

VILL HARI  
PO/PS ZIRO HAPOLI  
DIST LOWER SUBANSIRI  
ARUNACHAL PRADESH

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98: ARUNACHAL PRADESH PUBLIC SERVICE COMMISSION (APPSC)  
ITANAGAR  
ARUNACHAL PRADESH  
ITANAGAR

99: THE CHAIRMAN  
ARUNACHAL PRADESH PUBLIC SERVICE COMMISSION  
ITANAGAR  
PAPUM PARE DISTRICT  
ARUNACHAL PRADESH

100: THE SECRETARY  
ARUNACHAL PRADESH PUBLIC SERVICE COMMISSION  
NEAR ASSEMBLY BUILDING  
GOVERNMENT OF ARUNACHAL PRADESH  
ITANAGAR

101: THE CONTROLLER OF EXAMINATION  
ARUNACHAL PRADESH PUBLIC SERVICE COMMISSION  
GOVERNMENT OF ARUNACHAL PRADESH  
ITANAGAR

102: THE CHIEF SECRETARY  
TO THE GOVERNMENT OF ARUNACHAL PRADESH  
ITANAGAR  
ARUNACHAL PRADESH

Advocate for the Petitioner :  
Advocate for the Respondent : GA  
AP

:: BEFORE ::

HON'BLE MR. JUSTICE MANOJIT BHUYAN  
HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

1. WA/356/2019

The Arunachal Pradesh Public Service Commission (APPSC) and 3 Ors.

-versus-

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Shri Neelam Talum and 221 Ors.

For the Appellants : Mr. D. Baruah, Advocate.  
 For the Respondent Nos.1 to 221: Mr. A. Hela, Advocate.  
 For the State Respondents : Mr. N. Dutta,  
 Advocate General, A.P.  
 Mr. B.D. Goswami, Addl.  
 Advocate General, A.P.

2. WA/357/2019

The Arunachal Pradesh Public Service Commission (APPSC) and 3 Ors.

-versus-

Shri Kulenso Pul and 97 Ors.

For the Appellants : Mr. D. Baruah, Advocate.  
 For the Respondent Nos.1 to 97 : Mr. S. Mow, Advocate.  
 For the State Respondents : Mr. N. Dutta,  
 Advocate General, A.P.  
 Mr. B.D. Goswami, Addl.  
 Advocate General, A.P.

3. WA/358/2019

Techi Tapu and 42 Ors.

-versus-

Shri Neelam Talum and 225 Ors.

For the Appellants : Mr. K.N. Choudhury,  
 Sr. Advocate.  
 For Respondents 1 to 221 : Mr. A. Hela, Advocate.  
 For the APPSC : Mr. D. Baruah,  
 Advocate.

D.

For the State Respondent : Mr. N. Dutta,  
Advocate General, A.P.  
Mr. B.D. Goswami, Addl.  
Advocate General, A.P.

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**4. WA/359/2019**

Techi Tapu and 42 Ors.  
-versus-  
Shri Kulenso Pul and 101 Ors.

For the Appellants : Mr. U.K. Nair,  
Sr. Advocate.  
Mr. H.K. Das, Advocate.

For Respondents 1 to 97 : Mr. S. Mow, Advocate.

For the APPSC : Mr. D. Baruah,  
Advocate.

For the State Respondent : Mr. N. Dutta,  
Advocate General, A.P.  
Mr. B.D. Goswami, Addl.  
Advocate General, A.P.

Dates of Hearing : 13.02.2020, 18.02.2020,  
19.02.2020 and  
24.02.2020.

Date of Judgment : 06.03.2020.

**Judgment & Order**

(Manojit Bhuyan, J.)

