



A.F.R.
Reserved on : 13.5.2026
Delivered on : 6.8.2026

Neutral Citation No. - 2026:AHC-
LKO:54104

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 2779 of 2014

Mr. Vipin Mishra and 23 Ors.

.....Petitioner(s)

Versus

Union of India Through Secy. Ministry of Human Resource Deve

.....Respondent(s)

Counsel for Petitioner(s)	: Shireesh Kumar, Sanjay Kumar Singh
Counsel for Respondent(s)	: C.S.C., A.s.g., Ajay Kumar Singh, Ashwani Kumar Singh, Rajiv Singh Chauhan, Rishabh Tripathi, Sarvesh Kumar Dubey, Smt. Nalini Jain

Court No. - 4

HON'BLE IRSHAD ALI, J.

1. Heard Sri Sanjay Kumar Singh, learned counsel appearing for the petitioners, Sri Ashwani Kumar Singh, learned counsel for respondent Nos.1 to 3, Sri Shatrughan Chaudhary, learned Additional Chief Standing Counsel representing the State/ respondent Nos.4 to 6 and Sri Sarvesh Kumar Dubey, learned counsel appearing for respondent no.7.

2. By means of the present writ petition the petitioners, who are working as Teachers/Resource Teachers, commonly known as Special Teachers, seek issuance of a writ of mandamus directing the respondents to treat them as regularly appointed Special Teachers at par with regular teachers serving under the State Government and to extend to them all consequential service benefits including regular pay scale, annual increments, pensionary benefits, leave encashment, maternity benefits,

service conditions, constitution of a separate cadre and other allied benefits. A further prayer has been made for allotment of a particular school instead of assigning duties through daily job sheets.

3. The petitioners claim that they were appointed under the Scheme of Integrated Education for Disabled Children (IEDC), a Centrally Sponsored Scheme framed by the Government of India with the object of integrating children with disabilities into the mainstream educational system. According to the petitioners, the scheme contemplated appointment of Special Teachers possessing prescribed qualifications to impart education to children with special needs in ordinary schools.

4. It is pleaded that the IEDC Scheme was initially introduced in the year 1974 and was subsequently revised in the year 1992 by the Ministry of Human Resource Development, Government of India. The object of the scheme was to provide equal educational opportunities to children with disabilities by facilitating their retention in ordinary schools rather than segregating them in special institutions.

5. According to the petitioners, Clause 12.3 of the revised scheme specifically contemplated that Special Teachers appointed under the scheme would receive the same scale of pay as was admissible to teachers working in ordinary schools. The petitioners submit that the said stipulation forms the very foundation of their claim for parity in service conditions.

6. The petitioners have further relied upon the enactment of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, which came into force on 1 January 1996. According to them, the statute recognized the obligation of the State to provide equal educational opportunities to persons with disabilities and cast corresponding obligations upon the authorities to ensure proper educational infrastructure, including appointment of adequately qualified Special Teachers.

7. It has further been pleaded that the Government of India thereafter introduced the Centrally Sponsored Scheme known as Inclusive

Education of the Disabled at Secondary Stage (IEDSS) in the year 2009. The petitioners contend that the said scheme also envisaged appointment of eligible Special Teachers with salary and allowances comparable to those available to regular teachers.

8. The petitioners state that pursuant to Government Orders issued by the State Government and the implementation of the Sarva Shiksha Abhiyan, appointments of Itinerant Teachers and Resource Teachers were made through District Level Selection Committees. Though the appointments were described as contractual and the remuneration was initially fixed at Rs.6,000/- per month, the petitioners contend that the nature of duties discharged by them was identical to those performed by regular Special Teachers.

9. According to the petitioners, despite discharging duties involving education, assessment, rehabilitation, counselling and continuous monitoring of children with special needs across several schools, they were paid only a fixed honorarium for several years, whereas regular teachers performing similar educational functions received regular pay scales and service benefits.

10. The petitioners assert that they possess the qualifications prescribed by the Rehabilitation Council of India and have continuously worked for several years without interruption. Their engagement, according to them, has never been casual in nature but has continued from year to year after renewal of contractual arrangements.

11. It is further pleaded that although their appointments were initially for a limited duration, in reality the work assigned to them has continued uninterrupted for several years, demonstrating that the requirement of Special Teachers is permanent and recurring rather than temporary.

12. The petitioners contend that denial of regular pay scales and service benefits amounts to hostile discrimination violative of Articles 14 and 16 of the Constitution of India, particularly when they discharge educational responsibilities similar to those entrusted to regular teachers.

13. In support of their claim, heavy reliance has been placed upon the judgment of the Gujarat High Court dated 22 March 2013 rendered in **Suo Moto & Others v. Chief Secretary & Others** (Special Civil Application No.33 of 2005 and connected matters). According to the petitioners, the Gujarat High Court examined the very same Central Scheme governing appointment of Special Teachers and recorded findings that such teachers were entitled to better service conditions and parity in benefits.

14. The petitioners have drawn attention to paragraph 6.19 of the Gujarat High Court judgment wherein it was observed that Special Teachers visit different schools every day, discharge duties more onerous than ordinary teachers and cannot be discriminated against in matters relating to service benefits merely because they are appointed under a particular scheme.

15. It has further been pleaded that the Gujarat High Court ultimately directed the Union of India to release adequate financial assistance to the State Government so that benefits admissible to ordinary teachers could also be extended to Special Teachers appointed under the IEDC Scheme. Relevant portion of the said judgment is being quoted as under :-

“6.19 The special teachers of disabled children are in fact entitled to better service conditions than the ordinary teachers of primary education serving under the State Government and Grant-in-Aid schools as the special teachers are required to visit one or two disabled children in different schools of the area every day of the week and he has to impart education and training to the disabled children during the same school-hours which are the school-hours for the other teachers. Therefore, the duties discharged by the special teachers are much onerous and more time consuming than those performed by the ordinary teachers. The authorities, therefore, cannot discriminate against the special teachers by depriving them of large number of benefits and service-conditions which are being granted to the ordinary teachers by the authorities in the Government-run-schools or Grant-in-Aid-schools. The treatment which is being given to the special teachers of the disabled children are therefore clearly arbitrary, discriminatory, bad in law, null and void, unjust, unreasonable, unfair, inequitable, and violative of Article 14, 16, 19 and 21 of the Constitution of India.

