

IN THE GAUHATI HIGH COURT(THE HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND
ARUNACHAL PRADESH)**WRIT APPEAL NO.13/2014****Appellants :**

1. Arunachal Pradesh Public Service Commission, A Commission constituted under article 315 of the Constitution of India and situated at Vidhan Vihar, Itanagar, Arunachal Pradesh, represented by its Secretary.
2. The Chairman, Arunachal Pradesh Public Service Commissioner, Vidhan Vihar, Itanagar, Arunachal Pradesh.
3. The Controller/Deputy Secretary, Arunachal Pradesh Public Service Commission, Govt. of Arunachal Pradesh, Itanagar.

By Advocate :

Mr. N. Tagia.

Respondents :

1. Tomsang Pertin, S/O Sri Batem Pertin, C/O B. Pertin, Deputy Director (Museum & Architect), Directorate of Research, Govt. of Arunachal Pradesh, Itanagar.
2. Ritemiu Kri, Father's name Sri Sonjalum Kri, C/O DSO (Stat.) Tezu, District Lohit, Arunachal Pradesh.
3. Miss. Tako Menya, D/O Sri Taku Tukia C/O B.B. Plaza, First Floor, United Colours of Benetton, Itanagar, Arunachal Pradesh.
4. Shri Ragio Sengdo, S/O Sri Draka Sengdo, C/O Dragka Sengdo, D.V.O. Office Seppa, Arunachal Pradesh.
5. Shri Gombu Tsering Thungon, S/O Lt. Ledo Thungon C/O S.K. Thungon, Spice Board India, Bank Tinali, VIP Road, Itanagar, Arunachal Pradesh.
6. Miss. Rebie Taggu, D/O Sri Takop Taggu, C/O Otor Taggu, O/O CE, WRD, Vivek Vihar, Itanagar, Arunachal Pradesh.
7. Shri Risso Anthony, S/O Sri Risso Niki, C/O Toko Junu, R.K. Mission, Comlex, Hospital, Ganga, Itanagar, Arunachal Pradesh.

8. Shri Tasap Yinyo, C/O N. Yinyo, P.O. Nari, East Siang, DIST. Arunachal Pradesh.
9. Shri Tage Rinyo, S/O Sri Tage Gambo, C/O Tasso Nibi G-Sector, Naharlagun Arunachal Pradesh.
10. Hage Manty, F/Name Sri Hage Hanya C/O Hage Kari (Sr. Dental surgeon), Ziro, Arunachal Pradesh.
11. Shri Tage Taka, S/O Sri Tage Gambo, C/O Tasso Nibo, G-Sector, Opposite Qtr. No. 408, Naharlagun Arunachal Pradesh.
12. Miss. Jopi Basar, D/O Sri Tojo Basar, C/O Sri Tojo Bazar, DT. Gas Agency, Basar West Siang, District, A.P.
13. Shri Tobom Kamdak, S/O Sri Mento Kamdak, C/O Sri Tonia Kamdak, C Sector, Itanagar, A.P.
- ✓ 14. Miss. Ajum Bagang, D/O Sri Ashok Bagang, C/O Pama Bagang, Circle, Officer, Banderdewa, Papumpare District , A.P.
15. Mr. Rebe Bagang, S/O Sri Ashol Bagang, C/O Pama Bagang, Circle Officer, Banderdewa, Papumpare District, A.P.
16. Mr. Tadar Tamar, S/O Sri Tadar Rangey C/O Smti. Yatung Mara, SE Office, PWD, Naharlagun A.P.
17. Miss. Joram Me Tung, D/O Sri Joram Boke, C/O Likha Tekhi Nyeda Nyeet Apartment, Flat No. 15, C-Sector Naharlagun, Arunachal Pradesh.
- ✓ 18. Miss. Pooza Sonam, D/O Lt. Kamli Yaffa, C/O Mepung Nabum, Qtr. No. 163, Ward No. 16, P-Sector, Itanagar, Arunachal Pradesh- 791111.
19. Mis Karbom Riba, D/O Sri Dakkar Riba C/O Karbom Riba, D-Sector, Itanagar, Arunachal Pradesh.
20. Mis Aniyang Yirang, D/O Sri Onak Yirang, C/O K.Z. Director of Food and Civil Supply Naharlagun Arunachal Pradesh.
21. Sri Passang Yama, S/O Sri Passang Tajik, C/O Simi Passang, P-Sector, Nirjuli Arunachal Pradesh.
22. Sri Robin Tesia, S/O Sri Wachan Tesia, C/O W. Tesia, Legislative Assembly, Naharlagun Arunachal Pradesh.
23. Sri Kiktam Bayang, S/O Sri Tarang Bayang C/O Honi Bayang Seppa, West, Kameng, Arunachal Pradesh.
24. Miss Annie Ering, D/O Sri Kunu Ering C/O Enamai Krong, D.C. Office, Tezu Dist. Lohit, Arunachal Pradesh.
- ✓ 25. Sri Taling Lino, S/O Sri Tagin Lino, C/O Upper Colony Aalo, West Siang District, Arunachal Pradesh.

