

(2016) 01 DEL CK 0095

In the Delhi High Court

Case No : W.P.(C) 2204/2014, CM Nos. 8554/2014, 1226/2015, W.P.(C) 4597/2014, CM Nos. 9152/2014, 14388/2014, W.P.(C) 4279/2015, CM No. 7761/2015, W.P.(C) 6129/2015, CM No. 11142/2015, W.P.(C) 8098/2015, CM No. 16766/2015, W.P.(C) 8110/2015 and CM No. 16788/2015

Mohit Panwar and Others

APPELLANT

Vs

Airports Authority of India

RESPONDENT

Date of Decision : 25-01-2016

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10
Constitution of India, 1950 — Article 14, Article 16, Article 21, Article 311
Limitation Act, 1963 — Section 3

Citation : (2016) 01 DEL CK 0095

Hon'ble Judges : V. Kameswar Rao, J.

Bench : Single Bench

Advocate : Jyoti Singh, Sr. Adv., Tinu Bajwa, Amandeep Joshi and Sameer Sharma, Advocates, for the Appellant; Sanjay Jain, ASG, Digvijay Rai and Dhiraj Kumar, Advocates, for the Respondent

Final Decision : Disposed Off

Judgement

V. Kameswar Rao, J.—CM No. 1226/2015 (for filing additional affidavit) in W.P.(C) 2204/2014

This is an application filed by the respondent to take on record the additional documents.

In view of the reasons stated in the application, the same is allowed. The additional affidavit is taken on record. Application stands disposed of.

W.P.(C) Nos. 2204/2014, 4597/2014, 8098/2015, 8110/2015, 4279/2015 & 6129/2015

1. As the reliefs in all the writ petitions are identical with almost similar facts, the same are being decided by this common order.

2. The writ petition No. 2204/2014 Mohit Panwar & Ors. v. Airport Authority of India is being considered as a lead case, even though the facts of each writ petition would be noted separately, the stand of the respondent would be seen/considered from the pleadings filed in this petition.

Writ Petition (C) No. 2204/2014

3. The nine petitioners in this writ petition have challenged the notification dated March 21, 2014, whereby it was decided to redo the entire selection process afresh for the posts published vide advertisement No. 02/2012 dated March 01, 2012 and seeking a further direction to the respondent to issue appointment letters to the petitioners who were found suitable and selected provisionally for the post of Junior Executive (Engineering-Civil) and Junior Executive (Engineering-Electrical).

4. It is the case of the petitioners that the respondent invited applications from eligible candidates for filling up the posts inter-alia of Junior Executive (Engineering-Civil) and Junior Executive (Engineering-Electrical) in the Airports Authority of India vide notification/advertisement No. 02/2012 dated March 01, 2012. All the petitioners appeared for the written examination on August 26, 2012 and qualified it successfully. Pursuant thereto, the petitioners appeared for the interview in the month of December, 2012. The respondent published the final result in the month of January, 2013, wherein it was stated that the petitioners are provisionally selected for the posts of Junior Executive (Engineering-Civil) and Junior Executive (Engineering-Electrical) and their offer letters will be issued shortly. It is also the case of the petitioners that the respondent issued offer of appointment to the candidates who applied for the post of Junior Executive (Fire Services). In the month of April/May, 2013, to their shock and surprise the respondent published a notice on its website stating that for administrative reasons the recruitment related to the posts advertised vide advertisement No. 02/2012 dated March 01, 2012 has been put on hold/withheld until further orders. The petitioner No. 9 made a representation vide e-mail dated June 11, 2013 but was of no avail. Similarly, the petitioner No. 2 also made a representation dated June 20, 2013 requesting the respondent to issue offer of appointment, but the said request was also not acceded to. Similarly, the e-mail dated September 06, 2013 of the petitioner No. 3 has not been answered. It was only on the application under RTI dated November 20, 2013 to know the status of issuance of appointment letters that a response was received from the respondent on January 10, 2014 stating that the appointment letters have been withheld due to some administrative reasons and no other information is available with them regarding the advertisement No. 02/2012.

5. They initially filed a writ petition No. 841/2014 which was disposed of vide order dated February 05, 2014 in the light of writ petition No. 399/2014 wherein it was directed that the competent authority to take a decision in the matter with expedition not later than eight weeks from February 05, 2014. The impugned notification dated March 21/2014 is a decision on the advertisement No.

02/2012, whereby it has been decided to redo the selection process afresh under advertisement No. 02/2012.

6. It may be necessary to state here, when the writ petition was listed for hearing on April 02, 2014, it was stated on behalf of the respondent that the respondent is likely to take some time informing the date for fresh examination. It was also stated that the fresh examination is confined only to those who appeared in the examination earlier for the post of Manager/Junior Executive in different disciplines except for the post of Junior Executive (Fire Services). This Court directed the respondent to approach the Court before a firm date for the examination is publicized.

7. It is the case of the respondent in its counter-affidavit filed initially, that in terms of advertisement No. 02/2012 dated March 01, 2012 applications were invited from eligible candidates for filling up of 588 vacancies at E-1, E-3 and E-6 level for the post of Junior Executive, Manager and Deputy General Manager respectively in 33 grades including 50 vacancies each of Junior Executive (Engineering-Civil), Junior Executive (Engineering-Electrical). In January, 2013 the respondent had on its website made available a list of candidates provisionally selected for the post of Junior Executive (Information Technology), Junior Executive (Fire Services), Junior Executive (Engineering-Civil) and Junior Executive (Engineer-Electrical). Before issuing offer of appointment for the post of Junior Executive (IT), Chairman, Airport Authority of India vide note dated February 04, 2013 forwarded the concerned file to the CVO for comments/observation.

8. That prior to investigation by Vigilance Directorate in the matter, the appointment letters were already issued to the five successful candidates for the post of Junior Executive (Fire Services). The said candidates had completed their training and were appointed on the basis of successful completion of training.

9. Pursuant to the note dated February 04, 2013 of the Chairman, the CVO vide note dated February 08, 2013 called for documents/information against the advertisement No. 02/2012 and thereafter through several communications/instructions also called for all the relevant files as per their requirement in the month of March, 2013 onwards. Meanwhile, pending investigation by the Vigilance Directorate, the Chairman of the respondent vide his note dated April 04, 2013 decided to defer the process as the CVO in the said note opined that the investigation is under process and prima facie it appears that the role of the agency may not be above Board and recommended that the agency may not be involved in conducting any examination till such time the investigations are concluded. Thereafter, a notice was put on the website of the respondent on May 10, 2013 stating therein that due to administrative reasons the recruitment process relating to advertisement No. 02/2012 has been put on hold. The Vigilance Directorate examined the process of recruitment and submitted a preliminary report to the Chairman as per which several irregularities were noticed in the recruitment process especially the written examination conducted

by the agency. Thereafter the Chairman of the respondent organization approved to refer the case to the Central Bureau of Investigation on recommendation of the CVO and the same was referred vide letter dated May 30, 2013. Keeping in view the gravity in the matter, the respondent organization felt, as the recruitment exercise cannot be kept in abeyance indefinitely waiting for the findings by the CBI, a legal advice was taken wherein it was opined that an inquiry committee may be constituted to inquire whether in the light of the facts and notwithstanding the criminal investigation by the CBI, the cancellation of the previous examination was warranted and consequently a fresh examination was to be constituted. In case the inquiry committee or the competent authority as the case may be, comes to a conclusion that the selection process has been tainted with irregularities for even there are some justifiable doubts without there being any direct evidence thereto that the declared list of candidates is dubious, the quierist may forthwith proceed with cancellation of the existing list and undertake the process of conducting the process afresh. The Committee headed by the Executive Director (Technical) opined in its report dated November 7/12, 2013, that the respondent may redo the process of written examination afresh without involving the agency in question for the candidates already enrolled and appeared in the written examination as if the candidates have reported for examination but examination or further process had not happened in the past. However, it should be subject to same number of vacancies which were existing at the time of conducting the examination minus the incumbants already joined as in the case of fire will remain same. According to the Committee, there should not be any change in any of the notified conditions.

10. The respondent had also referred to the orders passed by this Court in writ petition No. 399/2014 titled Vikas Bhardwaj v. Airport Authority of India wherein the Court had disposed of the petition by noting that the report of the Committee is required to be placed before the competent authority for taking a decision in the matter and further the direction of the Court to take a decision though not later than eight weeks. Accordingly, the report of the Committee was approved by the Competent Authority on January 31, 2014, which was followed by the notification dated March 21, 2014.

11. The counter-affidavit also refers to the report of the Vigilance Directorate submitted to the competent authority on April 24, 2014. It may also be relevant to state here, along with the counter-affidavit the respondent had filed CM No. 8554/2014 for directions so that fresh dates of examination could be notified and the selection process can be completed as per schedule. The reply to the said application was filed by the petitioners, wherein they have objected to the right of the respondent to cancel the examination in view of the settled law and need to segregate tainted from untainted candidates.

12. During the course of hearing on November 13, 2014, it was submitted on behalf of respondent that there is some internal rethinking on the issues raised in the present petition and if granted a week's time an affidavit shall be filed. The

additional affidavit was filed on November 22, 2014. In the additional affidavit, the following is the case of respondent herein:-

"(a) The number of candidates who had appeared for the examination have been far below the number of candidates who had applied. Infact the total number of applicants were 135367 against which only 33037 candidates appeared.

(b) Vigilance has found the e-mails to the candidates requesting to download the hall tickets were not sent before commencement of the written test on August 26, 2012. Also it was not checked that how many candidates have downloaded their hall tickets. This casual approach might have led to lower percentage (19% as per vigilance investigation) of candidates turning up for the written examination.

(c) With the passage of time which is almost two years, moreso the candidates who had applied/appeared earlier might have got adjusted at other places and if the earlier decision to redo the examination from only amongst those candidates who had appeared/applied pursuant to the examination conducted earlier is followed, the competition would be very-very restrictive denying the authority of the privilege to get the best talent in the country."

13. It is also the case of the respondent that the new Competent Authority reviewed the decision dated January 31, 2014 finally on November 19, 2014, it was decided to scrap the entire process pursuant to advertisement No. 02/2012 and issue fresh advertisement for the vacancies advertised vide the said advertisement inviting fresh applications in general and to allow all the candidates who had applied earlier and to give age relaxation as well as fee relaxation and also, the appointment of five candidates who had joined the Airports Authority of India as junior Executive (Fire Services) shall be subject to outcome of the investigations. In other words, in view of the decision of the Chairman dated November 19, 2014 the notification dated March 21, 2014 would stand withdrawn and the answering respondent shall issue a fresh notification at the earliest.

14. The respondent filed a further affidavit on January 21, 2015 giving reference to the proceedings held before the Court on January 08, 2015, wherein it was indicated to the respondent to re-examine the issue as to whether the Airports Authority of India is willing to investigate with regard to other cadres apart from Junior Executive (IT) which was investigated by the Vigilance Directorate. According to the respondent, the matter was re-examined in the organization and it was of the view that the detailed investigation was done by the Vigilance Directorate with regard to the examination held for the post of JE (IT) as a test case and Vigilance Directorate came to a definite conclusion that there were large scale irregularities in the entire selection process. The irregularities were serious in nature and cast a doubt on the accuracy of the results and the integrity of the recruiting agency. Since the exam conducted for one of the disciplines i.e. the post of JE (IT) was not above Board, it is perfectly logical and

right to have a doubt on the credibility of entire selection process and results of the other exams conducted by the recruiting agency at the same time for other cadres. It is also the stand of the respondent that a Committee was constituted in connection with the recruitment work undertaken by the agency which submitted its report on November 7/12, 2013, which went into the irregularities committed by the agency with regard to other cadres apart from JE(IT). According to the respondent, as per the statistics it is clearly observed that the maximum number of candidates in top 100 were from Delhi/NCR notwithstanding the fact that examination conducted was on All India basis and there was no specialised qualification which candidates of only Delhi/NCR possessed. It is also the case of the respondent that most of the candidates who had applied were not sent their admit cards and hence a large number of candidates could not take the examination. Further, it is the respondent's stand that the result received from the agency were analysed by the HR, Directorate, vide their note dated October 01, 2012 and it was proposed that the department of HR considering that the maximum number of candidates to be called for interview are residents of Delhi/NCR and hence the interview may be held at Delhi only and the candidates selected from other part of country may be called to Delhi. However, the said proposal could not be finalised as it was decided that interview may be held as per the instructions contained in the advertisement but from the analysis made it is clear that the maximum number of candidates belong to Delhi/NCR which is very uncommon. The respondent also referred to the preliminary report of the Vigilance Directorate, wherein it indicated various irregularities and further recommended that it is a case of not only discrepancies related to procedure and monitoring, but irregularities committed are the nature of criminal misconduct for manipulating the written examination. The respondent also referred to the report wherein it was recommended that there is no requirement to wait for consolidated report of all disciplines as one would constitute sufficient ground for sending the report to CBI. It is the stand of the respondent that in the light of the situation explained, the exercise of investigating other exams is completely unproductive and will only lead to wastage of precious time for both the Airports Authority of India and the petitioner candidates. Since a lot of time has lapsed in the process and the authority is a premier organization of the Country and performing very sensitive nature of service, therefore had decided to issue a fresh advertisement inviting fresh applications for the vacancies notified in the earlier advertisement and also allow the candidates to appear who had applied pursuant to the earlier advertisement to appear in the fresh examination to be conducted by granting them age and free relaxation, wherever applicable. It is their stand that the decision to scrap the examination is uniform without any bias and favouritism. It gives equal opportunity to all and encourages competition. Since the role of agency which has conducted the examination is under cloud, no resort to clear the chaff from the grain can be taken.

