

(2023) 05 OHC CK 0285
In the Orissa High Court
Case No : Writ Petition (C) No.31988 Of 2021

Sourav Rout And Another

APPELLANT

Vs

Odisha Legislative Assembly, Bhubaneswar And Others

RESPONDENT

Date of Decision : 19-05-2023

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 187(3), 226, 227

Citation : (2023) 05 OHC CK 0285

Hon'ble Judges : A.K. Mohapatra, J

Bench : Single Bench

Advocate : S. Mishra, S. Mohapatra, B.S. Swarnakar, S. Palit, A. Kejriwal,
A.Parija, S. Bose

Final Decision : Allowed

Judgement

A.K. Mohapatra, J

W.P.(C) No.31988 of 2021

1. The present writ application has been filed by one of the selected candidates for the post of Reporter in Odisha Legislative Assembly with a prayer for a direction to the Opposite Party No.1 to issue appointment order in favour of the petitioners for the post of Reporter as per merit list/select list as recommended by the Examination Committee as well as Assembly Secretariat.

W.P.(C) No.6171 of 2022

2. The present writ application has been filed by the unsuccessful candidates, who had applied for the post of Reporters that was advertised by Odisha Legislative Assembly, challenging the Advertisement dated 26. 01.2021 to fill up seven posts of Reporters in Odisha Legislative Assembly. On perusal of the writ application, it appears that the petitioner has prayed for quashing of the entire selection process and also the selection of the Opposite Party Nos.2 and 3 pursuant to the advertisement under Annexure-1 for a further direction to

Opposite Party No.1 to hold a fresh selection process and in the event the petitioner is found suitable, he may be appointed as a Reporter with all consequential service and financial benefits.

3. Since the above noted two writ applications have been filed by two different candidates i.e. one by selected candidates in W.P.(C) No.31988 of 2021 for a direction to appointment him as a Reporter and the other one i.e. W.P.(C) No.6171 of 2022 by unsuccessful candidate, who was not selected by the Examination Committee with a prayer to quash the entire selection process. Since both the writ applications are inter-linked and the dispute involved in the writ applications revolve around the recruitment process pursuant to advertisement dated 26.01.2021 issued by the Secretary, Odisha Legislative Assembly for examination and appointment of seven numbers of Reporters in Odisha Legislative Assembly, in such view of the matter, this Court is of the considered view that both the matters are required to be heard together and accordingly, the same were heard together by giving ample opportunity to learned counsels for the parties and accordingly, the above noted writ applications are being disposed of by the following common judgment.

4. The facts of the case as pleaded by the petitioners in W.P.(C) No.31988 of 2021 is concerned, in an abridged form is that on 26.01.2021 an advertisement was floated by the Secretary, Odisha Legislative Assembly for recruitment to the post of Reporters to fill up seven posts of Reporters in Odisha Legislative Assembly. On perusal of the advertisement under Annexure-2 to the writ application it reveals that total seven numbers of posts of Reporters in Pay Level-10 under ORSP Rules, 2017 were advertised to be filled up. Out of total seven posts, advertised, 3 posts are reserved for UR category one post for male and two posts for female, one post for SCBC male category, one post for SC male category and two posts for ST category out of which one post of male and one post for female. The educational qualification prescribed under the aforesaid advertisement is University Degree having minimum speed 40 w.p.m. in English typing in computer, 140 w.p.m. in English shorthand, 20 w.p.m. in Odia typing in computer and 120 w.p.m. in Odia shorthand along with Diploma in Computer Application or equivalent qualification.

5. On a careful scrutiny of the above advertisement under Annexure-2, this Court observed that the same provides for total numbers of posts with reservation for separate categories. The same also provides for educational qualification, eligibility criteria, place of examination, documents to be attached, selection process and finally, the advertisement also provides a Specimen application form to be filled up and submitted by the aspiring candidates in block letters. Pursuant to the aforesaid advertisement, the petitioner along with several others including the petitioner in W.P.(C) No.6171 of 2022 applied for the post of Reporters. After due scrutiny of their applications, some were found complete in all respect. Accordingly, such candidates were asked to appear in the written test that was conducted under the supervision of the Examination Committee.

6. Before proceeding further to analyze factual aspects of the matter, this Court would like to throw light on the posts which were sought to be filled up by virtue of advertisement under Annexure-2. On perusal of the G.A. Department Notification dated 27.08.1983, it shows that the Hon'ble Governor of Orissa in consultation with the Hon'ble Speaker of the Orissa Legislative Assembly and in exercise of his power conferred under Article 187(3) of the Constitution of India had framed a set of rules to regulate the recruitment and conditions of service of persons appointed to the Secretariat of Orissa Legislative Assembly. The said rule is known as Orissa Legislative Assembly Secretarial (Recruitment and Conditions of service) (in short "1983 Rules"). The schedule appended to the rules at Sl. No.22 describes the post "Reporter". Further, eligibility criteria as provided under the schedule is as follows:-

"By direct recruitment of University Degree holders having a minimum speed of 40 W.P.M. in English Typing, 140 W.P.M. in English Shorthand and 120 W.P.M. in Oriya Shorthand or by selection from among Personal Assistants or from among the Senior Stenographers of the service having 5 years experience as such and having shorthand speed both in English and Oriya as indicated above, in which case, the academic qualification shall be relaxable to Matriculate."

7. Rule 7(1) of the Rules, 1983 provides that the appointing authority shall be the Hon'ble Speaker, who in consultation with the leader of the House shall make appointment. Sub-rule(2) of Rule-7 provides the mode of appointment to Class I, Junior Class I and Class II posts of the services other than the secretary. For better appreciation Rule-7 of the 1983 Rules has been quoted herein below:-

xx xx xx xx

"7 (1) The appointment of Secretary shall be made by the Speaker in consultation with the Leader of the House and in the event of there being no House on account of dissolution of the Assembly, the Speaker shall be competent to make appointment in consultation with the Governor.