26. Sri Tasi Lino, S/O Sri Tagin Lino C/O Upper Colony, Aalo West Siang District, Arunachal Pradesh.
27. Miss. Manisha Pertin, D/O Sri Guni Pertin, C/O Guni Pertin, Vill- Bolung P.O. Roing, Lower Dibang Valley, Arunachal Pradesh.
28. Adangsi Krong, S/O Sri Jogem Krong, C/O Enamai Krong, D.C. Office Teju Lohit District, Arunachal Pradesh.
29. Miss Tenzin Metoh, D/O Sri Tempa Tsering, C/O Genden Sangmo, Lezi Complex, Bank Tinali, Itanagar, Arunachal Pradesh.
30. Miss. Geyir Potom, D/O Sri Bomge Potom, C/O Ganpati Auto Agency Tusok Complex, Ziro Point Tinali, Itanagar, Arunachal Pradesh.
31. Miss. Largi Ngoba, D/O Sri Talar Karsen Ngoba, C/O Dangam, Ngoba Labour Employment Office, Naharlagun Arunachal Pradesh.
32. Miss. Opet Tatak, D/O Sri Tamiyo Tatak, C/O Tapak Uli (Advocate) Gauhati High Court, Naharlagun, Arunachal Pradesh.
33. Shri Tana Sem, S/O Sri Tana Tad, C/O A-Sector Naharlagun, Arunachal Pradesh.
34. Shri Dagge Diyum, S/O Sri Redak Diyum C/O Dabom Lollen, Oriental Insurance Company, Takar Complex, Naharlagun, Arunachal Pradesh.
35. Shri Michi Tabiyo, S/O Sri Michi Takar C/O Directorate of Economics & Statistics, Itanagar, Dist. Papumpare, Arunachal Pradesh.
36. Shri Tumjom Tato, S/O Sri Jumtum Tato, Near Shiv Mandir, A-Sector, Itanagar, Arunachal Pradesh.
37. Shri Hage Obing, S/O Lt. Hage Gambo, C/O Hage Nania, Itafort Dispensary, Bank Tinali, Itanagar, Dist. Papumpare, Arunachal Pradesh.
38. Shri Subu Talo, S/O Sri Subu Lali, C/O S.P. (J), District Jail, Jollang, Itanagar, Arunachal Pradesh.
39. Shri Kapak Tapa, S/O Sri Kabak Dokum C/O Dr. Kabak, D.B. Health Care & Diagonistic Centre, Ziro Point Tinali, Itanagar, District- Papumpare, Arunachal Pradesh.
40. Miss. Gombu Chozom, D/O Sri Pema Gombu, C/O Pem Lhajom Pro to CM Cell, Govt. of Arunachal Pradesh, Itanagar, Dist. Papumpare, Arunachal Pradesh.