15. No reply to the said affidavit was filed by the petitioner. On January 22, 2015, a suggestion was made on behalf of the petitioners that the respondent

can go ahead with regard to 500 odd other posts other than to which the petitioners are contenders and they should examine the issue of "grain and chaff" qua the petitioners i.e. whether any irregularity can be shown so far as the selection process of the petitioners is concerned and only in such circumstance the petitioners may possibly not have any right either for appointment or for drawing of a select list/merit list. The matter was again taken up for hearing on May 01, 2015, when this Court noting, the submission of the learned ASG on instructions that the respondent will endeavour to conduct a specific inquiry and investigation as to whether there can be separation of the tainted from untainted candidates in the facts of the present case with regard to the posts of JE (Electrical), JE (Civil), JE (IT), passed a very detail order and was of the view that the respondent must with expedition and necessary resources at its command, conduct an inquiry and investigation with respect to the petitioners for the aforesaid posts in the Centres in which they had appeared and file its report as regards separation of tainted from untainted candidates, if possible in the facts of this case. The respondent filed an affidavit on August 05, 2015. It is the stand of the respondent that based on an investigation, the competent authority had accepted the preliminary report dated May 21, 2015 on July 27, 2015, wherein it has been found that success rate in terms of percentage of the candidates who opted Delhi as a centre, is disproportionately high and the recruitment process has been manipulated to favour set of candidates (petitioners) belonging to Delhi region mainly Haryana State or those candidates who have obtained qualifying degree from the State and the higher written marks of these candidates do not match with their poor credentials with the average marks obtained by All India candidates with better credentials. According to the respondent, the finding reiterates the investigation done by the Directorate of Vigilance and the preliminary report of the Directorate on the basis of which criminal investigations are pending.

16. The respondent would state that the investigation has further revealed that large percentage of options exercised by the petitioners of wrong questions matches with each other, which is abnormal while making one out of four options when the booklet series were different. Had there been a fair competition, such similarities in the result of written examination in all these disciplines were not possible by any means. It is their case that the report also pointed out the possibilities which existed for the manipulation of the results and finally arrived at a conclusion that on careful examination of the answering patterns, results of the written examination, the centre of examinations and credentials of the petitioners viz a viz other candidates, it appears that the petitioners belonged to category of tainted candidates. They referred to one of the petitioners namely Naveen, petitioner No. 33, S/o Sh. Om Prakash, Roll No. 117315. According to investigation, he did not appear in the written test held for the post of Junior Executive (Airport-Operations). Similarly, Sh. Manu Yadav, S/o Deputy Singh Yadav having Roll No. 118065 and being petitioner No. 35 in W.P.(C) No. 4597/2014 did not appear in the interview for the post of Junior Executive

(Airport-Operations). The respondent would state, the allegations/malpractices against the agency M/S C.P.R are very serious and as the Airports Authority of India does not have resources to investigate the outside agency like M/S C.P.R., candidates etc, hence on the recommendation of CBI, the matter has been referred to the Crime Branch for investigation and FIR has been registered. The respondent would also state, that this investigation i.e., preliminary report dated May 21, 2015 was not there before the Competent Authority when a decision was taken to scrap the entire recruitment process. The documents before the Competent Authority were the preliminary report submitted to the Chairman on May 9, 2013 and report of the committee dated November 7, 2013. Hence, the Airports Authority of India relies upon the preliminary report by the Directorate of Vigilance and the report of the committee and at best the preliminary report of the inquiry or investigation pursuant to the orders passed by this Court.

Writ Petition (C) No. 6129/2015

17. This writ petition has been filed by the petitioner inter-alia seeking the reliefs for quashing notification dated March 21, 2014 and for a direction against the respondent authority to issue appointment letter for the post of Junior Executive (Engineering-Information Technology) and fix the seniority from the date appointment letters were issued to the persons appointed as Junior Executive (Fire-Services). It is the case of the petitioner, that pursuant to the advertisement dated March 1, 2012 of the respondent authority inviting applications for around 558 vacancies for 33 different post including Junior Executive (Engineering-Information Technology), the petitioner applied for the aforesaid post and was called to appear in the written examination held on August 26, 2012. The results of the written examination were declared on October 15, 2012. He was called for the interview on November 26, 2012. The respondent authority prepared, finalized and uploaded the final select list for the post of Junior Executive (Engineering-Civil), Junior Executive (Engineering-Electrical), Junior Executive (Fire-Services) and Junior Executive (Information-Technology), wherein the petitioner was declared successful and was intimated that the offer of appointment will be issued shortly. Immediately thereafter, the appointment letters were issued to the Junior Executive (Fire-Services). The petitioner having not received the appointment letter, had vide e-mail dated February 8, 2013 and April 8, 2013, sought to inquire with regard to the issuance of the appointment letter from the respondent. However, petitioner did not receive any reply for the same. He, to his shock, came to know that the respondent authority had vide notice published on the website represented that due to administrative reasons the recruitment process relating to the post advertised vide advertisement No. 2/2012 dated March 1, 2012 has been put on hold until further orders. The petitioner having failed to elicit any response was constrained to seek information requesting issuance of the appointment letters in terms of the final select list published by the respondent vide e-mails dated July 5, 2013, October 16, 2013 and October 30, 2013. The petitioner sought to inquire from the Department of Administrative Reforms & Public Grievances,

Govt. of India also. However, the respondent authority gave a vague and unreasoned reply. He would also refer to filing of the W.P.(C) No. 399/2014, issuance of notification dated March 21, 2014 by the respondent authority. He would also refer to W.P.(C) No. 2204/2014 wherein a similar challenge has been made and also in W.P.(C) No. 4597/2014. He would also state, that having come to know about the pendency of W.P. (C) No. 4597/2014, he filed CM No. 14388/2014 in the said writ petition seeking impleadment, wherein liberty was given to file independent proceedings.

18. The respondent had filed a detailed counter-affidavit. One of the preliminary objections taken by the respondent is, of issue of delay and laches. It is the stand of the respondent, that the petitioner was fully aware of notification dated March 21, 2014. However instead of approaching the court, the petitioner was sitting on the fence awaiting the outcome of W.P.(C) No. 2204/2014. Much water has flown inasmuch as this Court had directed the Airports Authority of India to continue with fresh selection process for appointment to other posts than to which the petitioners were contenders. In the absence of any proper explanation for delay, the petition is liable to be dismissed. Insofar as the other contents of the counter affidavit are concerned, suffice to state that, as I have already reproduced the stand of the respondent Airports Authority of India in the pleadings in W.P.(C) No. 2204/2014 and additional affidavits filed from time to time in the said writ petition, for the sake of brevity, I would not refer to the same once again.

Writ Petition (C) No. 4597/2014

19. The thirty three (33) petitioners have filed this petition inter-alia seeking for quashing the notification dated March 21, 2014 issued by the respondent with a further direction to the respondent to forthwith issue offer of appointment/appointment letters to the petitioners who were found suitable and were selected provisionally for the post of Junior Executive (Engineering-Electrical) and Junior Executive (Information Technology) and also for a direction to declare the results/final merit list of the selection process for the post of Junior Executive (Airport-Operations) and issue forthwith offer of appointment/appointment letters to the said petitioners who were found suitable/successful and fix their seniority from the date when the appointment letters had been issued to the Junior Executive (Fire-Services). Suffice to state, it is the case of the petitioners that they have been provisionally selected for the post of Junior Executive (Engineering-Electrical), Junior Executive (Information Technology). They also referred to filing of W.P.(C) No. 841/2014 which was disposed of on February 5, 2014 in the light of the directions in W.P.(C) No. 399/2014 wherein it was directed that the competent authority to take a decision in the matter with expedition not later than eight weeks from February 5, 2014. They referred to the filing of W.P.(C) No. 2204/2014.

20. Rest of the contents of the writ petition being in common to the writ petitions dealt above, for the sake of brevity, the said facts are not reiterated. The learned

counsel for the parties made a statement on July 25, 2014 that they would rely on the pleadings in W.P.(C) No. 2204/2014. As such no separate counter affidavit has been filed in the writ petition.

Writ Petition (C) No. 4279/2015

21. This writ petition has been filed by ten (10) petitioners inter-alia challenging the notification dated March 21, 2014, and seeking a further direction to issue appointment letters to the petitioners who were selected for the post of Junior Executive (Engineering-Civil), Junior Executive (Engineering-Electrical), and Junior Executive (Information Technology) and for a further direction to fix their seniority from the date when the appointment letters were issued to the Junior Executive (Fire Services). It is their case that they had applied for the post of Junior Executive (Engineering-Civil), Junior Executive (Engineering-Electrical) and after the process of written examination and interview the petitioners were declared successful to the posts of Junior Executive (Engineering-Civil), Junior Executive (Engineering-Electrical). They were waiting impatiently for their appointment letters, till, to their shock the respondent authority had vide notice published on its website stated due to administrative reasons, the recruitment process has been put on hold. Their repeated representations were unsuccessful. They referred to the W.P.(C) No. 399/2014 filed by similarly placed candidates. They referred to notification dated March 21, 2014 whereby it was decided to redo the entire selection process afresh. They referred to W.P.(C) No. 2204/2014 and the order passed by this Court staying the recruitment process pursuant to advertisement No. 02/2012. They referred to W.P.(C) No. 4597/2014 challenging the decision of the respondent authority dated March 21, 2014. It is their case that they came to know about the W.P.(C) No. 2204/2014 through the petitioners in the said writ petition in the second week of February 2015. When they made inquiries from the respondent, they were told that the matter is subjudice before the Court in W.P.(C) No. 2204/2014 and they would abide by the decision/direction issued therein which would cover the case of the petitioners also and the respondent in the meantime has come up with fresh advertisement No. 02/2015 in respect of 28 posts. They accordingly, filed a CM No. 6385/2015 in W.P.(C) No. 2204/2014 seeking impleadment and appropriate directions claiming to be similarly situated as the petitioners in the said writ petition. This Court granted liberty to file separate and independent proceedings and hence the petition.

22. The respondent has filed a counter affidavit. One of the objections is that the petition is hit by delay and laches. Suffice to state, it is the stand of the respondent that the challenge to the notification dated March 21, 2014, which the petitioners were aware of in the month of April 2014 is hit by delay and laches. Rest of the contents of the counter affidavit being similar to the pleadings and the affidavits in W.P.(C) No. 2204/2014, for the sake of brevity, are not repeated once again.

Writ Petition (C) No. 8098/2015

23. This writ petition has been filed by two petitioners inter-alia seeking a direction to the respondent to draw up selection/merit list for the post they have been found successful for appointment to the post of Junior Executive (Airport-Operations) in the selection process initiated by advertisement No. 2/2012 and appoint the petitioners to the said post and for a direction to the respondent to investigate the credentials of the petitioners on the principles elucidated in *Joginder Pal v. State of Punjab*, 2014 6 SCC 644. It is the case of the petitioners that an advertisement No. 02/2012 was issued by the respondent and the petitioners herein made application to the post of Junior Executive (Airport-Operations). It is their case that the petitioners who performed well in the written examination on September 2, 2012 were further invited for an interview by the respondent and having appeared in the interview, the respondent has failed to publish the final result to the said post. The respondent merely published a public notice on its website keeping the recruitment process relating to the said advertisement at hold. They referred to the report of the committee constituted by the Chairman wherein the committee recommended that the candidates who had appeared in the exam should be asked to take the exam once again. The petitioners' case is that they tried all means possible through telephonic calls and personal visit to gather when the respondent would finally declare the result and finish its selection process. The petitioners referred to the filing of the W.P.(C) No. 2204/2014. They referred to their academic excellence. They are bona fide candidates who have cleared the competitive exam conducted by the respondent on their own merit. The respondent has chosen a patently defective method by comparing the petitioners against each other instead of comparing them with all other candidates in a specific centre within Delhi or of all candidates within the State of Delhi. The petitioner's case is, in some cases where there is no other petitioner to compare with, a petitioner in a particular question paper set, such petitioner has been compared with an unsuccessful candidate showing the same number of common wrong answers defeating the assertion of the respondent. The candidates who prepared for such competitive exams are trained to eliminate options in multiple choice style questions and decide between probable two options. The candidates, thus, are bound to have common wrong answers while attempting the same subject papers irrespective of the question paper set as the questions in different sets are almost always the same and are merely shuffle as a block. The alleged finding of the respondent that selection from Delhi Centre is disproportionately high and as such impugns the selection process in the State is untenable as the respondent failed to appreciate that the number of applicants from Delhi centre are also disproportionately high. According to the petitioners, the respondent also failed to note that apart from Allahabad, Delhi is the only centre in the whole of North India and candidates from the said vast region would have naturally preferred Delhi as a centre due to better connectivity and accommodation facilities. According to the petitioners they apprehend that through the unscientific and incompetent tools of inquiry, the respondent would term the bona fide petitioners also as tainted and further may also cancel the entire selection process citing it

as vitiated. They rely upon the judgment of the Supreme Court in the case of *Joginder Pal v. State of Punjab*, 2014 6 SCC 644.