(2) The appointment to Class I, Junior Class I and Class II posts of the services other than the Secretary, shall be made by Speaker in consultation with the Selection Board comprising of the Secretary, Government Whip, Whip of the numerically largest opposition party and one M.L.A. to be nominated by the Speaker. Provided that the Speaker may associate a Specialist or an expert in concerned subject, if necessary

(Provided that in case of direct recruitment a test shall be conducted and a select list prepared in order of merit. In case of appointment by promotion the select list shall be prepared on the basis of suitability and merit with due regard to seniority."

(3) Appointment to Class III and Class IV posts of the service shall be made by the Secretary in consultation with the Selection Committee constituted under rule 10.

[7-A. Notwithstanding anything contained rule 7 of the Speaker and the Secretary shall have power to make ad hoc appointment in the posts in respect of which they are the appointing authority for a period of not exceeding [one year] if for some reason of other it is not possible to hold a meeting of the Selection Board or the Selection Committee, as the case may be, and such posts are required to be filled up urgently.]

"7.B(1) The incumbents recruited to the post of Junior Assistant, Junior Grade Stenographer, Junior Grade Typist, Research Assistant and such other posts as may be ordered by the Speaker shall pass a departmental examination or speed test, as the case may be, in order to make themselves eligible for promotion to the next higher post.

(2) Without prejudice to the provisions contained in rule 11, the incumbents directly recruited to the post of Report shall have to pass the departmental speed test in order to make themselves eligible to complete the probation]"

xx xx xx xx

8. So far the present petitioners are concerned, petitioner no.1 belongs to UR(M) category and the petitioner no.2 belongs to SC category. Both the petitioners applied for the very same posts. On 07. 03.2021, the typing test was held at the College of I.T. and Management Education, Mancheswar Industrial Estate, Bhubaneswar. Test was conducted under the supervision of the Principal and his professional Staff of the college. The papers were evaluated by the professional examiner deputed by the Home Department. The result of the test that was held on 07.03.2021 published through the Orissa Legislative Assembly website and communicated to the petitioners through E.mail. As per notice dated 16.04.2021 of the Secretariat, Orissa Legislative Assembly, the petitioners were declared as duly selected in the typing test held on 07.03.2021 and were invited for shorthand skill test both in English and Odia and for Viva-Voce Test for the posts advertised and the same was scheduled to be held on 19.04.2021 and 22. 04.2021 respectively at the College of I.T. and Management Education, Mancheswar Industrial Estate, Bhubaneswar.

9. The petitioners appeared in the shorthand test, viva-voce test and for certificate verification. Accordingly, by notice dated 21.04.2021, issued by the Deputy Secretary, Orissa Legislative Assembly, it was notified for the information of qualified candidates that the petitioner no.1 stood 1st and the petitioner no.2 stood 2nd in the selection test. Thereafter, vide notice dated 29.06.2021, the Deputy Secretary, Orissa Legislative Assembly invited the names of the qualified candidates for viva-voce test for the posts of Reporters of Orissa Legislative Assembly, which was held on 22.04.2021 and accordingly, the name of the petitioners finds place against Sl. No.1 and the petitioner no.2 at Sl. No.2 of the final select list.

10. While the matter stood thus, one of the aggrieved candidate, namely, Sri Priyabrata Mohanty, approached this Court by filing W.P.(C) No.8181 of 2021,

this court vide order dated 03.03.2021 in I.A. No.3778 of 2021 passed an interim order to the effect that if the application of the petitioner has already received, he shall be permitted to appear in the interview process was made but the result involving the petitioner shall not be declared without leave of the Court and the appearance of the petitioner in the interview process conditional and subject to outcome of the writ petition. While this was so, this Court vide order dated

12. 08.2021 clarified the order dated 03.03.2021 thereby directing not to declare the result of the petitioner alone and further it was observed that there is no impediment on the part of the establishment in declaring result of the other candidates. It was also directed by this Court that the result of the petitioner in W.P.(C) No.8181 of 2021 shall be produced before this court in a sealed cover.

11. The selection process as per Rule-7(2) of the Rules, 1983 specifically provides that the Hon'ble Speaker in consultation with the Selection Board comprising of the Secretary to Government, Chief Whip, Whip of nominal largest Opposition Party and one MLA to be nominated by the Hon'ble Speaker vide order dated 21.08.2021, Under Secretary of the Secretariat of the Odisha Legislative Assembly, Bhubaneswar requested the Hon'ble Government Chief Whip, Hon'ble Chif Whip, B.J.P. Legislature Party, Sri Debi Prasad Mishra, Hon'ble M.L.A. and Secretary, Odisha Legislative Assembly for meeting of the Selection Board which was to be held on 23.08.2021 (Monday) at 12.30 P.M. in the Office Chamber of Hon'ble Speaker to consider and recommend for the appointment to the posts for Odisha Legislative Assembly. It is further stated in the writ application that the Memorandum dated 23. 08.2021 of the Selection Board, the Examination Committee recommended the names of the petitioners in order of merit for appointment as Reporters and accordingly, the Secretary, Odisha Legislative Assembly requested the Selection Board to consider and recommend the names of the petitioners for such appointment as Reporters against the post of UR category and SC category respectively as no SC(M) category candidate has been selected for appointment. It was further suggested that such appointment may be recommended subject to the condition that the same shall abide by final outcome of W.P.(C) No.8181 of 2021.