41. Shri Habung Obing, S/O Lt. Habung Tabin C/O Millo Yarang, Office of E.E., P.W.D., Itanagar, Arunachal Pradesh.
42. Miss. Beauty Pangying, D/O Sri Ojung Pangying C/O Bapi Panyang, Directorate of Audit & Pension, Govt. of Arunachal Pradesh, Dist. Papumpare, Arunachal Pradesh.
43. Shri Khoda Talying, S/O Sri Khoda Ruja, C/O Purvanchal School, Mowb-II, Itanagar, Dist. Papumpare, Arunachal Pradesh.
44. Shri Homsham Morang, S/O Sri Womkim Morang, C/O Hage Sunia, Department Of Zoology, RGU, Rono Hills, Dist. Papumpare, Arunachal Pradesh.
- ✓ 45. Dene Mena, F/O Sri Dhanroti Mena C/O Eri Mega Cheta 2, Lower Dibang Valley, (Arunachal Pradesh) Dist. Papumpare, Arunachal Pradesh.
46. Sri Tenzin Zendan, S/O Sri Wangde Chombey C/O Akashdeep, M/S Style Kraft, Ganga, Itanagar, Arunachal Pradesh.
47. Iken Rumdo, F/O Sri Tai Rumdo C/O Keba Taso, Office Of The Commissioner Of Tax & Excise, C-Sector, Itanagar, Dist. Papumpare, Arunachal Pradesh.
48. Tem Paul, F/O Sri Tem Kaya Qtr. No. 37, T-IV, D- Sector, Naharlagun Dist. Papumpare Arunachal Pradesh.
49. Indu Linggi, F/O Sri Kiteni Linggi C/O Mayu-I Roing, Lower Dibang, Valley, Arunachal Pradesh.
50. Miss Kayum Loya, F/O Sri Toka Loya C/O Joint Director, (T & R), General Hospital. Pasighat, Dist. East Siang, Arunachal Pradesh.
51. Ratan Perme, Father's name Sri Temple Perme, C/O Smti O. lego, Office of the PCCF, O-Point, Itanagar, Arunachal Pradesh.
52. Bikram Nasi, Father's name Sri Larbin Nasi, C/O Larbin Nasi, D- Sector Qtr. No. 13, Type-III, Naharlagun, District Papumpare, Arunachal Pradesh.
- ✓ 53. Choki Dokio, Father's name Late Choking Tai, C/O- Choki Tatung (Staff APST Service Station), Itanagar, District Papumpare, Arunachal Pradesh.
54. Sri Kenjar Taso, Father's Name Late Reken Taso, C /O Sri R. Diyum (Stat. Cell), Directorate Office, (AHV), Government Of Arunachal Pradesh, Nirjuli, District Papumpare, Arunachal Pradesh.
55. Tapi Mali, Father's name Sri Tapi Batt, C/O Shri Gyati Tatu (Addl. DHS), Directorate of Health Service, Naharlagun, District Papumpare, Arunachal Pradesh.

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56. Chum Darang, Father's name Sri Tajep Darang, C/O Tana Murtem, A.G. Office, Itanagar, District Papumpare, Arunachal Pradesh.
57. Shri Beto Doni, Son of Sri Tabe Doni, C/O Tabe Doni, Bank Tinali, Itanagar, District Papumpare, Arunachal Pradesh.
58. Taba Nagu, Father's Name Sri Taba Kamin, P.O/P.S. Nirjulil, Bage Tinali, Village - Nirjuli, District Papumpare, Arunachal Pradesh.
59. Boa Terry, Father's name Sri Boa Tamom, C/O A- Sector, Itanagar, District Papumpare, Arunachal Pradesh.
60. Shri Kashik Yayeng, Son of Sri Yemjem Tayeng, C/O Chief Conservator of Forest, P.O Banderdewa, District Papumpare, Arunachal Pradesh.
61. Hukken Riram, Father's Name Sri Mohuk Riram, High Bagara, Aalo, District West Siang, Arunachal Pradesh.
62. Shri Tasso Kobing, Son of Sri Tasso Olang, D-Sector, Naharlagun, District Papumpare, Arunachal Pradesh.
63. Shri Bengia Thomas, Son of Sri Bengia Eka, Bage Tinali, Nirjuli District Papumpare, Arunachal Pradesh.
64. Shri Duyu Pullo, Son of Sri Duyu Pussang, C/O Habung Tani, Section Officer, Finance E-I, Civil Secretariat, District Papumpare, Arunachal Pradesh.
65. Miss Amanda Pertin, Daughter of Sri Makbul Pertin, Bank Tinali, Itanagar, District Papumpare, Arunachal Pradesh.
66. Shri Jecky Boje, Son of Sri Taper Pada, Village Leidum, P.O. Bilat, P.S. Ruksin, District Papumpare, Arunachal Pradesh.
67. Shri Pebi Tato, Son of Sri Mirpe Tato, C/O Juntum Tato, C.E. Office, Vidyut Bhawan, Itanagar, District Papumpare, Arunachal Pradesh.
68. Shri Daniel Jinni, Son of Sri Jumdo Jini, C/O Holy Child School, H-Sector, Itanagar, District Papumpare, Arunachal Pradesh.
69. Miss Karoti Lego, Daughter of Sri Tembu Lego, C/O Bisemlu Mangu, Postal Head Office, Itanagar, District Papumpare, Arunachal Pradesh.