36. All the applications are, thus, allowed with the above directions and with further direction that all the petitioners will be entitled to the benefits declared by us in these applications notionally from the date of their regular appointment, but the actual benefit should be given to them from the date of passing of this order.

36.1 The Union of India is directed to go on releasing the funds to the State Government for payment of the benefits declared by us in these applications to the special teachers[appointed under the Scheme.”

16. According to the petitioners, the aforesaid judgment was subsequently affirmed by the Hon'ble Supreme Court while dismissing the challenge preferred by the State of Gujarat, thereby lending finality to the principles laid down therein.

17. The petitioners contend that they stand on identical footing with the Special Teachers who were before the Gujarat High Court. It is submitted that both sets of teachers were appointed under the same Central Scheme, possess similar qualifications, discharge similar duties and are engaged for achieving the same object of inclusive education. According to them, the only distinguishing circumstance is that one group serves in the State of Gujarat whereas the petitioners serve in the State of Uttar Pradesh.

18. It is, therefore, argued that denial of similar service benefits to the petitioners would amount to arbitrary discrimination offending Articles 14 and 16 of the Constitution.

19. The petitioners further submit that despite repeated representations made before the competent authorities, no effective steps were taken to grant them parity in pay or service conditions. Consequently, they approached this Court seeking appropriate reliefs by way of the present writ petition.

20. Upon notice being issued, the respondents entered appearance and filed counter affidavits contesting the maintainability as well as the merits of the writ petition. Respondent No.7 has also filed separate written submissions raising certain subsequent developments which,

according to the respondents, materially affect the maintainability of the present proceedings.

21. The State respondents have filed a counter affidavit opposing the writ petition. At the outset, a preliminary objection has been raised regarding the maintainability of the writ petition on the ground that the petitioners have no enforceable legal right to claim regularization or parity with regularly appointed teachers.

22. The respondents submit that the petitioners were engaged pursuant to advertisements issued under the Sarva Shiksha Abhiyan, which is a Centrally Sponsored Scheme intended to provide elementary education. According to the respondents, the appointments were made purely on contractual basis for a fixed tenure and on payment of consolidated honorarium.

23. It is specifically pleaded that the advertisement itself unequivocally provided that the engagement would be contractual, temporary and co-terminus with the continuance of the scheme. The petitioners, having accepted the terms and conditions of appointment without protest, are estopped from seeking regular status contrary to the contractual terms.

24. The respondents further state that the appointments were not made against any permanent cadre or sanctioned civil posts under the State Government. Consequently, the petitioners cannot invoke the constitutional provisions relating to public employment so as to claim regularization or parity in service benefits.

25. It is pleaded that the Sarva Shiksha Abhiyan is a programme funded jointly by the Central and State Governments. The financial assistance is released in accordance with annual plans approved by the Government of India and the expenditure incurred under the scheme is confined to the budgetary allocation made for the relevant financial year.

26. According to the respondents, the petitioners were appointed only because financial assistance was made available under the scheme. Their

engagement cannot be treated as an appointment to a regular Government service carrying statutory rights.

27. The counter affidavit further states that the State Government has never framed any statutory service rules creating a cadre of Itinerant Teachers or Resource Teachers. In the absence of statutory rules or sanctioned posts, no right to regular appointment can be claimed.

28. The respondents submit that although the petitioners have continued in service for several years, such continuation is attributable solely to periodic extension of the scheme and renewal of contractual arrangements. Mere continuation, according to the respondents, does not convert a contractual engagement into regular Government service.

29. It is further pleaded that the petitioners accepted the honorarium fixed by the competent authority from time to time and continued to discharge duties under successive contractual extensions without raising any contemporaneous challenge to the terms of engagement.

30. The respondents deny that Clause 12.3 of the IEDC Scheme confers any enforceable right upon the petitioners to claim regular pay scales. It is submitted that the scheme merely contains administrative guidelines issued by the Central Government and does not have the force of statutory rules.

31. The respondents further contend that implementation of Central Schemes necessarily depends upon financial allocation, administrative approval and policy decisions taken by the respective State Governments. No employee can claim enforcement of every guideline contained in an executive scheme as a matter of legal right.

32. It is specifically denied that the petitioners stand on the same footing as regularly appointed Assistant Teachers serving in Government institutions. According to the respondents, the recruitment process, source of appointment, governing rules, appointing authority, service conditions and nature of tenure are entirely different.

33. The respondents have also distinguished the Scheme of Integrated Education for Disabled Children (IEDC) from the Inclusive Education of

Disabled at Secondary Stage (IEDSS) Scheme and the Sarva Shiksha Abhiyan. It is submitted that these are separate schemes introduced at different points of time with distinct objectives and financial structures.

34. It is therefore urged that the petitioners cannot selectively rely upon one scheme while seeking benefits under another, particularly when their own appointments were governed by separate contractual conditions.

35. The counter affidavit further asserts that the petitioners' reliance upon the judgment of the Gujarat High Court is misconceived. According to the respondents, the said judgment was rendered in the peculiar facts prevailing in the State of Gujarat and cannot automatically govern appointments made in the State of Uttar Pradesh.

36. It is submitted that service jurisprudence is largely governed by statutory rules applicable to the concerned State and the directions issued in another State cannot be mechanically applied unless the factual and statutory framework is identical.

37. The respondents also contend that financial implications arising out of extension of regular pay scales involve matters of governmental policy. Such policy decisions, according to them, fall within the executive domain and ordinarily do not warrant interference under Article 226 of the Constitution.

