

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA

ON THE 7th OF OCTOBER, 2023

WRIT PETITION No. 25087 of 2023

BETWEEN:-

PRIYANKA PANDEY

.....PETITIONER

(BY SHRI ANSHUL TIWARI – ADVOCATE)

AND

- 1. THE STATE OF MADHYA PRADESH
THROUGH ITS SECRETARY GENERAL
ADMINISTRATION DEPARTMENT
VALLABH BHAWAN, BHOPAL (MADHYA
PRADESH)**
- 2. MADHYA PRADESH PUBLIC SERVICE
COMMISSION THROUGH ITS SECRETARY,
RESIDENCY AREA, INDORE (MADHYA
PRADESH)**

.....RESPONDENTS

***(BY SMT. SWATI ASEEM GEORGE – DY. GOVERNMENT ADVOCATE FOR THE
RESPONDENT/STATE***

SHRI PARAG TIWARI – ADVOCATE FOR RESPONDENT NO.2)

This petition coming on for admission. this day, the court passed

the following:

ORDER

This petition under Article 226 of Constitution of India has been filed seeking the following reliefs :

(i) To issue a writ in the nature of certiorari by directing the respondent No.2 to quash the impugned order dated 13.01.2023 (Annexure/P-4) being illegal and arbitrary which disqualified the petitioner from the recruitment process.

(ii) To issue a writ in the nature of mandamus by directing respondent No.2 to allow the petitioner like the other candidates who are allowed to participate in the interview process as they were the petitioner in W.P. No.4783/2023 and other connected petitioner.

(iii) To issue a writ in the nature of mandamus by holding that the impugned decision dated 13.01.2023 contrary to the order passed on 29.11.2022 in W.P. No.25982/2022 (Manu Saxena Vs. State of Madhya Pradesh & Ors.

(iv) To grant any other relief, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case including cost of the litigation in favour of the petitioner.

2. The manner in which the PSC is dealing with the matter is really shocking. This Court by order dated 23.08.2023 (Annexure P/5) passed in **W.P. No.4783/2023 (Vaishali Wadhvani and Others Vs. The State of Madhya Pradesh)** had held that PSC had misinterpreted the judgment passed by Co-ordinate Bench in the case of **Harshit Jain**

and Others Vs. State of Madhya Pradesh and Another decided on 29.11.2022 in W.P. No.23828/2022, and certain directions were issued.

3. It is the case of the petitioner that the respondents have issue a corrigendum amendment but they are calling only those persons who had approached this Court by filing the writ petitions. The counsel for PSC has justified the action of the respondents in issuing the corrigendum/advertisement dated 21.09.2023 thereby making it applicable only to the persons who had earlier approached this Court.

4. Heard the learned counsel for the parties.

5. By order dated 23.08.2023 in the case of **Vashali Wadhvani** and Others and other connected writ petitions, it was held in paragraph 28 as under :

“28. One thing is clear that what was forbidden by the Court in the case of **Harshit Jain (supra)** could not have been done by respondent No.2 and by using result of preliminary examination for merger and normalization with 2721 eligible candidates of reserved category, respondent No.2 has travelled beyond the directions given by Coordinate Bench of this Court in the case of **Harshit Jain (supra)**. In the light of order passed in the case of **Harshit Jain (supra)**, respondents could have applied the doctrine of merger and normalization by taking list of 1918 candidates, who were already declared eligible for interview with list of candidates, who were declared successful in special main examination,

but respondent No.2 applied doctrine of merger and normalization from previous stage, which is bad in law and contrary to the directions given by Coordinate Bench of this Court in the case of **Harshit Jain (supra)**. Accordingly, same is **quashed.**”

There is nothing in the said order which may create any confusion in the mind of respondent/PSC that it was made applicable only to those persons who had approached this Court. Once this Court had found the procedure adopted by the PSC was incorrect and contrary to the judgment passed by this Court in W.P. No.23828/2022 dated 29.11.2022, which was affirmed by the Writ Appellate Court, then the judgment passed by this Court in the case of **Vaishali Wadhvani** was a *judgment in rem* and not *judgment in personam*. It is really shocking that the PSC without adhering to the legal provisions of law is taking decision on its own as per its own whims and wishes. Earlier the PSC had blatantly violated the order passed by co-ordinate Bench of this Court in the case of **Harshit Jain (supra)** and once this Court had held that the action of the PSC in adopting a strange procedure which was specifically forbidden by the court in the case of **Harshit Jain (supra)** was bad and accordingly it was quashed and it was specifically mentioned that only 1918 candidates were entitled for normalization of marks, then, now the PSC has adopted a new method of harassing the

eligible candidates by making it applicable only to those persons who had approached this Court. This conduct of PSC cannot be appreciated at all. The PSC must act in accordance with the law.

6. Furthermore, a Co-ordinate Bench of this Court by order dated 03.10.2023 passed in the case of **Vivek Singh Dangi Vs. The State of Madhya Pradesh** in W.P. No.25142/2023 has made the judgment passed in the case of **Vaishali Wadhvani (supra)** applicable to the petitioners therein. Accordingly, the counsel for the respondent No.2 was directed to address this Court as to how the respondent No.2 is treating the judgment passed by this Court in the case of **Vaishali Wadhvani (supra)** as *judgment in personam*. It is fairly conceded by counsel for the respondent No.2 that in the case of **Vaishali Wadhvani (supra)**, this Court has not made the *judgment in personam*. On the contrary this Court in paragraph-28 of the order passed in the case of **Vaishali Wadhvani (supra)** has specifically held that only 1918 candidates were entitled for normalization of their marks and not all the candidates, who were declared successful in preliminary examination. Accordingly, the counsel for the respondent No.2 was requested to address this Court on the latin maxim *judgment in personam* and judgment in rem. It was rightly submitted by counsel for the respondent No.2 that *judgment in*

personam binds the interse parties whereas *judgment in rem* applies to entire world whether they were party in the previous proceedings or not. It is really shocking that inspite of the fact that respondent No.2 is aware of the legal proposition of law still is trying to harass the candidates.

7. Be that whatever it may be.

8. Accordingly, this petition is disposed of with a clear direction that the judgment passed by this Court in the case of **Vaishali Wadhvani (supra)** is a **judgment in rem** and it will apply to all those candidates who had passed out the main examination conducted in first round of recruitment drive. The respondent No.2 shall not discriminate by holding that the candidate has not approached the Court, therefore, he is not entitled for the fruits of the judgment passed by this Court in the case of **Vaishali Wadhvani (supra)**.

9. With aforesaid direction, the petition is finally disposed of.

(G.S. AHLUWALIA)
JUDGE

RC