Decision would pre-dominantly rest upon facts considered and appreciated in its proper perspective and application of such vital facts to the relevant provisions under the *Arunachal Pradesh State Public Service Commission Regulations, 2012* (hereinafter called the '2012 Regulations'), together with the recent decision of the Supreme Court on the

mandatory nature of Instructions issued by Public Service Commission. To avoid any controversy, this judgment will not make reference to any of the Instructions contained in the later guidelines called the *Arunachal Pradesh Public Service Commission Conduct of Examination Guidelines, 2017*, which came into force with effect from 20.09.2017, that is, on a date after the Advertisement was issued by the Arunachal Pradesh Public Service Commission (in short the 'Commission') i.e. on 09.05.2017, in supersession of the 2012 Guidelines. The Instructions obtaining during the relevant period is, therefore, taken into consideration.

2. The present four appeals are directed against the Judgment & Order dated 16.09.2019, whereby the two writ petitions i.e. WP(C) 475(AP)2018 and WP(C) 486 (AP)2018, instituted by the private respondents herein, were disposed of by setting aside the Preliminary Examination (Prelims) conducted by the Arunachal Pradesh Public Service Commission (hereinafter called the 'Commission') on 29.07.2018; the Results of the Prelims declared on 02.08.2018 and 16.08.2018 and the Main Examination (Mains) conducted on 10.11.2018, with further direction to the Commission to conduct fresh Preliminary Examination within 8 (eight) weeks by strictly following the Rules, Guidelines, Syllabus etc.

3. In so far as the present four appeals are concerned, WA 356/2019 and WA 357/2019 have been preferred by the Commission, represented by learned counsel Mr. D. Baruah, Advocate. The private Respondent Nos.1 to 221 in WA 356/2019 are represented by Mr. A. Hela, Advocate, whereas the private Respondent Nos.1 to 97 in WA 357/2019 are represented by Mr. S. Mow, Advocate. The appellants in WA 358/2019 are represented by Senior Counsel Mr. K.N. Choudhury and the appellants in WA 359/2019 are represented by Senior Counsel Mr. U.K. Nair, assisted by Mr. H.K. Das, Advocate. The private appellants in the two appeals are such persons who qualified in the Prelims, sat in the Mains but were not impleaded as party respondents in either of the writ petitions. These two appeals are preferred with leave of the Court. The Respondent Nos. 1 to 97 in WA 359/2019 are represented by Mr. S. Mow, Advocate. Mr. N. Dutta, learned Advocate General, Arunachal Pradesh, assisted by Mr. B.D. Goswami, learned Addl. Advocate General, appears on behalf of the State of Arunachal Pradesh. The case records of the related two writ petitions, including the records of WP(C) 636(AP)2018 and WP(C) 604(AP)2018, as called for, are received.

4. Traversing the facts and the chronology of events emerging in the present case, which are of vital importance to reach an adjudication, notice may be had to the Advertisement dated 09.05.2017, issued by the Commission, inviting applications for filling up 57 posts, details of which were provided in the Advertisement. By virtue of subsequent Addendums the number of posts increased and Preliminary Examination was conducted on 26.11.2017. By reason of the fact that out of the 22 optional subjects, multiple errors were found in about 15 optional subjects, the said Preliminary Examination was cancelled. Such examination was re-conducted on 29.07.2018. Immediately thereafter, two representations came to be submitted on 30.07.2018 – one jointly submitted by Etalo Mega and Tasso Tallu, both Commerce candidates, alleging anomalies in the questions in Commerce subject to the effect that there were more than 64 questions which were not from the prescribed syllabus, the other submitted by Hingkam Dada, alleging anomalies in the Civil Engineering Optional Paper to the effect that 10 questions were out of syllabus. Another representation was submitted on 01.08.2018 by some Geography candidates alleging that in the Geography Optional Paper there were 5 incorrect questions, 68 questions were out of the prescribed syllabus and copy-paste method was used in setting the said question paper. All the three representations were considered and grievances were addressed to with the help of Subject Experts. In so far as the complaint in respect of Commerce subject is concerned and on the basis of the Report of the Expert, the Commission decided that 49 questions are to be dropped being out of syllabus and the candidates are to be allotted marks on pro-rata basis after taking into consideration the marks secured by each of the candidates out of the remaining questions. In so far as the representation pertaining to Civil Engineering Optional Paper is concerned, the Commission on the basis of the Report of the Expert decided that 3 questions are to be dropped which were out of syllabus and marks be allotted to the candidates on pro-rata basis. Similarly, in respect of the Geography Optional Paper, the Commission after taking note of the opinion of the Experts decided that 30 questions be dropped being out of syllabus and the candidates be allotted marks on pro-rata basis. It is on record that the methodology adopted by the Commission to compensate the candidates for questions out of syllabus/rejected (dropped), following the three representations, was by employing the method of re-evaluation and allotment of marks on pro-rata basis as per the decision in *Vikas Pratap Singh and Ors. v. State of Chhattisgarh and Ors.*, reported in (2013) 4 SCC 494.

