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**(2020) 06 JH CK 0066**  
**In the Jharkhand High Court**  
**Case No : Writ Petition(S) No. 5131 Of 2018**

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| Chandra Shekhar Singh And Ors | Vs | APPELLANT  |
| State Of Jharkhand And Ors    |    | RESPONDENT |

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**Date of Decision :** 30-06-2020

**Acts Referred:**

Food Safety And Standards Rules, 2011 — Rule 2.1.3

**Citation :** (2020) 06 JH CK 0066

**Hon'ble Judges :** Sanjay Kumar Dwivedi, J

**Bench :** Single Bench

**Advocate :** Ritu Kumar, Sweta Kumari, Sanjoy Piprawal, Brij Bihari Sinha, Jitendra Tripathy

**Final Decision :** Dismissed

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## Judgement

1. Heard Mrs. Ritu Kumar, the learned counsel appearing for the petitioners, Mr. Sanjoy Piprawal, the learned counsel appearing for the respondent-JPSC, Mr. Brij Bihari Sinha, the learned counsel for the respondent-State and Mr. Jitendra Tripathy, the learned counsel appearing on behalf of the respondent-Union of India.

2. This writ petition has been heard through Video Conferencing in view of the guidelines of the High Court taking into account the situation arising due to COVID-19 pandemic. None of the parties have complained about any technical snag of audio-video and with their consent this matter has been heard.

3. By way of this writ petition the petitioners have sought a direction to conduct the interview of the petitioners for the post of Food Safety Officer and declare their results. The further prayer is made for a direction to accept the petitioners' degree in Masters as valid for appointment as Food Safety Officer.

4. Mrs. Ritu Kumar, the learned counsel for the petitioners submitted that Jharkhand Public Service Commission by Advertisement No.1/2016 invited application for the post of Food Safety Officer for 24 posts. Paragraph no.5 of the

said advertisement provides for educational qualification required for being eligible for the said examination, which reads as follows:

"A Degree in Food Technology or Dairy Technology or Biotechnology or Oil Technology or Agriculture Science or Veterinary Sciences or Bio- chemistry or Microbiology or Master Degree in Chemistry or Degree in Medicine from a recognized University."

5. She submitted that the petitioner no.1 holds a Masters Degree in Food Science and Technology from Banaras Hindu University, petitioner No.2 holds a Masters Degree in Microbiology, petitioner No.3 holds a Master Degree in Food Science and Technology and petitioner no.4 has a Master Degree in Microbiology. She further submitted that all the Degrees are from recognized University. She further submitted that the petitioner no.1 has completed his Bachelors Degree in Science, petitioner no.2 has a Bachelors Degree in Pharmacy, petitioner no.3 holds Bachelors Degree in Science and petitioner no.4 is having Bachelors Degree in Science. She submitted that last date for applying on-line for the said examination was till 16.02.2016. The petitioners were qualified in the written examination and was called for interview. The interview of the petitioner no.1 and 2 were scheduled to be held on 04.10.2018 but both of them were refused to undergo for the interview. It was informed that as both are having Masters Degree in Food Science Technology and Microbiology and that is why they are not eligible for the interview. The petitioner nos.3 and 4 were also denied the interview on the same point.

6. Mrs. Ritu Kumar, the learned counsel for the petitioners assailed the impugned action of the Jharkhand Public Service Commission and submitted that in terms of advertisement which specifically states that the degree is required in the given subject and according to her, degree in both Bachelors and Masters Degree. She submitted that as in the advertisement it was provided that Masters Degree in Chemistry is required, and if Bachelors degree was only required for any other subject, the same would have specifically stated therein which is not the condition precedent in the advertisement. She submitted that rule 2.1.3 of the Food Safety and Standards Rules, 2011 provides qualification for Food Safety Officer as a Degree in Food Technology or Microbiology among others. She submitted that the action on behalf of the respondents is arbitrary. The degree of the petitioners are technical degrees and the said specialization can be pursued only when a person has the requisite qualification for the same. She submitted that the action of the respondents in taking a stand that Master degree in Food Technology and in Microbiology are not within the scope of requisite qualification for appointment as Food Safety Officer, is arbitrary. Mrs. Ritu Kumar, the learned counsel for the petitioners by way of referring to Annexure-7/1 to the rejoinder to counter affidavit of the respondent no.3 submitted that this is the communication with regard to seeking clarification regarding educational qualification for the post of Food Safety Officer and submitted that the clarification has been provided and it is said therein that degree here means

