Apex Court after considering the reasons assigned therein has condoned the delay in preferring the appeal.

**11.** Therefore, prayer has been made to allow the instant application and condone the delay of 251 days in preferring the appeal.

**12.** While, on the other hand, learned counsel for the respondent no. 1-writ petitioner pressing the reply to

Interlocutory Application has submitted that the reasons for condoning the day and the cause, which has been shown for taking legal opinion and all other sanction and approval for filing the appeal is not sufficient to condone the delay.

**13.** Further submission has been made that even otherwise also in the entire Interlocutory Application there is explanation of only 205 days and no explanation of remaining 46 days as the total delay occurred in filing the memo of appeal is 251 days.

**14.** Referring to order dated 29.04.2024 passed in L.P.A. No. 554 of 2022, wherein the appeal was preferred after delay of only 198 days, submission has been made that the delay condoning application was rejected on the ground that no bona fide on the part of the State has been shown considering the catena of judgments passed by Hon'ble Apex Court.

**15.** Learned counsel for the respondent no. 1-writ petitioner on the aforesaid ground has submitted that the delay condonation application requires to be rejected.

**16.** We have learned counsel for the parties on the delay condonation application.

**17.** Admittedly, there are delay of 251 days in preferring the appeal, which has been explained by the appellant in the delay condonation application in detail.

**18.** Law is well settled that besides length of delay it is the sufficiency of satisfactory explanation is a decisive factor for condonation of delay in any limitation petition, which is filed.

**19.** Section 5 of the Limitation Act, 1963 provides for the extension of the prescribed period in certain cases. The power conferred upon the Court under this provision is not unfettered discretion; rather, it is conditioned upon the existence of “sufficient cause” supported by a satisfactory explanation for the delay. While considering such applications, the Court must remain mindful that the ultimate objective is to advance substantive justice and ensure that a litigant is not non-suited merely on technical grounds of limitation. For ready reference, Section 5 of the Limitation Act is quoted as under:

*“5. **Extension of prescribed period in certain cases.** - Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908 (5 of 1908), may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.”*

**20.** It is an admitted position that the grant of extension under Section 5 of the Limitation Act is not an automatic right of the litigant but rests upon the judicial discretion of the Court. Such discretion is exercised only when the delay is shown to be genuine and bona fide. The statute requires the existence of “sufficient cause” for condonation, though

the term itself is not exhaustively defined in the Act. Consequently, the determination of sufficiency is left to the wisdom of the Court, to be assessed on a case-by-case basis, keeping in view the facts and circumstances of each matter.

**21.** Thus, Section 5 of the Limitation Act, 1963 is designed to safeguard the cause of substantive justice by preventing cases from being dismissed solely on technical grounds of limitation. The provision enables the Court to condone delay in filing appeals or applications where the party demonstrates sufficient cause, thereby ensuring that genuine claims are adjudicated on their merits. However, this relief is not intended to protect litigants who are negligent or indolent; it applies only where the delay is bona fide, unavoidable, and justifiable. In essence, Section 5 strikes a balance between the need for certainty in limitation law and the imperative of advancing justice.

**22.** This Court, on the touchstone of above golden principles has proceeded to examine the submissions advanced on behalf of parties so that a case may not be thrown out on pure technicalities.

**23.** On perusal of the delay condonation application, it appears that reason has been assigned that after passing of the impugned order on 22.11.2023 the file was put up before the Under Secretary to examine the legal impact of outcome

of order dated 22.11.2023 passed in W.P. (S) No. 5104 of 2023, as it had wide impact.

**24.** On 10.01.2024, the Director of the Department informed about the same requesting to take appropriate steps with respect to filing of appeal and the Director, after examining the record, forwarded the same to the Under Secretary for preparing grounds of appeal on 24.01.2024. Furthermore, since the appointment was made by the Jharkhand Staff Selection Commission, as such the JSSC was requested to provide necessary document so that appropriate steps be taken at the earliest.

**25.** Thereafter, the file was placed before the Law Executive on 01.02.2024, with a direction to prepare grounds of appeal and the same was put up before the Legal Department. Thereafter, the Under Secretary presented the grounds of appeal before the Additional Secretary of the Department and after discussion finally grounds of appeal was approved by the appellant-department and a decision was taken to seek legal opinion from the learned Advocate General, State of Jharkhand for filing appeal and accordingly, on 20.02.2024, the entire record along with grounds of appeal was endorsed to the learned Advocate General, State of Jharkhand for his opinion for filing appeal.

**26.** On 22.02.2024, the learned Advocate General advised the department to file appeal and thereafter, on

27.02.2024, the Deputy Secretary of the Department was authorized to prefer appeal, however, due to transfer of the Deputy Secretary in the light of order and direction passed in administrative side by the Personnel Administrative Reforms and Rajbhasha Department, the Joint Secretary of the department was authorized to prefer the appeal.

**27.** Thereafter, on 28.02.2024, the case was allotted to the office of learned Senior Standing Counsel-I to prefer memo of appeal, who prepared the memo of appeal and sent the same to the department for its approval. This caused delay of 251 days in filing the instant appeal.

**28.** Undoubtedly, the delay in the present matter is considerable; however, this Court is duty-bound to assess the application for condonation of delay not merely on the quantum of time elapsed but also on the qualitative parameter of *sufficiency of explanation*.

**29.** The decisive factor in such petitions is whether the applicant has furnished a satisfactory and bona fide justification for the delay. Thus, while the length of delay is a relevant consideration, it is the adequacy of the cause shown that ultimately governs the exercise of judicial discretion under the law of limitation.

**30.** It needs to refer herein that the Hon'ble Apex Court while dealing with the issue of delay of 312 days in the case of ***State of Manipur & Ors vs. Koting Lamkang (supra)***

has held that it was necessary for the Court to also be conscious of the bureaucratic delay and the slow pace in reaching a government decision and the routine way of deciding whether the State should prefer an appeal. Reference in this regard be made to relevant paragraphs the said judgment which reads as under:

*“6. Insofar as the refusal by the High Court to condone the delay of 312 days in the RFA preferred by the State of Manipur and others, it is apparent that the appellants did prefer the appeal at first instance on 15-6-2017 before the District Judge. But since this was before the wrong forum and it was filed after a delay of about eleven months and there is no explanation for the time taken by the State between 18-7-2016 and 15-6-2017, the delay in the RFA before the High Court was not condoned. In fact the Court found that the State has not shown as to what prevented them from preferring the appeal before the District Judge (wrong forum), until 15-6-2017. The Court also said that the latitude in applying the standards of “sufficient cause” test is not attracted, in the instant case.*

*7. But while concluding as above, it was necessary for the Court to also be conscious of the bureaucratic delay and the slow pace in reaching a government decision and the routine way of deciding whether the State should prefer an appeal against a judgment adverse to it. Even while observing that the law of limitation would harshly affect the party, the Court felt that the delay in the appeal filed by the State, should not be condoned.*

*8. Regard should be had in similar such circumstances to the impersonal nature of the Government's functioning where individual officers may fail to act responsibly. This in turn, would result in injustice to the institutional interest of the State. If the appeal filed by the State are lost for*

*individual default, those who are at fault, will not usually be individually affected.*

**31.** Upon consideration of the reasons assigned in the application for condonation of delay, and as discussed hereinabove and further taking into consideration the settled position of law as settled by the Hon'ble Apex Court, this Court is of the view that the delay has occasioned primarily due to the inherently slow pace of governmental decision-making and the routine manner in which the question of preferring an appeal by the State is processed. The explanation thus reflects systemic procedural delay rather than deliberate inaction, and accordingly falls within the ambit of "sufficient cause" contemplated under Section 5 of the Limitation Act.