12. The writ application filed by one of the aggrieved candidates, namely, Priyabrata Mohanty bearing W.P.(C) No.8181 of 2021 was dismissed after final hearing vide order dated 15.09.2021 and the interim order dated 03.03.2021 was vacated. After dismissal of the said writ application, it appears that there was no restriction attached to the recommendation of the Examination Committee to the Selection Board. The Selection Board meeting which was fixed earlier to be held on 23. 08.2021 could not take place, therefore, the Secretary, Odisha Legislative Assembly again vide notice dated 28.09.2021 requested the Members of the Selection Board to participate in the Selection Board meeting which was scheduled to be held on 04.10.2021 in the Office Chamber of Hon'ble Speaker and to discuss about the appointment to the posts of Reporters in Odisha Legislative Assembly. Again the said meeting of the Selection Board was

postponed.

13. On perusal of the writ application, it is also revealed that I.A. No.9880 of 2021 was filed on 23.07.2021 by the Odisha Legislative Assembly through their counsel in W.P.(C) No.8181 of 2021 with a specific prayer to pass an appropriate order/direction in granting permission to the Opposite Parties in the said case to declare the result of the selection process conducted pursuant to the advertisement dated 26.01.2021 including the petitioners and to finalize the process by giving appointment to the duly selected candidates. Further the pleading in the said I.A. has been highlighted in the present writ application, particularly, in paragraph-3 of the I.A. wherein it was pleaded on behalf of the Odisha Legislative Assembly, which has been extracted hereinbelow:-

".....that the Moonson Session of the Assembly is to held very soon coupled with the fact that the post of Reporters are lying vacant, there is an eminent and urgent need for appointment of such Reporters for proper working of the Assembly."

Furthermore, in paragraph-4 of the interim application dated 27.03.2021, it has been stated that despite the process of selection having been completed considering applications of 127 candidates, who had applied pursuant to the advertisement and out of which 76 applications were found to be in order, accordingly, the petitioner nos.1 and 2 were duly selected by the Examination Committee and their names were recommended for appointment.

14. The meeting of the Selection Board of Odisha Legislative Assembly, which was scheduled to take place on 04.10.2021 was again postponed for some unavoidable circumstances, therefore, it has been stated that such indefinite postponement of the Selection Board meeting resulted in denial of appointment of the petitioners as Reporters.

15. On a careful scrutiny of the letter dated 21.08.2021 under Annexure-8, issued under the signature Under Secretary, Odisha Legislative Assembly, this Court observes that notice has been given to the Selection Board Members intimating that the meeting of the Selection Board of Odisha Legislative Assembly shall take place on 23.08.2021 at 12. 30 O.M. in the Office Chamber of Hon'ble Speaker. Further, memorandum of the meeting of the Selection Board scheduled to be held on 23.08.2021 attached to the writ application clearly reveals under clause-4 that the recruitment test of seven posts of Reporters was conducted by the Odisha Legislative Assembly Secretariat. It has also been stated that the Examination Committee has recommended names of the two petitioners as selected candidates in order of merit for appointment as Reporters. Accordingly, the Selection Board was requested to consider and recommend the names of the petitioners for appointment as Reporters in Odisha Legislative Assembly.

16. Per contra, a counter affidavit has been filed on behalf of the Opposite Party No.1 wherein the Opposite Party No.1 has admitted the fact with regard to the

publication of advertisement on 26.01.2001 by Secretary OLA in daily Newspaper "The Samaja" for recruitment to the posts of reporters. In the counter affidavit, the category wise break up of 7 numbers of posts of reports has also been reflected. It was also admitted that the petitioner no.1 applied for vacancy in man of UR category and petitioner no.2 SC(W) category along with requisite documents and experience certificates. The Opposite Party No.1 has also contended that pursuant to advertisement dated 26.01.2001, 127 numbers of candidates submitted their candidatures and after scrutiny 76 candidates were found eligible to participate in the recruitment process. Further, it was also contended that the Hon'ble Speaker has constituted an Examination Committee to conduct the entire recruitment test and to recommend the selected candidates for the posts of reporters. Such Examination Committee consisted of the following members:-

1. Smt. Sushila Mallick - Deputy Secretary
2. Shri Matraj Dung Dung - Deputy Secretary
3. Sri Satyabrata Samal - Accounts Officer

17. The counter affidavit further reveals that one unsuccessful candidate, namely, Priyabrata Mohanty being aggrieved by the eligibility criteria in the advertisement approached this Court by filing a writ petition bearing W.P.(C) No.8181 of 2021. Orders were passed in the above noted writ application and he same has also been referred to in the counter affidavit. However, this Court is not referring to the same as the same would be mere repetition of the facts, which has already been referred to hereinabove.

18. Counter affidavit of Opposite Party No.1 further reveals that on 07.03.2021 the typewriting test in English and Odia was conducted for the post of reporters at the college of I.T. and Management Education, Mancheswar Industrial Estate, Bhubaneswar as per decision of the authority and 73 candidates appeared in the said test. Furthermore, the Examination Committee on 15.04.2021 on perusal of the result sheet of such test observed that only three candidates came out successfully and accordingly, the result was published on 16.04.2021. Moreover, pursuant to notice dated 16.04.2021, it was decided to conduct the shorthand skill test in English and Odia among the qualified candidates. Accordingly, on 19.04.2021, such test was also conducted at the very same venue which was supervised by experts as decided by the authority.