24. This petition was filed on 20.8.2015 and the same listed before the Court on 25.8.2015. As counter affidavit was already filed in W.P.(C) No. 2204/2014 and the issue being identical the learned counsel for the respondent was directed to give copy of the counter affidavit filed in W.P.(C) No. 2204/2014 to the learned counsel for the petitioner. I may only state, here that the learned counsel for the respondent during the course of submission had raised an issue of delay and laches with regard to this case as well.

Writ Petition No. 8110/2015

25. This petition has been filed by three petitioners inter-alia seeking a direction to the respondent to appoint petitioner No. 1 & 2 to the post of Junior Executive (Information Technology) and petitioner No. 3 to the post of Junior Executive (Engineering-Civil) with a further direction to the respondent to investigate the credentials of the petitioners based on the principles elucidated in *Joginder Pal v. State of Punjab*, 2014 6 SCC 644. It is the case of the petitioners that they are the provisional appointees to the post of Junior Executive (Information Technology) and Junior Executive (Engineering-Civil) and despite lapse of two years, they have not been issued any appointment letters. They referred to the number of vacancies advertised to the said posts. They also referred to the fact that they appeared in the written exam conducted by the respondent on August 26, 2012 and having been invited for interview, they having successfully cleared the interview stage and found to be suitably selected provisionally to the post, the respondents have failed to appoint them. They also referred to the decision of the respondent to keep in abeyance the recruitment process. They also challenged the unscientific method of inquiry evolved by the respondent to separate the tainted candidates from the untainted candidates on similar lines as has been challenged by the writ petitioners in W.P.(C) No. 8098/2015 (*Prateek Singh and others v. Airports Authority of India*). The said grounds have already been set out above under the heading W.P.(C) No. 8098/2015 and hence are not repeated again. The respondent has urged the plea of delay and laches in this case also.

Submissions:-

26. Ms. Jyoti Singh, learned Senior Counsel appearing for writ petitioners in W.P.(C) No. 2204/2014, would draw my attention to various notings as annexed by the respondent with its counter affidavit to contend that the investigation by the Directorate Vigilance was with regard to the recruitment to the post of Junior Executive (Information Technology) and it was in that regard, files were sent to the Vigilance Department by the H.R as is clear from the pages 139 to 147 of the paper book. In other words, it is her case that the recruitment to the post of Junior Executive (Engineering-Electrical) and Junior Executive (Engineering-Civil) was nowhere an issue. Even otherwise it is her submission, that the opinion of

the committee that the written examination should be conducted once again is untenable and could not have given such recommendation/direction without going into the irregularities. She would also state, the decision of the competent authority to scrap the entire recruitment process pursuant to advertisement No. 02/2012 and issue fresh advertisement for the vacancies advertised vide the said advertisement inviting fresh applications in general and to allow all the candidates who had applied earlier by giving age relaxation as well as fee relaxation also untenable. According to her, the reasons given by the respondent for taking decision dated November 19, 2014 at page 253 of the paper book does not reflect any wrong doing on the part of the petitioners herein and could not have affected their selection. She would also draw the attention of this Court to the affidavit dated January 21, 2015 filed by the respondent and contest the findings of the Vigilance Directorate to be with regard to Information Technology and any conclusion therein could not be considered as irregularity with regard to the other streams. She has referred to the various paras of the report of the vigilance directorate i.e., paras No. 5.4.2, 5.1.1, 5.1.3, para 6, para 8 etc. She also contended that the affidavit filed by the respondent on August 5, 2015 which was primarily based on inquiry into conduct of the exams more specifically whether there was any irregularity with respect to the petitioners, she would state that the conclusion of the respondent against the petitioners was on an inference rather than on a conclusive proof. She would state, that it is only when the respondent could separate the "chaff" from "grain" insofar as the selection of the petitioners, can the respondent deny the appointment to the petitioners. According to her, the petitioners are untainted and had qualified by virtue of their merit and not because of any cheating, fraud etc. She had also challenged the discrepancy/illegality noticed by the respondent in their investigation pursuant to the orders of this Court dated January 22, 2015 and May 1, 2015. She also states, the finding of the Vigilance Directorate on procedural irregularity of the Hall tickets could not be downloaded, cannot be imputed, to the agency, as the same were sent to the candidates by the H.R. department of the respondent. Similarly, the syllabus of the written examination was to be prescribed by the respondent and not the agency. She also states, the invigilation was done by the respondent and even if a casual report was given by the observers of respondent then the agency cannot be blamed. She states, the primary ground, that the selected candidates were from the Delhi Centre especially from a particular State, cannot be a ground to justify the cancellation, as the Delhi centre consists of 11 States of North India having big coaching centres, it is but natural that the applications were more as compared to the other centres and accordingly the success rate was more in the written examination, so also in the interview and final result. She casts a doubt on the inquiry conducted by the vigilance directorate in the absence of the answer sheets. She also states instances of Naveen and Manu Yadav given by the respondent shows non application of mind inasmuch as, Naveen appeared in Electrical exam and not in Airport Operations. Similarly, Manu Yadav appeared in I.T. and not in Airport Operations. She has placed before me, the communications evidencing the same. She states,

everything was in the realm of suspicion and nothing more, which would not justify cancellation.

27. Mr. Rahul Sharma, learned counsel appearing for the writ petitioner in W.P. (C) No. 4597/2014 would also submit that there is no evidence with the respondents to show any wrong doing on the part of the petitioners. The impugned action of the respondent has caused grave prejudice to the service career and future prospects of the petitioners. The impugned action breeds, frustration in the petitioners and many of them have crossed the maximum age limit. He states that in view of the settled position of law that the respondents in a case of this nature need to separate the grain & chaff, and having not done that, cannot take any action against the petitioners as the same would be violative of Article 14, 16 & 21 of the Constitution of India.

28. Mr. Upendra Pratap Singh, learned counsel appearing for the petitioners in W.P. (C) Nos. 4279/2015 and 6129/2015, makes similar submissions as made by Ms. Jyoti Singh and Mr. Rahul Sharma. He states, there is no factual foundation about the irregularities having been committed by the petitioners. He also state, there is no evidence showing any connivance between the recruiting agency and the petitioners herein.

29. Mr. Manoj V. George, learned counsel appearing in two petitions, would submit that the petitioners are highly qualified, in one case he is First Class B.Tech with M.B.A. They are 27 years of age and having a whole carrier before them and such serious charges have a demoralising effect on them. He would also state, that persons from Madras, Telangana, Delhi and U.P. have also been selected, which clearly demonstrates that the plea of the respondents that the maximum number of people selected being from Delhi region that too all the candidates who are from Haryana or acquired the qualification from Haryana, is totally baseless allegation. Merely because the maximum number of candidates are from Haryana or having acquired qualification from Haryana, would not reveal that the examination process is marred by irregularities on the part of the candidates or on the part of the agency. He states, that Delhi is a big region with many centres. It is not a case where the selection has been effected only through one singular process but is through a three tier process, where the irregularities cannot be committed. Even the show-cause notices, which were issued, have been replied to. He would contest the plea of delay, taken by learned counsel for the respondents by relying upon the judgment of the Kerala High Court in the case of Antony, P.A. and Ors v. Krishnadas, M.N. and Ors. He would seek the dismissal of the writ petition. The learned counsel for the petitioners together rely on the following judgments in support of this submissions:-

"(i) Joginder Pal and Others v State of Punjab and Others, , (2014) 6 Supreme Court Cases 644

(ii) Union of India and Others v. Rajesh P.U., Puthuvalnikathu and Another ,

(2003) 7 SCC 285

(iii) Shakti Savan Tripathi and ors v. Airports Authority of India , 173 (2010) DLT 444

(iv) Naushad Anwar and ors v. State of Uttar Pradesh & ors , 2014 (11) SCC 203

(v) Manoj Manu and Anr. v. Union of India and ors , 2013 (12) SCC 171

(vi) Eastern Coast Railway and another (connected appeal) v. Mahadev Appa Rao and ors , 2010 (7) SCC 678

(vii) Kiran Juneja and ors v. Union of India and ors W.P.(C) Nos. 12130-39/2004 and connected writ petitions decided on 20.12.2007

(viii) Girjesh Shrivastava and ors v. State of Madhya Pradesh and ors , 2010 (10) SCC 707

(ix) Inderpreet Singh Kahlon and ors v. State of Punjab and ors , JT 2006 (5) SC 352

(x) Neeraj Chaurasia and ors v. Uttar Pradesh Power Corporation Ltd. , 2013 (1) ALJ 599

(xi) Vikas Pratap Singh v. State of Chhatisgarh , AIR 2013 SC 3414

(xii) Union of India and ors v. Kuldeep Kumar W.P.(C) No. 6505/2013 (connected matters) decided on 30.7.2014."

30. On the other hand, Mr. Sanjay Jain, learned Additional Solicitor General, has taken me through the counter affidavit filed by the respondent with regard to the number of posts advertised and the process evolved for making selection. He would state, when the list of successful candidates for the post of Junior Executive (Information Technology) was submitted by the H.R cell to the Chairman for approval, the Chairman got suspicious as to why most of the candidates i.e., 80% approximately were selected from Delhi/Haryana and hence informed the Vigilance Directorate which carried out the investigation. The Vigilance Directorate made detailed investigation with respect to the examination conducted to the post of Junior Executive (Information Technology) and submitted their initial finding indicating various irregularities observed by them. It is his submission that the irregularities observed by the Directorate are not only discrepancy related to procedural and monitoring but are related to criminal misconduct for manipulating the written examination. The Directorate also recommended that there is no requirement to wait for consolidated report for all other disciplines/cadres which were advertised. The findings of one discipline constitutes sufficient ground for sending the whole matter to the CBI. He would state that the CBI had not taken up the case which was of the view that the matter must be looked into by the Crime Branch, Delhi Police. According to him, the Crime Branch is investigating the whole case. He would submit, that if the recruitment process is flawed then the petitioners should not get advantage of

the same. According to him, the recruitment process was outsourced to a private organization and the investigation carried out by the Vigilance Directorate and the subsequent inquiry carried out in terms of the order of this Court, prima facie it appears the process has been manipulated as it is noted that those candidates who appeared in Delhi have been successful. He would draw my attention to affidavit dated January 21, 2015 to contend that the total number of applicants is the highest in Delhi, the candidates appeared in the written test was 49.94% and the presence of the candidates in first hundred as per written test was 94% and the total number of candidates called for interview was 78.11% in Junior Executive (Airport-Operations). He would also state, similar is the position in other streams inasmuch as in Junior Executive (Engineering-Civil), the total number of applicants from Delhi were 33.9%; candidates appeared in the written test were 43.67%, presence of candidates in first hundred as per written test was 73% and number of candidates called for interview were 79.45%. He has made reference to the preliminary report of the Vigilance Directorate and had taken me through the same from page 377 onwards and drew my attention to the conclusion of the Vigilance Directorate. He would state, that the conclusion arrived at by the Vigilance Directorate is a possibility and the respondent corporation is taking action. There is a cogent material for the respondent to take a decision. The exam conducted could not be trusted at all. He also stated the manner in which the agency was appointed by the H.R bypassing the procedure and it is the requirement of public interest that recruitment to the public authority, which is performing the critical function should be on merit. He states that none of the petitioners have been debarred from applying fresh recruitment process. There is no mala fide in the impugned action. The principle of grain and chaff can be invoked if it is possible. There is no stigma attached to any of the petitioners. The test of reasonableness has been met. He would rely upon the following judgments:-

- "1. *Shankaran Das v. Union of India*, , (1991) 3 SCC 47
2. *Union of India and Ors. v. Anand Kumar Pandey and Ors.* , (1994) 5 SCC 663
3. *East Coast Railways v. Mahadev Appa Rao and Ors.* , (2010) 7 SCC 678
4. *Union Territory of Chandigarh v. Dilbagh Singh and Ors.*, , (1993) 1 SCC 154
5. *Pritpal Singh v. State of Haryana* , (1994) 5 SCC 695
6. *State of A.P. and Ors. v. D. Dastagiri and Ors.*, , (2003) 5 SCC 373
7. *The Bihar School Examination Board v. Subhas Chandra Sinha and Ors.* , (1970) 1 SCC 648
8. *Union of India and Ors. v. Tarun K. Singh and Ors.*, , (2003) 11 SCC 786
9. *Jitendra Kumar and Ors. v. State of Haryana and Ors.* , (2008) 2 SCC 161
10. *Chairman, All India Railway Recruitment Board and Anr. v. K. Shayam Kumar and Ors.*, , (2010) 6 SCC 614

11. Inderpreet Singh Kahlon and Ors. v. State of Punjab and Ors., , (2006) 11 SCC 356"

31. Ms. Jyoti Singh, learned Senior Counsel, in her rejoinder would state that the preliminary report was submitted after this Court had passed an order on May 1, 2015. According to her, para 7 and 8 of the additional affidavit, filed by the respondents on August 5, 2015, wherein a reference was made to the answering pattern is totally baseless. The pattern does not signify any wrong doing on the part of the petitioners/the successful candidates. The roll number of the successful candidates was not close to each other to even presume, they have copied. That apart, the attempt of the respondents to correlate the common wrong answers of the successful candidates is misconceived and overlooking the number of wrong answers which varies. In other words, it is a coincidence that there are some questions (not all) whereby answers were common. The candidates made an attempt as there was no negative marking. She states, some of the petitioners have not attempted several questions as compared to some, who attempted some questions. She also discount any wrong doing on the part of the petitioners as during the written examination, the invigilation was done by the Airports Authority of India. Even the examination/hall tickets were sent by the Airports Authority of India to the candidates. In other words, the agency had no role to play for sending the hall tickets or invigilations. If the candidates had not downloaded the hall tickets, the agency was not at fault. In fact, she raised doubt on the comparison of the answer sheets of the candidates by stating, a show cause notice was issued to the agency for destroying the same. According to her, everything is suspicious to the respondents.