**32.** In view of the aforesaid reasons, discussions, and precedents, this Court is of the considered opinion that, in order to advance substantive justice, the instant matter ought not to be dismissed merely on technical grounds. Accordingly, the delay of 251 days in filing the appeal is condoned.

**33.** Accordingly, the instant Interlocutory Application being I.A. No.13992 of 2025 stands allowed and disposed of.

**I.A. No. 8855 of 2024 in LPA No. 376 of 2024**

**34.** The instant application has been filed for condonation of delay of 229 days in filing the appeal.

**35.** It has been submitted that the impugned order was passed on 05.10.2023 in W.P. (S) No. 2715 of 2019 and it was found that the compliance has to be done by the Jharkhand Staff Selection Commission, accordingly file was arranged and put up before the concerned officer.

**36.** Thereafter, on 20.10.2023, vide letter no. 2869 issued to the Sikkim Manipal University in order to verify whether BCA Degree has been issued under Science Stream, as the writ petitioner was holding BCA Degree from Sikkim Manipal University. Thereafter, on 29.11.2023 reminder was sent to the Sikkim Manipal University for such information and accordingly on 01.12.2023 required information was received.. Accordingly, on 05.12.2023, the JSSC was requested to do the needful in the matter.

**37.** However, in the internal departmental meeting of JEPC, the matter was discussed and it was decided to prefer appeal. Accordingly, the legal retainer of the concerned department was directed to draft the grounds of appeal on 13.12.2023. On 28.12.2023 the file with grounds of appeal was put up before the concerned and the same was approved by the Director on 03.01.2024.

**38.** On 18.01.2024, the legal opinion in the matter was sought for and thereafter on 13.02.2024, the entire file was handed over to the concerned Law Officer for doing needful for filing appeal and thereafter the appeal was drafted,

however, some documents were found missing, which was arranged and handed over.

**39.** Accordingly, on 31.05.2024, the memo of appeal was finalized and further sent for approval. Thereafter, Law Officer was authorized for filing appeal and accordingly appeal was filed, which caused delay of 229 days in preferring the appeal.

**40.** Submission has been made that for the reasons aforesaid, which was beyond the control of the appellants, the delay of 229 days has been caused in preferring the instant appeal.

**41.** Further submission has been made that there are good grounds in assailing the impugned order, by preferring the instant appeal and if the instant delay condonation application will not be allowed, the appellants will suffer irreparable loss.

**42.** Referring to the order/judgment passed in ***State of Manipur & Ors vs. Koting Lamkang [(2019) 10 SCC 408]*** submission has been made that in that case also there was delay of 312 days in preferring the appeal by the State, which was refused to be condoned by the High Court, but the Hon'ble Apex Court after considering the reasons assigned therein has condoned the delay in preferring the appeal.

**43.** Therefore, prayer has been made to allow the instant application and condone the delay of 229 days in preferring the appeal.

**44.** While, on the other hand, learned counsel for the respondent no. 1-writ petitioner pressing the reply to Interlocutory Application has submitted that the reasons for condoning the day and the cause, which has been shown for taking legal opinion and all other sanction and approval for filing the appeal is not sufficient to condone the delay.

**45.** Referring to order dated 29.04.2024 passed in L.P.A. No. 554 of 2022, wherein the appeal was preferred after delay of only 198 days, submission has been made that the delay condoning application was rejected on the ground that no bona fide on the part of the State has been shown considering the catena of judgments passed by Hon'ble Apex Court.

**46.** Learned counsel for the respondent no. 1-writ petitioner on the aforesaid ground has submitted that the delay condonation application requires to be rejected.

**47.** We have learned counsel for the parties on the delay condonation application.

**48.** Admittedly, there are delay of 229 days in preferring the appeal, which has been explained by the appellant in the delay condonation in detail.

**49.** The law is well-settled that, in matters of condonation of delay, the decisive consideration is not merely the length of delay but the sufficiency of the explanation tendered. A satisfactory and bona fide justification constitutes the determining factor in limitation petitions, and it is this qualitative assessment of cause shown that governs the exercise of judicial discretion in condoning delay.

**50.** Section 5 of the Limitation Act, 1963 provides for the extension of the prescribed period in certain cases. The power conferred upon the Court under this provision is not unfettered discretion; rather, it is conditioned upon the existence of “sufficient cause” supported by a satisfactory explanation for the delay. While considering such applications, the Court must remain mindful that the ultimate objective is to advance substantive justice and ensure that a litigant is not non-suited merely on technical grounds of limitation. For ready reference, Section 5 of the Limitation Act is quoted as under:

**“5. *Extension of prescribed period in certain cases.*** - Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908 (5 of 1908), may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.”

**51.** It is an admitted position that the grant of extension under Section 5 of the Limitation Act is not an automatic

right of the litigant but rests upon the judicial discretion of the Court. Such discretion is exercised only when the delay is shown to be genuine and bona fide. The statute requires the existence of “sufficient cause” for condonation, though the term itself is not exhaustively defined in the Act. Consequently, the determination of sufficiency is left to the wisdom of the Court, to be assessed on a case-by-case basis, keeping in view the facts and circumstances of each matter.

**52.** Thus, Section 5 of the Limitation Act, 1963 is designed to safeguard the cause of substantive justice by preventing cases from being dismissed solely on technical grounds of limitation. The provision enables the Court to condone delay in filing appeals or applications where the party demonstrates sufficient cause, thereby ensuring that genuine claims are adjudicated on their merits. However, this relief is not intended to protect litigants who are negligent or indolent; it applies only where the delay is bona fide, unavoidable, and justifiable. In essence, Section 5 strikes a balance between the need for certainty in limitation law and the imperative of advancing justice.

**53.** This Court, on the touchstone of above golden principles has proceeded to examine the submissions advanced on behalf of parties so that a case may not be thrown out on pure technicalities.

**54.** The impugned order dated 05.10.2023 in W.P. (S) No. 2715 of 2019 required compliance by the Jharkhand Staff Selection Commission. In this process, verification was sought from Sikkim Manipal University regarding the petitioner's BCA degree, with reminders issued and information received on 01.12.2023.

**55.** Thereafter, JSSC was requested to act, and in an internal meeting of JEPC it was decided to prefer an appeal. The legal retainer was directed to draft grounds on 13.12.2023, which were approved by the Director on 03.01.2024. Subsequent legal opinion was obtained, and the file was handed over to the Law Officer on 13.02.2024 for drafting the appeal. Missing documents were later arranged, and the memo of appeal was finalized on 31.05.2024, approved, and filed thereafter. This sequence of procedural steps resulted in a delay of 229 days in preferring the appeal.