Bachelors degree only Degree here means Masters Degree only, Degree here means Bihar Bachelor Degree or Master Degree, any of these and she submitted that in that view of the matter the petitioners are having the degree as the degree has been defined in that communication by the University Grants Commission.

7. Per contra, Mr. Sanjoy Piprawal, the learned counsel appearing for the respondent nos.5 and 6, that is, Jharkhand Public Service Commission [JPSC] submitted that Department of Health, Medical Education and Family Welfare, Government of Jharkhand sent requisition vide letter no.148(16) dated 07.01.2015 before the JPSC for starting selection process for appointment of Food Safety Officers in the State of Jharkhand for different categories of the candidates. In that view of the matter, Annexure-1 to the writ petition which is the advertisement was issued and applications were invited from the eligible candidates for considering their candidature for appointment to the post of Food Safety Officer. The last date of submission of the application form was fixed as 16.02.2016. He referred to Clause-5 of the advertisement and submitted that essential qualification has been prescribed for consideration of the candidature of the candidates for appointment against the advertised posts. He further referred to Clause-11 of the advertisement in which it has specifically been mentioned that "candidates are warned that they should not furnish any particulars that are false or suppress any material information in filling up the application form. Candidates are also warned that they should in no case correct or alter or otherwise tamper with any entry in a document or its attested/certified copy submitted by them nor should they submit a tampered/fabricated document. If there is any inaccuracy or any discrepancy between two or more such documents or their attested/certified copies, an explanation regarding this discrepancy should be submitted ....." By way of referring Clause-13(gha) of the said advertisement, he submitted that it was specifically stated therein that while submitting on-line application form, the applicant shall have to furnish details regarding educational qualification including the degree in Food Technology/Dairy Technology/ Biotechnology/ Oil Technology/ Agriculture Science/ Veterinary Science/ Bio-Chemistry/ Microbiology or Masters Degree in Chemistry or Degree in Medicine from recognized University. He further referred to Clause-13(Gh)(iv) and submitted that if there will be difference in information furnished by the candidate in the Online application form and the information furnished at the time of interview, in that case, candidature of the candidates will be rejected. He further referred to Clause-13(chh) and submitted that this clause provides that if during the course of enquiry, if it is found that candidate has concealed some material facts, then candidature of such candidates shall be rejected. Several candidates including the petitioners submitted their application online. The petitioner no.1 has mentioned in his online application form against the column of educational qualification as 'Degree in Food Technology- Banaras Hindu University', petitioner no.2 has mentioned in his online application form against the column of educational qualification as 'Degree in Microbiology- NIMS