32. Having considered the submissions made by learned counsel for the parties, an issue of delay was raised by Mr. Sanjay Jain, Learned ASG in W.P.(C) No. 6129/2015 and 4279/2015, so also in W.P.(C) No. 8098/2015 and 8110/2015. In that regard, the plea taken by the respondents in support of point of delay is as under:-

"2. That the Airports Authority of India issued a notice on its website on 21.03.2014 and which was also published in leading newspapers on 24.03.2014 inviting attention of the candidates who had appeared in the written examination pursuant to advertisement No. 02/2012 for the post of Manager/Junior Executive of various disciplines except Junior Executive (Fire Services) that it has been decided to re-do the entire selection process afresh for the above posts except Junior Executive (Fire Services) due to administrative reasons and also that the notified terms and conditions in the advertisement No. 02/2012 will remain same and the candidates who earlier appeared in the examination and subsequent process are required to appear again in the re-examination to be conducted and further that the date of written examination will be notified in due course of time on AAI's website.

3. That a writ petition bearing No. 2204 of 2014 titled Mohit Panwar & Others Versus Airports Authority of India was filed and listed before the Court on

02.04.2014 whereby similar relief as sought in the instant petition was sought by the Petitioners therein and by order dated 02.04.2014, this Hon"ble Court while issuing notice in the said petition directed the Respondent therein i.e. Airports Authority of India to approach this Hon"ble Court before a firm date for fresh examination is, publicized. That thereafter another writ petition being W.P (C) No. 4597 of 2014 titled Abhay Sharma and Others Versus Airports Authority of India was filed and listed before this Hon"ble Court on 24.07.2014, on which date this Hon"ble Court was informed regarding the pendency of W.P.(C). No. 2204 of 2014 and also that pleadings in the said writ petition are complete. This Hon"ble Court vide the said order directed that W.P. (C) No. 4597 of 2014 be placed for hearing along with W.P. (C) No. 2204 of 2014.

5. That vide order dated 25.07.2014 in W.P. (C) No. 4597 of 2014, Counsel for the parties stated that they shall rely on the pleadings in W.P. (C) No. 2204 of 2014 for the purpose of addressing arguments as pleadings were complete in W.P. (C) No. 2204 of 2014.

6. That thereafter arguments commenced in W.P. (C) No. 2204 of 2014 and W.P. (C) No. 4597 of 2014 on 25.07.2014 which continued till 17.12.2014 and was to conclude on the said day, however, on 17.12.2014, the Lawyers abstained from work and the Petition was adjourned to 08.01.2015. In January, 2015, there was a change in the Roster Bench and the said petition was listed before another Hon"ble Judge of this Hon"ble Court. Even before the said Court the matter was argued since January, 2015 itself.

7. The petitioners herein were fully aware regarding the notification dated 21.03.2014, however, instead of approaching this Hon"ble Court the said Petitioners were fence sitting and awaiting the outcome of W.P.(C) No. 2204 of 2014, when much water had already flown inasmuch as vide order dated 22.01.2015, this Hon"ble Court directed that the Airports Authority of India can continue with fresh selection process for appointment to other posts than to which the Petitioners are contenders.

8. That the Hon"ble Supreme Court in State of Orissa Versus Mamata Mohanty reported as , (2011) 3 SCC 436 has clearly held that section 3 of the Limitation Act, 1963, makes its obligatory on the part of the Court to dismiss the suit or appeal if made after the prescribed period even though the limitation is not set up as a defence and there is no plea to raise the issue of limitation even at the Appellate stage because in some of the cases it may go to the root of the matter."

33. The pleadings as made by the respondent aforesaid would only reveal that the petitioners could have approached the Court earlier and despite the knowledge, having not filed the petition at the appropriate point of time, the petition must be dismissed. The reliance placed by Mr. Jain on the judgment of the Supreme Court in the case of State of Orissa and another v. Mamata Mohanty , (2011) 3 SCC 436 wherein the facts were that the respondent was appointed as a Lecturer in Niali College on 9.7.1979 and her appointment as

such was approved by the Director of Higher Education, Orissa and was granted the benefit of receiving 1/3rd grant-in-aid. Notification dated 6.10.1989 was issued for revising the pay scale with effect from January 1, 1986. The said notification was applicable only in such cases where post has been granted the benefit of grant-in-aid scheme by 1.4.1989. The respondent did not make any representation before any authority to get the benefit of the said notification dated 6.10.1989. Rather, approached the High Court on 11.11.2005 by filing Writ Petition No. 14157/2005 seeking a direction to the State Government to pay the pre revised pay scale with effect from January 1, 1986 placing reliance on the various orders of the High Court. The State of Orissa contested the writ petition. The High Court placing reliance on the earlier judgment allowed the writ petition giving the benefit of the pay scale to her with effect from 1.6.1984. The High Court has held in para 53 and 54 as under:-

"53. Needless to say that Limitation Act 1963 does not apply in writ jurisdiction. However, the doctrine of limitation being based on public policy, the principles enshrined therein are applicable and writ petitions are dismissed at initial stage on the ground of delay and laches. In a case like at hand, getting a particular pay scale may give rise to a recurring cause of action. In such an eventuality, the petition may be dismissed on the ground of delay and laches and the court may refuse to grant relief for the initial period in case of an unexplained and inordinate delay. In the instant case, the respondent claimed the relief from 1.1.1986 by filing a petition on 11.11.2005 but the High Court for some unexplained reason granted the relief w.e.f. 1.6.1984, though even the Notification dated 6.10.1989 makes it applicable w.e.f. 1.1.1986.

54. This Court has consistently rejected the contention that a petition should be considered ignoring the delay and laches in case the petitioner approaches the Court after coming to know of the relief granted by the Court in a similar case as the same cannot furnish a proper explanation for delay and laches. A litigant cannot wake up from deep slumber and claim impetus from the judgment in cases where some diligent person had approached the Court within a reasonable time. (See: *M/s. Rup Diamonds & Ors., v. Union of India & Ors.*, , AIR 1989 SC 674; *State of Karnataka & Ors. v. S.M. Kotrayya & Ors.*, , (1996) 6 SCC 267; and *Jagdish Lal & Ors. v. State of Haryana & Ors.*, , AIR 1997 SC 2366)."

34. Insofar as the reliance placed by Mr. George on the judgment of the Kerala High Court in the case of *Antony P.A. and Ors v. Krishnadas, M.N. and Ors* is concerned, the High Court has in para 21 and 22 has stated as under:-

"21. First of all, we will deal with the delay aspects pointed out against the writ Petitions filed in the year 2003. It has been specifically submitted on behalf of the writ Petitioner in W.P.(C) No. 26486/2003 that though he contested for the selection, he was not fortunate to be included in the select list. He came to know about the discrepancies in the selection when he came across with the affidavit filed on 1.1.2003 in O.P. No. 18462/2000 with regard to the assigning of marks for additional qualification. Thereupon he attempted to get the details of the

marks awarded to him from the University; but was not successful. It was in the above circumstances the writ Petition was happened to be filed in August, 2003 impugning the selection process, whereby he had been excluded without giving additional marks and on the ground of less service left. Therefore, there was no delay.

22. Of course, as pointed out by the Appellants, in the decision reported in *Roshan Lal and Ors v. International Airport Authority of India and Ors.*, 1980 (supp.) S.C.C 449, even two years delay in challenging the appointment had been found to be detrimental to the Petitioners. But when one incumbent has explained, to the possible extent, the reason for the delay in cases arising violation of the guaranteed rights under Article 16 of the Constitution, such explanation when found acceptable to a reasonable mind shall have to be considered, in the over all circumstances of the case. One important circumstance is that challenging the very same selection process and impugning the notification at the threshold, there had been at least two Writ Petitions filed in time. The person selected had already been thus facing the challenge against their selection at least in two Writ Petitions filed in time. In such circumstances, when another incumbent, with some more details, has come with an equal challenge offering explanation for delay, necessarily, as the matter involves the violation and infraction of the right guaranteed under Article 16 of the Constitution, the delay can be excused to entertain such writ Petitions. Therefore, the contention regarding delay is of no avail for the writ Appellants when they themselves were facing challenge against their appointments at least in two Writ Petitions filed in time. No special or added prejudice is, in any way, caused to them."

35. In the case in hand also, there is no denial to the fact that W.P.(C) Nos. 2204/2014, 4597/2014 have been filed in this Court challenging the notification dated March 21, 2014. Even in the relevant paragraphs of the counter-affidavit, which have been referred to above, the respondents referred to the pendency of the W.P.(C) No. 2204/2014 and the said petition is part of the batch of the writ petitions, which are being decided by this order. Noting the fact that the writ petition has not been decided and also the similarity of the facts of the case in hand with the facts in the judgment of the High Court, the reasons given by the petitioners in the petition, which gives a plausible explanation for the delay in approaching the Court, this Court is of the view that the delay and laches would not come in the way for a decision on the merit of issue raised.

36. On merits, the challenge in this batch of petitions is to the notification dated March 21, 2014 whereby it was decided to redo the entire selection process afresh for the post of Manager/Junior Executive for the candidates who had earlier appeared in the examination in terms of advertisement No. 02/2012. During the pendency of the writ petitions, the respondent had reviewed the impugned decision on November 19, 2014 whereby it was decided to scrap the entire recruitment process pursuant to advertisement No. 02/2012 and issued

fresh advertisement for the vacancies advertised vide the said advertisement inviting fresh applications in general and to allow all the candidates who had applied earlier by giving age relaxation as well as fee relaxation. Even though the decision has not been challenged as the challenge in these petitions is to the notification dated March 21, 2014, I deem it appropriate to consider the substantive prayer made in the petition that too for a direction to the respondent to issue appointment letters to the petitioners who were found suitable and selected provisionally for the post of Junior Executive.

37. Before I embark to consider the submissions as made by the learned counsel for the parties, a word on the orders passed by this Court time to time in these petitions specifically in the lead case W.P.(C) No. 2204/2014. On April 2, 2014 when the writ petition was listed for the first time, this court noting that fresh examination is confined only to those who appeared in the examination held earlier directed the respondents to approach the Court before a firm date for the fresh examination is finalised. On January 22, 2015, this Court, on the submissions made by the learned counsel for the petitioners that with regard to 500 odd other posts, than to which the petitioners are contenders, respondents can continue the fresh selection process for appointment but with regard to the petitioners, the respondents should examine the issue of "grain and chaff" i.e., whether any irregularities can be shown so far as the selection process of the petitioners is concerned, only in such circumstance, the petitioners would not have any right either for appointment or for drawing of a select list/merit list.

38. On May 1, 2015, this Court had passed the following order:-

"2. The aforesaid orders were passed in the light of the ratio of the judgment of the Supreme Court in the case of Joginder Pal and Others v State of Punjab and Others, , (2014) 6 Supreme Court Cases 644 and which ratio is contained in paragraphs 10 to 10.5 of the judgment which read as under:-

"10. From the reading of the judgment in Inderpreet Singh Kahlon case one can discern the following principles:

10.1 An appointment made in violation of Articles 14 and 16 of the Constitution of India would be void. It would be a nullity. Since the services of the appellants were terminated not in terms of the Rules but in view of the commission of illegality in the selection process involved, the applicability of the relevant provisions of the statutes as also the effect of the provisions of the Article 311 of the Constitution need not be considered.