5. Thus, after anomalies were identified by taking help of Subject Experts and after re-evaluation was done by allotment of marks on pro-rata basis to the candidates who had opted for Commerce, Civil Engineering and Geography subjects, the result of the Preliminary Examination was declared on 02.08.2018. Out of the total 22,599 candidates appearing in the Prelims, as many as 1263 candidates qualified for the Mains, having secured the cut-off marks of 177.75 out of the total 400 marks.
6. After the declaration of the Preliminary Examination results and on 10.08.2018 two representations were received by the Commission – one submitted by 12 candidates who had taken the Geography Optional Paper with Series-'C' and the other submitted by the General Secretary of All Arunachal Pradesh Students' Union. Allegation was made that as none of the students who had taken the Geography Optional Paper with Series-'C' qualified, there was grave doubt of technical error taking place while feeding the answer keys in the OMR machine. On 14.08.2018 the Commission constituted a Six-Member Committee to look into the anomalies in the official answer key of Geography Optional Paper with Series-'C' and amongst the Members there was one Computer Programmer and two Technical Experts. The Report of the Committee came on 16.08.2018 and it was found that there was technical error during evaluation of 'C'-Series Geography Paper, so much so, that during manual selection for evaluation of the said 'C'-Series Paper, the 'D' set answer keys of Geography were wrongly selected, leading to evaluation of the 'C' set with an incorrect key. The Report indicated that the unintentional error was corrected and the result of the candidates who had taken Series-'C' Paper was revised by applying the correct 'C' set answer key. The Report further indicated that out of the 659 OMR sheet of set 'C' candidates in Geography, there were 652 valid candidates, out of which a total of 76 candidates secured marks above 177.75, which is the marks secured by the last qualified candidate in the result of the Preliminary Examination already declared. The Report suggested that the said 76 candidates be included in the list of eligible candidates for the Main Examination. In the meeting of the Commission held on 16.08.2018 it was decided to include the 76 candidates in continuation of the earlier qualified list so published and while doing so also invoked the provisions of Schedule-II, Clause 11 of the *Arunachal Pradesh Public Service Combined Competitive Examination Rules, 2001* to accommodate the list of 76 candidates in the qualifying list of the Preliminary Examination as

the ratio exceeded. Resultantly, the Notification dated 16.08.2018 was issued showing the Roll numbers of candidates found eligible for the Mains Examination in continuation to the earlier Notification dated 02.08.2018, thus, bringing the total number of candidates qualifying for the Mains to (1263+76) 1339 candidates. By the same Notification it was notified that Mains Examination would take place on 10.11.2018.