University, Jaipur, petitioner no.3 has mentioned in his online application form against column of educational qualification as 'Degree in Food Technology-Bundelkhand University, Jhansi, and petitioner no.4 has mentioned in his online application form against column of educational qualification as 'Degree in Micro Biology- NIMS University. The degree filed online has been annexed as Annexure-A series to the counter affidavit. In view of the said declaration, the JPSC has treated the candidature of the candidates in their respective categories as per the declaration made by the respective candidates in their online application forms. Accordingly the written examination was conducted. After evaluation of the OMR sheets, published the results of the successful candidates. The petitioners were declared successful in the written examination and accordingly they were called for interview on various dates. The date of verification of the document of petitioner no.1 and 2 was fixed on 03.10.2018 and the date of verification of petitioner no.3 was on 04.10.2018 and of the petitioner no.4 was fixed on 08.10.2018. In the interview letter it was clearly instructed that the document in original were required to be produced and three sets of self-attested copies on the date of verification as per the declaration. He further submitted that on the date of verification of the testimonials, the petitioner no.1 produced Degree of Bachelor of Science whereas in the online application form the petitioner no.1 has mentioned his Degree in Food Technology, petitioner no.2 on the date of verification produced the Degree of Bachelor of Pharmacy whereas in the online application form the petitioner has mentioned Degree in Micro Biology-NIMS University, Jaipur, the petitioner no.3 on the date of verification of testimonials produced Degree of Bachelor of Science whereas in only application form he has mentioned Degree in Food Technology-Bundelkhand University, Jhansi, and the petitioner no.4 has produced Degree of Bachelor of Science, Medical Lab. Technology whereas in the online application form, he has mentioned Degree in Micro-Biology, NIMS University. By way of referring to the said certificates of the petitioners which are annexed as Annexure-B series to the counter affidavit, he submitted that the petitioners had mentioned different educational qualification in their online application form and in that view of the matter their candidature were considered for appointment for the posts advertised by the Commission and accordingly they were allowed to appear and declared successful in the written examination. He submitted that the petitioners failed to produce the certificates in terms of the declaration made by them in their online application form and they have produced the different certificates annexed as Annexure-B series. He submitted that the petitioners have concealed the material facts in their online application form and as such in terms of clause-13 (Chh) of the advertisement the petitioners were not allowed to appear in the interview. In view of the fact that the petitioners were not possessing the educational qualification/degree in terms of advertisement and as such petitioners are not entitled for the relief as prayed for in this writ petition. He further submitted that the petitioners cannot be allowed to change their stand at the time of interview. He further submitted that after making false declaration, they succeeded to appear in the examination and when the aforesaid facts

detected, the petitioners are saying that since they hold Masters' Degree in the respective Branches, as such they are eligible for consideration of their cases against the advertised posts. He negated the argument of the petitioners that with regard to Clause-2.1.3 of the Jharkhand Khadya Suraksha Aur Manak Niyamavali, 2011 and submitted that the degree provided therein are the Masters Degree in Food Technology and Microbiology are the relevant Degree for appointment of Food Safety Officer as per 2011 Regulation of the State of Jharkhand. He further submitted that in the advertisement there is nothing mentioned about the equivalence of the degree. He submitted that it is well settled provision of law that the selection process has to be completed strictly in terms of the criteria mentioned in the advertisement and no deviation is permissible. The recommendation has already been made of the successful candidates to the State Government on 29.10.2018 and the selection process in terms of the above advertisement has already been completed. By way of above submission, Mr. Piprawal, the learned counsel for the respondent-JPSC submitted that the petitioners have rightly been denied to appear in the interview. He further submitted that in view of the rules made for appointment on such post which is prescribed about the Degree and Chapter-III is very much clear in this regard. He submitted that in view of the rules also the petitioners are not eligible. He further relied in the case of "Prakash Chand Meena v. State of Rajasthan," reported in (2015) 8 SCC 484 and submitted that change in norms post-advertisement and after recruitment/selection process had begun is impermissible. The qualifications not so recognized as equivalent to the prescribed qualification in such rules/Government orders cannot be considered as equivalent after commencement of the selection process. He referred to paragraph no.8 and 9 of the said judgment:

"8. Having heard the parties, we have also perused the written submissions filed on behalf of some of them and have perused the judgment of the learned Single Judge and the impugned judgment of the Division Bench. In our considered view, the issue noticed at the outset must be decided on the basis of settled law noticed by the learned Single Bench that recruitment process must be completed as per terms and conditions in the advertisement and as per Rules existing when the recruitment process began. In the present case, the Division Bench has gone to great lengths in examining the issue whether BP Ed and DP Ed qualifications are equivalent or superior to CP Ed qualification but such exercise cannot help the cause of the respondents who had the option either to cancel the recruitment process if there existed good reasons for the same or to complete it as per terms of advertisement and as per Rules. They chose to continue with the recruitment process and hence they cannot be permitted to depart from the qualification laid down in the advertisement as well as in the Rules which were suitably amended only later in 2011. In such a situation, factual justifications cannot change the legal position that the respondents acted against law and against the terms of advertisement in treating such applicants successful for appointment to the post of PTI Gr. III who held other qualifications but not the qualification of CP Ed.