**56.** Undoubtedly, the delay in the present matter is considerable; however, this Court is duty-bound to assess the application for condonation of delay not merely on the quantum of time elapsed but also on the qualitative parameter of *sufficiency of explanation*.

**57.** The decisive factor in such petitions is whether the applicant has furnished a satisfactory and bona fide justification for the delay. Thus, while the length of delay is a

relevant consideration, it is the adequacy of the cause shown that ultimately governs the exercise of judicial discretion under the law of limitation.

**58.** It needs to refer herein that the Hon’ble Apex Court while dealing with the issue of delay of 312 days in the case of ***State of Manipur & Ors vs. Koting Lamkang (supra)*** has held that it was necessary for the Court to also be conscious of the bureaucratic delay and the slow pace in reaching a government decision and the routine way of deciding whether the State should prefer an appeal. Reference in this regard be made to relevant paragraphs the said judgment which reads as under:

*“6. Insofar as the refusal by the High Court to condone the delay of 312 days in the RFA preferred by the State of Manipur and others, it is apparent that the appellants did prefer the appeal at first instance on 15-6-2017 before the District Judge. But since this was before the wrong forum and it was filed after a delay of about eleven months and there is no explanation for the time taken by the State between 18-7-2016 and 15-6-2017, the delay in the RFA before the High Court was not condoned. In fact the Court found that the State has not shown as to what prevented them from preferring the appeal before the District Judge (wrong forum), until 15-6-2017. The Court also said that the latitude in applying the standards of “sufficient cause” test is not attracted, in the instant case.*

*7. But while concluding as above, it was necessary for the Court to also be conscious of the bureaucratic delay and the slow pace in reaching a government decision and the routine way of deciding whether the State should prefer an appeal against a judgment adverse to it. Even*

*while observing that the law of limitation would harshly affect the party, the Court felt that the delay in the appeal filed by the State, should not be condoned.*

*8. Regard should be had in similar such circumstances to the impersonal nature of the Government's functioning where individual officers may fail to act responsibly. This in turn, would result in injustice to the institutional interest of the State. If the appeal filed by the State are lost for individual default, those who are at fault, will not usually be individually affected.*

**59.** Upon consideration of the reasons assigned in the application for condonation of delay, and as discussed hereinabove and further taking into consideration the settled position of law as settled by the Hon'ble Apex Court, this Court is of the view that the delay has occasioned primarily due to the inherently slow pace of governmental decision-making and the routine manner in which the question of preferring an appeal by the State is processed. The explanation thus reflects systemic procedural delay rather than deliberate inaction, and accordingly falls within the ambit of "sufficient cause" contemplated under Section 5 of the Limitation Act.

**60.** In view of the aforesaid reasons, discussions, and precedents, this Court is of the considered opinion that, in order to advance substantive justice, the instant matter ought not to be dismissed merely on technical grounds. Accordingly, the delay of 229 days in filing the appeal is condoned.

**61.** Accordingly, the instant Interlocutory Application being I.A. No.8855 of 2024 stands allowed and disposed of.

**L.P.A. No. 538 of 2025 & LPA No. 376 of 2024**

**62.** Since the issues involved in both appeals are identical, and as such at the request of learned counsel for the parties, the matters have been tagged together. Accordingly, they have been heard conjointly and are being disposed of by this common order.

**Prayer in L.P.A. No. 538 of 2025:**

**63.** The instant intra-court appeal under Clause 10 of the Letters Patent, is directed against common order/judgment dated 22.11.2023 passed in W.P. (S) No. 5104 of 2023 and other batch matters, by which, the writ petition filed by the writ petitioners were allowed by quashing the impugned show cause as contained in Memo no. 2778 R dated 05.03.2019, issued by the Respondent No. 5.

**Prayer in L.P.A. No. 376 of 2024:**

**64.** The instant intra-court appeals under Clause 10 of the Letters Patent, is directed against common order/judgment dated 05.10.2023 passed in W.P. (S) No. 2715 of 2019, whereby the writ petition filed by the writ petitioner was allowed by quashing and setting aside part of Notice No. 3462 dated 17.05.2019 issued by the Examination Controller, Jharkhand Staff Selection

Commission, Ranchi, by which, the candidature of the petitioner for appointment on the post of Graduate Trained Teacher has been rejected on the ground that he has not submitted the degree certificate as per the advertisement and directed the respondent-State to appoint the petitioner on the said post.

**Factual Aspect involved in L.P.A. No. 538 of 2025**

**65.** The Jharkhand Staff Selection Commission, floated an advertisement inviting applications from eligible candidates for appointment to the post of Trained Graduate Teacher. Pursuant thereto, the writ-petitioner having requisite qualification in terms of the advertisement applied for appointment to the post of Trained Graduate Teachers Subject-Physical Education, Category-Unreserved from the District-Chatra.

**66.** The writ petitioner appeared in the written examination and on being shortlisted, was called for counselling for verification of the documents. However, at the said stage, the petitioner was issued show cause notices stating that he did not have the requisite qualification as their Degrees of Bachelor of Computer Application (BCA)/ Bachelor of Business Administration (BBA) did not come under the Arts/Science/Commerce stream as per the said advertisement. The petitioner has obtained the Degree of 'BCA' from Indira Gandhi National Open University, New

Delhi in the year 2005 which is recognised by the UGC. In addition to those Degrees, he has also obtained the Bachelor Degree in Physical Education from recognized University.

**67.** It is the case of the writ petitioner that after issuance of the said show cause notices to the petitioner, he duly replied the same explaining inter alia that he was possessing the requisite qualification in terms with the said advertisement and his Bachelor Degrees was under the Science/Commerce stream and hence there was no justification in issuing the impugned show cause notices on the ground that he did not possess the required qualification as per the said advertisement.

**68.** In order to substantiate the aforesaid fact, the learned counsel for the petitioner submits that a coordinate Bench of this Court vide judgment dated 05.10.2023 passed in ***W.P.(S) No. 2715/2019 (Mukesh Ranjan Vs. The State of Jharkhand & Ors.)*** has already held that the Degree of 'BCA' has to be treated as the Bachelor Degree in Science.

**69.** Similarly, vide judgment dated 18.10.2023 passed in ***W.P.(S) No. 920/2019 (Raj Dev Singh & Anr. Vs. The State of Jharkhand & Ors.)***, it has further been held by a coordinate Bench of this Court that the Degrees of 'BBA' and 'BCA' have to be treated as the Bachelor Degrees in Commence and Science respectively.

**70.** Learned counsel for the respondent-JSSC submits before the writ Court that the candidature of the petitioners has not been found in conformity with the said advertisement since they did not possess the requisite qualification as per the said advertisement particularly because the Bachelor Degree in 'BBA/BCA' did not come under the Arts/Science/Commence stream.