7. Precisely four days after publication of the result in respect of the Additional List of 76 candidates, that is on 20.08.2018, a representation came to be submitted under the signature of 3 (three) persons, one among them being Etalo Mega who was the signatory in the first representation dated 30.07.2018 and which was considered and addressed to along with the two other representations, leading to declaration of the initial Preliminary Exam Results dated 02.08.2018. Grievance expressed are that almost 100 questions in the Commerce paper were out of the prescribed syllabus of the Prelims and it was ascertained from Subject Experts that such questions are basically from the syllabus of the Mains Examination. Prayer made was to constitute an Expert Committee to look into the grievances and either to compensate the candidates of Commerce subject for all the questions set out of syllabus or to conduct Preliminary Examination afresh exclusively in respect of the Commerce Optional Paper and until redressal of grievances the aspiring candidates in Commerce be allowed to appear in the Mains Examination. On 03.09.2018, yet another representation came to be submitted by one Neelam Talum in representative capacity, addressed to the Governor of Arunachal Pradesh. Primary prayer made was for holding fresh Preliminary Examination on allegations that most of the questions in the various subjects indicated therein suffered from copy-pasting and/or had been copied from study materials or from single source, that questions were set out of syllabus, that there was absence of Moderation Board and scaling method was not adopted to normalize difficulty-level in different subjects etc.

8. Alleging non-consideration of the representation dated 20.08.2018, WP(C) 417(AP)2018 was instituted by 71 candidates. The said writ petition was disposed of on 17.09.2018 with direction to the Commission to dispose of the representation within 26.09.2018 by a speaking order. In strict terms thereof, the Commission considered but rejected the representation vide order dated 24.09.2018, which led to the institution of WP(C) 486(AP)2018. In so far as the representation made by Neelam Talum on 03.09.2018 is

concerned, non-consideration thereof resulted in the institution of WP(C) 475 (AP) 2018. An order of status-quo was passed in WP(C) 475 (AP)2018 on 28.09.2018 and by a subsequent order on 03.10.2018 the Court ordered that both WP(C) 475(AP)2018 and WP(C) 486(AP)2018 be taken up together. Status-quo order passed earlier was directed to be maintained. Two applications came to be filed by the Commission for vacating/modification of the status-quo order, which were registered and numbered as I.A.(C)195(AP)2018 in WP(C) 486(AP)2018 and I.A.(C)197(AP)2018 in WP(C) 475(AP)2018 respectively. By order dated 12.10.2018 the status-quo order was modified to the extent that the Commission may go ahead with the necessary administrative works, such as, issuing Admit Cards to candidates, making arrangements for holding examination at the designated places and publishing details of the examination schedule etc. till 31.10.2018. An observation was also made that endeavour would be made to dispose of the connected WP(C) 486(AP)2018 as expeditiously as possible, preferably on 31.10.2018. The two applications were accordingly disposed of. On 31.10.2018 the interim order was directed to continue. Thereafter, the Mains Examination was held on 10.11.2018. In course of the writ proceedings, a common order dated 14.11.2018 was passed in both WP(C) 475(AP)2018 and WP(C) 486(AP)2018, by directing the Vice-Chancellor of Rajiv Gandhi University, Dolmukh, to constitute an Expert Committee comprising of five eminent Experts and to submit Report in sealed cover within 45 days. Being aggrieved of the order dated 14.11.2018, two writ appeals were preferred by the Commission, registered and numbered as WA 359/2018 and WA 360/2018. By order of the Writ Appellate Court dated 26.02.2019, the operation of the order dated 14.11.2018 was stayed, making it clear that the pendency of the appeals would not come in the way of the learned Single Judge to consider the writ petitions on merits and in accordance with law. It was in this backdrop that the writ petitions were considered and disposed of vide judgment and order dated 16.09.2019. Meantime, two other writ petitions came to be filed, being WP(C) 604(AP)2018 on 29.11.2018 and WP(C) 636(AP)2018 on 13.12.2018 respectively by a section of the candidates who could not qualify in the Preliminary Examination. By the same judgment and order dated 16.09.2019, the said two writ petitions were disposed of as having been rendered infructuous.