10.2. Before a finding that an appointment has been made in violation of Articles 14 and 16 of the Constitution can be arrived at, the appointing authority must take into consideration the foundational facts. Only when such foundational facts are established, can the legal principles be applied. When the services of employees are terminated inter alia on the ground that they might have aided and abetted corruption and, thus, either for the sake of probity in governance or in public interest their services should be terminated, the court must satisfy itself

that conditions therefor exist. The court while setting aside a selection may require the State to establish that the process was so tainted that the entire selection process is liable to be cancelled. In a case of this nature, thus, the question which requires serious consideration is as to whether due to the misdeed of some candidates, honest and meritorious candidates should also suffer.

10.3. A distinction exists between a proven case of mass cheating for a board examination and an unproven imputed charge of corruption where the appointment of a civil servant is involved. Only in the event it is found to be impossible or highly improbable that the tainted cases can be separated from the non-tainted cases could en masse orders of termination be issued. Both the State Government as also the High Court in that view of the matter should have made all endeavours to segregate the tainted from the no-tainted candidates.

10.4. Cases which may arise where the selection process is perceived to be tainted may be categorised in the following manner:

- (i) Cases where the "event" has been investigated.
- (ii) Cases where CBI inquiry took place and was completed or a preliminary investigation was concluded.
- (iii) Cases where the selection was made but appointment was not made.
- (iv) Cases where the candidates were also ineligible and the appointments were found to be contrary to law or rules.

If the services of appointees who had put in a few years of service were terminated, compliance with three principles at the hands of the State was imperative viz. (1) to establish satisfaction in regard to the sufficiency of the materials collected so as to enable the State to arrive at its satisfaction that the selection process was tainted; (2) to determine the question that the illegalities committed went to the root of the matter, which vitiated the entire selection process. Such satisfaction as also the sufficiency of materials were required to be gathered by reason of a thorough investigation in a fair and transparent manner; (3) whether the sufficient material present enabled the State to arrive at a satisfaction that the officers in majority had been found to be part of the fraudulent purpose or the system itself was corrupt.

10.5. Once the necessary factual findings as enumerated above are arrived at, or it is found impossible or highly improbable to separate tainted from untainted cases, all appointments traceable to the officers concerned could be cancelled. But admittedly, in the present case, although there had been serious imputations against Ravinderpal Singh Sidhu being at the helm of the affairs of the State Public Service Commission, all decisions made by the Commission during his tenure are yet to be set aside."

(Underlining added)

3. In law, therefore, either it is possible to separate tainted from the untainted candidates or it is not possible to separate them because of the type of infraction and resultantly the entire process may have to be scrapped. If, however, it is very much possible to separate the grain from the chaff i.e., separation of tainted candidates from the untainted candidates in a selection process which is not wholly vitiated, the selection process as a whole as per the case of Joginder Pal Singh (supra) cannot be scrapped.

4. Today, the learned ASG appeared, and who is appearing for the first time, and after some arguments were heard, the position arising is that all that is being asked from the AAI/respondent is that it is bound to conduct an investigation as per the resources available with it with respect to the petitioners/candidates, the centres in which they appeared, the results of those centres, the answers given by the petitioners and other candidates of those centres and every other material aspect which is possible to be investigated in order to know whether at all there can be a separation of the tainted from the untainted candidates and whether therefore petitioners are untainted candidates who must get selection?

5. Of course, if the malaise is such that it is not possible to separate the tainted candidates from the untainted candidates, then obviously, may be a conclusion can be arrived at with respect to cancelling of the entire selection process, however, assumptions and presumptions can never be the answer when the issue is of an alleged taint of specific candidates i.e., specific nature of the issue as to whether the candidates such as the petitioners are tainted or they are untainted and also the fact that the entire selection process cannot be found to be vitiated for its cancellation as a whole.

6. Accordingly, learned ASG on instructions states that AAI/respondent will endeavour to conduct a specific inquiry and investigation as to whether there can be separation of the tainted from the untainted candidates in the facts of the present case with regard to the subject examination conducted with respect to the posts of Junior Executive (Engineer-Electrical) and Junior Executive (Engineer-Civil) and Junior Engineer (Information Technology), 2012 Examination."

39. Pursuant to the aforesaid order, the respondent had carried out the exercise and filed a report by way of an additional affidavit. Suffice to state, regrettably the petitioners have not chosen to file a response to such an important affidavit. Even though the order dated May 1, 2015 refers to the judgment of the Supreme Court in Joginder Pal and others v. State of Punjab and others , (2014) 6 SCC 644, for a better perspective that too on the basis of the judgments referred to, by the counsel for the parties, the position of law in matters of this nature as enunciated by the Supreme Court in Inderpreet Singh Kahlon and others v. State of Punjab and ors , (2006) 11 SCC 356, is well settled, wherein the Supreme Court had referred to its earlier judgments, and in paras 46 to 59 has noted as under:-

"46. A distinction moreover exists between a proven case of mass cheating for a

board examination and an unproven imputed charge of corruption where the appointment of a civil servant is involved.

47. In *Bihar School Examination Board v. Subhash Chandra Sinha and Others* [, (1970) 1 SCC 648], the court came to a finding that the high percentage of marks obtained by the candidates who appeared at the selection of the centre in question did give rise to a suspicion that unfair means had been practised and the Board was justified in investigating the case. While the High Court held that despite the same, the principles of natural justice was required to be complied with; this Court noticed the reports of the experts and came to the conclusion that the results thereof speaks for themselves. It was noticed that whereas in other centers the average of successful candidates was 50%, in the center in question, the percentage of passing in different papers were unusually high ranging from 70% to 100%. In that view of the matter, this Court held:

"12. These figures speak for themselves. However, to satisfy ourselves we ordered that some answer books be brought for our inspection and many such were produced. A comparison of the answer books showed such a remarkable agreement in the answers that no doubt was left in our minds that the students had assistance from an outside source. Therefore the conclusion that unfair means were adopted stands completely vindicated.

13. This is not a case of any particular individual who is being charged with adoption of unfair means but of the conduct of all the examinees or at least a vast majority of them at a particular centre. If it is not a question of charging any one individually with unfair means but to condemn the examination as ineffective for the purpose it was held. Must the Board give an opportunity to all the candidates to represent their cases? We think not. It was not necessary for the Board to give an opportunity to the candidates if the examinations as a whole were being cancelled. The Board had not charged any one with unfair means so that he could claim to defend himself. The examination was vitiated by adoption of unfair means on a mass scale. In these circumstances it would be wrong to insist that the Board must hold a detailed inquiry into the matter and examine each individual case to satisfy itself which of the candidates had not adopted unfair means. The examination as a whole had to go."

Such is not the case here.

48. In *Anamica Mishra and Others v. U.P. Public Service Commission, Allahabad and Others* [, 1990 (Supp) SCC 692], an error was found out at the stage of calling candidates for interview. This Court opined that as no defect was pointed out in regard to the written examination and the sole objection was confined to the exclusion of a group of successful candidates in interview there was no justification for cancelling the written part of the recruitment examination and the situation could have been appropriately met by setting aside the recruitment and asking for fresh interview of all eligible candidates on the basis of the written examination.

49. Yet again in *S.P. Biswas and Others v. State Bank of India* [, 1991 Supp (2) SCC 354], the court refused to interfere with the result of the examination as it was shown that there had been neither any mass copying nor the final result was shown to have been influenced by the unfair means by any candidate.

50. In those cases also tainted cases were separated from the non-tainted cases. Only, thus, in the event it is found to be an impossible or highly improbable, en masse orders of termination could have been issued.

51. Both the State Government as also the High Court in that view of the matter should have made all endeavours to segregate the tainted from the non-tainted candidates.

52. We may, at this stage, notice that the following cases would fall in the different categories which are enumerated hereinbelow:

(i) Cases where the "event" has been investigated:

(a) *Union Territory of Chandigarh v. Dilbagh Singh*, , (1993) 1 SCC 154 at paragraphs 3 and 7.

(b) *Krishan Yadav v. State of Haryana*, , (1994) 4 SCC 165 at paragraphs 12, 15 and 22.

(c) *Union of India v. Anand Kumar Pandey*, , (1994) 5 SCC 663 at paragraph 4.

(d) *Hanuman Prasad v. Union of India*, , (1996) 10 SCC 742 at paragraph 4.

(e) *Union of India v. O. Chakradhar*, , (2002) 3 SCC 146 at paragraph 9.

(f) *B. Ramanjini v. State of A.P.*, , (2002) 5 SCC 533 at paragraph 4.

(ii) Cases where CBI inquiry took place and was completed or a preliminary investigation was concluded:

(a) *O. Chakradhar* (supra)

(b) *Krishan Yadav* (supra)

(c) *Hanuman Prasad* (supra)

(iii) Cases where the selection was made but appointment was not made:

(a) *Dilbagh Singh* (supra) at paragraph 3

(b) *Pritpal Singh v. State of Haryana*, , (1994) 5 SCC 695

(c) *Anand Kumar Pandey* (supra) at paragraph 4.

(d) *Hanuman Prasad* (supra)

(e) *B. Ramanjini* (supra) at paragraph 4.

(iv) Cases where the candidates were also ineligible and the appointments were found to be contrary to law or rules:

(a) Krishan Yadav (supra)

(b) Pramod Lahudas v. State of Maharashtra, , (1996) 10 SCC 749 wherein appointments had been made without following the selection procedure.

(c) O. Chakradhar (supra) wherein appointments had been made without type-writing tests and other procedures of selection having not been followed.

53. It is now well-settled that a decision is an authority for what it decides and not what can logically be deduced therefrom. It is also well settled that a ratio of case must be understood having regard to the fact situation obtaining therein. [See P.S. Sathappan (Dead) By LRs. v. Andhra Bank Ltd. and Others , (2004) 11 SCC 672] M.P. Gopalakrishnan Nair v. State of Kerala, , (2005) 11 SCC 45 and Haryana State Coop. Land Development Bank v. Neelam, , (2005) 5 SCC 91].

54. In Benny T.D. and Others v. Registrar of Cooperative Societies and Another [, (1998) 5 SCC 269], this Court repelled a contention raised therein that in view of the findings of the Public Inquiry Commission that there has been tampering of marks in respect of several candidates and as such there has been no fair and objective selection, public interest demanded annulment of the entire selection. This Court held that the same could not be done as the same would tantamount to gross violation of principles of natural justice which cannot be brushed aside on the ground that public interest demands annulment of the selection.

55. Yet again in Onkar Lal Bajaj and Others v. Union of India and Another[, (2003) 2 SCC 673], this Court while dealing with a case of en masse cancellation of the licences granted to the LPG Distributors as a result whereof unequals were said to have been clubbed by reason of arbitrary exercise of executive power, the same was held to be impermissible stating:

"45. The solution by resorting to cancellation of all was worse than the problem. Cure was worse than the disease. Equal treatment to unequals is nothing but inequality. To put both the categories - tainted and the rest -on a par is wholly unjustified, arbitrary, unconstitutional being violative of Article 14 of the Constitution"

It was further held:

"46. The aforesaid observations would apply with equal if not more force to DSBs if media exposure that the allotments were made either to the high political functionaries themselves or their near and dear ones is correct, the authorities would not only be justified in examining such cases but it would be their duty to do so. Instead of fulfilling that duty and obligation, the executive cannot unjustly resort to cancellation of all the allotments en masse by treating unequals as equals without even prima facie examining any cases exposed by the median "

This Court further observed:

"35. The expression "public interest" or "probity in governance" cannot be put in a straitjacket. "Public interest" takes into its fold several factors. There cannot be

any hard-and-fast rule to determine what is public interest. The circumstances in each case would determine whether government action was taken in public interest or was taken to uphold probity in governance.

36. The role model for governance and decision taken thereof should manifest equity, fair play and justice. The cardinal principle of governance in a civilized society based on rule of law not only has to base on transparency but must create an impression that the decision-making was motivated on the consideration of probity. The Government has to rise above the nexus of vested interests and nepotism and eschew window-dressing. The act of governance has to withstand the test of judiciousness and impartiality and avoid arbitrary or capricious actions. Therefore, the principle of governance has to be tested on the touchstone of justice, equity and fair play and if the decision is not based on justice, equity and fair play and has taken into consideration other matters, though on the face of it, the decision may look legitimate but as a matter of fact, the reasons are not based on values but to achieve popular accolade, that decision cannot be allowed to operate."

