

(2009) 11 J&K CK 0021

In the Jammu And Kashmir High Court

Case No : Letters Patent Appeal No.86 Of 2005,I.A.No. 108 Of 2005

Ab.Qayoom

APPELLANT

Vs

M.A.Chesti & Ors.

RESPONDENT

Date of Decision : 16-11-2009

Acts Referred:

Constitution of India, 1950 — Article 14, 161, 162, 226, 226
Constitution of Jammu and Kashmir, 1956 — Section 103, 45

Citation : (2010) 2 SriLJ 707

Hon'ble Judges : Barin Ghosh, C.J and Muzaffar Hussain Attar, J

Bench : Division Bench

Advocate : Azhar-ul-Amin, Shah Aamir, Z.A.Shah, R.A.Jan, Advocates appearing for the Parties

Judgement

Muzaffar Hussain Attar, J.—Governor in exercise of powers conferred by Proviso to Section 124 of Constitution of Jammu and Kashmir

formulated Rules titled ""Jammu and Kashmir Soil Conservation (Gazetted) Service Recruitment Rules, 1984"" (for short Rules of 1984). Vide

notification SRO 287 dated 28th June 1984, Rules of 1984 were notified in Government Gazette and became operational.

2. Rules relevant for the disposal of this case c.re reproduced as under:

Rule 1 (2) They shall come into force from the date of their publication in the Government Gazette.

Rule 2. (b)(d)&(f),

(b) ""Cadre"" means the cadre of the service;

(d) ""Member of the Service"" means a person appointed to a post in the service under the provisions of these rules;

(f) ""Service"" means the Jammu and Kashmir Soil Conservation (Gazetted)

Service:

Rule 3, Constitution of Service.

(1) From the date of commencement of these rules there shall be constituted the Jammu and Kashmir Soil Conservation (Gazetted) Service.

(2) The Government may at the commencement of these rules appoint to service any person who at the commencement of these rules is holding

any post in its sanctioned scale of pay included in the cadre of the service;

Provided that for purposes of initial constitution of service the person holding any post included in the cadre of the service in its sanctioned scale of

pay shall be given an opportunity before such appointment to opt for the service within fifteen days from the commencement of these rules.

Rule 5. Qualification and method of recruitment. (1) No person shall be eligible for appointment or promotion to any post in any class, category or

grade in the service unless he possesses the qualifications as laid down in the Schedule 'II' and fulfils other requirements of recruitment as provided

in the rules and orders for the time being in force.

Schedule II

Minimum qualification

Photo Interpreter (8751400)

Method of recruitment

By promotion tiom:(i) Class V, Category A, B and C of officers having five years experience in the case of Category A and seven years in the case

of Category B and C possession of a certificate course in Soil Conservation Survey from Dehra Dun, shall be a desirable qualification: and (ii)

Category 1VA of officers with 2 years experience.

Class Category Designation and Cadre

1 2 3

III A Assistant Soil

Conservation Officer/ Tech. Assistant Assistant/ Engineer (Agri) (10501710)

B Assistant Engineer

(10501710)

C Assistant Agrostologist

(10501710)

V A Research Asstt. /Soil

Conservation Asstt. (9001460)

B Assistant Research (875
1400)

By promotion from the incumbents holding the post of Assistant Survey Officers, provided they possess a Bachelors Degree in Civil Engineering or

A. M. 1. E. (Civil) and have five years experience in the line. In case no qualified hand possessing the aforesaid qualifications and experience is

available in the Department, then by deputation from P.W.D of an officer possession these qualifications and experience.

By promotion from Class V category A & B with five years experience in Agrostology.

B.Sc. or B. Sc. Agriculture Engg. or M.Sc Botany.

(i) 50% by direct recruitment (ii) 50% by promotion from trained DDR Range Officers in Class VI Category A with 2 years experience and Asst.

Survey Officer with 5 years experience.

B.Sc

Agriculture of M.Sc. Botany or B.Sc.

Agriculture Engg.

B.Sc

Agriculture or M. Sc. Botany.

do

(i) 50% by direct recruitment(ii) 50% by promotion from trained DDR Range Officers in Class VI.Category A with 7 months training course from

IPI Dehra Dun.