38. It has further been pleaded that the petitioners cannot invoke the principle of "equal pay for equal work" merely because some of the duties performed by them resemble those performed by regular teachers. The respondents contend that similarity of certain functions by itself does not establish complete identity in service conditions, recruitment process and legal status.

39. It is further submitted that the appointments of the petitioners were never intended to confer any right of absorption, regularization or continuity beyond the duration of the scheme. Every extension granted by the authorities specifically reiterated the contractual character of the

engagement. In support of the submission advanced, learned counsel for respondent No.7 has placed reliance upon the following judgments :-

(i) Rajneesh Kumar Pandey & others Vs. Union of India & others; (2021) 17 SCC 1. Relevant paragraph(s) are being quoted as under :-

“18. We are not so much concerned with the other features of the Scheme for deciding the matter in issue, except to advert to the regime specified regarding special teachers and in particular, the pupil-teacher ratio to be maintained in the schools concerned and their qualifications and training. The same reads thus:

“11. Special Teacher Support

Except for children with locomotor disabilities, special education teachers may be appointed in schools where the scheme is in operation to provide specific attention to the disabled children.

12. Appointment of Special Teachers

12.1. The teacher-pupil ratio for special education teachers envisaged under the scheme is 1 : 8. This ratio will be the same for normal classes as well as for preparatory pre-school classes. The same teachers will provide counselling to the parents. In accordance with this ratio the requisite number of special teachers may be appointed in schools (or for a cluster of schools) for children requiring special teacher support.

12.2. Qualifications

Special teachers so appointed should possess the following qualifications:

(a) Primary : Academic qualifications as prevalent in the States and Union Territories with one-year course, preferably multi-category, in special education or with specialisation in teaching any type of disabled children depending upon the category of children enrolled in the IEDC Units. Such teachers can be oriented subsequently in the education of other categories of disability.

(b) Secondary : Graduates with BEd (Special Education) or any other equivalent professional training in special education.

Prescribed qualifications should be adhered to. In case qualified special teachers are not available, teachers with short training course may be appointed with the condition that they will complete the full course within three years of appointment, special allowances for these teachers will be admissible only after completion of the full course. Teachers with single disability professional courses will be encouraged to take courses in other disabilities to improve viability in rural areas.

Since teachers with experience in Non-Formal Education (NFE) and Adult Education (AE) are likely to have a better understanding of local environment and need, they could also be identified for training under the scheme and appointed as special teachers.

12.3. Scale of pay : The same scales of pay as available to the teachers of the corresponding category in that State/UT will be given to special teachers. Considering the special type of duties, these teachers will be given a special pay of Rs 150 per month in urban areas and Rs 200 per month in rural areas. The State Education Department may recruit such teachers for this purpose following the normal recruitment procedures.

13. Training of Special Teachers

The facilities for the training of special teachers are readily available in the Regional Colleges of Education (RCEs), Regional Training Centres being run by the National Institute for the Handicapped, Special Education Departments in the universities and selected colleges for education. The training facilities are being further expanded. The State Government may prepare an estimate of the requirements of teachers under each category of disability and send it to the Regional Colleges of Education/District Institutions of Education and Training (DIETs), National Institutes for the Handicapped and the University Grants Commission under intimation to the Ncert. Since the appointment of fully trained, full-time resources teachers is an essential input for the successful implementation of the Scheme, the State Government/UT Administration must ensure appointment of such teachers on priority basis.

Under the scheme, grant is available through UGC for instituting full-time training courses for special teachers. The university/training institutes are expected to utilise the existing infrastructural facilities and other resources to the extent possible. The cost of the additional aids/equipment/space, and the additional faculty members will be met from the funds under this scheme. DIETs should organise in-service training courses for general teachers and refresher courses for resource teachers.”

(emphasis supplied)”

(ii) Union of India Vs. Murugesan; (2022) 2 SCC 25. Relevant paragraph(s) are being quoted as under :-

“These phrases are borrowed from the Scots law. They would only mean that no party can be allowed to accept and reject the same thing, and thus one cannot blow hot and cold. The principle behind the doctrine of election is inbuilt in the concept of approbate and reprobate. Once again, it is a

principle of equity coming under the contours of common law. Therefore, he who knows that if he objects to an instrument, he will not get the benefit he wants cannot be allowed to do so while enjoying the fruits. One cannot take advantage of one part while rejecting the rest. A person cannot be allowed to have the benefit of an instrument while questioning the same. Such a party either has to affirm or disaffirm the transaction.”

(iii) Mumtaz Yarud Dowla Wakf Vs. Badam Balakrishna Hotel Pvt.

Ltd. & others; 2023 SCC OnLine 1378. Relevant paragraph(s) are being quoted as under :-

“16. The conduct of a party assumes significance. If a party is likely to have an undue advantage, despite the availability of an opportunity to raise a plea of lack of jurisdiction at an earlier point of time, it should not be permitted to do so during the execution proceedings. In other words, a plaintiff shall not be made to suffer by the passive act of the defendant in submitting to the jurisdiction. One has to see the consequence while taking note of the huge pendency of the cases before various Courts in the country. There is no gainsaying that but for the adverse decree suffered, a judgment-debtor would not have ventured to raise such a plea. It is clearly a case of an afterthought to suit his convenience. He cannot be allowed to approbate and reprobate. Though we are conscious about the earlier precedents dealing with the stage at which such a plea can be raised, much water has flown under the bridge in terms of the ground reality. Union of India v. N. Murugesan, (2022) 2 SCC 25,

“Approbate and reprobate

26. These phrases are borrowed from the Scots law. They would only mean that no party can be allowed to accept and reject the same thing, and thus one cannot blow hot and cold. The principle behind the doctrine of election is inbuilt in the concept of approbate and reprobate. Once again, it is a principle of equity coming under the contours of common law. Therefore, he who knows that if he objects to an instrument, he will not get the benefit he wants cannot be

allowed to do so while enjoying the fruits. One cannot take advantage of one part while rejecting the rest. A person cannot be allowed to have the benefit of an instrument while questioning the same. Such a party either has to affirm or disaffirm the transaction. This principle has to be applied with more vigour as a common law principle, if such a party actually enjoys the one part fully and on near completion of the said enjoyment, thereafter questions the other part. An element of fair play is inbuilt in this principle. It is also a species of estoppel dealing with the conduct of a party. We have already dealt with the provisions of the Contract Act concerning the conduct of a party, and his presumption of knowledge while confirming an offer through his acceptance unconditionally.

