
(2017) 05 RAJ CK 0179
In the Rajasthan High Court
Case No : 4906 of 2017

Chandra Shekhar Dave & Ors.

APPELLANT

Vs

State of Rajasthan & Anr.

RESPONDENT

Date of Decision : 26-05-2017

Acts Referred:

[Constitution of India](#), [Article 226\(3\)](#) -
Power of High Courts to Issue certain writs

Citation : (2017) 05 RAJ CK 0179

Hon'ble Judges : Dinesh Mehta

Bench : SINGLE BENCH

Advocate : M.R. Singhvi, B.S. Sandhu, Hukum Singh, P.R.Singh, Dinesh Ojha,
Kuldeep Mathur, K.D.S.Charan

Judgement

1. The petitioners, working as Lecturers (School Education) with the Respondent State have preferred the present writ petitions, with the following prayers:- "(a) To consider the candidature of suitable and eligible candidates both from the lecturer (School Education) and Headmaster (Secondary School) by strictly operating the ratio of 67:33 against the available 2843 vacancies for the year 2017-18.

(b) That the methodology adopted by the respondents in reserving the vacancies on the basis of ratio against the total sanctioned posts of Principal may kindly be declared illegal.

c) That a direction be issued to the respondents that after considering the candidature of the eligible candidates against the available vacancies of 2843 the eligible candidates may be promoted with all the consequential benefits."

2. Shorn of unwarranted narration, the facts appertain for deciding the present controversy are that the petitioners are School Lecturers, whose services are governed by the Rajasthan Educational Service Rules, 1970 (hereinafter referred to as "the Rules of 1970").

3. They are all aspirants for promotion to the post of Principal, which post is meant to be filled in 100% by promotion, for which feeder posts were Head Masters and School Lecturers in equal proportion, till the amendment brought into effect by the Notification dated 25.03.2015, known as Rajasthan Educational Service (Amendment) Rules, 2015. As the State Government decided to upgrade all Secondary Schools to Senior Secondary Schools, it became imperative for the State to amend Column No.3 of the relevant part of the Schedule, changing quota of School Lecturer and Head Master from 50% each to 67% and 33% respectively.

4. The petitioners have approached this Court by way of filing the present writ petition contending inter alia that the Respondents, including the Department Promotion Committee, while selecting eligible candidates for 2843 posts of the Principals, have not adhered to the quota or ratio of 67% from School Lecturers of the total vacancies, as stipulated by the Notification dated 25.03.2015. This Court issued notices to the State and after considering its view point, on 05.05.2017, had passed the interim order in the following terms:- "After hearing learned counsel for the parties, this Court deems it appropriate to direct the respondents to convene DPC and consider candidature of the eligible incumbents in the ratio of 67 per cent from School Lecturers and 33 per cent from Head Masters of School Education against the total vacancy of 2843, in terms of the amendment brought in the Rules of 1970 vide notification dated 25.03.2015."

5. These matters have come upon for consideration of the application seeking vacation of the interim orders, filed under Article 226 (3) of the Constitution of India, however, looking to the fact that promotion of thousands of eligible candidates is at stake, with the consent of the counsel for the parties, these matters have been heard finally.

6. It may be added that a group of Head Masters have moved an application for impleadment, and after hearing the concerned counsels on 24th May, this Court, instead of impleading them as party-respondents, has permitted them to address the Court as intervenors. This fact could not be recorded in the proceedings/order sheets of this Court on that day, but nevertheless, all parties were ad idem that they be heard and, in terms of the observations made on that day, sufficient audience has been given to them.

7. Mr. M.R.Singhvi, learned Senior Counsel assisted by Mr. B.S. Sandhu, Adv. and Mr. Hukum Singh, Adv. leading the arguments on behalf of the petitioners, navigated this Court, through various provisions of the Rules of 1970 and submitted that Rule 6 postulates the method of recruitment and as per the Schedule appended with the Rules, there is only one mode of recruitment i.e. promotion for the post of Principal, of course in a proportion of 67:33, from the feeder cadre posts of School Lecturers and Head Masters.