56. Yet again in *Union of India and Others v. Rajesh P.U., Puthuvalnikathu and Another* [, (2003) 7 SCC 285], this Court observed:

"Applying a unilaterally rigid and arbitrary standard to cancel the entirety of the selections despite the firm and positive information that except 31 of such selected candidates, no infirmity could be found with reference to others, is nothing but total disregard of relevancies and allowing to be carried away by irrelevancies, giving a complete go-by to contextual considerations throwing to the winds the principle of proportionality in going farther than what was strictly and reasonably to meet the situation. In short, the competent authority completely misdirected itself in taking such an extreme and unreasonable decision of cancelling the entire selections, wholly unwarranted and unnecessary even on the factual situation found too, and totally in excess of the nature and gravity of what was at stake, thereby virtually rendering such decision to be irrational."

57. The High Court, therefore, cannot be said to be right in applying the principle of mass cheating cases in the instant case.

58. Contention of Mr. Dwivedi, as noticed hereinbefore, centers around condemnation of selection and not of the candidate. But, when the services of the employees are terminated inter alia on the ground that they might have aided and abated corruption and, thus, either for the sake of probity in governance or in public interest their services should be terminated; the court must satisfy itself that conditions therefore exist. The court while setting aside a selection may require the State to establish that the process was so tainted that the entire selection process is liable to be cancelled. We, however, do not agree with the submission of Mr. Dhavan that the decision of the Commission was collegiate in nature as it is well known that one of the members of the

Commission was biased, other members could also be influenced by him. [See *Ajay Hasia and Others v. Khalid Mujib Sehravardi and Others*, , (1981) 1 SCC 722]

59. In a case of this nature, thus, the question which requires serious consideration is as to whether due to misdeed of some candidates, honest and meritorious candidates should also suffer."

40. In *East Coast Railway and another* (supra), the Supreme Court dealing with a case relating to recruitment to the post of Chief Typist, wherein the Administration cancelled the typing test and fixed a even date for fresh typing test. The Tribunal justified the cancellation and issuance of a notification for a fresh test. The High Court in the appeal, set aside the order of the Tribunal, in a writ petition by those candidates who were successful in the first test. The High Court directed the petitioner to proceed with the selection process. The Supreme Court referring to its earlier judgments has held as under:-

"14. It is evident from the above that while no candidate acquires an indefeasible right to a post merely because he has appeared in the examination or even found a place in the select list, yet the State does not enjoy an unqualified prerogative to refuse an appointment in an arbitrary fashion or to disregard the merit of the candidates as reflected by the merit list prepared at the end of the selection process. The validity of the State's decision not to make an appointment is thus a matter which is not beyond judicial review before a competent Writ court. If any such decision is indeed found to be arbitrary, appropriate directions can be issued in the matter.

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"28. That is not, however, the position in the instant case. The order of cancellation passed by the competent authority was not preceded even by a prima facie satisfaction about the correctness of the allegations made by the unsuccessful candidates leave alone an inquiry into the same. The minimum that was expected of the authority was a due and proper application of mind to the allegations made before it and formulation and recording of reasons in support of the view that the competent authority was taking.

29. There may be cases where an enquiry may be called for into the allegations, but there may also be cases, where even on admitted facts or facts verified from record or an enquiry howsoever summary the same maybe, it is possible for the competent authority to take a decision, that there are good reasons for making the order which the authority eventually makes. But we find it difficult to sustain an order that is neither based on an enquiry nor even a prima facie view taken upon a due and proper application of mind to the relevant facts. Judged by that standard the order of cancellation passed by the competent authority falls short of the legal requirements and was rightly quashed by the High Court.

30. We may hasten to add that while application of mind to the material available

to the competent authority is an essential pre-requisite for the making of a valid order, that requirement should not be confused with the sufficiency of such material to support any such order. Whether or not the material placed before the competent authority was in the instant case sufficient to justify the decision taken by it, is not in issue before us. That aspect may have assumed importance only if the competent authority was shown to have applied its mind to whatever material was available to it before cancelling the examination. Since application of mind as a thresh-hold requirement for a valid order is conspicuous by its absence the question whether the decision was reasonable having regard to the material before the authority is rendered academic. Sufficiency or otherwise of the material and so also its admissibility to support a decision the validity whereof is being judicially reviewed may even otherwise depend upon the facts and circumstances of each case. No hard and fast rule can be formulated in that regard nor do we propose to do so in this case.

31. So also whether the competent authority ought to have conducted an enquiry into or verification of the allegations before passing an order of cancellation is a matter that would depend upon the facts and circumstances of each case. It may often depend upon the nature, source and credibility of the material placed before the authority. It may also depend upon whether any such exercise is feasible having regard to the nature of the controversy, the constraints of time, effort and expense. But what is absolutely essential is that the authority making the order is alive to the material on the basis of which it purports to take a decision. It cannot act mechanically or under an impulse, for a writ court judicially reviewing any such order cannot countenance the exercise of power vested in a public authority except after due and proper application of mind. Any other view would amount to condoning a fraud upon such power which the authority exercising the same holds in trust only to be exercised for a legitimate purpose and along settled principles of administrative law.

32. The next question then is whether the selection should be finalized on the basis of the test held earlier or the matter allowed to be re-examined by the authority in the context of the representation received by it. In our opinion the latter course would be more in tune with the demands of justice and fairness especially when a second test has been conducted in which all the in service candidates have appeared. The result of this examination/test has not, however, been declared so far apparently because of the pendency of these proceedings.

33. If upon due and proper consideration of the representation received from the candidates who were unsuccessful in the first examination, the competent authority comes to the conclusion that the test earlier held suffered from any infirmity or did not give a fair opportunity to all the candidates, it shall be free to pass a fresh order cancelling the said examination after recording such a finding in which event the second test conducted under the directions of the Tribunal would become the basis for the selection process to be finalized in accordance with law. In case, however, the authority comes to the conclusion that the earlier

test suffered from no procedural or other infirmity or did not cause any prejudice to any candidate, the second test/examination shall stand cancelled and the process of selection finalized on the basis of the test held earlier."

41. Similarly, in *Joginder Pal and others* (supra), the Supreme Court after referring to its judgment in *Inderpreet Singh Kahlon* case (supra), which has been reproduced above, in paras 39 and 40 has held as under:-

"39. It becomes crystal clear that the concern of the Court was that for the misdeeds of some candidates, honest and meritorious candidates should not suffer. Therefore, endeavour should be made to segregate the tainted candidates from those who were without any stigma and had been selected because of their sheer merit and not on account of any illegal considerations. We would also like to reproduce some of the parts of the concurring judgment authored by Justice Dalveer Bhandari (as His Lordship then was) with the aforesaid message, eloquently and impeccably:

118. Undoubtedly, in the selection process, there have been manipulations and irregularities at the behest of R.S. Sidhu, the then Chairman, Punjab Public Service Commission. On careful scrutiny of the facts and circumstances of the case, in my considered opinion, the High Court ought to have made a serious endeavour to segregate the tainted from the non-tainted candidates. Though the task was certainly difficult, but by no stretch of imagination, it was not an impossible task.

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124. The High Court has not considered the case in the proper perspective. The consequences of en masse cancellation would carry a big stigma particularly on cancellation of the selections which took place because of serious charges of corruption. The question arises whether for the misdeeds of some candidates, honest and good candidates should also suffer on en masse cancellation leading to termination of their services? Should those honest candidates be compelled to suffer without there being any fault on their part just because the Respondents find it difficult to segregate the cases of tainted candidates from the other candidates? The task may be difficult for the Respondents, but in my considered view, in the interest of all concerned and particularly in the interest of honest candidates, the State must undertake this task. The unscrupulous candidates should not be allowed to damage the entire system in such a manner where innocent people also suffer great ignominy and stigma.

125. This Court had an occasion to examine a similar controversy in the case of *Onkar Lal Bajaj*'s case (supra). In that case, there were serious allegations of political patronage in allotment of retail outlets of petroleum products, (LPG distributorships and SKO-LDO dealerships). This Court laid down that how could a large number of candidates against whom there was not even insinuation be clubbed with handful of those who were said to have been allotted dealerships/distributorships on account of political connection and patronage? This Court

clearly stated that the two were clearly unequals. Equal treatment to unequals is nothing but inequality. This is the most important principle which has been laid down in this case by this Court. The Court further observed that to put both the categories, tainted and the rest, on par is wholly unjustified, arbitrary and unconstitutional, being violative of Article 14 of the Constitution. In somewhat similar circumstances, in this case, the Government, instead of discharging its obligation, unjustly resorted to the cancellation of all the allotments en masse by treating unequals as equals without even prima facie examining their cases. Those officers whose services were affected because of en masse cancellation have not been given an opportunity to represent before the concerned authorities. In the case of Onkar Lal Bajaj there were 413 cases and the task was indeed difficult to segregate the cases of political connection and patronage with other cases. But, even then, this Court while, setting aside the order of the Government cancelling the allotment, appointed a Committee of two retired Judges, one of this Court and another from the Delhi High Court, and they were requested to examine all 413 cases and decide the matter after getting the report from that Committee appointed by the Court.

40. In view of the above, the issue of entire selection process having been vitiated would have arisen only if the findings of the Committee were that it was not possible to distinguish the cases of tainted from the non-tainted ones and there was a possibility that all of them would have got the benefit of wrong doings of Mr. Sidhu and his accomplices. Fortunately for these Appellants, it is not so as they have been found innocent. The Appellants get ensconced, earning a safe place, once they are removed from the category of nefarious persons. Though the tainted candidates have rightly received their comeuppance, but the innocent persons cannot be punished with them. Thus, it is difficult to accept the fallibility conclusion of the High Court."

42. From a reading of the above judgments of the Supreme Court, the following position emerges:

"(1) A distinction exists between a proven case of mass cheating and an unproven charge of corruption.

(2) When a high percentage of marks obtained by the candidates who appeared in the selection in a centre in question did give rise to a suspicion that unfair means had been practiced.

(3) If the examination has been vitiated by adoption of unfair means on a mass scale, it would be wrong to insist that a detailed enquiry into the matter and examine each individual case to satisfy itself, which of the candidates had not adopted unfair means.

(4) Where there is no mass copying nor the final result was shown to have been influenced by the unfair means by any candidate, such result should not be interfered with.

(5) Efforts must be made to segregate the tainted from the non-tainted candidates but it is only in the event if it is found to be impossible or highly improbable, en masse orders of termination/cancellation could be issued.

(6) To put both the categories of tainted and non-tainted on par is wholly unjustified, arbitrary, unconstitutional being violative of Article 14 of the Constitution of India.

(7) The Court while setting aside the selection process, may require the State to establish that the process was so tainted that the entire selection process is liable to be cancelled.

(8) No candidate acquire an indefeasible right to a post merely because he has appeared in the examination or even found a place in the select list, yet, the State does not enjoy an unqualified prerogative to refuse an appointment in an arbitrary fashion.

(9) The decision of the Authority or the State must precede by a prima facie satisfaction about the correctness of the allegations and formulation and recording of reasons in support of the view that the competent authority was taking.

(10) The decision of the competent authority can be based on admitted facts or facts verified from records or an enquiry howsoever summary may be, but, an order, neither based on enquiry nor a prima facie view is unsustainable.

(11) Sufficiency or relevancy of material would not be gone into, unless it is so perverse that such a decision cannot be arrived at."

43. It is the case of the respondents, that they rely upon preliminary report by the Directorate of Vigilance, report of the Committee and at best the preliminary report of the enquiry or investigation pursuant to the orders passed by this Court, which can be considered as an additional evidence, which substantiates the preliminary report of the Directorate of Vigilance in support of their decision to cancel the selection process.

44. In the preliminary report of the Directorate of Vigilance, which looked into the procedure adopted for the recruitment for the post of Junior Executive (I.T) from different aspects including advertisement, application process, written examination, interview, result, OMR sheets of the candidates called for the interview, test booklet/answer keys. With regard to written examination, some of the observations in the preliminary report are as under:-

"4.2.3 It is apparent from the agency's inability in adopting 9/10 digit roll numbers that the agency was already having pre-printed Test booklets/OMR sheets in advance before conducting the exam for advertisement No. 02/2012. This is against the spirit of fair and transparent conduct of exams.

4.2.4 The emails to the candidates requesting to download the hall ticket were not sent before commencement of the written test on 26.08.12. Also it was not

checked that how many candidates had downloaded their hall tickets. This casual approach might have led to lower percentage (19%) of candidates turning up for the written exam.

4.2.5 The half ticket issued by the Dte. Of HR to the candidates was not having their scanned photographs and signatures uploaded at the time of application for matching the same during the written examination conducted by the agency. The details of the online recruitment applicants were forwarded by Directorate of HR to the agency in excel format does not include the scanned copy of photograph/digital or scanned signature of the candidate. Therefore the signature and photographs of the candidates were not verified during/after the written exams. This creates opportunity for proxy sittings in the exam.

4.2.6 It has been observed that the observer have given their report in a tailor made form i.e., Total No. of Candidates and their attendance at the specific center. However, no specific reports/Comments in the form of general administration i.e., any doubt about the question/copying or leakage of exam or any specific complaint made by the Candidate at the particular center was not given. However, Directorate of HR sought the report through RED/APD on conduct of the examination which has not been submitted by most of the center observers.