19. A perusal of the counter affidavit filed by the Opposite Party No.1 further reveals that as per the recommendation of the experts only two candidates i.e. the petitioners were finally selected in the aforesaid test. Accordingly, the final result of such test was published on 21.04.2021. Immediately thereafter, on 22.04.2021, the viva-voce test was conducted pursuant to the decision of the authority wherein both the petitioners appeared. Finally, the result of the selection pursuant to the advertisement was published on 29.06.2021 indicating the names, who have participated in the selection process and only two

candidates were finally selected. The result in respect of one candidate, namely, Priyabrata Monanty the petitioner in W.R.(C) No.8181 of 2021 was withheld.

20. The counter affidavit further reveals that pursuant to the direction of this Court, the result of the petitioner in W.P.(C) No.8181 of 2021, namely, Priyabrata Monanty was placed before this Court in a sealed cover. On 12.08.2021, this Court clarified the interim order dated 03.03.2021 by saying that "this Court is of the opinion that there is no impediment on the part of the establishment in declaring the result of the other candidates."

While the matter stood thus on 18.08.2021, a meeting of the Examination Committee took place and in the said meeting basing on the evaluation report of the experts, claims of the petitioners were recommended to the Selection Board in order of their merit. In paragraph-18 of the counter affidavit, it has been stated that the recommendation of the Examination Committee was also approved by the Hon'ble Speaker, OLA. Thereafter, vide notice dated 28.01.2021 meeting of the Selection Board was convened to consider and recommend for appointment to the post of reporters in OLA Secretariat. Although such meeting was scheduled to be held on 23.08.2021 as per the Rule-7(2) of the rules, the memorandum for such meeting reveals that the Examination Committee recommended the names of the petitioners in order of their merit for appointment as reporter and that the Examination Committee recommended for appointment as reporters, the petitioner no.1 against UR category and petitioner no.2 against SC(W) category since no SC(M) candidates were available for appointment. However, said meeting of the Selection Board remained inconclusive. Thereafter, several attempts were made to convene the meeting of the Selection Board, however, same could not take place, as a result, the same is being postponed from time to time.

21. Finally, in the counter affidavit, it has been stated that it is the mandatory requirement Rule-7(2) Rules, 1983, the appointment of the petitioners could not be made as the Selection Board could not recommend the name of the petitioners and that the petitioners could not have been given appointment without consultation with the Selection Board as required under Rule-7(2). Moreover, in paragraph-24 of the counter affidavit of Opposite Party No.1, it has been stated that the selection process for the post of reporters will be completed after approval of recommendation of the Selection Board and by the Hon'ble Speaker.

22. Heard Mr. S. Mishra, learned counsel appearing for the petitioners in W.P.(C) No.31988 of 2021 and Mr. S.K. Das, learned counsel appearing for the petitioner in W.P.(C) No.6171 of 2022 as well as Mr. S. Palit, learned senior counsel representing the Opposite Parties in both the cases. Perused the pleadings of the respective parties, their respective note of arguments as well as citations relied upon by both the sides.

23. Before discussing the arguments advanced by learned counsels for the

respective parties, this Court is of the considered view that since both the matters have been heard together, the background facts of the W.P.(C) No.6171 of 2022 be also mentioned here in a nut-shell. W.P.(C) No.6171 of 2022 has been filed by one Satya Narayan Maharana with a prayer to quash the entire selection process pursuant to advertisement dated 21.02.2021 under Annexure-1 and for a direction to the Opposite Parties to proceed further in the matter by holding proper selection process and by allowing the petitioner to participate in the fresh selection process for appointment to the post of reporters. The petitioner in the above noted writ application is a Commerce Graduate having PGDCA qualification with certificate of type writing and shorthand writing. It is also mentioned that the petitioner is also having knowledge in computer typewriting as well as having experience as a Stenographer for five years and in addition to the above, he belongs to SEBC category. It is further stated that the pursuant to the advertisement, the above named petitioner submitted his candidature and after due scrutiny, he was invited to appear in the skill test. Since the petitioner was not selected he has challenged the selection process and publication of final result in favour of the Opposite Party Nos.2 and 3, who are the petitioners in W.P. (C) No.31988 of 2021.

On perusal of the said writ application, it appears that the petitioner is aggrieved by the fact that out of seven vacancies notified in the advertisement, only two candidates were finally selected. Although the petitioner was hopeful to get selected, however, his name does not find place in the final select list. Further, although the petitioner belongs to SEBC category, nobody has been selected under the said category. The petitioner in his writ application has also referred to the fact that two members of the Selection Committee have placed their note of dissent to the entire selection process. On the ground of illegal interference from different quarter including by one Deputy Secretary, who happens to be the father of the Opposite Party No.2. It has also been stated that the father of Opposite Party No.2 namely, Shri B.S. Rout is the Chief Reporter in the Odisha Legislative Assembly. It is further alleged that due to the intervention of the said Deputy Secretary, the selection process has been manipulated. He has further alleged that although he has applied for under the R.T.I. Act, he has not been provided with such information. It has also been stated by the petitioner that he had called for dissent note of the members of the Selection Committee but that was not supplied to him. He has also stated that he has gathered informant from the members of the Selection Committee that they have submitted their written dissent before the Hon'ble Speaker, Odisha Legislative Assembly on 29.08.2021. Further, he has extracted such note of dissent in the writ application without the source of such information. On such grounds, the petitioner has challenged the fairness of the selection process in which the petitioners in the other writ application were selected and their names were also recommended by the Selection Committee.

24. The Opposite Party Nos.2 and 3 to the W.P.(C) No.2161 of 2022, are petitioners in W.P.(C) No.31988 of 2022 have also filed a counter affidavit to the

said writ application. Without repeating the averments made in such counter affidavit, which would be repetition of facts already stated, this Court observes that such counter affidavit has been filed by denying the allegations made in the writ application with regard to the fairness in the selection process.