8. Then reading the provisions contained in Rule 9 of the Rules of 1970 extensively, Mr. Singhvi urged that as mandated vide Clause (a) of sub-rule (1)

of Rule 9, the appointing authority is required to determine number of vacancies for each year, including the anticipated vacancies likely to arise in the 12 months, following the first day of the financial year. He further apprised that as per Clause (b) of Rule 9 (1), if a post is to be filled in by a single method, as prescribed in the Rules or the Schedule, the vacancy is naturally required to be filled in by that method; as against this, as per Clause (c) of Rule 9 (1), though not relevant for the present purposes, where a post is to be filled in by more than one method as prescribed in the Rules, the apportionment of the vacancies and determination under Sub Clause (a) is required to be done, in such a manner, after considering the number of posts already filled in, that over all quota under both/all methods is maintained and in case, any fraction of vacancies is left over, the same is required to be apportioned to the quota of various methods, prescribed in continuous cyclic order.

9. With the help of conjoint reading of the provisions contained in Rules 6 & 9 of the Rules of 1970, Mr. Singhvi submitted that for the year 2017-18, the number of vacancies determined for promotion to the post of Principal, is indisputably 2843 and as mandated by the Rules of 1970, as amended w.e.f. 25.03.2015, these posts are required to be filled in 67% from the School Lecturers and 33% from the Head Masters respectively.

10. For the sake of ready reference Rule 6 and Rule 9 of the Rules of 1970 are reproduced hereunder:- PART III - Recruitment 6. Methods of recruitment- [(1) Recruitment to the service after the commencement of these rules shall be made by the following methods in the proportion indicated in column 3 of the Schedule, namely-

(a) by direct recruitment in accordance with 2[the provisions of] part IV of these rules"; and

(b) by Promotions in accordance with 2[the provisions of] part V of these rules;

3[{2} Recruitment to the service by the aforesaid method shall be made in such a manner that the persons appointed to the service by each method do not at any time exceed the percentage laid down in the rules/ schedule of the total cadre strength as sanctioned for each category from time to time.]

Provided-

(1) that if the appointing authority is satisfied in consultation with the Commission, that suitable persons are not available for appointment by either method of recruitment in a particular year, appointment by the other method in relaxation of the prescribed proportion, may be made in the same manner as specified in these rules;

(2) that the Government may appoint as IAS officer on the post of Director of Education.

(3) that nothing in these rules shall preclude the Appointing Authority from

appointing officers previously employed in the pre-reorganisation State of Ajmer, and in Abu and Sunel areas of Bombay and Madhya Bharat respectively to suitable posts in the Schedule in accordance with the 4[directions] governing the integration of their services;

5[{4} that every person who has continuously held any of the post mentioned in Group "F" or the post of Lecturer of Government Teacher Training Colleges, Deputy Inspector of Physical Education, Senior Lecturer, College of Physical Education on "that the person who have continuously held posts mentioned in Group "F" or as Lecturers of Government Teachers Training Colleges on an adhoc or officiating or temporary basis in the relevant groups for a period not less than six months on 1st January, 1970 shall be screened by a Committee referred to in rule 24 for adjudging their suitability for the posts held by them on 1st January 1970 and be appointed to the said posts in the service if they possess the qualifications prescribed in the rule either for direct recruitment or the prescribed qualifications on the basis of which they were appointed on an adhoc, officiating or temporary capacity." adhoc or officiating or temporary basis for a period of not less than six months on 1st January, 1970 and every person who is on deputation outside the department with a lien [on such post] in the department shall be screened by a Committee referred to in rule 24 for adjudging his suitability for the post held on that would have been held by him on 1.1.1970 and be appointed to the said post in the service if he possesses the qualifications prescribed in these rules either for direct recruitment or promotions or qualifications prescribed at the time when he was appointed on adhoc, officiating or temporary basis on such post.]

9. Determination of vacancies -

{1} (a) Subject to the provision of these rules, the Appointing Authority shall determine on 1 st April every year, the actual number of vacancies occurring during the financial year.