4.2.7 The agency vide their letter dt. 19.09.12 submitted the result of written test to GM (HR) which was held on 26.08.12 for the post of JE (IT). After receipt of the result from the agency the result was uploaded on AAI website on 16.10.12. However, it has been observed that no crosscheck or re-verification of the result viz-?-viz marks obtained by the successful candidates has been done by the HR as a confirmation.

4.2.8 It has been observed that after receiving the applications online, all the other activities were done manually or through M/s. CPR. This is not in spirit of online recruitment systems.

4.2.9 There is a scope for unscrupulous candidates to run away with the question paper in the beginning of exam or adopt other sophisticated electronic gadgets to copy and leak the paper which can be solved and passed on to the candidates sitting in the examination center since there is no preliminary screening of candidates.

4.2.10 There was no syllabus provided to the agency/candidates for written examination. The pattern of examination was provided to the agency/candidates in the name of the syllabus"

45. Similarly, under the heading "Result" the following were the observations of the Directorate of Vigilance:-

"6.2.1 Following has been observed from the list of selected candidates:

6.2.1.1 11 out of 11 General candidates, 4 out of 5 OBC candidates, 2 out of 3

SC candidates and 1 out of 1 ST candidate selected from the post are from Delhi Region. Out of 20 candidates selected 14 candidates are either from Haryana state or have obtained their qualifying degree from this state.

6.2.1.2 The candidates of Delhi region mostly belonging to the Haryana or studied there have scored up to 20% higher marks in the written exam in their respective categories compared to any other state/region.

6.2.1.3 6 out of 11 general candidates, 3 out of 5 OBC candidates were selected due to higher written marks and scored lower marks in interview.

6.2.1.4 Out of the 11 selected general candidates 7 candidates have secured less than 70 percentages of marks in their qualifying degree, out of which 6 candidates had 65% marks or below in their qualifying degree.

6.2.1.5 Out of 5 OBC candidates selected for the post 3 were having 63% or lesser marks in their qualifying degree but scored very high marks in written exams and lower marks in the interview.

6.2.1.6 Out of 20 successful candidates 8 candidates are from Maharshi Dayanand University and 3 candidates are from Kurukshetra University.

6.2.2 Following has been observed from the list of unsuccessful candidates:

6.2.2.1 The 12 out of 14 unsuccessful general candidates have secured marks in written exams ranging from 73 to 76. All these candidates were a good mix of all India students. Among these 12 unsuccessful general candidates 3 were having more than 80% of marks, 7 were having more than 75% marks and 2 were having more than 70% marks in their qualifying degrees.

6.2.2.2 The remaining two general candidates belonging to the Haryana scored very high marks in written exam but could not be selected as one candidate scored very low marks (5) in interview and the other candidate did not attend the interview. Both these candidates have secured less than 70% marks in their qualifying degree.

6.2.2.3 Similarly 2 OBC candidates belonging to the Haryana or studied there scored very high marks in written exam but could not be selected as 1 OBC candidate scored very low marks (4) in interview and the other candidate did not attend the interview. Both these candidates have secured less than 70% marks in their qualifying degree.

6.2.2.4 The only unsuccessful SC candidate belonging to the Haryana or studied there scored highest marks in SC category, but could not be selected due to very poor marks in the interview (11). The candidate has secured 72% marks in the qualifying degree.

6.2.2.5 The presence of the candidates of Haryana region or having qualifying degree from Haryana in the list of unsuccessful candidates is very low i.e., only 5 candidates out of 36 and are mentioned in Para 6.2.2.2, 6.2.2.3 and 6.2.2.4 of

the report. These 5 candidates have scored up to 20% more marks than other candidates in their respective categories but were not selected due to very poor marks in interview or being absent. These candidates could have been selected if they had scored even 50% marks in the interview.

6.2.3 Majority of the general candidates finally selected for the posts appears to be predetermined candidates by virtue of their high scores in written examination. The analysis of the results indicates that the marks of the written examination are manipulated to favour a set of candidates mostly belonging to Haryana state or studied there. These candidates are otherwise not academically sound and does not appear suitable for the post considering their credentials and scores in interview.

6.2.4 The five OBC candidates who have scored high marks in written examination for the five vacancies in OBC category also appears to be predetermined. This is not in line with the all India trend of scores which strongly suggest manipulation in written exam. However, two of them could not make it to final selection as one of the candidate scored only 4 marks in interview and one candidate could not attend the interview.

6.2.5 One of the SC candidates who have scored high marks in written exam for three vacancies in SC category also appears predetermined. However this candidate could not make it to final selection besides scoring higher marks in the written exam among SC candidates due to poor score in interview.

6.2.6 The candidates who have secured bare minimum of 5 to 10 marks out of 30 in the interview are also coming in the merit list for giving offer of appointment due to their higher percentage in the written test which is having weightage of 80%. However, no action was taken in this regard by department of HR.

6.2.7 The random checking of written test marks obtained by the candidates appeared for the interview was carried out by the team and it is observed that marks of one of the candidate Ms. Mona Taneja (Roll No. 110487) comes to 103 where as the marks obtained has been shown as 101 in the results provided by M/s. CPR. This creates doubt over validity of the results.

6.2.8 The majority of candidates selected are from Delhi Region in which Haryana state also falls. The Region-wise numbers of candidates who applied for the post and subsequently appeared for written test are as under which shows that 44% candidates appeared for written test are from Delhi Region. However, in the final selection is 90% candidates are from Delhi Region.

? % of Delhi Region candidates among the candidates appeared for written test: 44%

? % of Delhi Region candidates selected among the candidates called for interview: 69.6%

? % of Delhi Region candidates finally selected i.e., 18 candidates out of 20 : 90%"

46. On OMR sheets of the candidates, called for the interview, the following are the observations:-

"7.2.1 Following has been observed while analyzing the OMR sheets used for the written examination:

i. In the column of OMR sheets name, roll No. , booklet series and Test Form No. etc., has been filled by the candidates in ink or pencil as per their desire, no clear cut instructions is given against these columns.

ii. The OMR sheet does not indicate the post code, date of examination etc.

iii. The OMR sheets supplied were not having Serial Nos.

7.2.2 It has been observed that Dte. Of HR has not ensured the following before/ after conducting the exam:

a. Vetting of the answers keys from third independent agency.

b. Checking of sample test booklets/sample OMR sheets.

c. Reconciliation of final result with the OMR sheet.

7.2.3 The marking of the answers in the OMR sheet is done by the candidates by darkening the circles with HB pencils, which can be tempered/alterd with in absence of proper checks like obtaining a photocopy of the OMR sheets at the exam centers by AAI observers.

7.2.4 The table for "A" series booklet shows that the candidates belonging to Haryana state or studied there or have scored higher marks in written exam have marked same options for the 10 wrong questions in this test booklet. It appears that these candidates were supplied with answer keys wherein some answers were deliberately marked wrong, probably to control the scoring of marks in the written examination. An extract of the table in respect of these candidates is as below:

7.2.5 The table for "B" series booklet shows that the candidates belonging to Haryana state or studied there or have scored higher marks in written exam have marked same options for the 12 wrong questions in the test booklet. It appears that these candidates were supplied with answer keys wherein some answers were deliberately marked wrong, probably to control the scoring of marks in the written examination. An extract of the table in respect of these candidates is as below:

7.2.6 The table "D" series booklet shows that the candidates belonging to Haryana state or studied there or have scored higher marks in written exam have marked same options for the 11 wrong questions in this test booklet. It appears that these candidates were supplied with answer keys wherein some

answers were deliberately marked wrong, probably to control the scoring of marks in the written examination. An extract of the table in respect of these candidates is as below:

7.2.7 It has been noticed that there is a relationship between the same questions in the different series. The findings are tabulated below:

*Deduct 60 if total exceeds 60

It is evident from the table that all the test booklet series are mathematically related and answers in different series can easily be computed with a single key.

7.2.8 On the basis of the above relationship comparison of the options of the same wrong questions among different series was carried out and the same tabulated below:

The table shows that the candidates belonging to Haryana state or studied there or have scored higher marks in written exam have marked same options for the 10 wrong questions irrespective of the series. Thus it can be inferred that predetermined candidates were supplied with answer keys during or prior to the examination resulting in same options for wrong answers. Such type of similarity while marking one of the option out of four is abnormal which cannot take place without outside help during or prior to examination."

47. Against test booklet/answer keys, the following were the observations:-

"8.2.1 On examination of the test booklets series A, B, C & D provided by the HR, following is observed:

- a. No column was provided for mentioning the Roll No. hence; there exist possibility to exchange the test booklets for copying and also providing the answers from outside.
- b. Test Date and Post code was not mentioned.
- c. There was no instruction on wrong answer or negative marking.
- d. Instruction for use of mobiles/calculators or electronic gadgets is not mentioned in the test booklet.
- e. No instructions were given in the booklet for filling up the OMR sheets.
- f. The used test booklets were sought from HR directorate but the concerned officials have no clue whether the test booklet are given to the candidates after completion of written examination or still available with the recruiting agency. This confirms that Directorate of HR did not pay much needed attention to the recruitment process.

8.2.2 The pattern of the question paper for IT discipline is kept at par with non technical disciplines i.e., 50% questions from the IT discipline and 50% from General Knowledge/Aptitude/Reasoning/English etc. Whereas in the other

technical disciplines 70% of the questions were from technical side and 30% questions were from General Knowledge/Aptitude/Reasoning/English etc. The treatment of IT as non technical discipline is not justified and it appears that no thought was given for deciding pattern of question paper for this highly technical discipline.

8.2.3 The questions asked in the written test were randomly checked and following has been noticed: 8.2.3.1 Among general questions two numbers of questions were found wrong. (Q. No. 2 & 21 in series A ", Q. No. 55 & 14 in series "B", Q. No. 27 & 46 in series "C" and Q. No. 12 & 31 in series "D") as there is no correct answer in first question and in the second question the question asked itself is wrong.

8.2.3.2 On perusal of the answer keys submitted by the agency to Dte. Of HR in a sealed cover, it is seen that same is not certified or countersigned by the authorized signatory.

8.2.3.3 It has also been observed from the answer keys that no correct answer is given against one question i.e., Booklet Series A-Q No. 14, B-Q. No. 7, C-Q. No. 39 & D-Q. No. 24. However it is found that the agency has evaluated the OMR sheets by taking option 3 as correct answer for this question. This shows that the agency's casual approach during evaluation."

48. The final conclusion of the Directorate of Vigilance is as under:-

"Conclusion

From the observations made through stage wise analysis brought out in previous sections, following conclusions can be made:

9.1 The recruitment process has been manipulated to favour a set of candidates belonging to Delhi region especially Haryana state or those candidates who have obtained their qualifying degree from this state. The higher written marks of these candidates with their poor credentials do not match with the average marks obtained by all India candidates with better credentials. Further it has been noticed that a large percentage of their options of wrong questions matches with each other which is abnormal while marking one out of four options. Thus it can be concluded that their results were predetermined by one of the following possible manipulation:

9.1.1 These candidates might have been supplied with the answer keys prior to/ during the examination.

9.1.2 The OMR sheets were left blank by the candidates and the same were filled up later o before declaration of results and these concocted answer sheets (OMR) were submitted to AAI to support the predetermined result of the written examination.

9.2 The agency for conducting the written exam was hired by falsification of the facts, eliminating competition and without verifying the credentials. Further the

agency was given free hand in the conduct of the examination and no proper checks and balances were put in place, therefore involvement of the concerned HR officials in the manipulation cannot be ruled out.

9.3 The integrity of the results provided by the agency is also doubtful in view of the wrong questions in the test booklets and discrepancies in the answer keys like no answers for one question and error in marks obtained by one of the candidate i.e., Ms. Mona Taneja.

9.4 The recruitment agency M/s. CPR does not falls under the purview of the Corporate Vigilance department, therefore detailed investigation of this case could not be carried out. However, detailed investigation on irregularities in the appointment of the agency may be ordered for fixing responsibility of the concerned HR officials."

49. That even the Committee constituted by the Chairman of the Airports Authority of India on the advise of the, the then learned Additional Solicitor General also submitted its report on November 7, 2013. The Committee in its report, was of the opinion that the whole process of the written examination conducted by the agency is only questionable. According to the Committee, in the given situation, it is possible to correct the faulty process of examination by conducting written test again without involving the previous agency subject to maintaining all other conditions of the recruitment.

50. In the report filed by the respondents after undertaking the process as directed by this Court vide its order dated May 1, 2015, it is stated that with respect to 45 petitioners the report details as under:-

"Report on Recruitment to the posts of JE (IT/Engg-Civil/Engg-Elect/Airport Ops)

Airports Authority of India has been advised by the Learned ASG who appeared in the matter on 01.05.2015 to conduct an enquiry into the exams conducted in respect of Junior Executive (Engg-Elec), Junior Executive (Engg-Civil), Junior Executive (IT) & Junior Executive (Airport Operations) to examine whether there was any irregularities w.r.t the petitioners.