25. Very interestingly, a counter affidavit has also been filed on behalf of the Opposite Party No.1, which is different from the counter affidavit filed by the Opposite Party No.1 i.e. Secretary, Odisha Legislative Assembly in W.P.(C) No.31988 of 2021. In such counter affidavit, which was filed on 09.01.2023, the Opposite Party No.1 in paragraph-8 has stated that the Examination Committee has raised their note of dissent to the process of selection because of alleged wrongful intervention by the Deputy Secretary-cum-Chief Reporter, who happens to be the father of the Opposite Party No.2 and accordingly, in view of such dissent note of the Examination Committee, the final result for appointing the selected candidates as reporters in the OLA was not be published. Similarly in paragraph-9, it has been reiterated that the Examination Committee submitted note of dissent and expressed their serious apprehension and reservation with regard to the selection process and it has been stated that the members of the Examination Committee has also stated that the irregularities and infirmities were unintentional and certainly done without any dishonest intention. In paragraph-10 of the said affidavit, it has been stated that the Hon'ble Speaker sought for views of the Law Department and the legal opinion and upon getting such views and opinion it has been decided to cancel the entire selection process. Further in paragraph-12 of the aforesaid affidavit a justification for cancellation of the selection process has been given by stating that to maintain integrity and sanctity of the selection process, it was thought that the selection process of the reporters on the basis of advertisement dated 26.01.2021 be considered for cancellation and fresh recruitment be made pursuant to a fresh advertisement.

26. Counter affidavit has been filed by the Opposite Party No.1 in W.P.(C) No.31988 of 2021 on 02.05.2022. Although such counter affidavit was filed prior to the counter affidavit filed in W.P.(C) No.6171 of 2022, on perusal of the said counter affidavit, this Court observes that the Opposite Party No.1 represented by OSD-cum-Secretary, OIA has filed the said counter affidavit. Although a scrutiny of the counter affidavit, it was observed that the Opposite Party No.1 has narrated the procedure followed by them for the recruitment in a great deal. The factual aspects pleaded in the counter affidavit are almost identical to the facts pleaded in the present writ application. However, certain pleadings of the counter affidavit need special mention here. In paragraph-14 of the counter affidavit, it has been stated that in the selection process, two petitioners came out successfully in the test and accordingly their result was published vide Secretariat notice dated 21.04.2021 under Annexure-A/10. In paragraph-15 of the counter affidavit, it has been stated that both the successful candidates were called upon to attend the viva-voce test and the result of the viva-voce test was published on 29.06.2021. Result of the viva-voce was though published but result of Satyapriya Mohanty was withheld pursuant to the order of this Court

dated 03.03.2021. However, they admitted that the result in respect of both the petitioners were published in 29.06.22021.

27. In paragraph-18 of the counter affidavit, it has been stated on behalf of the Opposite Party No.1 that on 18.08.2021, a meeting of the Examination Committee took place. In the said meeting, the Examination Committee, basing on the evaluation report of the experts, recommended, in order of merit, the names of the present petitioners. The recommendation of the committee was also approved by the Hon'ble Speaker of the OLA. Further in paragraphs-19 and 20 of the counter affidavit, it has also been pleaded that the meeting of the Selection Board was convened and the same was schedule to be held on 23.08.2021 to consider and recommend the appointment to the posts of reporters in OLA in accordance with Rule 7(2) of the Rules, 1983. In paragraph-20 of the counter affidavit, the approved memorandum in the meeting of the Selection Board dated 23.08.2021 had been quoted in the counter affidavit it has also been stated that vide order dated 03.03.2022 in W.P.(C) No.6171 of 2022, this Court dismissed the said writ petition on 08.08.2022. In paragraphs-22 and 23 of the counter affidavit, it has been stated that attempt was made to convene a meeting of the Selection Board on 28.09.2021 and on 04.10.2921, however, on both the occasions meetings were postponed. Finally in paragraph-24 of the counter affidavit it has been categorically stated on behalf of the Opposite Party No.1 that as per the provisions of Rule 7(2) of the Rules 1983, appointment to the posts of reporters can only be made in consultation with the Selection Board since the posts of reporters are Class-II posts and that the selection process for the post of reporter will be completed after approval of the recommendation of Selection Board by the Hon'ble Speaker.

28. Surprisingly, nowhere in the counter affidavit filed by the Opposite Party No.1 in W.P.(C) No.31988 of 2021 on 02.05.2022 there is no whisper with regard to note of dissension by the Examination Committee members. Although it has been alleged in the counter affidavit in the W.P.(C) No.6171 of 2022 that a note of dissent has been submitted by the Examination Committee members although the date of said note of dissent has not been mentioned, neither a copy of said dissent note has been annexed to the counter affidavit. In view of such confusion and two different stands taken in two different counter affidavits filed on behalf of the Opposite Party No.1, this Court is required to examine the issue further, Accordingly, this Court called for records pertaining to examination process pursuant to the advertisement under Annexure-1. On perusal of the record, pertaining to the entire selection process pursuant to Annexure-1, this Court observed that the note sheet dated 13.02.2014 reveals that several posts of Joint Secretary, Deputy Secretary reporting, Under Secretary reporting, reporter, were lying vacant and accordingly, the file was put up to fill up such vacant posts. Accordingly, steps were taken to fill up such posts and in fact, it appears that the some of the posts have been filled up in the meantime. On perusal of the note-sheet dated 20.11.2020, it appears that it has been noted that seven posts of reporters are lying vacant, keeping in view the requirement of the

present day i.e. in which computer skill and higher qualification was inserted by amending the Rules 1983 with the concurrence of the Law Department vide amendment Rules, 2020. After obtaining concurrence of Hon'ble Chief Minister as well as Hon'ble Speaker such rules were amended and notified on 20.01.2021 and same was published in the Odisha Gazette on the very same day. Accordingly, a draft advertisement was prepared for recruitment to the post of reporters. After due approval of the authorities, the advertisement was published in three daily leading newspapers fixing last date of receiving application on 10.02.2021. On further perusal of the note-sheet, it appears that with the approval of the Hon'ble Speaker, Examination Committee was constituted on 03.02.2021 which consists of the following members:-