9. Before proceeding further, it would be most pertinent to take note of the relevant



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provision under the 2012 Regulations, particularly Instruction 28 (x) thereof, which is reproduced hereunder :

*"28. Instructions to Candidates:*

*(x) If any candidate finds any type of error/mistake in any question or any given option/choice in the answer he/she is advised to make representation to the Commission and hand over to the Centre Supervisor soon after the exam is over. No representation/complaint in this regard will be entertained after declaration of result."*

10. On the facts above, the questions now calling for consideration is whether in view of Instruction 28 (x) above, it was obligatory on the part of the Commission to consider the representations dated 20.08.2018 and 03.09.2018, which were submitted after declaration of the Preliminary Exam results, and whether non-consideration thereof amounted to an illegal and arbitrary action on the part of the Commission, so much so, it warranted the writ court to look into the belated complaints, as opposed to Instruction 28 (x), and stepping into an area best left to the experts, thereby setting aside the results of the Preliminary Examination as well as the holding of the Mains Examination and also to a direction for a *de-novo* holding of Preliminary Examination within a specific period. Bearing the above in mind, this Court would clarify that detailed analysis of the alleged anomalies as well as to the case laws relied upon by the private respondents herein/writ petitioners would only stand for consideration if this Court reaches a conclusion that Instruction 28 (x) has no applicability or relevance in the cases at hand. Unless so, this Court would not venture into an exercise of going into the exhaustive narration of complaints alleged to have taken place in the course of the Preliminary Examination which, apparently, are also largely disputed facts.

11. On behalf of the private respondents and by referring to the belated representations dated 20.08.2018 and 03.09.2018, much has been stated about anomalies in 5 (five) questions in General Studies Paper; copy-pasting of questions in the Geography Optional Paper from NET(JRE) Examination-2014 Paper-II and from NET(JRF) Examination-2014 Paper-III, involving high chances of questions being leaked; questions in History-Series 'B' Optional Paper being directly copied from single source authored by Narayan Chander; questions copied from single book written by Tata Mcgraw Hills and published by Laxmikanth

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Publication in Public Administration-Series 'D' Optional Paper; questions being directly copied from single unit-Fluid Mechanics in respect of Civil Engineering-Series 'B' Optional Paper; questions set out of prescribed syllabus in the Commerce Optional Paper; lack of moderation and scaling method etc. Reliance is also placed on decisions of various High Courts with regard to the onerous responsibility of a constitutional authority like the Public Service Commission to conduct examination in a fair manner as well as to the aspect as to when there is nothing in the statute conferring a jurisdiction on the Public Service Commission to suggest for a pro-rata marking, such application would not create a common platform with equal advantages and disadvantages to all to prove their merit. Contention raised is that there is possibility that less meritorious candidates may also defeat the meritorious candidates if such pro-rata marking system is adopted. On this, it is argued that the 2012 Regulations did not provide for pro-rata distribution of marks. Further, that the reliance placed by the Commission in *Vikas Pratap* (supra) to compensate the candidates for questions out of syllabus in Commerce, Civil Engineering and Geography Optional Papers, following the first three representations submitted on 30.07.2018 and 01.08.2018, by employing the method of re-evaluation and allotment of marks on pro-rata basis, was incorrectly applied, inasmuch as, the methodology adopted in *Vikas Pratap* was only in respect of General Knowledge Paper, which was common to all. It is, therefore, argued that methodology adopted in *Vikas Pratap* cannot be applied in respect of Optional Papers, as was done in the present case. With regard to Instruction 28 (x) of the 2012 Regulations, it is argued that the same is pre-dominantly for office use only and the students had no access to it and were ignorant of the same. Instructions provided in the blank answer-sheet was also silent on this aspect. Even in the Advertisement there was no mention of it. In short, argument made is that the law demanding compliance, as in the nature of Instruction 28 (x), was not notified.