27. We would like to quote the following judgments for better appreciation and understanding of the said principle:

27.1. Nagubai Ammal v. B. Shama Rao [Nagubai Ammal v. B. Shama Rao, 1956 SCR 451 : AIR 1956 SC 593] : (AIR pp. 601-02, para 23)

“23. But it is argued by Sri Krishnaswami Ayyangar that as the proceedings in OS. No. 92 of 1938-39 are relied on as barring the plea that the decree and sale in OS. No. 100 of 1919-20 are not collusive, not on the ground of res judicata or estoppel but on the principle that a person cannot both approbate and reprobate. It is immaterial that the present appellants were not parties thereto, and the decision in Verschures Creameries Ltd. v. Hull & Netherlands Steamship Co. Ltd. [[1921] 2 K.B. 608 (CA)], and in particular, the observations of Scrutton, L.J., at p. 611 were quoted in support of this position. There, the facts were that an agent delivered goods to the customer contrary to the instructions of the principal, who thereafter filed a suit against the purchaser for price of goods and obtained a decree.

Not having obtained satisfaction, the principal next filed a suit against the agent

for damages on the ground of negligence and breach of duty. It was held that such an action was barred. The ground of the decision is that when on the same facts, a person has the right to claim one of two reliefs and with full knowledge he elects to claim one and obtains it, it is not open to him thereafter to go back on his election and claim the alternative relief. The principle was thus stated by Bankes, L.J. : (Verschures Creameries Ltd. case [[1921] 2 K.B. 608 (CA)], KB p. 611)

‘... Having elected to treat the delivery to him as an authorised delivery they cannot treat the same act as a misdelivery. To do so would be to approbate and reprobate the same act.’

The observations of Scrutton, L.J. on which the appellants rely are as follows : (Verschures Creameries Ltd. case [[1921] 2 K.B. 608 (CA)], KB pp. 611-12)

‘... A plaintiff is not permitted to “approbate and reprobate”. The phrase is apparently borrowed from the Scotch law, where it is used to express the principle embodied in our doctrine of election — namely, that no party can accept and reject the same instrument : Ker v. Wauchope [(1819) 1 Bligh PC 1 at p. 21 : 4 ER 1] : Douglas-Menzies v. Umphelby [[1908] A.C. 224 at p. 232 (PC)]. The doctrine of election is not however confined to instruments. A person cannot say at one time that a transaction is valid and thereby obtain some advantage, to which he could only be entitled on the footing that it is valid, and then turn round and say it is void for the purpose of securing some other advantage. That is to approbate and reprobate the transaction.’

It is clear from the above observations that the maxim that a person cannot “approbate and reprobate” is only one application of the doctrine of election, and that its operation must be confined to reliefs claimed in respect of the same transaction and to the persons who are parties thereto. The law is thus stated in Halsbury's Laws of England, Vol. XIII, p. 464, para 512:

‘On the principle that a person may not approbate and reprobate, a species of estoppel has arisen which seems to be intermediate between estoppel by record and estoppel in pais, and may conveniently be referred to here. Thus a party cannot, after taking advantage under an order (e.g. payment of costs), be heard to say that it is invalid and ask to set it aside, or to set up to the prejudice of persons who have relied upon it a case inconsistent with that upon which it was founded; nor will he be allowed to go behind an order made in ignorance of the true facts to the prejudice of third parties who have acted on it.’

27.2.State of Punjab v. Dhanjit Singh Sandhu [(2014) 15 SCC 144] : (SCC pp. 153-54, paras 22-23 & 25-26)

“22. The doctrine of “approbate and reprobate” is only a species of estoppel, it implies only to the conduct of parties. As in the case of estoppel it cannot operate against the provisions of a statute. (Vide CIT v. MR. P. Firm Muar [AIR 1965 SC 1216].)

23. It is settled proposition of law that once an order has been passed, it is complied with, accepted by the other party and derived the benefit out of it, he cannot challenge it on any ground. (Vide Maharashtra SRTC v. Balwant Regular Motor Service [AIR 1969 SC 329]). In R.N. Gosain v. Yashpal Dhir [(1992) 4 SCC 683] this Court has observed as under : (R.N. Gosain case [(1992) 4 SCC 683], SCC pp. 687-88, para 10)

‘10. Law does not permit a person to both approbate and reprobate. This principle is based on the doctrine of election which postulates that no party can accept and reject the same instrument and that ‘a person cannot say at one time that a transaction is valid and thereby obtain some advantage, to which he could only be entitled on the footing that it is valid, and then turn round and say it is void for the purpose of securing some other advantage’.

25. *The Supreme Court in Rajasthan State Industrial Development & Investment Corpn. v. Diamond & Gem Development Corpn. Ltd. [(2013) 5 SCC 470 : (2013) 3 SCC (Civ) 153], made an observation that a party cannot be permitted to “blow hot and cold”, “fast and loose” or “approve and reprobate”. Where one knowingly accepts the benefits of a contract or conveyance or an order, is estopped to deny the validity or binding effect on him of such contract or conveyance or order. This rule is applied to do equity, however, it must not be applied in a manner as to violate the principles of right and good conscience.*

26. *It is evident that the doctrine of election is based on the rule of estoppel, the principle that one cannot approve and reprobate is inherent in it. The doctrine of estoppel by election is one among the species of estoppel in pais (or equitable estoppel), which is a rule of equity. By this law, a person may be precluded, by way of his actions, or conduct, or silence when he has to speak, from asserting a right which he would have otherwise had.”*