70. Shri Eddie Payeng, Son of Sri Takinu Payeng, C/O Mrs. Siemi Hamar, Legislative Assembly, Naharlagun, District Papumpare, Arunachal Pradesh.
71. Shri Topu Tok, Son of Sri Gingma Tok, C/O Tayum Tok, Model Village-Seppa, Arunachal Pradesh.
72. Mr. Kiran Tana, Son of Sri Pate Tana, C/O Gyammar Karo, ESS-Sector, Qtr. No. 10, Near Revival Church, Itanagar, District Papumpare, Arunachal Pradesh.
73. Shri Rubu Tani, Son Of Rubu Taki, C/O Tage Adu, Bosch Car Service Centre, H-Sector, Itanagar, District Papumpare, Arunachal Pradesh.
74. Shri Joram Aka Bai, Son of Sri Joram Boke, c/o Nyeda Nyett Apartment, Flat No. 15, C-Sector, Naharlagun, District Papumpare, Arunachal Pradesh.
75. Khunlong Matey, Father's name Sri Moichang Matey, P.O. Deomali, District Tirap, Arunachal Pradesh.
76. Sangmo Tawe, Father's Name Late Dongro Tawe, C/O Nerist, P.G. Boys Hostel Room No. 23, Nirjuli Papumpare, Arunachal Pradesh.
77. Tasso Nobin, Father's name Sri Tasso Mudo, c/o Hage Yamin, WRD Branch, A.P. Sector, Itanagar, District Papumpare, Arunachal Pradesh.
78. Sujeena Manpoong, Father's Name Sri Mahala Manpoong, E-29, Namsai Town, Iird Block, District Lohit, Arunachal Pradesh.
79. Miss Higio Zarngam, Daughter of Sri Higio Tala, C/O Higio Tala Eac, Under Secretariat, State Election Commission, District Papumpare, Arunachal Pradesh.
80. Higio Taluk, Father's name Sri Higio Doro, C/O Higio Tala Eac, Under Secretariat, State Election Commission, DISTRICT Papumpare, Arunachal Pradesh.
81. Miss Seema Podo, Daughter of Sri Tabin Podo, C/O Lipo Taping, Near Nemko Hotel, 'B' Sector, Permnagar, District Papumpare, PIN-791110.
82. Tobom Basar, Father's name Sri Lito Basar, C/O Mrs. Tongam Basar Taipodia, D-Sector Qtr. No. 508, T-II, District Papumpare, Arunachal Pradesh.
83. Miss Pema Yangzin, Daughter of Sri Pema Gombu, C/O Pem Lhajom, Pro to Cm Cell, Office, Niti-Vihar, District Papumpare, Arunachal Pradesh.