(b) Where a post is to be filled in by a single method as prescribed in the rule or 1[Schedules], the vacancies so determined shall be filled in by that method.

(c) Where a post is to be filled in by more than one method as prescribed in the rules or 1[Schedules], the apportionment of vacancies, determined under clause (a) above, to each such method shall be done maintaining the prescribed proportion for the over all number of posts already filled in. If any fraction of vacancies is left over, after apportionment of the vacancies in the manner prescribed above, the same shall be apportioned to the quota of various methods prescribed in a continuous cyclic order giving precedence to the promotion quota.

(2) The Appointing Authority shall also determine the vacancies of earlier years, year wise which were required to be filled in by promotion, if such vacancies were not determined and filled earlier in the year in which they were required to be filled in.

(3) Whether vacancies can be determined more than once in a year.

Vacancies shall be determined only once a year. Vacancies occurring after the Departmental Promotion Committee meeting has been held shall be treated as the vacancies of the next year. Variation in the vacancies that may crop up between the date of requisitioning the Departmental Promotion Committee meeting and the date of Departmental Promotion Committee meeting and the date of Departmental Promotion Committee meeting.

(4) It is also clarified that in view of the provisions of clause (c) of Subrule (1) relation to "determination of vacancies" incorporated in all the Service rules, vide Notification No. F 7(2)DOP/A-II/81, dated the 21st December, 1981, for determining the vacancies of promotion quota and direct recruitment quota, the continuous cyclic order giving precedence to promotion quota shall be followed. This cyclic order shall be continuous from year to year for determination of vacancies.]

11. Learned Senior Counsel with vehemence further argued that the respondents have misread rather distorted the unambiguous provisions of law and have brought in or coined a new concept under the guise of quota or cadre strength, which is neither permissible nor practicable in the facts of the present case. He contended that the Rules of 1970, as regards promotion to the post of Principal are very clear, categorical and certain and if the same are followed in letter and spirit, to which the respondents are legally obliged, petitioners' right over the 67% of the vacancies, cannot be eschewed or curtailed. Referring to the exercise undertaken by the respondents, as reflected in their reply, he submitted that by way of the uncalled-for exercise undertaken by them, the respondents have taken away substantial rights of the petitioners and other like persons, working as School Lecturers. He pointed out that the respondents are promoting only 1121 persons, from the stream of School Lecturers as against 1728 persons from the stream of Head Masters, which if calculated in terms of percentage, comes to 39% & 61% respectively, as against their earmarked quota of 67% and 33%, for being promoted to the post of Principal. According to the petitioners, a lion's share of their quota would go to the Head Masters, as a consequence of adopting the impugned method, which is ex-facie against the rules.

12. Mr. P.R.Singh, learned Additional Advocate General, supporting the stand of the State, invited this Court's attention towards Para Nos. 4 & 5 of the reply to point out that the Respondents have calculated the complete cadre strength of Principal, which was 10,471 for the Year 2017- 18 and accordingly proposed to give promotion to such number of School Teachers and Headmasters, so that the overall ratio of School Lecturers and Head Masters, who have been promoted as Principal, reaches to 67% or 33%.

13. For ready reference the relevant part of the reply, evincing how the contentious figures have been arrived at for the year 2017-18, is reproduced hereunder:- 5. "That in the year 2017-18 the cadre strength of the post

enumerated in Group D Section II has increased to 10754 instead of 10471 due to upgradation of 283 schools. Out of the said 10754 sanctioned posts are in existence out of these 7206 sanctioned posts goes in favour of Lecturer School Education as per the prescribed 67% quota likewise 3548 posts goes in favour of Headmaster, Secondary School being 33% quota of this category. As against this on 01.04.2017, 6531 Lecturer School Education (Promoted to the post of principal) were working and 2094 incumbents holding the post of Headmaster, Secondary School (promoted to the post of Principal) were working. 46 and 38 vacancies were kept reserved for the incumbents both the respective categories due to departmental enquiry etc. Thus in all 629 posts were to be filled in from amongst the quota of Lecturer School Education and 1416 from amongst the quota of Headmaster Secondary School. However, due to retirement of 492 candidates of the Lecturer School Education wing total 1121 posts falling vacant during the year 2017-18, because of 312 retirements from the Headmaster, Secondary School wing and thus vacancies of 1728 exists in the year 2017-18 accordingly the Departmental Promotion Committee has notified to fill in the post denoted in the Group D Section II to be filled in through the 1121 eligibility candidates of Lecturer, School Education and 1728 candidates of Lecturer, Secondary School. The vacancies have been calculated and notified strictly in accordance with the rules in vogue. There is not a slight deviation from the procedure prescribe for the recruitment for the post falling in the Group D Section II of the Schedule appended with the Rajasthan Educational Service Rules, 1970. For ready reference the calculate chart prepared for the year 2017-18 is juxtaposed as Schedule-C."