Such candidates had not even submitted separate OMR application form for appointment to the post of PTI Gr. III which was essential as per the terms of advertisement.

9. The candidates who were aware of the advertisement and did not have the qualification of CP Ed also had two options, either to apply only for PTI Gr. II if they had the necessary qualification for that post or to challenge the advertisement that it omitted to mention equivalent or higher qualification along with qualification of CP Ed for the post of PTI Gr. III. Having not challenged the advertisement and having applied for the other post, they could not have subsequently claimed or be granted eligibility on the basis of equivalence clarified or declared subsequently by the State Government. In the matter of eligibility qualification, the equivalent qualification must be recognised as such in the recruitment rules or government order existing on or before the initiation of recruitment process. In the present case, this process was initiated through advertisement inviting application which did not indicate that equivalent or higher qualification holders were eligible to apply nor were the equivalent qualifications reflected in the recruitment rules or government orders of the relevant time."

8. He further relied in the case of "Zahoor Ahmad Rather v. Sheikh Imtiyaz Ahmad" reported in 2019 (1) JBCJ 35 (SC) and submitted that while prescribing qualifications for a post, State as employer, may legitimately bear in mind several features including nature of job, aptitudes requisite for efficient discharge of duties, functionality of a qualification and content of course of studies which leads up to acquisition of a qualification- State is entrusted with authority to assess needs of its public services - the exigencies of administration fall within the domain administrative decision. He relied on paragraph 23, 24, 25 and 26 of the said judgment, which is quoted below:

"23. While prescribing the qualifications for a post, the State, as employer, may legitimately bear in mind several features including the nature of the job, the aptitudes requisite for the efficient discharge of duties, the functionality of a qualification and the content of the course of studies which leads up to the acquisition of a qualification. The state is entrusted with the authority to assess the needs of its public services. Exigencies of administration, it is trite law, fall within the domain of administrative decision making. The state as a public employer may well take into account social perspectives that require the creation of job opportunities across the societal structure. All these are essentially matters of policy. Judicial review must tread warily. That is why the decision in Jyoti KK must be understood in the context of a specific statutory rule under which the holding of a higher qualification which presupposes the acquisition of a lower qualification was considered to be sufficient for the post. It was in the context of specific rule that the decision in Jyoti KK turned.

24. Ms Wadia sought to draw sustenance from the fact that the holder of an ITI certification can obtain lateral entry to the diploma course. The point of the

matter, however, is that none of the appellants fit the description of candidates who had secured an ITI certification before seeking a lateral entry to a diploma course. Plainly, when an ITI with matric is required, a person who does not hold that qualification is not eligible.

25. The submission based on Note 12, urged by Ms Wadia, cannot be accepted. The stipulation that the qualification prescribed is the bare minimum requirement of the job emphasises that it is an essential requirement, a threshold which cannot be dispensed with. Under Note 12, the Board is entitled to assign additional weightage for a higher qualification. Whether such a weightage should be assigned is a matter for the Board to determine. The SSSB did not assign an additional weightage for a higher qualification. In not exercising an enabling power, no fault can be found with the SSSB. An enabling provision postulates a discretion which may or may not be exercised. A candidate has no vested right to assert that the Board must as a mandate assign an additional weightage to a higher qualification. Whether to do so or not is a matter for the Board to determine. All that Note 12 postulates is that the mere possession of the prescribed qualification will not entitle a candidate to be called for the written test or interview. The Board may shortlist among eligible candidates by granting a weightage to a higher qualification in the relevant line or discipline. But the words "as may be decided by the Board" in Note 12 indicate that the Board is vested with a discretion in pursuance of an enabling power which it may or may not exercise.