84. Sri Dibang Rai, Son of Late Tachok, C/O of Gollo Tango, Doordarshan Kendra, Itanagar, District Papumpare, Arunachal Pradesh.
85. Miss Joram Mepung, Daughter of Sri Joram Boke, C/O Likha Tekhi, Nyeda Nyett Apartment, Flat No 15, Forest Colony, Naharlagun, District Papumpare, Arunachal Pradesh.
86. Miss Jimmy Mena, Daughter Of Sri Dharoti Mena, C/O Eri Mega Cheta 2, Roing Lower Dibang Valley, Arunachal Pradesh.
87. Shri Ruchu Tacho, Son of Shri Tade Tacho, C/O Tade Tacho Anini, Dibang Valley, Arunachal Pradesh.
88. Ritemlu Kri, Father's name Sri Sonjalum Kri, C/o DSO (Stat.) Tezu, District Lohit, Arunachal Pradesh.
89. Christina Mum Norbu, F/O Name Sri Norbu Lama C/O Norbu Lama, Near CE (Hydropower) Office, Itanagar, Dist. Papumpare, District Papumpare, Arunachal Pradesh.
90. Shri Kaling Eko, S/O Sri Tagum Eko, C/O Mowb-II Purvanchal School, Itanagar, District Papumpare, Arunachal Pradesh.
91. Biju Dodum, F/O Sri P.G. Dodum, C/O Lakshmi Dodum, Mak Apartment, Pappunallah, District Papumpare, Arunachal Pradesh.
92. Miss. Nima Dolma, D/O Sri Thupten Chopel, C/O Rashmi Cloth Store, Legi Complex, Itanagar, District Papumpare, Arunachal Pradesh.
93. Tenzin Risang Thakuri, F/O Sri Kumar Thakuri C/O Kumar Thakuri D.C. Office, Bomdila, District West Kameng, Arunachal Pradesh.
94. Tao Taja, F/O Lt. Tao Tem, C/O Nikh Sita, D-Sector, Naharlagun District Papumpare, Arunachal Pradesh.
95. Tar Taro, F/O Lt. Tar Jirdu Model Village, Naharlagun, District Papumpare, Arunachal Pradesh.
96. Shri Anant Goel, S/O Sri Mukesh Kr. Goel, 15/7 Shivvihar Colony, Delhi Road, Saharanpur- 247001.
97. Radhe Obing, S/O Radhe Bhatt, C/O Radhe Ampu, Dhs Office, Naharlagun District Papumpare, Arunachal Pradesh.
98. Miss. Gampi Basar, D/O Mogum Basar, P.O. & P.S. Basar, District West Siang, Arunachal Pradesh.
99. Shri Tailan Gkabin, S/O Shri Tailang Kacho, 'G' Extension, Naharlagun, P.O. Naharlagun, District Papumpare, Arunachal Pradesh.

100. Miss. Tage Shelly, D/O Shri Tage Taki, VILL- Lempia, P.O. & P.S. Ziro, Lower Subansiri, Arunachal Pradesh.
101. Shri Miro Dai, S/O Shri Talu Dai, VILL- Mirsam, P.O. & P.S. Pasighat, East Siang District, Arunachal Pradesh.
102. Shri Redong Dai, S/O Shri Talu Dai, VILL- Mirsam, P.O. & P.S. Pasighat, East Siang District, Arunachal Pradesh.
103. Miss. Gemang Tamuk, D/O Shri Olom Tamuk, VILL- Mungku, P.O. & P.S. Pasighat, East Siang District, Arunachal Pradesh.
104. Shri Pakjum Chairam, S/O Marpak Chiram, permanent resident of Daring Village, P.O. & P.S. Basar, West Siang District, Arunachal Pradesh.
105. Shri Nyamo Ete, S/O Marnya Ete, permanent resident of Darka Village, P.O. & P.S. Aalo, West Siang District, Arunachal Pradesh.
106. Shri Rocky Pao, S/O Shri Samo Pao, permanent R/O Crema Pao Village, P.O. & P.S. Chayang, Tajo, East Siang District, Arunachal Pradesh.
107. Miss. Radhe Yam, D/O Lt. Radhe Tabin, permanent resident of Tajang Village, P.O. & P.S. Ziro, Lower Subansiri District, Arunachal Pradesh.
108. Shri Metum Soki, S/O Shri Keme Soki, R/O Daporijo, Upper Subansiri District, Arunachal Pradesh.

By Advocate:

Mr. N. N. Upadhyay.

BEFORE
HON'BLE MR. JUSTICE A. M. SAPRE, THE CHIEF JUSTICE.
HON'BLE MR. JUSTICE UJJAL BHUYAN.

Date of hearing : 20.05.2014

Date of Judgment : 27.05.2014.

JUDGMENT AND ORDER (CAV)

(Ujjal Bhuyan, J)

This writ appeal is directed against the common judgment and order dated 20.12.2013 whereby learned Single Judge allowed

WP(C)Nos.393(AP)/2013, 388(AP)/2013, 412(AP)/2013, 415(AP)/2013, 399(AP)/2013, 400(AP)/2013, 408(AP)/2013 and 413(AP)/2013.