14. Many intricate and interlaced facts, in rather complex form have been furnished by the State, to portray that the action of the State or the exercise carried out by them, is in conformity with the rules. However, if the stand of the State is to be understood, in simple words; what has been attempted to be done by the State is that they have taken the total number of posts of Principal throughout the State and thereafter decided to accord promotion from the stream of School Lecturers and Head Masters, in such a manner that after the exercise of promotion is over, their percentage or ratio in the total strength of Principal remains 67% and 33%.

15. Mr. P.R.Singh, learned Additional Advocate General took this Court through Part-II, particularly Rule 4 of the Rules 1970 to contend that Head Masters and School Lecturers in themselves, are two cadres and the promotions are required to be made in accordance with the Schedule, as amended on 25.03.2015, in such a manner that cadre strength of School Lecturers and Head Masters is maintained as envisaged under the Rule 6 (2) and Rule 9 (1) (c) of the Rules of 1970. He relied upon the judgment of the Jaipur Bench of this Court, rendered in the case of Mahendra Kumar Sharma & Ors. Vs. State & Ors decided on 10.02.2017 (S.B. Civil Writ Petition No.7455/2016) to contend that the State is required to convene the DPC for the year 2017-18 and fill the vacancies as per the quota of 67% and 33%, amongst Lecturers (School Education) and Head

Masters, Secondary School as postulated under the Rules of 1970. Learned Additional Advocate General read over the entire judgment, only to apprise that the said writ petition was filed by the Head Masters, who wanted relaxation of experience from 5 years to 3 years, which contention has been repelled by the Jaipur Bench of this Court; and to show that the Court has recorded a finding of fact that sufficient candidates from Head Masters were not available, leaving their quota unexhausted.

16. Mr. Kuldeep Mathur also addressed the court at length on behalf of the Headmasters-Secondary Education; the intervenors. His basic contention was that as per sub-rule (2) of Rule 6, recruitment to the post, (which in the present case is by promotion) should be made in such a manner that person appointed to the service by each method, (which according to him, was promotion from Head Masters and promotions from School Lecturers), should not exceed the percentage or quota, as laid down in the Schedule, vis a vis the total cadre strength. In other words, his argument, the foundation whereof lay in sub-rule (2) of Rule 6 and Rule 9 (1) (c) of the Rules of 1970, was that promotion should be made in such a manner that the total cadre strength or quota of one stream, reaches or rests in the ratio of 67% and 33% of the total number of the promotional posts of the Principal. In support of his arguments, Mr. Mathur also invited attention of this Court towards sub-rule (3) of Rule 9 of 1970, and relied upon the judgment of the Hon'ble Supreme Court reported in 2017 (1) SCC 457 in the matter of Shrikant Roy & Ors. Vs. State of Jharkhand & Ors. He laid a special emphasis on Para No.24 of the judgment, which is reproduced hereinfra:- "24. The High Court has overlooked the distinction between "post" and "vacancy". If the requisite posts were already exhausted by the direct recruits against the earmarked quota for direct recruitment, merely because some vacancies occur, it would not be open to the aspiring candidates against the direct recruit quota to challenge the selection process commenced for the in service judicial officers by promotion through Limited Competitive Examination. The cadre strength is always measured by the number of posts comprising the cadre. The right to be considered for appointment can only be claimed in respect of a post in the given cadre. The percentage of quota has to be worked out in relation to number of posts which form the cadre and has no relevance to the vacancy that would occur. This aspect has been glossed over by the High Court in the impugned judgment. Suffice it to observe that as no post for direct recruits existed as on 30th April, 2008, the challenge to the selection process to fill up the vacancy by promotion through Limited Competitive Examination, at the instance of aspiring candidates by direct recruitment cannot be countenanced. The Writ Petition filed by such aspiring candidates (WP(S) No. 4159/2008), therefore, ought to have been dismissed by the High Court."