26. Ms Wadia, learned counsel appearing on behalf of the appellants, however, urged that a peculiar situation arises in the present case because the appellants were permitted initially to appear for the written test and the interview. Their names were not contained in the disqualification list. Ms Wadia submitted that the appellants would have become age barred by now to pursue any future application.

Recourse to our jurisdiction under Article 142 is warranted particularly since the appellants have spent nearly four years in pursuing their quest for the job of Technician III. They had even succeeded before the learned Single Judge. Hence, the rigors of the hardship, which the appellants confront, can be met by a suitable direction for age relaxation in their case. As we have noted in the earlier part of this judgment, the appellants applied in 2013 in pursuance of the advertisement that was issued by the SSSB. They were pursuing their remedies in the writ proceedings which ultimately culminated in the order of the learned Single Judge dated 1 August 2017. The Letters Patent Appeal was allowed on 12 October 2017. Having regard to these circumstances, we are of the view that the appellants should be granted an age relaxation to the extent of four years should they apply for any other post that may be advertised by the State of Jammu and Kashmir in the next two years. The age relaxation of four years shall be available to the appellants for any post advertised upto 30 November 2020. Save and except for the above direction in regard to age relaxation, we have not interfered

with the judgment and order of the Division Bench of the High Court. The appeals shall, accordingly, stand disposed of. There shall be no order as to costs."

9. He further relied in the case of "Secretary, A.P. Public Service v. B. Swapna & Ors." reported in (2005) 3 JLJR 100 (SC). Paragraph nos. 8 and 10 of the said judgment is quoted hereinbelow:

"8. In support of the appeal, learned counsel for the appellant- Commission submitted that the High Court's approach was clearly erroneous. It is a conceded position that the un-amended Rule 6 was applicable to the facts of the case. The appellant-Commission had clearly directed the Government to advertise afresh. Though the Commission had the option to select candidates from the ranking list in force in place of those who relinquish the selection or who did not join the duty within the given time and also new requisitions sent by appointing authority, the Commission at the relevant point of time had the right to freeze any ranking list for reasons recorded. The fact that the Commission had directed issuance of fresh advertisement was clearly indicative of the fact that the Commission did not want the ranking list to be given effect to. This is borne out from records. In any event, there is a dispute as to whether the applicant was at serial No. 1 in the wait list.

10. There are two principles in service laws which are indisputable. firstly, there cannot be appointment beyond the advertised number and secondly norms of selection cannot be altered after the selection process has started. In the instant case 15 posts were to be filled up. The vacancies in the different zones were as follows:

Zone IV ST 1 Zone III BC-A 1 Zone V BC-C 1 Fourteen vacancies were indented on 14.4.1997.

Obviously, they were not existing vacancies on the date of advertisement i.e. 8.1.1995. The selection list was operative till 1.7.1997. The 14 vacancies which were indented on 14.4.1997 were as follows:

Zone III BC 'A'-1, OC-1 Zone IV ST-1, OC-2 Zone V BC 'C'-1, SC-1, BC 'D'-1, OC-3 Zone VI SC-1, OC-1, BC 'D'-1"

10. He further relied in the case of "Santosh Kumar Yadav & Anr. & analogous cases v. State of Jharkhand & Ors" reported in 2019 (4) JBCJ 231 (HC) and submitted that the co-ordinate Bench of this Court has already interpreted the qualification for appointment in respect of appointment to the post of Post-Graduate trained Teacher wherein the Court has interpreted the history subject as the qualification for that post was Graduate in History whereas the petitioner in those cases were having Ancient, Medieval or Modern History and the Court in that case came to the conclusion that these are the subjects which are the part of History and it cannot be said that they hold their degree in History in Graduation and rejected the claim of the petitioners of that case. He further submitted that the judgment of the learned Single Judge in case of "Santosh

Kumar Yadav & Anr." has been tested by the Division Bench in L.P.A. No.693 of 2019 with analogous cases and by judgment dated 05.02.2020 the Division Bench has affirmed the judgment of the learned Single Judge and dismissed the Letters Patent Appeal. On this premise, he submitted that the petitioners are not having any case for consideration.