3. By operation of Rule 3 read with rule 1 (2) of Rule of 1984, the J&K Soil Conservation (Gazetted) Recruitment Service (for short Service) was

constituted. Rule 3(2) of rules of 1984 authorized Government to appoint to Service any person holding any post in the sanctioned scale of pay

included in the cadre of service.

4. On the plain reading of the above said provisions of Rules of 1984 what emerges is that by mere constitution of Service, no one would

automatically become member of service, which is, otherwise, high lighted by Rule 2 (d) of

Rules 1984. For becoming member of service issuance of appointment order by Government is statutory requirement.

5. Post of Assistant Engineer (Agri) (10501710) is to be filled up by promotion from class V category ""A"" officers having five years experience

and from category ""B"" and ""C"" having seven years experience. Class V category ""A"" is post of Research Assistant/Soil Conservator Assistant

(9601460) and class V category ""B"" is post of Assistant Research Officer (8751400).

6. Respondent No. 1 vide Government Order No. 1629 GD of 1980 dated 23.08.1980 was adjusted in the Directorate of Soil Conservation

Department against available post of Assistant Research Officer (475850). Vide Government order No. 114FST 1983 dated 03.09.83

respondent No. 1 was appointed in relaxation of rules as Assistant Research Officer in the pay scale of (8751400) against available vacancy in

Directorate of Soil Conservation against direct recruitment quota. Government order No. 339FST of 1984 dated 25.10.84, however, provided

that appointment of respondent No. 1 as Assistant Research Officer will take effect from 23"" August 1980 for purposes of seniority and no

monitory benefits were allowed to respondent No. 1 for this period. Government order No. 235FST of 1985 dated 16.12.1985 provided the

respondent No. 1 to hold charge of Assistant Engineer (Agri) as stop gap arrangement in his own pay and grade in Directorate of Soil

Conservation.

7. Vide Government order No. 57/ agri of 1987 dated 2"" Feb. 1987 appellant's services were temporarily placed at the disposal of the

Directorate of Soil Conservation.

3. Sh. S.C. Gupta do do

8. Vide order No. 274FST 1989 dated

15.09.89, in terms of Rules 3(2) of Rules 4. Sh. R.K. Nagi Soil Conser do of 1984, the officers mentioned in the vation Asstt.

said Government order were appointed

to the Service by absorbing them in the 5. Sh. B.D. Raina Assistant do

service. The said Government order No. Agrostologist
274FST is reproduced as under :

6. Sh. A. A. Mir Research do
GOVERNMENT OF JAMMU Assistant
AND KASHMIR CIVIL SECTT:

FOREST DEPARTMENT 7. Sh. A. Qayoom do do
Sub: Absorption of officers in 8. Sh. N. A. Shahdad Soil Conser do
J&K Soil Conservation (Gazet vation Asstt.
ted) Service.

9. Sh. Tariq Ahmad Asst Rcse do
Order: No. 274FST of 1989 arch
Dated: 15.09.1989 Of
In pursuance of rule 3 of ficer
Jammu and Kashmir Conserva
tion (Gazetted) Service Recruit 10.Sh. M.D. Shah Range do
ment Rules, 1984 issued vide Officer
SRO sick mark Soil Conserva 11.Sh. Abdul Bashir do do
tion Department are absorbed
permanently in the Jammu and 12.Sh. M. A. Chesti Soil Soil
Kashmir Gazetted Soil Conser Conser Ctns
vation Service: vation Aatt
Deptt.

8. Ho. Name of the Officer:

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2.

Sh. S.N. Macoo

Sh. O.R. Khan cons. Officer

in J&K Gazetted Soil Conservation Service

Assistant Engineer (Agri)

Asst. soil

Agriculture Deptt do

By order of the Government of Jammu and Kashmir.

Sd/

(I. A. Khan)

Special Secretary

to Government

Forest Department.

Appellant figured at serial No. 7 of said order and respondent No. 1 at serial No. 12.

9. Final seniority list was issued by Government, vide order No. 275 of 1989, dated 15.09.89 the appellant figured in annexure (II) of said

Government order and his designation was shown as Research Assistant in the pay scale of 17002900 and his date of entry into services was

shown to be 23.04.80. Respondent No. 1 figured in annexure (HI) holding the post of Assistant Research Officer in the pay scale of 15502800.