17. Mr. Mathur took pains to read the entire judgment, explaining the facts and law involved therein, and contended that in view of what has been held in Para 24 of the judgment referred above, it is incumbent upon the State to maintain the percentage of quota fixed for each cadre, which in the present case is 67%

for School Lecturers and 33% for the Head Masters.

18. Resting his arguments, he submitted that the exercise done by the State is entirely in consonance with the Rules of 1970. As a result whereof, the number of Principals coming from Head Masters stream would be 33% of the total number of Principals while the number of persons coming from School Lecturers" stream would be 67% of the total occupied posts of Principals.

19. Joining the arguments in rejoinder, Mr. Singhvi firstly dealt with the judgment cited by Mr. Mathur in the matter of Shrikant Roy (Supra) and argued that the said judgment is not at all applicable in the facts of the present case, he pointed out that the facts of the case before the Hon"ble Supreme Court were entirely different, which included fixation of roster and quota in the ratio of 50%:25%:25% from different streams, which included promotions and recruitment and in that case, there were three methods of recruitment requiring maintenance of quota, whereas in the present case factual matrix is entirely different, involving only one method of recruitment.

20. He further contended that the stance of the respondents that in light of sub-rule (2) of Rule 6 and Clause (c) of Rule 9 (1) of the Rules of 1970, the State is required to maintain the cadre strength or quota of School Lecturers and Head Masters in tune with the ratio given in the Schedule is per se fallacious, if not preposterous. He strenuously contended that sub-rule (2) of the Rule 6 is applicable only when there is more than one method of appointment and that is why sub-rule (2) emphasizes upon maintaining the percentage from each method. Explaining his argument, Mr. Singhvi submitted that the purpose behind incorporating sub-rule (2) of Rule 6 is that in case, there is more than one method of recruitment viz, Direct Recruitment or Promotion, the quota or percentage fixed for the appointees from Direct Recruitment and Promotion should be strictly maintained.

21. He contended that a close and conjoint reading of Rules 6 and 9 of the Rules of 1970 reveals that when a post is to be filled by a single method, which in the present case is, by way of promotion; the vacancies determined are required to be filled by that method; in the ratio of 67% from School Lecturers and 33% from the Head Masters.

22. Mr. Singhvi submitted that a time proven method of testing the tenacity of an argument is to test it on extreme coordinates; he thus posed a hypothetical situation before the Court; "let us assume that instead of amending the ratio to 67:33, the State had amended the rules in such manner, that 100% promotions were required to be made from School Lecturers, while totally denying such right to the Head Masters"; he wondered, would the State revert all the Principals, who have been promoted from the stream of Head Masters? He continued that the answer would be "No". With this example, he submitted that the argument advanced and the theory adopted and applied by the State does not stand to logic.

24. On an overall conspectus of the facts and law involved in the present case, this Court finds it to be a classic example; wherein crisp facts have been made complex, clear statutory provisions have been turned complicated and crystallized rights have been rendered perilous. It is a settled proposition of law that the Rules or the Statute are to be read as they exist. A bare look at Rules 6 & 9 of the Rules of 1970, leaves no shadow of doubt or ambiguity that the vacancies are required to be determined every year and the vacant posts are required to be filled in, as provided in the Schedule, viz. 67% from School Lecturers and 33% from Head Masters.