27.3. *Rajasthan State Industrial Development & Investment Corpn. v. Diamond & Gem Development Corpn. Ltd. [(2013) 5 SCC 470 : (2013) 3 SCC (Civ) 153] : (SCC pp. 480-81, paras 15-16)*

“I. Approbate and reprobate

15. *A party cannot be permitted to “blow hot-blow cold”, “fast and loose” or “approve and reprobate”. Where one knowingly accepts the benefits of a contract, or conveyance, or of an order, he is estopped from denying the validity of, or the binding effect of such contract, or conveyance, or order upon himself. This rule is applied to ensure equity, however, it must not be applied in such a manner so as to violate the principles of what is right and of good conscience. [Vide Nagubai Ammal v. B. Shama Rao [1956 SCR 451 : AIR 1956 SC 593], CIT v. V. MR. P. Firm Muar [AIR 1965 SC 1216], Ramesh Chandra Sankla v.*

Vikram Cement [(2008) 14 SCC 58 : (2009) 1 SCC (L&S) 706], Pradeep Oil Corpn. v. MCD [(2011) 5 SCC 270 : (2011) 2 SCC (Civ) 712], Cauvery Coffee Traders v. Hornor Resources (International) Co. Ltd. [(2011) 10 SCC 420 : (2012) 3 SCC (Civ) 685] and V. Chandrasekaran v. Administrative Officer [(2012) 12 SCC 133 : (2013) 2 SCC (Civ) 136 : (2013) 4 SCC (Cri) 587 : (2013) 3 SCC (L&S) 416].

16. Thus, it is evident that the doctrine of election is based on the rule of estoppel—the principle that one cannot approbate and reprobate is inherent in it. The doctrine of estoppel by election is one among the species of estoppel in pais (or equitable estoppel), which is a rule of equity. By this law, a person may be precluded, by way of his actions, or conduct, or silence when it is his duty to speak, from asserting a right which he would have otherwise had.””

(iv) **Mundam Raju Yadav Vs. Raja Shanker**; 2026 SCC OnLine SC

348. Relevant paragraph(s) are being quoted as under :-

“12. In a suit for specific performance, the conduct of the parties is significant as it assists the Court in evaluating the evidence to find out the bona fides of the parties at the time of execution of the agreement. Even a slight doubt in the mind of the Court that the plaintiff was not acting bonafidely and that the material facts, having bearing on the agreement, have been withheld in the agreement itself and from the Court also, the equitable and discretionary relief has to be denied. A plaintiff approaching the Court with uncleaned hands, like in the present case—the plaintiff having withheld the document i.e., MoU (Exhibit B-2), as the same was nowhere mentioned in the plaint, the present was a fit case for denial of relief of specific performance and the High Court has rightly allowed the appeal preferred by the respondent(s)/defendant(s) to set aside the judgment and decree passed by the Trial Court.”

(v) **Kusha Daruka Vs. State of Odisha**; 2024 (4) SCC 432. Relevant paragraph(s) are being quoted as under :-

“3. In K.D. Sharma v. SAIL [K.D. Sharma v. SAIL, (2008) 12 SCC 481]
it was observed by this Court : (SCC p. 493, para 39)

“39. If the primary object as highlighted in Kensington Income Tax Commrs. [R. v.

General Commissioners for the Purposes of the Income Tax Acts for the District of Kensington, ex p Princess Edmond De Polignac, (1917) 1 KB 486 : 86 LJKB 257 : 116 LT 136 (KB & CA)] is kept in mind, an applicant who does not come with candid facts and “clean breast” cannot hold a writ of the court with “soiled hands”. Suppression or concealment of material facts is not an advocacy. It is a jugglery, manipulation, manoeuvring or misrepresentation, which has no place in equitable and prerogative jurisdiction. If the applicant does not disclose all the material facts fairly and truly but states them in a distorted manner and misleads the court, the court has inherent power in order to protect itself and to prevent an abuse of its process to discharge the rule nisi and refuse to proceed further with the examination of the case on merits. If the court does not reject the petition on that ground, the court would be failing in its duty. In fact, such an applicant requires to be dealt with for contempt of court for abusing the process of the court.”

(emphasis supplied)

4. In *Dalip Singh v. State of U.P.* [*Dalip Singh v. State of U.P.*, (2010) 2 SCC 114 : (2010) 1 SCC (Civ) 324], this Court noticed the progressive decline in the values of life and the conduct of the new creed of litigants, who are far away from truth. It was observed as under : (SCC pp. 116-17, paras 1-2)

“1. For many centuries Indian society cherished two basic values of life i.e. “satya” (truth) and “ahimsa” (non-violence). Mahavir, Gautam Buddha and Mahatma Gandhi guided the people to ingrain these values in their daily life. Truth constituted an integral part of the justice-delivery system which was in vogue in the

pre-Independence era and the people used to feel proud to tell truth in the courts irrespective of the consequences. However, post-Independence period has seen drastic changes in our value system. The materialism has overshadowed the old ethos and the quest for personal gain has become so intense that those involved in litigation do not hesitate to take shelter of falsehood, misrepresentation and suppression of facts in the court proceedings.

2. In the last 40 years, a new creed of litigants has cropped up. Those who belong to this creed do not have any respect for truth. They shamelessly resort to falsehood and unethical means for achieving their goals. In order to meet the challenge posed by this new creed of litigants, the courts have, from time to time, evolved new rules and it is now well established that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final.”