11. By way of reply, Mrs. Ritu Kumar, the learned counsel appearing for the petitioners, referring to Annexure-A to the supplementary counter affidavit of respondent no.3 submitted that it sought certain suggestion with regard to advertisement and it was suggested that Degree, Master Degree may be inserted and the Degree may be clarified further.

12. The argument of Mrs. Ritu Kumar, the learned counsel by way of reply cannot be allowed to stand in view of the fact that Annexure-A to the said counter affidavit is only internal communication in the Department and that suggestion has not been incorporated in the Rule, 2011 neither in the advertisement. It is settled law that internal communication cannot be considered for deciding any matter in the Court of law.

13. Mr. Brij Bihari Sinha, the learned counsel appearing on behalf of the respondent-State and Mr. Jitendra Tripathy, the learned counsel appearing on behalf of the respondent no.7 jointly submitted that they are adopting the submissions of Mr. Sanjoy Piprawal, the learned counsel appearing on behalf of the respondent-Jharkhand Public Service Commission mutatis mutandis.

14. In view of the aforesaid submissions, the Court proceeded to examine the issue which are involved in this writ petition. It is an admitted fact that the petitioner have shown themselves having obtained Degree such as, the petitioner no.1 holds a Degree in Food Science and Technology from Banaras Hindu University, petitioner No.2 holds a Degree in Microbiology, petitioner No.3 holds a Degree in Food Science and Technology and petitioner no.4 has a Degree in Microbiology at the time of filling up of the Online application form and on that pretext, they were allowed to appear in the written examination as the authority concerned have considered their application Online wherein they tally their qualification with the advertisement. At the time of verification of the testimonials, as per the conditions, the Commission at the time of screening of the application forms as submitted by the petitioners has found the said discrepancies with regard to their declaration with respect to their degree.

15. It is not provided in the advertisement about any equivalence with regard to the degree and in that view of the matter the Master Degree of the petitioners cannot be said to be equivalence to the Degree as required in terms of the advertisement. It is settled-law that if the condition has been stipulated in the advertisement it cannot be deviated in any manner and if any deviation would be made it amount to fraud which is not permissible in law as per the judgment relied by Mr. Piprawal, the learned counsel as well as under the law laid down in the case of "Bihar Public Service Commission & Ors. v. Kamini Devi" reported in

(2007) 5 SCC 519. Paragraph nos.5,7 and 8 of the said judgment is quoted hereinbelow:

"5. The learned counsel for the appellant submitted that the Division Bench of the High Court was wholly wrong in allowing the appeal and in setting aside the order passed by the learned Single Judge and in ignoring the report submitted by the Expert Committee. He also submitted that even otherwise, the action of the Commission could not be said to be illegal or contrary to law. When the requisite educational qualification was BSc, Zoology, such person must have passed BSc with Zoology as principal/main subject and not as a subsidiary or optional subject. Admittedly, the first respondent had passed BSc with Chemistry as principal subject and Zoology as optional/subsidiary subject. She, therefore, could not be held qualified and the action of the Commission was in consonance with law and was legal and proper. It was also submitted that after the representation was received from the first respondent, the Commission constituted an Expert Committee for considering the grievance of the first respondent and even the Expert Committee opined that in its opinion i.e. in the opinion of the Committee, a student would be called graduate in the subject if he/she has Honours in that subject at the graduate level. If the subject is subsidiary (or side subject), he/she could not be called a graduate in that subject. It was because an Honours student at the graduate level studies eight papers in that subject whereas he/she studies only two papers in subsidiary subject. In accordance with the report, the action was taken which was proper. The counsel also submitted that the learned Single Judge was wholly right in upholding the contention of the Commission that the first respondent could not be said to be BSc Honours in Zoology and dismissed the petition. The Division Bench was in error in setting aside the said order which deserves interference.