The date of entry into service was shown as 06.11.74 and the date of promotion to the present grade as 26.09.80. Respondent No. 1 vide

Government order No. 278FST 1989 dated 15.09.89 was ordered to be promoted subject to clearance of DPC, to the post of Assistant

Engineer (Agri) in the pay scale 20003500.

10. The appellant being aggrieved of the government order No. 278FST 1989 challenged the same in writ petition, which was registered as SWP

No. 1491/89. On contest the writ petition was decided in favour of appellant and government order No. 278FST of 1989 was quashed by Id.

Single Judge vide judgment dated 28th Oct. 1993. The Id. Single Judge, arrived at said conclusion by relying on and interpreting the order No.

274FST of 1989 dated 15.09.1989 which provided for appointment of persons to the service. Relevant paragraphs of the judgment are

reproduced as under:

.....It appears that the petitioner and respondents No.3 and 4 were working in the Agriculture Department and had been sent on deputation to

the Soil Conservation Department at various points of time. On 15th September, 1989, Govt. Order No. 274FST of 1989 dated 15.09.1989

came to be issued by the Special Secretary to Govt. Forest Department whereby as many as 12 persons including the petitioner and respondents

No.3 and 4 were absorbed permanently in the Jammu and Kashmir (Gazetted) Soil Conservation Service constituted by and under 1984 Rules. In

this order, whereas the name of petitioner figures at S. No. 7 those of respondents No. 3 and 4 figure at S. No. 9 and 12

respectively.....

The stand taken by the respondents is not only untenable, but wholly devoid of any merit. It appears that the respondents committed an illegality in

ignoring the petitioner from consideration process while granting promotion to respondents No. 3 and 4 and in order to cover up their lapse, have

how setup this, assailable and exceptionable defence. It is the admitted case of the parties that respondents No. 3 and 4 are junior to the petitioner.

The parties have also admitted that respondents No. 3 and 4 were before their promotion in ClassV category 'B' whereas the petitioner at that

time was in ClassV category 'A'. It is also admitted case of the parties that category 'A' in ClassV carried higher pay scale than category 'B' in the

same class. If, therefore, the petitioner and respondents No. 3 and 4 were fully eligible, ignoring the petitioner from the process of consideration

and in the same process promoting the respondents No.3 and 4 would be a patent violation of Articles 14 and 16 of the Constitution. The only

point therefore, to be considered is whether the petitioner at the relevant time possessed the experience of five years or not.

The requirement in ScheduleII is that the officers in ClassV category 'A' should have five years experience. It is not either mentioned or stated as to

in what capacity, on what posts and in what manner this experience of five years has to be counted, calculated or taken into account. All that is

mentioned is that the person for being eligible for promotion should have experience of five years, if he is an officer in ClassV category 'A'. In this

backdrop, if we view and look at annexureII to Govt. Order No. 275FST/89 dated 15.09.1989, we will find that the petitioner's date of

promotion to ClassV category 'A' has been shown to be 23.04.1980. One cannot shut one's eyes from this stark reality and glaring fact which

stares at one's fact. If the petitioner undoubtedly is stated and mentioned to have been promoted to ClassV category 'A' on 23.04.1980, can one be allowed to allege that he did not have five years experience in that class or category in 1989 when the impugned orders granting promotion to respondents 3 and 4 were issued by the respondents. I have totally failed to understand as to in what particular manner do the respondents want me to calculate the petitioner's experience. From whatever angle one looks at the controversy, one cannot loose sight of the fact that the' petitioner did have experience of more than five years in 1989 and, therefore, was eligible for consideration.

A patent illegality was committed while promoting respondents No. 3 and 4 because the petitioner was not considered, even though he was not only eligible for such consideration, but was senior and superior to these respondents. No ground exists whereby such an illegality can be condoned.

For the foregoing reasons, therefore, I allow this petition and by issuance of writ of certiorari quash and setaside the impugned orders. By issuance of writ of mandamus I direct respondents No. 1 and 2 to fill up the posts in accordance with the observation and directions hereinabove given. All the consequences shall follow. No order as to costs. CMP No. 4489/89 is disposed off.