2. Respondents as petitioners had filed the aforesaid writ petitions challenging the action of the appellant No. 1 Arunachal Pradesh Public Service Commission (Commission) in rejecting the candidature of the respondents for appearing in the State Civil Services Examination on the ground of there being defects in their application forms.

3. Facts of the case may be briefly noted.

4. The Commission issued a public advertisement on 01.02.2013 inviting applications from eligible candidates for filling up 39 posts in the cadre of APCS (EG) Group A and 12 posts in the cadre of APPS (EG) Group A.

5. Respondents submitted applications in the prescribed form pursuant to the said advertisement. Altogether, Commission received 13118 applications and after scrutiny, 10105 applications were accepted and 3013 applications were rejected as not conforming to the requirement of the application form as prescribed. List of eligible candidates and list of rejected candidates were notified where grounds of rejection were mentioned.

6. 108 candidates, whose applications were rejected, filed the above writ petitions challenging rejection of their candidature and seeking a direction to the Commission to allow them to appear in the preliminary examination after correcting/rectifying the defects in their application forms. It was contended that the defects for which the

application forms were rejected were trivial and curable in nature. The nature of the defects which led to rejection of the applications of the writ petitioners are described in paragraphs 3 to 12 of the judgment under appeal.

7. The writ Court passed an interim order on 18.09.2013 directing the Commission to allow the writ petitioners to appear in the preliminary examination scheduled on 22.09.2013.

8. Contention of the petitioners was that the defects for which their applications were rejected were trivial in nature and were curable. Further contention is that the Commission has framed a set of guidelines called ***Arunachal Pradesh Public Service Commission Rules of Procedure and Conduct of Examination Guidelines, 2012 (Guidelines)***. Rule 8 of the Guidelines provides for the procedure for scrutiny of application forms including constitution of a Screening Committee. No such Screening Committee was constituted for scrutiny of the application forms and the candidature of the writ petitioners were rejected mechanically without following the procedure prescribed.

9. Commission filed affidavit resisting the prayer made in the writ petition. It was contended that writ petitioners had committed mistakes in filling up the application forms and, therefore, their applications were rightly rejected. Question of mistakes being trivial or minor or curable has no relevance.

10. Learned Single Judge after due consideration allowed the writ petitions vide the common judgment and order dated 20.12.2013 by directing the Commission to declare the results of preliminary examination of the writ petitioners and if any of the petitioners are

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found qualified in the preliminary examination, their candidature should be scrutinized by the Screening Committee as per the Guidelines. If there are no fundamental defects, they should be permitted to correct the defects in the application form and allowed to sit in the main examination.

11. Assailing the above decision of the learned Single Judge, the Commission is in appeal.

12. Heard Mr. N. Tagia, learned counsel for the appellants and Mr. N. N. Upadhyay, learned counsel appearing for the respondents.

13. Learned counsel for the appellants submits that the Guidelines are non-statutory in character and are not enforceable. Therefore, learned Single Judge fell in error in interfering with the decision of the Commission by placing reliance on Rule 8 of the Guidelines and by holding that the Commission did not comply with the procedure prescribed therein. He submits that though applications of 3013 candidates were rejected, only 108 candidates had filed writ petitions. Following the interim order passed by the writ Court, 97 out of the 108 petitioners appeared in the preliminary examination. Though the result of the preliminary examination has been declared, the results of the 97 petitioners have been kept in sealed cover awaiting orders of this Court. He submits that the writ petitioners were very callous while filling up their forms and therefore they can not take advantage of their own wrong. He has referred to and relied upon the following decisions of the Apex Court:-

(1995) 1 SCC 269 (Dr. Santosh Kumari (Mrs) Vs. Union of India & Ors.),

AIR 1988 SC 1681 (J. R. Raghupathy & Ors. Vs. State of A. P. & Ors.),

AIR 1952 SC 12 (State of Orissa Vs. Madan Gopal Rungta), and

(2008) 1 SCC 456 (State of M.P. & Ors. Vs. Sanjay Kumar Pathak & Ors).

to contend that the Courts should be slow in interfering in such matters.

14. Learned counsel for the respondents/writ petitioners on the other hand supports the order of the learned Single Judge.

15. We have considered the rival submissions and have also perused the materials on record.

16. At this stage, it would be apposite to refer to the relevant portion of the order of the learned Single Judge, which reads as under:-

"27). Block to the facts-In WP(C) No. 393(AP) 2013, the candidate of petitioner No. 1 to 28 were rejected on the ground that they did not sign the declaration column.