7. Having heard learned counsel for the parties, in our opinion, the appeal deserves to be allowed. The advertisement is explicitly clear and states that the candidate must be Honours in BSc, Zoology. It is not in dispute that the first respondent has obtained BSc degree with first class but her main subject was Chemistry of eight papers of 800 marks and in addition to Chemistry, she had two papers of Zoology and Botany. In pursuance of the advertisement, which was clear, the first respondent was not eligible for the appointment to the post of District Fisheries Officer. In spite of that, she applied for the said post. True it is that initially a letter was issued by the Commission on 17-10-2002 calling upon her to appear before the Commission for interview. It was, however, a mistake on the part of the Commission. As soon as the appellant Commission realised that the first respondent was not having requisite qualifications for the post and was not eligible, her candidature was rejected. When a representation was made by the first respondent that cancellation of her candidature was not proper and that the decision should be reconsidered by the Commission, the Commission thought it fit to look into her grievance and an Expert Committee was appointed. The Expert Committee considered the question and submitted a report on 24-11-2002, inter alia, stating that in its "considered opinion", a student would

be called a graduate in the subject if he/she has Honours in the subject at the graduate level, meaning thereby that it must be the principal subject. In our opinion, such a decision could not be said to be contrary to law.

8. Again, it is well settled that in the field of education, a court of law cannot act as an expert. Normally, therefore, whether or not a student/candidate possesses requisite qualifications, should better be left to educational institutions (vide *University of Mysore v. C.D. Govinda Rao*<sup>1</sup>). This is particularly so when it is supported by an Expert Committee. The Expert Committee considered the matter and observed that a person can be said to be Honours in the subject if at the graduate level, he/she studies such subject as the principal subject having eight papers and not a subsidiary, optional or side subject having two papers. Such a decision, in our judgment, cannot be termed arbitrary or otherwise objectionable. The learned Single Judge, in our opinion, was, therefore, right in dismissing the petition relying upon the report of the Committee and in upholding the objection of the Commission. The Division Bench was in error in ignoring the well-considered report of the Expert Committee and in setting aside the decision of the learned Single Judge. The Division Bench, while allowing the appeal, observed that the "litmus test" was the admission granted to the first respondent by the Central Institute of Fisheries Education, Mumbai. According to the Division Bench, if the first respondent did not possess Bachelor of Science degree with Zoology, the Institute would not have admitted her to the said course. The Division Bench observed that not only the first respondent was admitted to the said course, she had passed it with "flying colours". In our opinion, the Division Bench was not right in applying "litmus test" of admission of the first respondent by the Central Institute of Fisheries Education, Mumbai. The controversy before the Court was whether the first respondent was eligible for the post of District Fisheries Officer, Class II. The correct test, therefore, was not admission by the Mumbai Institution. If the requirement was of Honours in BSc with Zoology and if the first respondent had cleared BSc Honours with Chemistry, it could not be said that she was eligible to the post having requisite educational qualifications. By not treating her eligible, therefore, the Commission had not committed any illegality."

16. It is also an admitted position that the petitioners had appeared in the examination without any protest and they did not question the validity of advertisement and in that view of the matter they are stopped from questioning the selection process. In this regard a reference may be made to "*Mani Pati Nataraja v. Government of Andhra Pradesh*" reported in (2007) 11 SCC 522.

17. The Court having considered the above facts as discussed hereinabove and after coming across the documents and the judgment referred hereinabove and after considering the entire aspect of the matter as well as legal position considering the terms of the advertisement, comes to the conclusion that the authority has rightly not considered the candidature of the writ petitioners since they are not having Degree as prescribed in the advertisement.

18. Accordingly, there is no merit in the writ petition and hence, the writ petition [W.P.(S) No.5131 of 2018] stands dismissed.

19. I.A. No.6539 of 2019 also stands disposed of.