11. Respondent No. 1 challenged the judgment passed by Id. Single Judge in SWP No. 1491/89 by filing Letters Patent Appeal, but same was dismissed. Special Leave Petition filed before Hon'ble Supreme Court was also dismissed, resultantly the judgment dated 28.10.93 attained finality both on the facts and in the law. The government in compliance with the judgment of the Id. Single Judge issued Government order No. 243FST 2002 dated 24th April 2002 whereby and whereunder the order of promotion issued in favour of respondent No.1 was rescinded. Government order No. 339FST of 2000 dated 18th August 2000 was issued which had the effect of superceding the Government order No. 274FST of 1989 and the service was ordered to be afresh constituted from 28th June 1984. Respondent No.1 figured in this government order but appellant did not figure in this government order but appellant did not figure therein. In terms of Government order No. 340FST of 2000 dated 18th August 2000

the appellant besides some other officers were ordered to be absorbed in the service with effect from 17.02.1987.

12. Vide Government No. 430FST of 2002 dated 17th Oct. 2002 on the recommendation of DPC and PSC, government accorded sanction for

clearance of respondent No. 1 for his promotion to the post of Assistant Engineer (Agri) w.e.f. 28th June 1984. Appellant being aggrieved of the

issuance of said Government order and promotion of respondent No. 1 to the post of Assistant Engineer (Agri) filed contempt petition No.

305/02. The appellant also filed writ petition SWP No. 1423 of 2002 challenging the said order. In the contempt petition the respondents were

directed to explain their position. The Government issued order No. 343FST of 2003 dated 17th July 2003 which had, the effect of rescinding the

order of promotion issued in favour of respondent No. 1 vide Government Order No. 430FST of 2002. The writ petition filed by appellant was,

accordingly, dismissed as not pressed. Respondent No. 1 being aggrieved of the Government order No. 343FST of 2003 challenged the same by

filing writ petition which was registered as SWP No. 1444/03. The Id. Single Judge vide judgment dated 20th May 2005 quashed the Government

order No. 343FST of 2003 dated 17.10.2003 which was impugned in the writ petition. The appellant being aggrieved of the said judgment has

challenged the same in this LPA.

13. We have heard learned counsel for parties. Considered the material and the record produced by Mr. Azharul Amin, Id. counsel for Public

Service Commission.

14. Mr. R. A. Jan, Id. counsel, for appellant submitted that Government order No. 430FST of 2002 dated 17th Oct. 2002 vide which respondent

No. 1 was ordered to be promoted to the post of Assistant Engineer (Agri) having been passed in violation of the court judgment, the Government

was duty bound to rescind the same as the government while issuing the said order had not complied with the mandate of the judgment passed in

SWP No. 1491/ 89, in as much as the appellant was excluded for being considered for being promoted to the post of Assistant Engineer (Agri).

Ld. counsel referred to and relied upon case titled Ram Chandra Tripathi v. U. P. Public Services Tribunal IV and ors reported in (1994) 5 SCC

180 to state that when an order is passed by Executive Authority in violation of

the court orders, there is no requirement of giving an opportunity of hearing to the beneficiary thereof before rescinding of the said order. The Id. counsel further submitted that the appellant was denied consideration for being considered for being promoted and appointed to the post of Assistant Engineer (Agri); notwithstanding this fact, that writ court in its judgment dated 28.10.93 handed down in SWP No. 1491/89 had recorded a finding of fact that the appellant possessed the requisite eligibility for being considered for being promoted and appointed to the post of Assistant Engineer (Agri). The learned counsel submitted that non consideration of appellant for such promotion besides being violative of constitutional guarantees as contained in Article 16 of the Constitution of India is also violative of the judgment of this court passed in SWP No. 1491 /89.

15. The sheet anchor of the arguments of Mr. Z. A. Shah, learned senior Advocate appearing on behalf of respondent No. 1 is that the basis of judgment dated 28.10.93 was order No. 274FST of 1989 dated 15.09.1989 vide which the officers were absorbed in the service. The order No. 274FST of 1989 dated 15.09.1989 having been superceded vide government order No. 339FST of 2000 dated 18th August 2000 consequently knocked out the basis of the judgment dated 28.10.93, so in the wisdom of Id. counsel no advantage and benefit can flow from said judgment to the appellant. The Id counsel further submitted that the post of Assistant Engineer (Agri) being available in the service prior to absorption of appellant in the service, the appellant could not be considered for being promoted and appointed to the said post. The Id counsel, accordingly, submitted that the LPA being misconceived merits rejection.