**71.** The learned writ Court, after hearing the parties allowed the writ petition after quashing the impugned show cause and directed the respondents-authorities to appoint the petitioner on the post of Trained Graduate Teacher in the concerned subject, which is the subject matter of instant intra-court appeal.

**Factual Aspect involved in L.P.A. No. 376 of 2024**

**72.** An advertisement being CGTTCE-2016 was floated by the respondent-JSSC for appointment to the post of Graduate Trained Teachers in all the District of Jharkhand including Hazaribagh.

**73.** As per Advertisement, for appointment to the post of Graduate Trained Teachers in Physical Education, a candidate should have obtained 45% marks either in Arts, Commerce or Science from recognized University of the State or Central Government and he/ she should also possess a certificate of Physical Education from a recognized University.

**74.** The petitioner being eligible in all respect, applied for the post of Physical Education in Hazaribagh district under Scheduled Caste category. Thereafter, the petitioner appeared in the written test and got qualified in the same. Subsequently he was called for documents verification vide notice of the Commission dated 14.12.2018.

**75.** In pursuance of the said notice, the petitioner appeared before the respondent-JSSC and submitted all the testimonials including the certificate of degree of Bachelor in Physical Education issued by Vinoba Bhave University as well as the certificate of degree of Bachelor in Computer Application from Sikkim Manipal University.

**76.** In the result published by Jharkhand Staff Selection Commission, Ranchi, it appears that the last selected candidate of Schedule Caste Category had obtained 136 marks whereas the petitioner had obtained 140 marks. The petitioner received a letter dated 07.01.2019 from Commission informing him that his educational certificate of Bachelor in Computer Application was required and he was directed to submit the same by 15.01.2019.

**77.** In pursuance of the said letter, the petitioner submitted the required certificate before the respondent no. 4, which was duly received in Commission's office on 13.01.2019. But, to his utter surprises, a notice No. 3462 dated 17.05.2019 was issued under the signature of the

Examination Controller, Jharkhand Staff Selection Commission, Ranchi whereby the case of petitioner for appointment to the post of Graduate Trained Teacher was cancelled on the ground that petitioner has not produced his educational certificates.

**78.** On enquiry by the petitioner, it has been told on behalf of the Commission that his certificate of Bachelor in Computer Application is not being found as Graduate degree since he has not done his Graduation either of the subject under Arts, Science or Commerce.

**79.** Assailing the order of Jharkhand Staff Selection Commission, petitioner preferred writ petition i.e. W.P.(S) No. 2715 of 2019 which was heard along with W.P.(S) No. 5700 of 2018 and other analogous cases. As the issues involved in all the writ petitions were same and similar, after framing the issues and hearing the parties, the writ petition was disposed of vide common order dated 11.04.2022.

**80.** Since the issue involved in case of the present petitioner was different from other cases, which was not brought to the notice of this Court and hence the petitioner preferred L.P.A. No. 297 of 2022. After hearing the parties, the matter was remitted back vide order dated 21.06.2023 to consider case of the present petitioner afresh taking into account the plea raised by the petitioner regarding Gazette Notification, which was not argued and considered by this

Court earlier. In the aforesaid backdrop, the petitioner preferred writ being W.P. (S) No. 2715 of 2019.

**81.** The learned writ Court, after hearing the parties, allowed the writ petition and direction was given to the State to appoint the petitioner to the said post within a period of eight weeks from the date of receipt/production of copy of the order, which is the subject matter of instant appeal.

**Submission on behalf of appellants-State:**

**82.** Submission has been made that the impugned judgment erroneously directs to recommend and appoint the writ petitioners overriding the explicit terms of the recruitment advertisement and regulatory frameworks governing educational degrees.

**83.** Submission has been made that as per the mandatory guideline, as mentioned at page 40 of the revised Brochure for CGTTCE-2016, the minimum educational qualification for appointment to the post of Assistant Teacher under the Physical Education subject is – “A Bachelor’s degree in Arts, Science, or Commerce with minimum 45 % marks (40% for SC/ST candidates) and a recognized degree of physical education..”

**84.** Further submission has been made that even the same has been incorporated in the advertisement which is annexed with the memo of appeal. It is settled law that

terms of advertisement are binding guidelines for recruitment.

**85.** It is contended that the both the writ petitioners-respondent have degree in Bachelor of Computer Application and on the date of completion and submission, the BCA degree was not structured as nor equivalent to, a traditional Bachelor's degree in Arts, Science or Commerce, as required by the State Government.

**86.** Learned State Counsel emphatically submitted that the degree of the writ petitioners-respondents were well before 2014 and the results were officially declared on 15.03.2015, as such at that time, the 2009 UGC Notification was in force. Critically, the 2009 Notification listed degrees purely alphabetically and did not categorize or specify the BCA or BBA degree under any specific stream [Arts, Science or Commerce]. It was treated strictly as an independent vocational/professional degree program.

**87.** Further submission has been made that University Grants Commission (UGC) subsequently published its Gazette Notification on 05.07.2014 specifying degrees stream-wise, under which BCA was listed under the Science Stream and BBA was listed under Commerce Stream. However, this notification was published after the declaration of the respondents'/writ petitioners' result. Furthermore, the UGC vide clarifying letter dated

10.07.2014 mandated that Universities must strictly adhere to the new approved nomenclature and framework specified in July, 2014 Gazette. The mandate applies to degrees conferred after the enforcement of the notification. Since the respondents'/writ petitioners' results were declared on 15.03.2014, his qualification cannot be automatically retrofitted into 2014 stream categorization.

**88.** Further referring to the counter affidavit filed on behalf of UGC, submission has been made that it has been confirmed that prior to 2014, the UGC specified degrees alphabetically and not stream-wise.

**89.** In alternative, submission has been made that if this Court comes to a conclusion that the BCA degree of respondent is of graduation in science, as because respondent-writ petitioner holds an academic foundation at the 10+2 level, the same be treated as specific to the factual matrix of the instant case. For all other candidates who are not from I.Sc. background, holding a BCA degree should not be considered to be one of graduate in science, and their stream evaluation must remain bound strictly to the rules, dates of notification, and university standards applicable to their unique profiles.

**90.** In the aforesaid background, submission has been made that while quashing and setting aside the impugned order, the State's right be protected to enforce the

advertisement guidelines, while molding the relief exclusively for the respondent-writ petitioner.

**Submission on behalf of JSSC**

**91.** Learned counsel for the JSSC supported the version of the State and has submitted that both the writ petitioners-respondent have degree in Bachelor of Computer Application and on the date of completion of their BCA, such degree was not structured as traditional Bachelor's degree in Arts, Science or Commerce, as required by the State Government, rather, it was purely a professional/vocational degree and admittedly, their degrees are well before 2014 and the results were officially declared on 15.03.2014, as such at that time, the 2009 UGC Notification was in force. At that time, it was treated strictly as an independent vocational/professional degree program.

**92.** Therefore, submission has been made that since the writ petitioners were not fulfilling the eligibility criteria as mentioned in the advertisement, therefore, no appointment ought to have been given in their favour.