(emphasis supplied)

5. In Moti Lal Songara v. Prem Prakash [Moti Lal Songara v. Prem Prakash, (2013) 9 SCC 199 : (2013) 3 SCC (Cri) 872] , this Court, considering the issue regarding concealment of facts before the Court, observed that “court is not a laboratory where children come to play”, and opined as under : (SCC p. 208, paras 19-20)

“19. The second limb of the submission is whether in the obtaining factual matrix, the order passed by the High Court discharging the respondent-accused is justified in law. We have clearly stated that though the respondent was fully aware about the fact that charges had been framed against him by the learned trial Judge, yet he did not bring the same to the notice of the Revisional

Court hearing the revision against the order taking cognizance. It is a clear case of suppression. It was within the special knowledge of the accused. Anyone who takes recourse to method of suppression in a court of law, is, in actuality, playing fraud upon the court, and the maxim suppressio veri, expressio falsi i.e. suppression of the truth is equivalent to the expression of falsehood, gets attracted. We are compelled to say so as there has been a calculated concealment of the fact before the Revisional Court. It can be stated with certitude that the respondent-accused tried to gain advantage by such factual suppression. The fraudulent intention is writ large. In fact, he has shown his courage of ignorance and tried to play possum.

20. The High Court, as we have seen, applied the principle “when infrastructure collapses, the superstructure is bound to collapse”. However, as the order has been obtained by practising fraud and suppressing material fact before a court of law to gain advantage, the said order cannot be allowed to stand.”

(emphasis supplied)

6. It was held in the judgments referred to above that one of the two cherished basic values by Indian society for centuries is “satya” (truth) and the same has been put under the carpet by the petitioner. Truth constituted an integral part of the justice-delivery system in the pre-Independence era, however, post-Independence period has seen drastic changes in our value system. The materialism has overshadowed the old ethos and the quest for personal gain has become so intense that those involved in litigation do not hesitate to take shelter of falsehood, misrepresentation and suppression of facts

in the court proceedings. In the last 40 years, the values have gone down and now litigants can go to any extent to mislead the court. They have no respect for the truth. The principle has been evolved to meet the challenges posed by this new breed of litigants. Now it is well settled that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final. Suppression of material facts from the court of law, is actually playing fraud with the court. The maxim suppressio veri, expressio falsi i.e. suppression of the truth is equivalent to the expression of falsehood, gets attracted. It is nothing but degradation of moral values in the society, may be because of our education system. Now we are more happy to hear anything except truth; read anything except truth; speak anything except truth and believe anything except truth. Someone rightly said that: "Lies are very sweet, while truth is bitter, that's why most people prefer telling lies."

7. In a recent matter, this Court again came across a litigant who had tried to overreach the Court by concealing material facts in Saumya Chaurasia v. Enforcement Directorate [Saumya Chaurasia v. Enforcement Directorate, (2024) 6 SCC 401 : 2023 SCC OnLine SC 1674 : 2023 INSC 1073] . It was a case where the appellant before this Court had challenged the order [Saumya Chaurasia v. Directorate of Enforcement, 2023 SCC OnLine Chh 1907] passed by the High Court [High Court of Chhattisgarh at Bilaspur in Miscellaneous Crl. Case No. 1258 of 2023] rejecting his bail application. He was accused of committing various crimes under the Penal Code, 1860 and the Prevention of Money-Laundering Act, 2002. His bail

application was rejected by the High Court on 23-6-2023 [Saumya Chaurasia v. Directorate of Enforcement, 2023 SCC OnLine Chh 1907] . In the pleadings before this Court, it was mentioned that the High Court had committed gross error in not considering the charge-sheet dated 8-6-2023 and the cognizance order dated 16-6-2023, which clearly suggested that there was an error apparent on the fact of it. The fact which was available on record was that an order in the bail application was reserved by the High Court on 17-4-2023 [Saumya Chaurasia v. Enforcement Directorate, 2023 SCC OnLine Chh 5838] and pronounced on 23-6-2023 [Saumya Chaurasia v. Directorate of Enforcement, 2023 SCC OnLine Chh 1907] . Having some suspicion, this Court directed the appellant to file an affidavit to clarify the aforesaid position. There was no specific reply given to the aforesaid query to the Court. Rather vague statements were made. Considering the facts available, this Court observed that there was a bold attempt by and on behalf of the appellant therein to misrepresent the facts for challenging the order [Saumya Chaurasia v. Directorate of Enforcement, 2023 SCC OnLine Chh 1907] impugned therein, regarding the conduct of the parties and the counsel, this Court made the following observations : (Saumya Chaurasia case [Saumya Chaurasia v. Enforcement Directorate, (2024) 6 SCC 401 : 2023 SCC OnLine SC 1674 : 2023 INSC 1073] , SCC para 13)

“13.It cannot be gainsaid that every party approaching the court seeking justice is expected to make full and correct disclosure of material facts and that every advocate being an officer of the court, though appearing for a particular party, is expected to assist the court fairly in carrying out its

function to administer the justice. It hardly needs to be emphasised that a very high standard of professionalism and legal acumen is expected from the advocates particularly designated senior advocates appearing in the highest court of the country so that their professionalism may be followed and emulated by the advocates practising in the High Courts and the District Courts. Though it is true that the advocates would settle the pleadings and argue in the courts on instructions given by their clients, however their duty to diligently verify the facts from the record of the case, using their legal acumen for which they are engaged, cannot be obliterated.”

(emphasis supplied)”

(vi) Prestige Lights Ltd. Vs. State Bank of India; (2007) 8 SCC 449.

Relevant paragraph(s) are being quoted as under :-

“31. In spite of the above declaration, undertaking and affidavit, encumbrance has been created by the deponent and the Company over the property in respect of which such undertaking has been furnished.

33. It is thus clear that though the appellant Company had approached the High Court under Article 226 of the Constitution, it had not candidly stated all the facts to the Court. The High Court is exercising discretionary and extraordinary jurisdiction under Article 226 of the Constitution. Over and above, a court of law is also a court of equity. It is, therefore, of utmost necessity that when a party approaches a High Court, he must place all the facts before the Court without any reservation. If there is suppression of material facts on the part of the applicant or twisted facts have been placed before the Court, the writ court may refuse to entertain the petition and dismiss it without entering into merits of the matter.”

(vii) Dalip Singh Vs. State of U.P.; (2010) 2 SCC 114. Relevant paragraph(s) are being quoted as under :-

“2. In the last 40 years, a new creed of litigants has cropped up. Those who belong to this creed do not have any respect for truth. They shamelessly resort to falsehood and unethical means for achieving their goals. In order to meet the challenge posed by this new creed of litigants, the

courts have, from time to time, evolved new rules and it is now well established that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final.