1. Shri Matraj Dung Dung - Deputy Secretary
2. Smt. Sushila Mallick - Deputy Secretary
3. Sri Satyabrata Samal - Accounts Officer

29. Moreover, the note-sheet further reveals that total 127 numbers of applications were received pursuant to advertisement under Annexure-1 for appointment to the post of reporters. After scrutiny of the applications, it was decided to hold the recruitment test at College I.T. and Management Education, Mancheswar Industrial Estate, Bhubaneswar and accordingly, admit cards were issued to 76 candidates to appear in type writing test which was held on 17.02.2021. Vide note dated 02.03.2021, six Government officers were nominated to conduct such examination test. Noting 94 dated 4th of March, 2021 reveals that the case of Priyabrata Mohanty has been mentioned. The note-sheet further reveals that expert committee expressed their inability to discharge the responsibility bestowed on them on the ground that they are not having such experience to conduct recruitment test. Accordingly, Home Department was requested on 05.03.2021 to depute experts to conduct recruitment test of reporters. In response to the aforesaid request, the Home Department had deputed four numbers of Private Secretary to conduct the recruitment test and note-sheet further reveals that with regard to the interim order passed in the writ petition filed by the Priyabrata Mohanty, views of the Law Department was sought for from the Principal Secretary to law, who had given his opinion on 08.04.2021 by saying that the result of the candidates except, namely, Priyabrata Mohanty be not published while giving appointment one post shall be kept reserved and the same shall depend on final outcome of the writ petition.

30. Accordingly, one post of reporter UR category was kept vacant and decision was taken to continue with the recruitment process by conducting shorthand test and viva-voce test. The note-sheet dated 23. 02.2021 reveals that names of two candidates in shorthand skill test was declared finally, names of both the petitioners were declared as successful candidates and accordingly they were called to attend the viva-voce test on 23.02.2021. Besides both the petitioners, Priyabrata Mohanty was also called upon to attend viva-voce test as per order

dated 3. 03.2021. The said order in the note-sheet also reveals that the examination related papers have been kept in a sealed cover. The note-sheet also reveals that the decision not to publish the result of the petitioner no.1 as he belong to UR(M) category and further it was decided to go ahead and publish the result of the petitioner no.2 as she can be appointed against SC category post. Accordingly, the view of the learned Advocate General was also sought for. Note-sheet also reveals that the note of Deputy Secretary and the Chairman of the Examination Committee was also approved by the Hon'ble Speaker.

31. Noting dated 28.06.2021 of the Chairman of the Selection Committee reveals that the final result of the viva-voce test was kept in a sealed cover awaiting approval of the Hon'ble Speaker and further in another noting dated 29.06.2021, it has been mentioned that the Hon'ble Speaker desired to declare the viva-voce test reporters for the post of report and before such declaration, the views of the Legal Cell may be taken. Finally, completing the entire process vide noting dated 29. 06.22021, the final result was up-loaded in the website of OLA. Thereafter, the subsequent note-sheet reveals that the meeting of the Selection Board was convened, however, the same was postponed. Note-sheet dated 29.03.2021 reveals that the order dated 03.03.2022 dismissing the W.P.(C) No.8181 of 2022 had been received by the Opposite Party No.1 office. Finally, the Under Secretary to Law, vide his noting dated 28.09.22021 advised Opposite Party No.2 to place the result before the Selection Board for approval vide noting dated 28.09.2021 before the Hon'ble Speaker in the meeting of the Selection Board convened on 04.10.2021.

32. While this was the position, note-sheet dated 06.04.2022 reveals that one Satya Narayan Maharana, the petitioner in W.P.(C) No.6171 of 2022 filed a writ application challenging the selection of the petitioners wherein this Court as an interim measure directed any appointment made shall be subject to the final outcome of the writ application. Accordingly, the aforesaid order has been taken note of. Now comes an important note-sheets dated 15.11.2022 prepared under the signature of OSC-cum-Secretary, the said note is marked "Confidential". Further the same reveals that discussion took place with regard to alleged irregularities, infirmities pointed out by Chairman and members of the Examination Committee on 28.09.2021, which was constituted for conducting recruitment test and to recommend the selected candidates for appointment as reporters in OLA. The Chairman of the Selection Committee, namely, Shri Matraj Dung Dung had retired by then as Deputy Secretary. It has also been mentioned that member of the Examination Committee complained before the Hon'ble Speaker on 28. 09.2021 pertaining to selection process to the posts of reporters. Finally, in the said note-sheet, it has been expressed that to maintain integrity and sanctity in the selection process, the selection process in respect of reporters post basing on advertisement dated 29.06.2021 may be considered as cancelled. On perusal of the note-sheet dated 15.11.2022, this Court observed that note of dissent submitted by the members of the Examination Committee could not be produced before this Court. Further same does not find place in the entire