Ground for rejection of candidature of petitioner No. 29 in WP(C) No. 393 (AP)/2013 has not been disclosed save and except that their candidature have been rejected mechanically.

28). In WP(C) 388 (AP)/2013 and WP(C) 400(AP)/2013, the candidature of petitioners. Tailang Kobin and Nyamo Ete has been rejected on the ground that he failed to mention gender by darkening the oval provided in the application form although Tailang Kobin has mentioned his gender as male by marking 1 for male in the box provided in the application form. The photo pasted in the form clearly identifies the gender of the petitioners. The application was not meant for only male or female gender. Moreover, it was curable defects and on scrutiny it could have detected what was the gender of the applicant. Therefore, the candidate of petitioner Tailang Kobin in WP(C) 388(AP) 2013 ought not to have been rejected.

29). In WP(C) 399 (AP) 2013, the petitioner Pakum Chiram failed to mention the birth month of the petitioner. It is contended that he had filled up day, month and year of his birth in the form but he did not darken the oval shape bubbles below. As per annexure-3 i.e. form submitted by the petitioner his date of birth was 10-02-1985 and he mentioned his age as on 1.1.2013 as 27 years 10 months 18 days. As per advertisement candidates must have attained 21 years of age and should not be more than 28 years of age on 10-03-2013. However, upper age limit is relaxable in case of APST etc. As per the form filled up, the petitioner falls under the category of APST. The petitioner has clearly mentioned the age in the form. Only he failed to darken the month column of his birth. Had there been proper scrutiny, his candidature ought not to have been rejected. It appears that for hyper technical ground the candidature of Pakjum Chiram, petitioner in WP(C) 399(AP) 2013 have been rejected.

30). In WP(C) 413 (AP) 2013, the candidature of the petitioner. Metum Soki, was rejected on the ground that one slight mark was spotted on the application form alongwith the name of the petitioner.

31). It is contended on behalf of the petitioners in all the writ petitions that the respondents/APPSC on earlier occasion had given opportunity to the candidates of competitive examination to make correction/rectification of defective applications. Moreover,

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in the Arunachal Pradesh Public Service Commission Rules of Procedure & conduct of Examination Guidelines 2012, wherein Column 8, it is provided that A Screening Committee headed by Chairman/Member of Commission as Chairman with 2/3 officers and officials and (expert if necessary) will be constituted by the Commission for the scrutiny of the application forms. After scrutiny the Screening Committee will submit its report with findings to the Commission for decision on admissibility of candidates to the examination.

32). The issue here is to be discussed whether it is mandatory for the APPSC to follow the guidelines of Arunachal Pradesh Public Service Commission Rules of Procedure & conduct of Examination. Herein, admittedly, no such 'Screening Committee' was constituted for scrutiny of application forms and the application forms were mechanically rejected on the basis of reading of the OMR by machine. Therefore, there was clear violation of the Arunachal Pradesh Public Service Commission Rules of Procedure & conduct of Examination Guidelines 2012. Further more, in the advertisement, it was not mentioned that candidature of the applicants will be rejected before the preliminary examination. The ground for rejection of application forms have been mentioned for main examination in the advertisement.

33). It is submitted by the learned counsel for the respondents/APPSC that it is not mandatory for the APPSC to follow the guidelines of Arunachal Pradesh Public Service Commission Rules of Procedure & conduct of Examination Guidelines 2012. It is only a guideline and not any statutory enactment.

34). In *P. Tulsi Das and Others Vs. Govt. of A.P. and Others*, reported in (2003) 1 SCC 364, the contention of the State was that the right derived and claimed by the appellants must be under any statutory enactment or rules made under Articles 309 of the Constitution of India and that any other respects there could not be any acquisition of rights validly and it was held that it is by now well settled that in the absence of any rules under Articles 309 of the Constitution in respect of a particular area, aspect or subject, it is permissible for the State to make provisions in exercise of its executive powers under Article 162 which is coextensive with its legislative powers laying conditions of service and rights accrued to or acquired by a citizen would be as much rights acquired under law and protected to that extend.