20. We have heard the learned counsel for the parties and scrutinised the record. In our opinion, the appeal is liable to be dismissed only on the ground that the tenure-holder Shri Praveen Singh did not state correct facts in the application filed by him on 8-7-1976 before the prescribed authority for setting aside the ex parte order and the appellant did not approach the High Court with clean hands inasmuch as, by making a misleading statement in Para 3 of the writ petition, an impression was created that the tenure-holder did not know of the proceedings initiated by the prescribed authority. By making the said statement, the appellant succeeded in persuading the High Court to pass an interim order which resulted in frustrating the efforts made by the authority concerned to distribute the surplus land among landless persons. Even before this Court, a patently false statement has been made in the rejoinder-affidavit on the issue of receipt of notice dated 29-11-1975 by Shri Praveen Singh.”

40. The respondents therefore pray for dismissal of the writ petition.

41. Apart from the counter affidavit filed on behalf of the State authorities, respondent No.7 has placed detailed written submissions before the Court bringing on record certain subsequent events which have taken place during the pendency of the writ petition.

42. Learned counsel appearing for respondent no.7 submits that after institution of the present writ petition, the Hon'ble Supreme Court rendered an authoritative judgment in **Rajneesh Kumar Pandey and Others v. Union of India and Others**, reported in (2021) 17 SCC 1, dealing with the issue relating to appointment of Special Educators across the country.

43. It is submitted that pursuant to the aforesaid judgment, the competent authorities undertook an exercise for verification of eligible candidates and initiated recruitment in accordance with the directions issued by the Hon'ble Supreme Court.

44. According to respondent no.7, several petitioners in the present writ petition have already participated in the said process and have

accepted appointment as Special Educators under office orders dated 06.05.2026.

45. The respondents contend that once the petitioners have accepted appointments pursuant to the process undertaken in compliance with the judgment of the Hon'ble Supreme Court, they cannot simultaneously continue to prosecute the present writ petition claiming inconsistent reliefs.

46. Learned counsel submits that the conduct of the petitioners attracts the equitable doctrine of approbate and reprobate. Having accepted the benefits flowing from the subsequent recruitment process, they are precluded from questioning the same or insisting upon continuation of their earlier contractual rights.

47. It is further argued that the doctrine of election equally applies. According to the respondents, the petitioners consciously chose to participate in the fresh recruitment process and accepted appointments thereunder. Having exercised such option, they cannot seek inconsistent remedies in the present proceedings.

48. The respondents also plead that the petitioners have failed to disclose the subsequent appointments while pursuing the present writ petition and have thereby suppressed material facts from the Court.

49. According to respondent No.7, suppression of subsequent developments disentitles the petitioners from any discretionary relief under Article 226 of the Constitution.

50. It is further submitted that the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, on which substantial reliance has been placed by the petitioners, stands repealed by the Rights of Persons with Disabilities Act, 2016.

51. The respondents contend that the legal framework governing appointment of Special Educators has undergone a complete transformation after the enactment of the 2016 Act and subsequent policy decisions of the Central Government.

52. It is, therefore, argued that the relief founded upon the provisions of the repealed enactment cannot be granted in the manner prayed for by the petitioners.

53. Learned counsel further submits that the judgment of the Hon'ble Supreme Court in **Rajneesh Kumar Pandey** (Supra) constitutes the governing law under Article 141 of the Constitution and all authorities as well as this Court are bound to give effect to the principles laid down therein.

54. According to the respondents, implementation of the directions issued by the Hon'ble Supreme Court substantially addresses the grievances originally raised by the petitioners.

55. It is further urged that no surviving cause of action now exists warranting adjudication of the claims raised in the writ petition.

56. The respondents accordingly submit that the writ petition has either become infructuous or, in any event, deserves dismissal on merits.

57. Learned counsel for the petitioners, however, disputes the aforesaid objections and submits that acceptance of subsequent appointments does not obliterate the rights which had already accrued to the petitioners during the long period they served under the earlier scheme.

58. According to the petitioners, they continue to press their claim for parity of service conditions and monetary benefits for the period during which they worked as Itinerant Teachers/Resource Teachers.

59. Having heard the rival contention of learned counsel for the parties, I perused the material on record as well as the law report cited by the parties.

60. The foundational facts are largely undisputed. It is not disputed that the petitioners possess the qualifications prescribed by the Rehabilitation Council of India. It is equally undisputed that they were appointed pursuant to a selection process conducted by the competent authorities under the Centrally Sponsored Scheme and have

continuously discharged duties as Special Teachers/Resource Teachers for several years by imparting education to children with special needs, undertaking assessment, counselling, rehabilitation and monitoring of such children in various Government schools.

61. The controversy, therefore, does not relate to the qualifications of the petitioners or the nature of duties discharged by them. The dispute is confined to the legal consequence flowing from their appointment under the Centrally Sponsored Scheme and whether the respondents are justified in denying them parity in pay and service benefits solely on the ground that their appointments were described as contractual. At the outset, it is necessary to examine the Scheme itself.

62. The Integrated Education for Disabled Children (IEDC) Scheme was introduced by the Government of India with the objective of providing inclusive education to children with disabilities. The Scheme was not intended merely to provide financial assistance but constituted a comprehensive policy for achieving constitutional goals of equality and inclusive education. The Scheme specifically contemplated appointment of qualified Special Teachers and, significantly, Clause 12.3 thereof provided that the **same scales of pay as available to teachers of the corresponding category in the concerned State/Union Territory shall be given to Special Teachers.**

63. It is true that executive instructions ordinarily do not possess statutory force. However, where the State voluntarily adopts a Centrally Sponsored Scheme, receives financial assistance thereunder, recruits employees exclusively for implementation of such Scheme and continuously extracts services from those employees for decades, the State cannot selectively implement only those portions of the Scheme which are administratively convenient while ignoring those provisions which confer corresponding benefits upon the employees.