**93.** Further submission has been made that if the degree of the writ petitioners, which admittedly are prior to 2014, if allowed to be treated as degree in science or other stream, it will open a flood-gate creating a chaotic situation and would be in total departure of the UGC Guidelines.

**Submission on behalf of UGC:**

**94.** Learned counsel for the respondent-UGC has submitted that the BCA is a specified degree under Section 22 of the UGC Act, 1956 and prior to 2014, the UGC specified degrees alphabetically, not stream-wise. However, in the notification issued on 05.07.2014, degrees were specified stream-wise and the BCA was listed under Science Stream.

**Submission on behalf of respondent no. 1-writ petitioners:**

**95.** Learned counsel for the respondent no. 1-writ petitioners defending the order passed by learned writ court has submitted that candidature of the writ petitioners-respondent no. 1 herein was rejected solely on the ground that they do not fulfill the requisite qualification for graduation but both the writ petitioners have degrees of graduation in Bachelor of Computer Application. As per the terms and conditions of the advertisement, the minimum eligibility criteria required for Trained Graduate Teacher in Physical Education having graduation in either Arts/Science/Commerce with 45 % marks, which both the writ petitioners is possessing, as the degree of BCA falls under the science stream in the light of notification dated 5<sup>th</sup> July-11<sup>th</sup> July, 2014 issued by the UGC. It has been submitted that from bare perusal of said notification, it is

evident that degree of BCA has been shown as Science Stream.

**96.** Learned counsel for the petitioner/ respondent no. 1 herein has submitted with force that Notification dated 5<sup>th</sup> July-11<sup>th</sup> July, 2014 is in the form of clarity as in the first of the said notification it is mentioned that – “the information is presented in a tabular form for clarify.’ From this, it is evident that UGC has given certain clarification regarding the stream of degrees like BCA the language of said notification is only clarificatory in nature and no amendments have been made in the nomenclature of the said degree nor the same has been re-structured which will be evident from serial of the notification.

**97.** Submission has been made that so far argument advanced on behalf of the appellant-State that the said notification is prospective in nature, hence the degrees obtained by the writ petitioners which is before the date of notification cannot be treated as the degree under science stream, has no leg to stand since the first part of the notification itself says that it is clarificatory in nature, which says about belongingness of the stream.

**98.** It has further been submitted that in the last para of the said notification, i.e., at paragraph 18, the UGC has further clarified regarding status of de-specified degree,

wherefrom it is evident that the degree of BCA has not been de-specified.

**99.** Therefore, submission has been made that degree of the writ petitioners i.e., the degree of BCA has neither been de-specified nor the nomenclature of the same has been changed rather only the clarification has been made regarding the belongingness of the stream in year 2014.

**100.** Referring to counter affidavit dated 06.04.2026, swear by D.E.O, Hazaribagh, which has been filed in compliance of order dated 27.01.2026, wherein it has been admitted that writ petitioner, namely, Mukesh Ranjan has completed his Intermediate Examination, under the Science Stream, accordingly, Mukesh Ranjan holds a BCA Degree, which may be considered falling within the Science Stream.

**101.** Further submission has been made that writ petitioner, namely, Abhijeet Kumar Sinha, has also completed Intermediate Examination under the Science Stream.

**102.** Learned counsel for the petitioners/ respondent no(s). 1 herein has further submitted that action of the respondent-JSSC is highly arbitrary since on the one hand, JSSC is disputing the degree of writ petitioners herein whereas other candidates having BCA degree have been allowed to work as Physical Education teacher having the degree of BCA.

**103.** Learned counsel for the petitioner has further submitted that out of the total eight orders passed by the writ Court, the State Government has preferred appeal [LPA] against only four orders of the writ petition, which amounts to favoritism to specific candidates, which cannot be appreciated as the State is considered to be model employer and in no manner, the State is supposed to violate the principle as laid down in Article 14 and 16 of the Constitution of India.

**104.** Learned counsel for the writ petitioners-respondent no.1 on the aforesaid ground has submitted that the order/judgment passed by the learned writ court requires no interference by this Court.

**Analysis:**

**105.** This Court has heard learned counsel for the parties, perused the documents in particular the notification of the UGC as also the impugned orders passed by learned writ Court.

**106.** This Court, before entering into the legality and propriety of the impugned orders, needs to refer herein that one Mukesh Ranjan, writ petitioner in W.P. (S) No. 2715 of 2019, the subject matter of L.P.A. No. 376 of 2024, praying therein for quashing of Notice No. 3462 dated 17.05.2019 issued by the Jharkhand Staff Selection Commission [JSSC], whereby the candidature of the petitioner for appointment

on the post of Trained Graduate Teacher [TGT], subject-Physical Education has been negated. The writ petition was dismissed vide order dated 11.04.2022, which was challenged by filing intra-court appeal being L.P.A. No. 297 of 2022, which was disposed of vide order dated 21.06.2023 and the impugned order dated 11.04.2022 passed in W.P.(S) No. 2715 of 2019 was set aside the matter was remitted to the writ Court for passing the order afresh. For ready reference, order dated 21.06.2023 passed in L.P.A. No. 297 of 2022 is quoted as under:

*“05/ 21.06.2023 Upon hearing the learned counsel for the parties, this Court passed the following,  
(Per Ananda Sen, J.)*

#### O R D E R

*1. In this Intra Court Appeal, the Writ Petitioner in W.P.(S) No.2715 of 2019 has assailed the final order dated 11.04.2022 passed by learned Single Judge, by which writ petition filed by the petitioner has been dismissed.*

*2. Learned counsel appearing for the petitioner-appellant submitted that the petitioner-appellant is Bachellor in Computer Application, which is science subject, but the respondents have not treated the appellant as a Science Graduate, thereby rejected his candidature for appointment. He contends that even persons obtaining lesser marks than the petitioner were selected for the post of Graduate Trained Teacher, but, for the reasons best known to the respondents, petitioner has not been selected, which is illegal. He refers to the Gazette of India dated July 5th – July 11th, 2014, whereby as per the University Grants Commission, Specification of Degrees, Bachelor of Computer Application (BCA) is also treated to be a Bachelor’s Degree in Science. He submits that the petitioner has also done his Bachelor in Physical Education. Thus, he prays that the writ petition of the*

*petitioner be allowed as the learned Single Judge has failed to take into consideration the aforesaid fact.*

*3. Counsel appearing on behalf of the Jharkhand Staff Selection Commission submits that the petitioner is claiming equivalence of degree, which is beyond the jurisdiction of this Court. As per him, advertisement was for filling up different posts including the post of Teacher in Physical Education, for which a person had to be Graduate in either of the streams, i.e., Arts, Science or Commerce. Admittedly, the petitioner is neither Graduate in Arts, Science or Commerce, rather, he is Bachelor in Computer Application, thus, his case was not considered and was also rightly rejected by learned Single Judge.*