26. If the argument of the State is accepted and the exercise done is approved, it would result in carrying over the vacancies of the preceding year or reserving the unfilled quota of one stream, which in the present set of Rules, is neither anticipated nor acceptable. To evaluate the validity of this stand, we better understand the exercise being carried out by the State: Respondents have calculated the total cadre strength or total sanctioned posts of Principals, on 1st April of each year and thereafter they have tried to promote so many of School Lecturers and Headmasters to the post of Principal, that after promotion, their corresponding strength from Feeder Posts of School Lecturers and Headmasters is 67% and 33% of the total number of sanction posts/strength of Principals. In this manner, the State has, as a matter of fact, carried forward the unfilled vacancies, which could not be filled in from the Head Masters, as eligible candidates were not available (which fact has been noticed by the Jaipur Bench of this Court in the case of Mahendra Kumar Sharma (Supra)). The calculation given by the State and averments made in Para Nos. 4 & 5 of the reply clearly demonstrates that the State has indirectly rolled on the unfilled vacancies from the Head Masters" quota, otherwise in no case, more number of the Head Masters could be promoted than the School Lecturers, particularly after the amendment in the Rules of 1970 w.e.f. 25.03.2015, vide which the quota of School Lecturers has been raised to 67%.

27. During the course of arguments Mr. P.R.Singh, learned Additional Advocate General had provided details in tabular form, indicating therein total posts of Principal and the calculation of determination of vacancies due to be filled from Head Masters (33%) and School Lecturers (67%). The said table/chart is reproduced hereunder:-

OFFICE OF THE DIRECTORATE SEC. EDUCATION

BIKANER

As Per DPC Conduct

15-16 16-17 17-18

Grand Total

10160 10471 10471

Feeding Posts HM 33% LEC 67% HM 33% LEC 67% HM 33% LEC 67%

Sanctioned Posts 3353 6807 3454 7017 3455 7016

Newly Sanctioned Posts

0

0 0 0 93 190

Total Sanction posts

3353 6807 3454 7017 3548 7206

Working on 01 April

2006 2213 2442 5527 2094 6531

Vacancies due to Unfilled posts

1347 4594 1012 1490 1454 675

Promotion/ Retirement/ sealed cover during year 271 184 294 383 274 446

Total Vacancy 1618 4778 1306 1873 1728 1121

Selection 820 4670 196 1873 1728 1121

unfilled post due to non available candidates

798 108 1110 0 0 0

28. A perusal of the aforesaid chart brings to fore an inherent fallacy in the stand of the respondents. A bare glance at the table above reveals that, the respondents have taken total sanctioned post of Principal viz 10100, 10471 and 10471 for the Year 2015-16, 2016-17 and 2017- 18. Out of these posts of Principals, they have shown sanctioned post of Head Masters and School Lecturers in the ratio of 33% : 67%, which for year 2017-18 has been shown as 3455 (Head Masters) and 7016 (School Lecturers). These numbers projected as sanctioned posts of Head Masters and School Lecturers are not in conformity with the total sanctioned posts of Head Masters and School Lecturers and it is clearly a reverse calculation of the number of persons from each feeding post, to be considered for promotion, out of the total post of Principal. As a matter of fact, these numbers, namely 3455 and 7016 are not the actual number of vacancies of Head masters and School Lecturers, they are rather the respondents' own contemplated figure.

29. Coming to the judgment of this Court dated 10.02.2017 in case of Mahendra Kumar Sharma has no bearing on the question involved in the present case, as it was a case filed by the Headmasters seeking a relief that their quota of 33% should not be transferred to the School Lecturers, while also seeking relaxation of the condition of experience of 3 years as Headmasters, whereas in the present case filed by the School Lecturers the issue is entirely different as discussed here.

30. Adverting to the judgment of the Hon''ble Supreme Court, cited by Mr. Mathur, in the matter of Shrikant Roy & Ors vs State of Jharkhand reported in (2017) 1 SCC 457, it is to be noticed that this case deals with the fixation of roster and quota in the proportion of 50:25:25 from separate streams, in relation to promotion which are from three channels, by three modes and dealing with the statutory provision, Hon''ble Apex Court held that percentage of quota has to be worked out in relation to the number of posts, which form the cadre going by the law so laid down by the Supreme Court, what is expected of the Respondents is, to determine the number of persons to be promoted to the post of Principal from each cadre namely School Lecturers and Headmasters in the ratio of 67:33, but the said judgment of the Supreme Court also cannot be read to mean that the cadre strength has to be considered after the eligible candidates have been promoted, as sought by the Respondents. As such the judgment cited by the counsel for the Respondents do not serve their cause in any manner.