12. First and foremost, the re-evaluation exercise undertaken by the Commission with distribution of pro-rata marks to candidates, pursuant to irregularities highlighted in the first three representations which were submitted prior to declaration of the Preliminary Examination results, by following a methodology recognized in *Vikas Pratap*, is without any infirmity. To say that pro-rata distribution of marks in terms of *Vikas Pratap* can only be applied to a question paper in the nature of General Studies which is common to all and not

13. An argument is placed on behalf of the private respondents herein/writ petitioners as to whether in the teeth of Instruction 28 (x) the action of the Commission can be termed as legal and *bona fide* in having entertained the representations, both dated 10.08.2018, which were submitted on 02.08.2018, that is, after declaration of the Preliminary Examination results and also in issuing the Notification dated 16.08.2018 whereby 76 (seventy six) more candidates from 'C' Series Geography Optional Paper were declared qualified as eligible to appear in the Mains Examination. It would be pertinent to notice that one such representation was submitted by 12 (twelve) candidates who had taken the 'C' Series Geography Optional Paper and not by 76 (seventy six) candidates as mentioned in the judgment under appeal. The other representation was by the General Secretary of the All Arunachal Pradesh Students' Union. The allegations in both the representations were not in respect of any error/mistake in any questions but with regard to technical error taking place during evaluation of the 'C' Series Geography Optional Paper. The Six-Member Committee entrusted to look into the complaints found that during manual selection while evaluating 'C' Series Paper, the 'D' set answer keys of Geography had been wrongly selected, thus, leading to evaluation of the 'C' Series Paper with an incorrect answer key. On such evaluation by correcting the technical error, a total of 76 (seventy six) more candidates were found to have secured marks above 177.75, which is the marks that had been secured by the last qualified candidate in the Preliminary Examination, result of which was declared on 02.08.2018. Without any doubt and having regard to the nature of complaint made in both the representations dated 10.08.2018 and the rectification steps taken, at the instance of the Commission, it cannot be said that the exercise undertaken militated against the mandate of Instruction 28 (x) of the 2012 Regulations. To reiterate, the exercise undertaken was for rectification of an apparent technical error and not for correcting any type of error or mistake in any question papers. The argument so raised is, therefore, misconceived.

14. In *Manish Ujjwal v. Maharishi Dayanand Saraswati University and Ors.*, reported in (2005) 13 SCC 744, which was also relied upon by the learned Single Judge, in fact, reads in favour of the exercise undertaken by the Commission, in that, the Supreme Court in the facts of the case held that students cannot be made to suffer on account of errors committed by the University and it would be unfair to penalise students for not giving an answer when key

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answers being demonstrably wrong. This precisely was the exercise done by the Commission in the present case for the welfare of those students in the face of the mistakes which had occurred by applying a wrong answer key to the 'C' Series Geography Optional Paper.

15. The State Public Service Commission has been conferred with ample power to conduct examinations for appointment to the services of the State. This power emanates from Article 320 of the Constitution of India. Interference would warrant if there has been an arbitrary exercise of power, not in keeping with the guidelines or for having acted with an ulterior motive to give undue preference to some candidates. We hold that there are no materials to suggest element of arbitrariness or nepotism or in making any departure from the set guidelines by the Commission while exercising its powers given under the Constitution of India. In several decisions the Supreme Court have placed a caveat that it is rather unfortunate when interference is made by the Courts in the result of examinations. As held in *Ran Vijay Singh and Ors. v. State of Uttar Pradesh and Ors.*, reported in (2018) 2 SCC 357, while there is no doubt that tremendous effort are put in by candidates in preparing for an examination, it must also not be forgotten that the examination authorities equally put in great efforts to successfully conduct an examination. Although enormity of the task might reveal some lapse at a later stage, but the Court must consider the internal checks and balances put in place by the examination authorities before interfering with the efforts put in by candidates who have successfully participated in the examination - the overall and larger impact being that public interest must not suffer.

16. While deciding the writ petitions reliance was placed in *Tanvi Sarwal v. Central Board of Secondary Education and Ors.*, reported in (2015) 6 SCC 573, with reference to paragraph 23 thereof wherein the Supreme Court, in the facts of that case, held that although abrogation of the examination would cause inconvenience to all concerned and extra time would be consumed for holding a fresh examination, this is the price the stakeholders will have to suffer in order to maintain the faultless sanctity and credibility of a process of examination. This is a challenge which has to be met by all stakeholders by rising to the occasion so as to thwart and abort the reprehensible design of those seeking to hijack the process for vested interest along with the unscrupulous beneficiaries thereof. With due respects, *Tanvi Sarwal* was referred and quoted out of context, inasmuch as, the facts