*4. We have heard the counsel for the parties. An advertisement was published for filling up the post for appointment of Graduate Trained Teachers in the District of Jharkhand. The post of Graduate Trained Teachers in Physical Education was also advertised. As per the said advertisement, the candidate should be a graduate having obtained 45% marks in Arts / Science or Commerce from a recognized University by the State and he should also possess a Certificate of Physical Education from a recognized institution. Petitioner is a Bachelor of Physical Education and he is also a Bachelor of Computer application. The candidature of the petitioner was rejected as he could not produce the necessary certificates. Petitioner heavily relies upon the Gazette of India dated July 5th – July 11th, 2014. By referring to the said Gazette Notification issued by the University Grants commission, in relation to specification of degrees, he submits that Bachelor of Computer Application (BCA) is a subject within the science stream, thus, he should be treated as Science Graduate.*

*5. The respondents, in their counter affidavit, at paragraph 21, have stated that the Bachelor Degree of Computer Application is not valid for appointment of Graduate Trained Teacher for Physical Education in terms of advertisement. Respondents, also in their counter affidavit, at paragraph 25, have taken a stand that the Graduation*

*Degree of the petitioner is not in 'Science', thus, his candidature was rejected.*

*6. In the writ petition, petitioner has specifically taken a stand, by referring to the Gazette Notification dated July 5th – July 11th, 2014 that Bachelor of Computer Application has been included within Science stream. Aforesaid statement and the existence of the Gazette Notification has not specifically been denied by the respondents in their counter affidavit, though in the counter affidavit filed by the respondent No.2 on 09.02.2021, a plea has been taken that since the eligibility condition in the advertisement is specific, equivalent degree will not suffice. The Graduation should be with the specialized subject, i.e., 'Science'.*

*7. From the impugned judgment, we find that the petitioner has not even taken the aforesaid ground of Gazette Notification while arguing the matter before the learned Single Judge, as there is no reference of consideration of the same in the impugned judgment, though the same was on record. The consideration by the learned Single Judge was only on two issues, which is evident from paragraph 25 of the impugned judgment, which are as follows: -*

*(i) Whether petitioners are entitled for appointment in the non-schedule areas in the subjects other than 'History and Civics' when appointments have already been made in non-schedule areas in the subjects of 'History and Civics'?*

*(ii) Whether Hon'ble Supreme Court has stayed appointments in the non-scheduled areas or the respondents are free to make appointments in view of clarifications issued by the Hon'ble Apex Court?*

*8. Thus, in view of the fact that the petitioner-appellant herein has taken the plea of existence of the Gazette Notification dated July 5th – July 11th, 2014, which provides that Bachelor of Computer Application will be treated as 'Science' subjects, we feel it proper to remit the matter to the learned Single Judge to consider and decide the writ petition afresh, including the applicability of the Gazette Notification dated July 5th – July 11th, 2014 so far as this petitioner is concerned. Accordingly, the final*

*order dated 11.04.2022 passed by learned Single Judge, so far as it relates to the Writ Petitioner in W.P.(S) No.2715 of 2019 is concerned, is hereby set aside and the matter is remitted to the learned Single Judge to decide the writ petition of the petitioner-appellant herein afresh.*

*9. This Letters Patent Appeal stands allowed. There shall be no orders as to costs. Urgent certified copies of this order shall be issued as per the Rules.”*

**107.** With the direction aforesaid, the matter was reheard by the learned writ Court and the writ Court after hearing learned counsel for the parties allowed the writ petition vide order dated 05.10.2023, which is the subject matter of L.P.A. No. 376 of 2024 holding that in the notification dated 5<sup>th</sup> - July 11<sup>th</sup>, 2014 issued by the UGC check, the degree of Bachelor of Computer Application has been found place in Science stream and accordingly direction was passed to appoint the petitioner on the said post.

**108.** Similarly, Abhijeet Kumar Sinha [writ petitioner-respondent no. 1 in L.P.A. No. 538 of 2025] also preferred writ being W.P. (S) No. 5104 of 2023, which was allowed vide order dated 22.11.2023 considering the judgment passed in the case of Mukesh Ranjan, as discussed above, and direction was passed to consider the candidature of the petitioner on the said post.

**109.** When the order passed by the writ court was not complied with, both the writ petitioners, namely, Mukesh Ranjan [writ petitioner-respondent no. 1 in L.P.A. No. 376 of

2024] and Abhijeet Kumar Sinha [writ petitioner-respondent no. 1 in L.P.A. No. 538 of 2025] filed contempt petitions and during pendency of the contempt petition, the order passed by the writ court has been complied with and joining letter were given in favour of petitioners, subject to outcome of the L.P.A., which has been preferred by the appellants-State.

**110.** Pursuant thereto, the writ petitioner, namely, Mukesh Ranjan joined the serviced on 01.10.2024 and the writ petitioner, Abhijeet Kumar Sinha, joined the services on 04.04.2025 and since then admittedly they are discharging their duties. Check

**111.** Now coming to the merit of the case, admittedly the candidature of the writ petitioners have been rejected solely on the ground that they do not fulfill the requisite qualification for graduation. Further admitted fact is that both the writ petitioners [respondent no. 1 in both the L.P.A(s)] have degree of Graduation in Bachelor of Computer Application [BCA].

**112.** The writ petitioner-respondent no. 1, in L.P.A. No. 538 of 2025, has obtained the Degree of 'BCA' from Indira Gandhi National Open University, New Delhi in the year 2005. Whereas, the writ petitioner-respondent no.1, in L.P.A. No. 376 of 2024 has obtained the degree of Bachelor in Computer Application from Sikkim Manipal University.

**113.** Furthermore, both the writ petitioners [respondent no.1] have also obtained degree in Physical Education from the recognized University, which is not in dispute.

**114.** Now coming to the ‘terms and conditions’ of the advertisement, wherein the minimum eligibility required for Trained Graduate Teacher in Physical Education, which says that the candidate must have degree in Arts/Commerce/Science with minimum 45% marks and in case of SC/ST, 40% marks, from a recognized university. For ready reference, the same is quoted as under:

|   |                   |                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|---|-------------------|---------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 7 | शारीरिक प्रशिक्षण | वेतन बैंड<br>पी.थी. III-रु.<br>9300-34800<br>ग्रेड वेतन रु.<br>4600 | राज्य सरकार अथवा केन्द्र सरकार द्वारा मान्यता प्राप्त संस्थान से कला विज्ञान अथवा वाणिज्य में न्यूनतम 45 प्रतिशत अंको के साथ खातक डिग्री तथा मान्यता प्राप्त शारीरिक शिक्षा में डीपी।<br><br>अनुसूचित जाति तथा अनुसूचित जनजाति के अभ्यर्थियों के लिए राज्य सरकार अथवा केन्द्र सरकार द्वारा मान्यता प्राप्त संस्थान से कला विज्ञान अथवा वाणिज्य में न्यूनतम 40 प्रतिशत अंको के साथ सातक डिग्री तथा मान्यता प्राप्त शारीरिक शिक्षा में डीपी। |
|---|-------------------|---------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**115.** Furthermore, in the appointment rules, which was notified vide Notification No. 434, dated 01.03.2016 being Jharkhand Government Secondary School Teachers and Non-Teaching Staff Appointment and Service Conditions Rules, 2015, the same thing has been mentioned. For ready reference, the relevant rule with respect to minimum education qualification required for physical education

teacher is mentioned in Chapter-VI Clause-9 (1) (i), is quoted hereunder as: -

*"शारीरिक शिक्षकों के लिए राज्य सरकार अथवा केन्द्र सरकार द्वारा मान्यता प्राप्त विश्वविद्यालय से कला, विज्ञान अथवा वाणिज्य में न्यूनतम 45 प्रतिशत अंकों के साथ स्नातक डिग्री अनिवार्य होगी। परन्तु अनुसूचित जाति एवं अनुसूचित जनजाति के अभ्यर्थियों हेतु न्यूनतम 40% अंकों के साथ स्नातक डिग्री अनिवार्य होगी।*

**116.** Thus, from the appointment rules, as notified vide Notification No. 434, dated 01.03.2016, and as per advertisement, the minimum educational qualification is Graduation either in Science/Commerce/Arts with 45% marks.