record. Even accepting for the sake of argument that there was note of dissent in the record till 15.11.2022, on 15.11.2022, for the first time, the note of dissent findings mention in the note-sheet that too without a copy of such note of dissent being part of the record. Moreover, without conducting a formal enquiry with regard to such, a decision was taken hastily on one date to recommend for cancellation of the advertisement. Although view of the Law Department was sought for, however, noting of the then Principal Secretary, Law Department dated 15.11.2022 reveals that in view of the communication dated 29.08.2021, he had advised to enquire into recruitment process and to fix responsibility on the persons involved. On perusal of the note-sheet of the Principal Secretary, Law Department, it appears that he has not discussed the note of dissent dated 29.08.2021, rather he has not even mentioned the word "note of dissent" in the said note-sheet. However, in view of the communication dated 29.08.2021, he had advised to conduct an enquiry into recruitment process. As advised by the learned Principal Secretary to Law, file was placed before the Hon'ble Speaker and in his noting, the Hon'ble Speaker recommended for taking the views of the Advocate engaged for the OLA Secretariat and further to take leave of the Court at the earliest for cancellation of the recruitment process. On the opinion of the learned Advocate appearing for the OLA, a decision was taken to cancel the selection process to the post of reporter which was initiated under Annexure-1 although no specific reasons has been indicated and no justification has been given in arriving at such a conclusion to cancel the selection process at Page-122 of the note-sheet i.e. noting from 196 reveals that instruction was received from the Hon'ble Governor's Secretariat dated 19.08.2021 for taking necessary action in the matter to furnish a report to the Hon'ble Governor is Secretariat relating to the recruitment of reporters in OLA. The allegations made by such representationist have been noted in the said note-sheet.

33. It is, at this stage, the note-sheet of the file discussed about the order passed by this Court for production of record. In the note-sheet after the order passed by this Court Deputy Secretary called for the records, since he did not get information from the Deputy Secretary which was decided to be kept in a hard file and in a sealed cover. With regard to original note of dissent aforesaid note no.191 reveals that OSD-cum-Secretary has noted in the file that the original note of dissent was received by him and the same was forwarded to Smt. Baijayanit Pattanaik, Under Secretary of the establishment branch. However, it has been finally stated that the original note of dissent is not available/found in the branch and as such, it was presumed that the original note of dissent dated 29.08.2021 is with Smt. Baijayanti Pattanaik, Deputy Secretary. She was directed to submit the original note of dissent. Note no.212, reveals that the Ex-Deputy Secretary Shri Matraj Dung Dung, Chairman of the Examination Committee, who has retired in the meantime, has submitted that not a single piece of paper is available with him or with any member of the Examination Committee as he is not the custodian of such papers. Further it reveals that the suspicious circumstance relating to the examination as alleged by the Chairman

of the Examination Committee, who has submitted note of dissent on 29.08.2021 before the Hon'ble Speaker, such note of dissent was submitted before the Hon'ble Speaker on 29.08.2021. Interestingly, the above named Smt. Baijayanti Pattanaik, to whom it is stated that the note of dissent was handover in her reply to memo dated 19.01.2023 has stated that she was on leave on 29.08.2023 for funeral ceremony of her father, who had passed away on previous night. As such, she has not received the original note of dissent nor she was dealing with the file in the matter.

34. In view of the aforesaid analysis of the entire note-sheet, pertaining to the record which was produced before this Court, this Court is of the considered view that the same raises more questions than answers to the issues raised in the writ application. Moreover, this Court observes that the original note of dissent does not exist as Smt. Baijayanti Pattanaik, who has been allegedly received the note of dissent marked to her, stated that she was on leave on that particular date. Moreover, a careful scrutiny of the entire record reveals that although the entire selection process was concluded in a hassle free manner in note dated 29.08.2021 and the names of the selected candidates uploaded in the website of OLA, there was no objection with regard to selection process at least no such discussion was found in the note-sheet of the file. It is for the first time in November, 2022 discussion with regard to note of dissent further even accepting that there were irregularities in the examination process, till November, 2022. Had that been so, the illegality or irregularity should have brought to the notice of the authorities forthwith otherwise the delay in reporting would definitely reduce the credibility and importance of such allegation. Considering the fact that the note of dissent was discussed for the first time in the note-sheet of November, 2022, there is a delay of more than one year. Such delay cannot be simply brushed aside by this Court, particularly when, such time gap so large that the same could be an afterthought and as such questioning the selection of the selected candidates has become more doubtful. Besides such delayed discussion reduced the credibility of any kind of dissent or allegation with regard to recruitment process. Moreover in the absence of any clarity coupled with the fact that no enquiry having been conducted on such allegation by the authorities before coming to the conclusion to cancel the recruitment process, compel this Court to believe that such belated discussion on the dissent note is an afterthought to nullify the recruitment process. Most importantly, the relevant document, i.e. note of dissent, as it appears from the record, has not seen the light of the day. Therefore, this Court asked itself a question as to how far it would be justified to take cognizance of such a note of dissent which finds not mentioned in the note-sheet from 28.09.2021 to November, 2022. Further this court is of the view that had the Selection Board meeting been conducted in due time, the petitioners would have been appointed by now. In such view of the matter, this Court has no hesitation in coming to a conclusion that no such note of dissent exists at least the same is not available on record despite the best attempt by the Secretariat of OLA to trace the same out. Hence, the same shall

not be taken into consideration while deciding the present case.