Accordingly, a committee consisting of officers of Vigilance and HR Department have tabulated the data and analyzed the facts.

The credentials of the 45 petitioners are tabulated and are attached as Annexure-I to this report as per their candidature for the respective post. The post wise analysis of the facts are as under:

1. PATTERN OF RESULTS OF WRITTEN EXAMINATION

The Region-wise/Centre wise numbers of candidates who applied for the post and subsequently appeared for written test & interview are as under:

a) JE (IT):

The success rate in terms of percentage of the candidates who appeared for

Delhi as Centre, is disproportionately high.

All the 5 petitioners for Junior Executive (IT) appeared for the written examination at Delhi for Junior Executive (IT) appeared for the written examination at Delhi Centre and belong to Haryana.

b) JE (Airport Operations):

Shri Naveen (Roll No. 117315) S/o Shri Om Prakash, one of petitioner did not appear in the written test. Remaining 27 petitioners for Junior Executive (Airport Operations) post appeared for the written examination at Delhi Centre. 24 belong to Haryana, 2 to Delhi and 1 to Rajasthan.

c) JE (Civil):

All the 04 petitioners for Junior Executive (Civil) appeared for the written examination at Delhi Centre, 2 of them belong to Delhi and one each to Rajasthan & UP.

d) JE (Electrical):

Out of the 8 petitioners for Junior Executive (Electrical), 7 appeared for the written examination at Delhi Centre and 1 appeared at Hyderabad centre. Out of 8 petitioners, 4 belong to Haryana, 2 belong to Rajasthan & 1 each belong to UP & Andhra Pradesh.

2. Answering Pattern:

The answering pattern of the petitioners who appeared in the written test has been checked and tabulated statement is as under where petitioners are having the common wrong answers for the same questions in different Booklet Series:

JE (Operations):

Booklet Series A:

Sh. Manu Yadav (Roll No. 118065) did not appear in the interview for the post of Junior Executive (Airport Operations) and hence he cannot be treated as valid petitioner for seeking appointment for the said post.

Moreover, as same questions were there in different series questions papers (in different orders), these 27 petitioners have given following 6 common wrong options:

Relationship between questions in different booklet series:

There was mathematical relation between questions booklets of different series, as evident from question booklet for JE (Airport Operations) herein below:

Even options in different booklets were not shuffled.

JE (IT):

Booklet Series A: As No. of petitioners with Booklet Series A is only 1, analysis has been made by considering one more successful candidate.

* In the case of Ms. Mona Taneja (110487), M/s. CPR has shown 101 marks in written test whereas as per answer keys provided by M/s. CPR, she should have got 103 marks. As a result of this, combined merit list itself is questionable as it affects the overall merit position.

Moreover, as same questions were there in different series question papers (in different orders), these 5 petitioners have given following 9 common wrong options:

Relationship between questions in different booklet series:

There was mathematical relation between question booklets of different series, as evident from question booklet for JR (IT) herein below:

JE (Engg. Civil):

Booklet Series A: As No. of petitioners with Booklet Series A is only 1, analysis has been made by considering one more candidate.

Booklet Series D: No. of petitioners with Booklet Series D is 3, analysis has been made.

As brought out above the average common wrong answers for 3 petitioners are around 7. However, being the less number of petitioner the comparison of common wrong answers among all the question booklet series is difficult.

As there is no negative marking in the test the reason for not attempting a question creates doubt about the candidate.

Even after not attempting several questions, the petitioner Sh. Mohit Panwar got fairly good marks in written examination and 8 marks out of 30 in interview. But still the petitioner was in select list. Further the 9 questions he has not attempted are same as of the other petitioners with similar options. It appears and indicate that the petitioner is a manipulated candidate.

Relationship between questions in different booklet series:

There was mathematical relation between question booklets of different series, as evident from question booklet for JE (Engg. Civil) herein below:

All the non technical questions among all the series are from 1 to 36 & subject specific technical question starts from 37 upto 120. As evident from above table the sequence of the questions are same.

Booklet Series B: No. of petitioners with Booklet Series B is 2, analysis has been made.

Booklet Series C: No. of petitioners with Booklet Series C is 3.

Booklet Series D: No. of petitioners with Booklet Series D is only 1, analysis has been made.

Relationship between questions in different booklet series: There was mathematical relation between question booklets of different series, as evident from question booklet for JE (Engg. Elect.) herein below.

All the non technical questions among all the series are from 1 to 36 and subject specific technical question starts from 37 upto 120. As evident from above table the sequence of the questions are same.

Moreover, as same questions were there in different series question papers (in different orders), these 6 petitioners out of 8 have given common wrong options for 17 questions:

3. Other observations:

- a) No clear cut instructions were there whether candidate's Roll No. , Booklet series, test form No. is to be filled with pen or pencil resultantly some petitioners have filled the same with pen and some with pencil.
- b) There was a column of battery number on the OMR sheets. As this number was for answer key, it should have been given in bar code form.
- c) There was no negative working. But still petitioners have not answered all questions. Usually, when negative marking is not there, candidates try to answer all questions. Moreover in some cases, it has been observed that candidate has erased the right options marked earlier and left them blank E.g. Mr. Sumit Kohli (Roll No. 117204). This appears to have been done to manipulate the ranking to accommodate General Category candidate.
- d) Almost all the petitioners either belong to Haryana Region or have done their studies from Haryana Region.
- e) Petitioners' marks in the academic studies were not good, but still they were able to score high in written test.
- f) On test booklets, no column has been provided for mentioning the Roll number. Hence there exist possibility to exchange the test booklets for copying and also providing the answers from outside.

4. Conclusion

- a) Comparing the analysis of the results of all the four posts in question to which petitioners belong, it can be concluded beyond doubt that, the recruitment process has been manipulated to favour a set of candidates (petitioners) belonging to Delhi region mainly Haryana state or those candidates who have obtained their qualifying degree from the state. The higher written marks of these candidates with their poor credentials do not match with the average marks obtained by all India candidates with better credentials. Further it has been noticed that a large percentage of their options of wrong questions matches

with each other which is abnormal while marking one out of four options. Had there been a fair competition such similarities in the results of written examination in all these discipline was not possible by any means. Following possibilities exists for the manipulation of the results:

- i. These candidates must have been supplied with the answer keys prior to/ during the examination.
 - ii. The OMR sheets were left blank by the petitioners and the same were filled up later on before declaration of results and these concocted answer sheets (OMR) were submitted to AAI to support the predetermined and result of the written examination.
- b) On careful examination of the answering patterns, result of written examination, the Centre of examinations and credentials of the petitioners vis-?-vis other candidates, it appears that the petitioners belongs to category of tainted candidates."

51. When the initial decision was taken on January 31, 2014 to redo the written examination, the report of the Committee and the Directorate of Vigilance with regard to recruitment process to the post of JE (I.T) were available. A perusal of the report of the Directorate of Vigilance, even though with regard to IT exam, it is noted, like, the agency's inability in adopting 9/10 digit roll numbers, the agency was already having pre-printed test booklets/OMR sheets in advance before the conduct of the exam; it was not checked as to how many candidates have downloaded their hall tickets; the half ticket to the candidates was not having their scanned photographs and signatures uploaded at the time of application for matching the same during the written examination; no cross check or re-verification of the result vis-?-vis marks obtained by the successful candidates has been done by the HR as a confirmation; 11 out of 11 General candidates, 4 out of 5 OBC candidates, 2 out of 3 SC candidates and 1 out of 1 ST candidate selected for the post, are from Delhi region; out of 20 candidates selected, 14 are from Haryana State or have obtained their qualifying degree from this State; the selected candidates mostly from Haryana or studied there; have scored up to 20% higher marks in the written exams as compared to other State/region; 6 out of 1 General candidates; 3 out of 5 OBC candidates were selected due to higher written marks and scored lower marks in Interview. Out of 20 successful candidates, 8 candidates are from Maharishi Dayanand University and 3 candidates are from Kurukshetra University; the unsuccessful candidates, from Haryana were 5 out of 36, and who had also scored, 20% more marks than other candidates in their respective categories but were not selected due to poor marks in the Interview. Apart from the above, many infirmities have been pointed out by the Vigilance Directorate in its report. The report reflect certain omission and commission on the part of the HR department as well. In substance, it is noted, from the report, that various infirmities, procedure irregularities, likelihood of unfair means having been adopted, had a bearing on the result of the examination.

52. Similar is the position, in the preliminary report submitted pursuant to the order of this Court dated May 1, 2015, with regard to the other disciplines. The reports having been reproduced, are self speaking. It is not a case, where there was no material before the competent authority, while he took a decision (even though preliminary report was not there). The material in the form of vigilance report being a detailed one, was sufficient for the authority to come to a conclusion to cancel the examination. The subsequent preliminary report submitted pursuant to the order of this Court would also justify the action. When material exists, the decision is justifiable. Suffice to state, it is for the agency which is seized of the matter, to come to a definite conclusion on the culpability with regard to the conduct of the exam. A perusal of the three reports, it would be seen that there has been a systemic failure in the conduct of the recruitment process and possible irregularities having been committed during the conduct of the written examination. Mr. Sanjay Jain, learned Additional Solicitor General, during the course of the arguments, had submitted that the Airports Authority of India would not, in any way, cast aspersion on the petitioners, who have been named in the reports as the investigation/enquiries have been carried out by the Airports Authority of India through their inhouse mechanism unlike an investigating agency. According to him, the nature of results depicting the successful candidates being from one State who had taken examination in Delhi centre, as the statistics reflects, does denote that the conduct of the recruitment process by the agency is not above Board. In other words, it is his submission, that it is not possible to separate untainted candidates from the tainted ones. He would also state, that there is some material with the authorities for forming an opinion to cancel the recruitment process in the larger public interest when the posts in question are public posts. The submission made by Mr. Jain is appealing inasmuch as the relevant reports even though naming some of the petitioners is only to drive a point that the nature of statistics including the correct answers/wrong answers does support irregularities. He may be right in suggesting that no aspersion can be cast on the petitioners as the respondent itself decided to allow all the petitioners to sit in the fresh recruitment process by allowing them age relaxation/fee exemption. If they were regarded as tainted, there was no question of allowing them to take part in the fresh recruitment process.

53. The submission of Ms. Jyoti Singh to justify the results, on various grounds including that, Delhi Centre being a big centre consisting of 11 States, and it is natural that the maximum number of applicants are in this Centre, so also the number of candidates qualifying the examination, is not appealing, when on a deeper look on the reports referred to above, does indicate an abnormal outcome, which would justify the impugned action.

54. Insofar as the submissions made by other counsels i.e. Mr. Rahul Sharma, Mr. U.P. Singh, and Mr. Manoj V. George that there is no evidence of wrong doing against any of their clients is concerned, suffice to state, in view of the conclusion of this Court above, that the conduct of the examination per se, by the agency, as well as certain omissions and commissions on the part of the HR

Department, being not above board and the final outcome of the recruitment process, being against public interest, which requires public posts should be manned through a fair, transparent and legitimate process, the plea is liable to be rejected. Even the submission of Mr. Manoj V. George that some of the petitioners have taken examination from the other centres, would also not hold good when the process followed, which resulted in low attendance; likelihood of irregularities having been committed, which had an ultimate effect on the results, is also rejected.

55. Insofar as the other judgments relied upon by the learned counsel for the petitioners i.e. Smt. Kiran Juneja and Ors. (supra), Girish Srivastava and Ors. (supra), Neeraj Chaurasia (supra), Vikas Pratap Singh and Ors. (supra), Union of India & Ors. v. Kuldeep Kumar (supra) and Manoj Manu & Anr. (supra), on the aspect of irregularities in the examination, are concerned, they have no application in the facts of these cases and the conclusion arrived at by this Court above, in the preceding paras. The action of the respondents needs to be upheld. Suffice to state, anything said in this judgment is limited to the impugned action under challenge in the writ petitions and would have no effect in the investigations being carried out, pursuant to a FIR, which aspect is noted above. I do not find any merit in the writ petitions. The same are dismissed.

56. No costs.

CM No. 14388/2014 (u/O 1 R 10 CPC) in W.P.(C) 4597/2014

This is an application under Order 1 Rule 10 CPC filed by the applicants namely Parshant Aggarwal, Manu Yadav and Parteek Yadav for impleadment as petitioners.

In view of the fact that writ petition is dismissed, the present application is also dismissed.

CM No. 8554/2014 (for directions) in W.P.(C) 2204/2014

CM No. 9152/2014 (for stay) in W.P.(C) 4597/2014

CM No. 16766/2015 (for stay) in W.P.(C) 8098/2015

CM No. 16788/2015 (for stay) in W.P.(C) 8110/2015

CM No. 7761/2015 (for stay) in W.P.(C) 4279/2015

CM No. 1142/2015 (for stay) in W.P.(C) 6129/2015

In view of the fact the writ petitions are dismissed, the present applications are also dismissed.