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**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
WP No. 11397 of 2022**

(SHEELENDRA KUMAR AND OTHERS Vs THE STATE OF MADHYA PRADESH AND OTHERS)

Dated : 17-05-2022

Shri Aditya Sanghi, learned counsel and Ms. Nain Jyoti Noriya, learned counsel for the petitioners.

Heard on the question of admission and interim relief.

Issue notice.

Shri Ashish Anand Barnad, learned Additional Advocate General for the respondents No. 1 & 2/State and Shri Parag Tiwari, learned counsel for respondent No.3 waive notice.

Let reply be filed within two weeks.

Learned counsel for the petitioners submits that the petitioners may be allowed to participate in the Madhya Pradesh Public Service Commission Assistant Engineer Exam to be held on 22.05.2022 after reopening the submission of application form for the candidates not belonging to the State of Madhya Pradesh. He also prays to extend the date of examination to a further date.

Learned counsel for the petitioners relied on the judgement passed by the three Judges Benches of the Apex Court in the case of **Dr. Pradeep Jain & Others Versus Union of India & Others, (1984) 3 SCC 654**, wherein it has been observed thus:-

"Wholesale reservation made by some of the State Governments on the basis of 'domicile' or residence requirement within the State or on the basis of institutional preference for students who have passed the qualifying examination held by the university or the State excluding all

students not satisfying this requirement, regardless of merit, is unconstitutional and void being in violation of Article 14."

Learned counsel for the petitioners further submits that anyone everywhere irrespective of his language or religion, place of birth or residence, is entitled to be afforded equal chance for admission to any secular educational course for cultural growth training facility, specialty or employment. The equality of opportunity cannot be made dependent upon where a citizen resides. He further pointed out that the MPPSC in various other examinations have already permitted the candidates outside the State of Madhya Pradesh to participate in the examination. So far as, the present examination is concerned, the respondent - MPPSC has extended the date from time to time, therefore, the petitioners may also be permitted to appear in the examination.

Learned counsel for the respondents have opposed the prayer and submitted that the advertisement was issued on 30.12.2021 and the last date for submission of application was 01.03.2022. Thereafter, the date has been extended from time to time. In spite of the aforesaid, the petitioners kept silent and did not apply within time, therefore, now they are estopped from appearing in the examination at this belated stage. Therefore, the petition is bereft of merits and substance and the same is liable to be dismissed.

Heard learned counsel for the parties and perused the record.

In view of the aforesaid submissions made by learned counsel for the parties and with a view to provide equal opportunity to all concerned, it is directed that all the candidates not belonging to the State of Madhya Pradesh will be permitted to participate in the competitive examination in respect of State Engineering Services Examination, 2021 for which the Madhya Pradesh Public Service Commission shall make adequate amendment in the website and permit

these candidates to fill up the application forms. If the need arises the Madhya Pradesh Public Service Commission shall consider and notify a new date for filing up the application forms giving them atleast seven days' further time to do the needful and thereafter notify a fresh date for conducting the examination.

List the matter **in the week commencing 13.06.2022.**

Certified copy as per rules.

(S. A. DHARMADHIKARI)
V. JUDGE

(VISHAL MISHRA)
V. JUDGE

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