thereof are altogether different from the case at hand. In *Tarvi Sarwal* the All India Pre-Medical and Pre-Dental Test, 2015 was cancelled with direction to hold fresh examination as the Supreme Court reached a conclusion that the examination had been exposed to a deep-rooted conspiracy of a gang of unscrupulous persons who with the aid of electronic devices was able to access the beneficiary candidates with the answer keys during the test, enabling them to solve the question paper, which undue benefit had been extended on monetary consideration. The Supreme Court noticed that although 44 (forty four) candidates had been identified as confirmed beneficiaries in various States across the country, it was not unlikely that many more candidates availed such undue advantage. In view of the widespread network involving malpractices, it was observed that the examination had become a suspect and, therefore, it became necessary for all the stakeholders to secure and sustain the confidence of the public in general and the student fraternity in particular in the trustworthiness of the process and that fairness, transparency and sanctity of the examination process cannot be compromised at any cost. In the premises, the Supreme Court was confronted to two alternative courses, either to segregate the 44 (forty four) identified candidates or direct a fresh examination by cancelling the examination. On the disturbing facts, the Supreme Court held that segregation only of the 44 (forty four) identified candidates cannot be the solution to the problem that confronted everybody. There was lurking possibility of unidentified beneficiary candidates stealing a march over the students who are not at fault. It was, therefore, on facts which revealed leakage of question papers, large-scale cheating and malpractices during the examination, aided by organized gang for monetary considerations and the impossibility to detect and segregate all undeserving candidates who succeeded in the said exam by benefiting from such malpractices, the view of the Supreme Court in paragraph 23 of the judgment came about. The facts in *Tarvi Sarwal* are altogether different and reliance placed upon paragraph 23, removed from the peculiar and startling facts thereof, to set aside the Preliminary Examination held on 29.07.2018, the results thereof dated 02.08.2018 and 16.08.2018 as well as the Mains Examination held on 10.11.2018, with direction to the Commission to hold fresh examination, in our considered opinion, was not correct and justified.

17. For all the reasons and discussions above, we hold that Instruction 28 (x) of the 2012

Regulations, being a mandatory provision, the Commission was right in not entertaining the belated Representations dated 20.08.2018 and 03.09.2018. In view of the binding force of Instruction 28 (x), the writ court ought not to have entertained the writ petitions founded on the said belated Representations dated 20.08.2018 and 03.09.2018, having regard to the law laid down in *G. Hemalatha* (supra). Pertinent to note that there is no challenge to the legality and validity of Instruction 28 (x) as being *ultra-vires* the Constitution of India. Having held thus, we are not inclined to foray into an analysis and determination of the alleged anomalies highlighted by the writ petitioners based on the belated Representations dated 20.08.2018 and 03.09.2018 as well as to the case laws placed in support of their contentions. No exceptional case was made out by the writ petitioners to overshadow and override the mandate of Instruction 28 (x).

18. On the above, we therefore allow the writ appeals and set aside the common judgment and order dated 16.09.2019, passed in WP(C) 475 (AP)/2018 and WP(C) 486 (AP)/2018. A direction is made to the Arunachal Pradesh Public Service Commission and to the concerned State respondents to ensure that the selection process pursuant to Advertisement dated 09.05.2017, issued by the Commission, be brought to its logical conclusion as expeditiously as possible, preferably within an outer limit period of 4(four) weeks from today.

Ordered accordingly.

Case records of the related writ petitions so received, following our order dated 23.01.2020, be returned forthwith.

Sd/- Parthivjyoti Saikia  
JUDGE

Sd/- Manojit Bhuyan  
JUDGE

07/03/2020  
Comparing Assistant

CERTIFIED TO BE TRUE COPY  
Phominidra Devi Goswami  
Date 07-03-2020  
Adm. (Judicial)  
Gauhati High Court  
Authorised U/s 76, Act 1, 1872