64. The State is expected to act as a model employer. Fairness in State action constitutes the very essence of Article 14 of the Constitution. Selective implementation of a government policy, which results in

unequal or discriminatory treatment, cannot be sustained under the Constitution.

65. The respondents themselves admit that the petitioners were appointed for implementation of the very Scheme under which Clause 12.3 forms an integral component. Once appointments were made under the Scheme, the respondents cannot be permitted to contend that one part of the Scheme is binding while another part may conveniently be ignored. The doctrine of legitimate expectation also operates in favour of the petitioners.

66. The Central Scheme clearly provided that teachers under the Scheme were to receive the same pay as teachers of the corresponding category. Qualified candidates possessing the requisite educational qualifications responded to advertisements issued by the State and accepted appointment under a Scheme which itself assured such parity. Having induced the petitioners to serve under the Scheme and having continuously utilised their services for several years, the respondents cannot now defeat the legitimate expectation arising from the very terms governing implementation of the Scheme.

67. The principle of promissory fairness is equally applicable. Once the Government accepted the Scheme for receiving financial assistance from the Central Government, it cannot refuse to implement those provisions of the Scheme which are meant to protect the employees appointed under it.

68. The respondents have repeatedly emphasised that the petitioners accepted contractual appointments with open eyes. The submission overlooks the settled principle that constitutional guarantees cannot be defeated merely by describing an appointment as contractual.

69. A contract entered into by the State remains subject to constitutional limitations. The State cannot rely on the terms of the contract to justify unequal treatment when employees with the same qualifications perform substantially the same duties under the same administrative control.

70. The materials on record establish that the petitioners have continuously worked for several years without interruption. Their engagement has not been casual, seasonal or sporadic. The work assigned to them has remained perennial and indispensable for implementation of inclusive education. The very continuation of the Scheme over decades demonstrates that the requirement of Special Teachers is permanent in character though the appointments were artificially described as contractual.

71. The doctrine of "equal pay for equal work", though not an abstract principle, is firmly embedded in Articles 14 and 39(d) of the Constitution. The petitioners possess the qualifications prescribed by law, discharge specialised educational functions and remain under the control of the State educational authorities. The respondents have failed to demonstrate any substantial difference in the actual duties performed by the petitioners vis-à-vis other Special Teachers except the source of appointment.

72. The distinction sought to be drawn on the basis of nomenclature alone cannot furnish a reasonable basis for denying parity where the nature of work, qualifications and responsibilities remain substantially identical.

73. This Court also finds considerable force in the reasoning adopted by the Gujarat High Court in Suo Moto & Others vs. Chief Secretary & Others.

74. The Gujarat High Court examined the very same Central Scheme and, after analysing Clause 12.3 in detail, held that Special Teachers discharge duties even more onerous than ordinary teachers and cannot be deprived of parity in service conditions merely because they were appointed under the Scheme. The Court directed extension of corresponding service benefits and further directed the Union of India to continue releasing financial assistance for implementation of the Scheme. The petitioners have further asserted that the said judgment

attained finality after dismissal of the challenge before the Hon'ble Supreme Court.

75. Though the judgment of the Gujarat High Court is not binding upon this Court, it undoubtedly possesses high persuasive value because it interprets the same Central Scheme applicable throughout the country. Judicial discipline demands that where another constitutional court has exhaustively interpreted an all-India Scheme and such interpretation has not been reversed by the Supreme Court, a coordinate constitutional court should ordinarily adopt the same interpretation unless compelling reasons exist for taking a different view. This Court finds no such compelling reason.

76. The respondents have placed heavy reliance upon the judgment of the Hon'ble Supreme Court in *Rajneesh Kumar Pandey (Supra)*. A careful reading of the said judgment, however, demonstrates that the issue before the Hon'ble Supreme Court was entirely different.

77. The Supreme Court was concerned with implementation of inclusive education throughout the country and the obligation of Governments to appoint qualified Special Educators in accordance with statutory requirements. While considering the Scheme, the Hon'ble Supreme Court itself reproduced Clause 12.3 recognising that the Scheme contemplated payment of the same scales of pay as available to corresponding teachers in the State. The Court nowhere held that Clause 12.3 is unenforceable. Equally, the Court nowhere overruled or disagreed with the interpretation placed by the Gujarat High Court.

78. Consequently, no conflict exists between the Gujarat judgment and *Rajneesh Kumar Pandey*. Rather, both decisions advance the common constitutional objective of strengthening inclusive education through qualified Special Teachers.

79. The respondents have further argued that some of the petitioners have subsequently accepted appointments pursuant to recruitment undertaken after the decision in *Rajneesh Kumar Pandey* and therefore

the present writ petition has become infructuous. The submission deserves rejection.

80. Acceptance of subsequent appointment cannot extinguish rights which had already accrued during earlier service. The cause of action in the present writ petition substantially relates to denial of parity in pay and service conditions during the period the petitioners continuously served under the earlier Scheme. Such accrued rights cannot be defeated merely because the petitioners subsequently accepted fresh appointments under another recruitment process.

81. For all the aforesaid reasons, this Court holds that denial of parity in pay scales and consequential service benefits to the petitioners solely on the ground that their appointments were described as contractual is arbitrary, unreasonable and violative of Articles 14 and 16 of the Constitution of India. The petitioners are, therefore, entitled to succeed.

82. Accordingly, the writ petition is **allowed** with the direction that the petitioners are entitled to parity in pay scales and service benefits with Special Teachers of the corresponding category in terms of Clause 12.3 of the Integrated Education for Disabled Children (IEDC) Scheme. The respondents shall extend to the petitioners all consequential service benefits, including annual increments, admissible leave benefits, maternity benefits wherever applicable, continuity of service and other benefits available to corresponding Special Teachers within a period of four months from the date of production of a certified copy of this order.

83. There shall be no order as to costs.

(Irshad Ali,J.)

August 6, 2026

Gautam