16. The people of this*country have given to themselves the Constitution, which Constitution in its legal and philosophical scheme has clearly and specifically delineated the frontiers of three important organs of the State viz, executive, legislature and judiciary. Every organ of the State is charged with definite duty by and under the Constitution, and every organ is duty bound to obediently and faithfully follow the mandate of the Constitution to secure the purpose and goals underlying Constitution.

17. The judiciary in the three organs of the State with the advancement of time has assumed perceptible importance in the affairs of State. This organ of the Sate is charged with sacred duty to preserve and protect the basis

structure and basis features of the Constitution. The institution of judiciary is performing delicate duty of doing the balancing act between different organs of the State. Our constitution on the one side is loaded with fundamental rights available to an individual and on the other side is founded on the bedrock of achieving the goals of maintaining and preserving the rule of law. The arbitrary, malafides and unjust exercise of power by Executive organ of the State is frowned upon by constitutional courts and such actions are struck down in exercise of its Constitutional powers. Our Constitution has made our country sovereign, democratic and Republic State and any assault by any authority to undermine the basis features of the Constitution are to be repelled with full vigor and complete force.

18. The three organs of the State, being principal pillars of or democratic set up have to respect each other by working within defined boundaries.

Any effort to transcend the Constitutional barriers will have the affect of destroying the basic structure of the Constitution and the mutual collision

may result in subverting the very Constitution itself. The three organs of the state are thus, duty bound to exhibit extreme caution, care and restraint

in the exercise of their power and authority. The three organs of the State in our constitutional scheme cannot afford to tread the path of collision as

consequences thereof can be catastrophic. The executive is duty bound to follow the directions, orders and judgments of the court of law. Any

streak of Executive authority's defiance may usher the state into an anarchical situation.

19. Considering the case in hand on the basis of the above stated position emerging from our constitutional scheme it becomes writ large on the

face of the record that the executive has transgressed its limits by bringing to naught judgment passed in SWP No. 1491 / 89 which had attained

finality for the reason the LPA as also SLP filed against the said judgment were dismissed. In the said judgment, the Id. Single Judge, recorded a

finding of fact that the appellant possessed the requisite eligibility for being considered and promoted to the post of Assistant Engineer (Agri). The

order No. 274FST of 1989 dated 15.09.1989 was considered and relied upon in arriving at a particular judicial decision. In our constitutional

scheme, the executive wing of the State has neither power not authority to undo

the consequences flowing from said judgment by issuance of executive orders. The judgment of the Constitutional Court which has attained finality cannot be allowed to be defeated by the government in exercise of its executive power. The executive power of the State cannot be conceived to possess the potential to defeat the judgment rendered by the Constitutional Court. Any such effort, if permitted, would be pregnant with the consequences which would shake the very foundations of the Constitution. The Constitutional courts have the power to review administrative action of the Executive Government and this power of judicial review is part of the basic structure of the Constitution. The executive Government does not have power to defeat the judgment of the Constitutional Courts by issuance of executive orders. Such efforts, if permitted, would have the dangerous potential of rendering one important organ of the State viz judiciary a futile institution and the State cannot claim to be democratic State. This cannot be said to be intendment of the constitution makers. The executive government is duty bound to follow the judgment as the judgment of a court of law binds all the parties thereto.

20. Learned counsel for the respondent No. 1 argued that the basis of judgment passed in SWP No. 1491/89 was removed as the order No.

274FST of 1989 dated 15.09.89 which had become basis for passing of the judgment was superceded by issuance of Government order No.

339FST of 2000 dated 18th August 2000. The government had neither power nor authority to knock the basis out of the judgment dated

28.10.93 by issuance of Government order. The competent authority in the Government was and is duty bound to faithfully and obediently

implement the judgment of the court rendered in SWP No. 1491/89. The Government order No. 430FST of 2002 dated 17th Oct. 2002 had

admittedly been, as found on examination of record of PSC, issued without considering the candidature of the appellant for the said post. The said

government order was thus, nullity in the eye of law.

21. The Hon'ble Supreme Court in case titled M.C. Mehta petitioner v. U.O.I respondents at paragraph 47 (2) reported in 2002 SCC IV 356 has

ruled that in our constitutional set up the orders and directions of the court cannot be nullified, modified or in any way altered by any administrative

decision of the Centre or State government, relevant part therein reproduced as

under:

(2). IA of the Union of India for extension of time to run diesel buses is dismissed with costs of Rs. 20, 000 (twenty thousand only). It is made

clear, and it is obvious in our constitutional setup, that orders and directions of this Court cannot be nullified or modified or in any way altered by

any administrative decision of the central or the State Government. The administrative decision to continue to ply diesel buses is, therefore, clearly

in violation of this Court's orders.