35). Clause 8 of Arunachal Pradesh Public Service Commission Rules of Procedure & conduct of Examination Guidelines 2012, clearly says that there should be scrutiny of the application forms by a Screening Committee headed by Chairman/Member of Commission as Chairman with 2/3 officers and officials and (expert if necessary) will be constituted by the Commission for the scrutiny of the application forms. After scrutiny the Screening Committee will submit its report with findings to the Commission for decision on admissibility of candidates to the examination.

36). There is no averments in the affidavit-in-opposition filed on behalf of the APPSC that any such Screening Committee was constituted for scrutiny of the application forms, although, it is mentioned in the Column 11 of the Arunachal Pradesh Public Service Commission Rules of Procedure & conduct of Examination Guidelines 2012, that no second chance for correction of form and re-submission of documents shall be given to the candidates. When there was no chance for the candidates to correct their application forms and resubmission of documents, it was obligatory on the part of the APPSC to constitute a Screening Committee for scrutiny of the application forms but the application forms here were rejected mechanically.

37). There is no dispute that the candidature of writ petitioners in all the writ petitions have been rejected mechanically without scrutiny and for non fundamental defects which are curable. Since only 97 candidates out of 108 writ petitioners have appeared in preliminary examination inspite of interim protection given to all of the writ petitioners, it can be assumed that remaining writ petitioners who did not appear in preliminary examination have abandoned their claim. In view of the circumstances the writ petitions are disposed of with direction to the respondent-APPSC to declare the results of preliminary examination held on 22-09-2013 with regard to the petitioners immediately. If any of the petitioners has qualified in the preliminary examination, their candidature have to be scrutinized by the Committee as per the guidelines and if there is no fundamental defect, he/they should be permitted to cure the defects in the application form within a week and allowed to sit in the main examination."

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17. We agree with the view taken by the learned Single Judge. Without entering into the merits of the contention urged on behalf of the appellants that the Guidelines are non-statutory and, therefore, cannot be enforced in a Court of law, all that we can say is that such Guidelines having been framed by the Commission itself to regulate the procedure for scrutiny of application forms, it does not behove the Commission to now take up the stand that it will not follow its own Guidelines. Moreover, only 97 out of the 108 petitioners had appeared in the preliminary examination as per interim order of this Court. We do not find any error in the ultimate direction of the learned Single Judge to declare the results of the preliminary examination of the petitioners. Further direction of the learned Single Judge is that those writ petitioners who qualify in the preliminary examination, their candidature should be scrutinized by the Screening Committee as per the Guidelines and if there is no fundamental defect, they should be permitted to cure the defects in their application forms and, thereafter, they should be allowed to sit in the main examination. The above view taken by the learned Single Judge appears to us to be in the interest of justice and causes no prejudice to the Commission. Ultimate decision is left to the discretion of the Commission itself to scrutinize the application forms of those writ petitioners who are successful in the preliminary examination and allow only those writ petitioners to rectify the defects in the application forms which are not of fundamental nature and, thereafter to allow them to appear in the main examination. In our view, the above view taken by the learned Single Judge is a reasonable one and calls for no interference. We therefore decline to interfere with the decision of the learned Single Judge.

18. We have also gone through the judgments relied upon by the learned counsel for the appellants and having gone through the same, we are of the view that in the factual context of the present case, the above decisions would not be applicable.

19. Writ appeal is accordingly dismissed.

20. Interim order passed on 10.01.2014 is recalled.

Sd/- Ujjal Bhuyan
JUDGE

Sd/- A. M. Sapre
CHIEF JUSTICE

Memo No. HC XXIII 471 — 473

/WA Dated 30.5.14

Copy forwarded for information and necessary action to

1. The Secretary Arunachal Pradesh Public Service Commission, A Commission constituted under Article 315 of the Constitution of India and situated at Vidhan Vihar, Itanagar, Arunachal Pradesh.
2. The Chairman, Arunachal Pradesh Public Service Commission, Vidhan Vihar, Itanagar, Arunachal Pradesh.
3. The Controller/Deputy Secretary, Arunachal Pradesh Public Service Commission, Govt. of Arunachal Pradesh, Itanagar.

By Order,

Reported on 30/5/14
Deputy Registrar (Admn.-I)
Gauhati High Court, Guwahati

30.5.14