**117.** Therefore, the moot question which requires consideration is as to:

*“Whether the degree of **Bachelor of Computer Application (BCA)**, as acquired by the writ petitioners [respondent no. 1 herein in both the L.P.A(s)], would fall under the **science stream**.”*

**118.** It needs to mention herein that prior to 2014, the University Grants Commission specified degrees ‘alphabetically’ and not ‘stream-wise’. So far the degree of ‘Bachelor of Computer Application’ is concerned, it has been specified by the UGC under Section 22 of the UGC Act, which would be found from the list of degrees specified by the UGC under Section 22 of the UGC Act, which is part of UGC April-2009 notification published in the Gazette of

India dated May, 23-May, 29, 2009, wherein the BCA degree is mentioned as serial No. 32.

**119.** For ready reference, relevant portion of April, 2009 notification is quoted as under:

*UNIVERSITY GRANTS COMMISSION*

*New Delhi-110002, the April 2009*

*No. F.1-10/2004 (CPP-II)-In exercise of the powers conferred by Sub-Section (3) of Section 22 of the UGC Act, 1956 (3 of 1956) as modified upto December, 1985 and in continuation of Gazette of India Notification No: 29 dated 19th July, 2008. The University Grants Commission with the approval of the Central Government of India (letter No. F. 5-1/2008-UI dated 23rd February, 2008) hereby specifies the following new degrees and change\* of Hindi Version of the expansion of three degrees for publication in the Gazette of India.*

*XXX                      XXX                      XXX*

*The Degrees Specified by the UGC under Section 22 of the UGC Act.*

| <i>Sl. No.</i> | <i>Abbreviation of Degree</i> | <i>Expansion of Degree</i>               |
|----------------|-------------------------------|------------------------------------------|
| <i>32.</i>     | <i>BCA</i>                    | <i>Bachelor of Computer Applications</i> |

**120.** From the above, it is evident that under UGC Notification of April, 2009, as under Section 22 of the UGC Act, at serial number 32, only abbreviation of degree has been mentioned as ‘Bachelor of Computer Applications’. There is no specific mention that whether, the degree of BCA

falls under science/arts or commerce stream or it is professional/vocational course and not coming under the fold of science, arts or commerce stream.

**121.** However, later on, in the year 2014, vide March, 2014 Notification the new notification in this regard has come, in exercise of power conferred under Section 22 (3) of the UGC Act which confers power upon the UGC for specifying the nomenclature of the degree for the purpose of said Section. For ready reference, Section 22 of the UGC Act, 1956 is quoted as under:

*“University Grants Commission Act, specifying the nomenclature of degree for the purposes of the said Section.*

**“Section 22 of the UGC Act, 1956:-**

**22. Right to confer degrees** (1) *The right of conferring or granting degrees shall be exercised only by a University established or incorporated by or under a Central Act, a Provisional Act or a State Act or an institution to be a University under Section 3 or an institution specifically empowered by an Act or Parliament to confer to grant degrees.*

(2) *Save as provided in sub-section (1), no person or authority shall confer, or grant, or hold himself or itself out as entitled to confer or grant, any degree.*

(3) *For the purposes of this section 'degree' means any such degree as may, with the previous approval of the Central Government, be specified in this behalf by the Commission by notification in the official Gazette.”*

**122.** It also needs to quote the relevant portion of March, 2014 Notification of UGC, wherein it has been mentioned

that broad discipline-wise nomenclatures of degrees at all levels of higher education should be taken as the specified degree, which the universities/institutions must adhere to. For ready reference, relevant portion of March, 2014 Notification of UGC is quoted as under:

*“UNIVERSITY GRANTS COMMISSION SPECIFICATION OF DEGREES*

*NEW DELHI, March, 2014*

*NO. F. 5-1/2013 (CPP-II)--In exercise of the powers conferred by sub- sub-Section (3) of Section 22 of the University Grants Commission Act, 1956 (3 of 1956) and in supersession of all earlier Gazette Notifications pertaining to specification of degrees, the University Grants Commission (UGC) with the approval of the Central Government hereby specifies the nomenclature of degree for the purposes of the said section.*

**SPECIFIED DEGREES**

*Broad discipline-wise nomenclatures of degrees at all levels of higher education should be taken as the specified degree, which the universities/institutions must adhere to, are given below. Alongside the nomenclature of the degrees, minimum entry-level qualifications and duration of the programmes have also been indicated. **The information is presented in a tabular form for clarity. In the bottom-most row of each table, nomenclatures of degrees that are presently in vogue in some institutions were found to be neither conventional, nor reflective of a real innovation in knowledge and are de-specified with the suggestion that the same may be restructured/changed as suggested therein.***

xxx                      xxxx                      xxxx                      xxx

|     |                    |                                   |              |                                 |                            |
|-----|--------------------|-----------------------------------|--------------|---------------------------------|----------------------------|
|     | <i>Sciences</i>    |                                   |              |                                 |                            |
|     | <i>Abbreviated</i> | <i>Expanded</i>                   | <i>Level</i> | <i>Minimum Duration (Years)</i> | <i>Entry Qualification</i> |
| 56. | BCA                | Bachelor of Computer Applications | BACHELOR'S   | 3                               | 10+2                       |

**123.** From bare perusal of the said notification of March, 2014, it is evident that in the said notification at serial no. 56, the degree of ‘Bachelor of Computer Application’ has been shown as under Science Stream.’

**124.** At this juncture, learned State Counsel as also learned counsel for the JSSC has drawn attention of the Court towards General Instruction of the March, 2014 Notification wherein it has been mentioned that ‘*All the changes in the nomenclature of the degree, as notified herewith will come into effect from the date of their notification in the official Gazette.*’ Basing on this General Instruction, as mentioned in the March, 2014 Notification, submission has been made that since BCA degree has been notified under science stream after promulgation of the March, 2014 UGC Notification and the writ petitioners since admittedly have obtained the degree of BCA prior to the year 2014, therefore, the degree of BCA as obtained by the writ petitioners does not come under science stream.