22. For the above stated reasons, we hold that the Government in exercise of its executive power could not supercede the government order No.

274FST of 1989 dated 15.09.1989 and the order passed to the said effect is nullity in the eye of law.

23. We have further considered the matter, from a different angle, as to whether respondent No. 1 who was promoted and appointed to the post

of Assistant Engineer (Agri), in the facts and circumstances of this case would get clothed with any right in law on the basis of the said promotion

order. The writ court in SWP No. 1491/89 vide its judgment dated 28th Oct. 1993 had recorded a finding of fact that the appellant was eligible

for being considered for being promoted and appointed to the post of Assistant Engineer (Agri). The authorities who are respondents in the said

writ petition, were duty bound to follow the mandate of the said judgment as the said judgment had attained finality. The Government order No.

430FST of 2002 dated 17th Oct. 2002 vide which sanction was accorded to the clearance of respondent No. 1 for promotion to the post of

Assistant Engineer (agri) w.e.f 28th June 1984 was passed without considering the candidature of appellant for such promotion. The respondents

having passed the said order in utter defiance to the judgment of this court rendered in SWP No. 1491 / 89 is no order in the eye of law, as it

cannot be countenanced, in our constitutional scheme that executive authority can with impunity keep at backburner the judgment of the court and

flout the mandate contained therein. An Executive order conceived in such circumstances even if succeeds in delivering thereof will be an order

void ab initio in the eye of law. Such order, cannot be said to clothe respondent No. 1 with any right in law. The respondent No. 1 in such

circumstances cannot be said to have become member of Class III of the service,

so none of the protections under Article 311 of the Constitution

of India read with Section 126 of the constitution of Jammu and Kashmir will be available to him. Rescinding of such order, would be only an act

on the part of the executive government to follow the rule of law. In such circumstances the respondent No. 1 would not be said to have been

denuded of any benefit so would not attract the constitutional protections as contained in Article 311 of the Constitution of India and Section 126

of the Constitution of J&K. Respondent No. 1 in such circumstances would not even be entitled for issuance of notice before cancellation of the

promotion order. The judgment impugned in this LPA on this ground also cannot survive.

24. The Hon'ble Supreme Court in case titled Authorized officer (Land Reforms) appellant v. M.M. Krishnamurthy Chetty respondent reported in

1998 (9) SCC 138 has held that even orders which may not be strictly legal are binding between the parties, if they are not challenged before the

court. Para 2 of the said judgment is reproduced as under:

According to the appellant once the judgment on the basis of which the High Court had directed to dispose of the dispute relating to the excess

land had been reversed by this Court, the authorized Officer was justified in following the judgment of this Court instead of the judgment of the

High Court. It need not be pointed out that the order passed by the High Court attained finality as it was not challenged before the Supreme Court.

The order passed by the High Court directing the Authorized Officer to examine the dispute in the light of the judgment of the High Court in the

case of Naganatha Ayyar v. Authorised officer became final although the judgment on which the grievance had to be examined itself was reversed

later by this Court. We find no fault with the reasoning of the High Court. It is well settled that even orders which may not be strictly legal become

final and are binding between the parties if they are not challenged before the superior courts. In the result the appeal fails and it is dismissed. No.

costs.

25. The respondent No. 1 has been ordered to be cleared for promotion with effect from 28.06.84 when the Rules of the Service were notified.

The schedule II makes an Assistant Research officer eligible for being promoted to the post of Assistant Engineer (Agri) when he is possessed of

seven years experience. No explanation is forthcoming as to how a person can be promoted and appointed to a higher post in service from a date on which he is appointed in the service against a lower post. We make these observations to indicate as to how in casual manner the executive had dealt with this case.

26. On the over all consideration of the matter, and for our above referred discussions we hold that the judgment under appeal is illegal, accordingly, we set aside the same. Consequently writ petition filed by respondent No. 1 is dismissed. The official respondents will pass appropriate orders in accordance with mandate of the judgment preferably within a period of two months from the date copy of this order is served on them. Record be returned.