31. Be that as it may, for the purpose for determining the vacancy for the post of Principal, one is not required to look at the sanctioned post of Head Masters and School Lecturers, which are the feeding posts for the post of Principal, nor is it appropriate to keep track of the history of the Principals, once they have been promoted. Once an employee is elevated to a higher pedestal, by way of promotion his cadre or stream becomes redundant. it is relevant only till he is to be considered for the promotion. Taking off from such a faulty fulcrum, the respondents have devised their own method of calculating the purported vacancy to be filled from feeder post of Head Masters and School Lecturers. If the provisions contained in sub-rule (2) of Rule 6 of the Rules of 1970 are read and considered as they exist, there is hardly any scope for such an exercise. This sub-rule is meant to govern only those contingencies, when there is more than one method of recruitment. The conscious use of the word "the aforesaid method" and "service by each method of the total" and "the total cadre strength as sanctioned for each category" clearly proves that sub-rule (2) seeks to maintain the cadre strength for each category, viz, the category based on the method of recruitment namely promotion or direct recruitment.

32. In the considered opinion of this Court, sub-rule (2) commands to maintain the percentage or ratio of quota of each cadre so as to ensure that the number of persons appointed through one method does not exceed the quota prescribed in the Schedule. Sub-rule (1) of rule 6 itself makes it clear that the recruitments under these rules are required to be made in the following methods, in the proportion indicated in Column 3 of the Schedule (a) direct recruitment, (b) promotion. Sub-rule (2) uses expression "the aforesaid method" which expression is clearly used for the methods (a) and (b) enumerated in sub Rule (1). As such, the entire purpose of sub-rule (2) is to maintain the ratio and quota in sync with the Schedule, vis-a-vis method or manner of recruitment, namely direct recruitment and promotion. Similarly, Clause (c) of sub-rule (1) of Rule 9 of the Rules of 1970 also uses the expression "more than one method" and then provides for maintaining the prescribed proportion for the over all number of

posts.

33. According to this Court, both the provisions, namely sub-rule (2) of the Rule 6 and Clause (c) of sub Rule (1) of Rule 9 are meant to deal with the contingencies when the recruitment is being done or required to be done by one of the two or more methods. However, when there is only one method provided for recruitment, as is in the present case, i.e. "promotion", the question of maintaining the quota of feeder posts, as attempted to, by the respondents is uncalled-for rather unsustainable.

34. In situations like the present one, the respondents are simply required to adhere to the corresponding quota of School Lecturers 67% and Head Masters 33%, at the time of providing promotion. Once a person is promoted as principal, it becomes irrelevant and impermissible to probe, as to which Feeder Post he hails from. The respondents have reckoned the previous antecedents of already promoted employees, while deciding the rights of the new incumbents, which attempt cannot be countenanced.

35. In other words, in the present fact-scenario, the respondents are required to determine the vacancy for the post of Principal and fill such vacancy in a manner so as to ensure that 67% persons from feeder post of School Lecturers are while 33% from the stream of Head Masters are promoted to the post of Principal, against the available existing/anticipated vacancies.

36. As such the endeavor made and exercise undertaken by the State, as detailed in their reply, is clearly contrary to the Rules, as discussed above. The decision to promote 1728 Headmasters (School Education) as against 1121 Lecturers is quashed.

37. The respondents are directed to fill in the 2843 vacant posts of Principals for the Year 2017-18, in such a manner that 67% (i.e. 1905) incumbents are promoted from the stream of School Lecturers and 33% (i.e. 938) incumbents are promoted from the stream of Head Masters. The recommendations of the DPC pursuant to the interim order dated 05.05.2017 be proceeded with. Both the writ petitions are allowed in the terms above, without any order as to costs.