**125.** Controverting the same, learned counsel for the writ petitioners-respondent no. 1 herein, putting much emphasis on the language as under the March, 2014 Notification, has submitted that the said notification is in two parts; the first

part specifically mentions that it is clarificatory in nature whereas the second par to March, 2014 Notification is with respect to re-structuring the degree and its nomenclature and it is nowhere mentions that for the first time, any degree in particular BCA comes under Science Stream rather, it has been clarified that BCA comes under Science Stream.

**126.** In the backdrop of aforesaid facts and argument advanced on behalf of parties, we have gone through 2009 Notification as also 2014 Notification.

**127.** It is evident that in the 2009 Notification, the degree has been specified by the UGC under Section 22 of the UGC Act and at serial no. 32, only abbreviation of degree 'BCA' has been mentioned as 'Bachelor of Computer Applications'. Here, it is not specifically mentioned that whether the BCA comes under Science Stream or in any other stream.

**128.** Thereafter, 2014 Notification has come, in exercise of power conferred under Section 22(3) of the UGC Act, 1956, wherein it has specifically been mentioned that in exercise of the powers conferred by sub- sub-Section (3) of Section 22 of the University Grants Commission Act, 1956 (3 of 1956) and in supersession of all earlier Gazette Notifications pertaining to specification of degrees, the University Grants Commission (UGC) with the approval of the Central Government hereby specifies the nomenclature of degree for the purposes of the said section.

**129.** It has further been mentioned that broad discipline-wise nomenclatures of degrees at all levels of higher education should be taken as the specified degree, which the universities/institutions must adhere to.

**130.** In the 2014 Notification, it has further specifically been mentioned that – “*The information is presented in a tabular form for clarity.*” This itself suggests that nothing new has been added or deleted rather whatever mentioned in the tabular form is only for clarification.

**131.** At this juncture it needs to refer herein the settled position of law that any legislation or instrument having the force of law, which is clarificatory or explanatory in nature and purport and which seeks to clear doubts or correct an obvious omission in a statute, would generally be retrospective in operation, vide ***State of Bihar v. Ramesh Prasad Verma, (2017) 5 SCC 665.***

**132.** In ***Sree Sankaracharya University of Sanskrit v. Manu, (2023) 19 SCC 30*** the Hon’ble Apex Court has observed that if a statute is curative or merely clarificatory of the previous law, retrospective operation thereof may be permitted.

**133.** Thus, if a statute is curative or merely declaratory of the previous law, retrospective operation is generally intended. However, it is necessary to consider whether the said order was a clarification or a substantive amendment.

**134.** In the instant case herein in the 2014 Notification, it has further been mentioned that – *“In the bottom-most row of each table, nomenclatures of degrees that are presently in vogue in some institutions were found to be neither conventional, nor reflective of a real innovation in knowledge and are de-specified with the suggestion that the same may be restructured/changed as suggested therein.”*

**135.** This Court has gone through the tabular form as mentioned in the 2014 Notification, wherefrom it is ample clear that at serial no. 6, the Degree of ‘*Bachelor of Computer Applications*’ [BCA] has been mentioned under ‘*Science Stream*’.

**136.** Thus, it is evident that degree of BCA has only been clarified regarding ‘*belongingness of the stream*’ only and nothing else.

**137.** Besides that, some degrees have been re-structured as under serial no. 59 and 71, like B.S.Sc. has re-structured as ‘B.Sc. (Sanitary Science); B.Ch.E has been re-structured as B.Tech/BE (Chemical Engineering) etc. Further, at last paragraph of the 2014 Notification, the UGC has clarified regarding status of de-specified degree.

**138.** But herein it is not the case that degree of BCA has re-structured or de-specified, rather, only the dispute is with respect to ‘*belongingness of the stream*’ i.e., whether the BCA falls under science stream or not and the same has been

clarified as under 2014 Notification that 'BCA' comes under 'Science Stream'.

**139.** It needs to refer herein that there is no other main stream other than Science, Arts or Commerce streams. The degree of the candidates may fall under either of these streams i.e., Science, Arts or Commerce. But the State Government has failed to make out a case even on that ground and as such it cannot be a case that the BCA does not fall in any of these three streams.

**140.** Furthermore, admittedly both the writ petitioners [respondent no. 1] have completed their 10+2 with Science Stream, as such otherwise also they have all qualification to take admission under 'Science Stream'.

**141.** In the entirety of facts, discussions and notifications as mentioned above, it is evident that the degree of BCA has been recognized by the UGC as under 2009 Notification and by 2014 Notification, the UGC has clarified that BCA comes under Science Stream.

**142.** This Court, after coming to such conclusion, has gone through the impugned order and found therefrom that the learned writ Court, after considering the above notifications i.e., 2009 Notification and 2014 Notification, has come to the conclusion that BCA degree, as possessed by the writ petitioners [respondent no. 1 herein], comes under 'Science Stream', which cannot be faulted with.

**143.** Accordingly, the issue as framed by this is decided in favour of the writ petitioners-respondent no. 1 herein and against the respondents-State and it is answered that the degree of Bachelor of Computer Application [BCA], as acquired by the writ petitioners (respondent no. 1 herein), is a degree falls under the science stream.

**144.** Turning now to the impugned orders, it is manifest that the learned Writ Court, upon due consideration of the Gazette Notification dated 5th–11th July, 2014—wherein it is expressly stipulated that the Bachelor of Computer Application (BCA) shall be treated as a Bachelor’s Degree in Science has allowed the writ petitions.

**145.** Based upon the aforesaid the learned Court has further concluded that the Bachelor of Computer Application has been included within the Science Stream as such Degree of ‘BCA’ has to be treated as the Degree in ‘Science’ stream and accordingly has observed that the respondents cannot debar the petitioners on the plea that they are not a science graduate. If petitioner fulfills all the requisite qualification as per the advertisement, having more marks than the last selected candidate, his candidature cannot be rejected merely on the ground that he has obtained BCA Degree, which does not fall within the category of science.

**146.** In light of the foregoing discussion, this Court is of the considered view that the findings recorded by the learned

Writ Court are founded upon sound reasoning. The aforesaid determination cannot be said to suffer from any infirmity and, accordingly, warrants no interference.

**147.** Further, at this stage, it requires to mention herein that when the order passed by the writ court was not complied with, both the writ petitioners, namely, Mukesh Ranjan [writ petitioner-respondent no. 1 in L.P.A. No. 376 of 2024] and Abhijeet Kumar Sinha [writ petitioner-respondent no. 1 in L.P.A. No. 538 of 2025] filed contempt petitions and during pendency of the contempt petition, the order passed by the writ court has been complied with and joining letter were given in favour of petitioners, subject to outcome of the instant intra-court appeals which has been preferred by the appellants-State. Therefore, since both the writ petitioners [respondent no.1] are working as such no direction is required for accepting their joining etc.

**148.** Accordingly, the instant intra-court appeals fail and are dismissed.

**149.** Pending Interlocutory Application(s), if any, stand(s) disposed of.

**I Agree**

**(Sujit Narayan Prasad, J.)**

**(Sanjay Prasad, J.)**

**(Sanjay Prasad, J.)**

**6<sup>th</sup> August, 2026**

**A.F.R./ Alankar/Uploaded on 06.08.2026**