35. Now coming to the judgment relied upon by learned counsels appearing for the parties, this Court would first examine the judgments referred to by learned counsel appearing for the petitioners. Mr. Mishra, learned counsel appearing for the petitioners, at the outset, referred to the judgment in the case of Dinesh Kumar Kashyap & others vrs. South East Central Railway and others : reported in (2017) 9 SCC 798 to impress upon this Court that after completion of recruitment process a right has accrued in favour of the petitioners as held in paragraphs-5 and 6 of the above noted judgment. He further submitted, referring to the above stated judgment, that no doubt it is true, that mere selection does not give any vested right to the selected candidate to be appointed, at the same time, when a large number of posts are lying vacant and the selection process having been followed, the employer must satisfy as to why it did not consider to appointment the selected candidates. Just because discretion has been vested in the authority, it does not mean discretion any can be exercised arbitrarily. Further he referred to paragraph-6 of the judgment in the case of Dinesh Kumar Kashyap & others(supra), which has been noted herein below :-

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"6. Our country is governed by the rule of law. Arbitrariness is an anathema to the rule of law. When an employer invites applications for filling up a large number of posts, a large number of unemployed youth apply for the same. They spend time in filling the form and pay the application fees. Thereafter, they spend time to prepare for the examination. They spend time and money to travel to the place where written test is held. If they qualify the written test they have to again travel to appear for the interview and medical examination etc. Those who are successful and declared to be passed have a reasonable expectation that they will be appointed. No doubt, as pointed out above, this is not a vested right. However, the State must give some justifiable, non-arbitrary reason for not filling up the post. When the employer is the State it is bound to act according to Article 14 of the Constitution. It cannot without any rhyme or reason decide not to fill up the post. It must give some plausible reason for not filling up the posts. The courts would normally not question the justification but the justification must be reasonable and should not be an arbitrary, capricious or whimsical exercise of discretion vested in the State. It is in the light of these principles that we need to examine the contentions of the SECR."

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36. Learned counsel for the petitioners also referred to the judgment in the case of R.S. Mittal vrs. Union of India : reported in (1995) Supp (2) SCC 230 paragraph-6 and 10 of the judgment the Hon'ble Supreme Court has observed as follows:

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"6. Assuming that there was only one vacancy as claimed by the Central Government, there was gross delay on the part of the Central Government in initiating action to fill the same. The vacancy became available on 14.08.1988 and, according to the chart placed on record by the Central Government, the action was initiated on 28.02.1989. We fail to understand what Government meant by the expression 'Initiating action'. The character and antecedents verification, if any, should have been got done as soon as the recommendation of the Selection Board was received. No material has been placed on record and none was brought to our notice during the course of arguments to show as to why the Central Government could not initiate action as soon as the vacancy was made available. Needless to say that the recommendation of the Selection Board headed by a sitting Judge of this Court was gathering dust in records of the concerned Ministry since 25-1-1988. We take serious view of the matter and we direct that any recommendation of a Selection Board which is headed by a sitting Judge of this Court must be given prompt and immediate attention. Once there is a recommendation by such a Selection Board, nothing should intervene between the recommendation and the consideration by the appointments Committee of Cabinet (ACC). The Minister/Secretary in the Administrative Department is under a legal obligation and is duty bound to process the recommendation of the Selection Board by giving it a top priority and place the same before the ACC within a reasonable time. In the present case, though the action was stated to be initiated of 28-2-1989 the reference to the ACC was made on 1-5-1989. We direct that the recommendations of the Selection Board headed by a sitting Judge of this Court must be placed before the ACC expeditiously and preferably within two months from the date of recommendation.

"10. The Tribunal dismissed the application by the impugned judgment on the following reasoning:

(a) The selection panel was merely a list of person found suitable and does not clothe the applicant with any right of appointment. The recommendations of the Selection Board were directory and not therefore enforceable by issue of a writ of mandamus by the Court.

(b) The letter of Ministry of Home Affairs dated 8-2-1982 which extends the life of panel till exhausted is not relevant in the present case. In the circumstances the life of the panel in this case cannot go beyond 18 months and as such expired in July, 1989.

It is no doubt correct that a person on the select panel has no vested right to be appointed to the post for which he has been selected. He has a right to be considered for appointment. But at the same time, the appointing authority cannot ignore the select panel or decline to make the appointment on its whims. When a person has been selected by the Selection Board and there is a vacancy which can be offered to him, keeping in view his merit position, then, ordinarily, there is no justification to ignore him for appointment. There has to be a justifiable reason to decline to appoint a person who is on the select panel. In the

present case, there has been a mere inaction on the part of the Government. No reason whatsoever, not to talk of a justifiable reason, was given as to why the appointments were not offered to the candidates expeditiously and in accordance with law. The appointment should have been offered to Mr. Murgad within a reasonable time of availability of the vacancy and thereafter to the next candidate. The Central Government's approach in this case was wholly unjustified.

37. Learned counsel for the petitioners in course of his argument although relied upon the judgment of the Hon'ble Supreme Court in the case of A.P. Aggarwal vrs. Government of NCT of Delhi and another : reported in (2001) 1 SCC 600. This Court observed that the Central Government has conferred discretion on the Government to act upon the reserve list under the circumstances mentioned in the O.A. Although policy was available in the reserve list for appointment as the member of the Sales Tax Appeal Tribunal under the Delhi Sales Tax Act, yet decision was taken to go for fresh selection process and for which no explanation could be offered. After detailed analysis, the Hon'ble Supreme Court has observed that even if such power is to be considered discretionary and not mandatory and that same has not been exercised, it was observed that such could not have been exercised arbitrarily. It has also been held that no fresh selection process could be resorted to without giving proper reason. Therefore, a broader principle has been laid down in the said judgment to the extent that the State action, in order to be valid must not be strictly in consonance with its issuance Article 14 and the rule of law, must also be based upon Indian System of Governance is based.

38. In course of his argument, learned counsel for the petitioners also relied upon the judgment in the case of Tridip Kumar Dingal and others vrs. State of West Bengal and others : reported in (2009) 1 SCC 768. He has also referred to the judgment of the Hon'ble Supreme Court in the case of Om Prakash Polai and Rajesh Kumar Maheshwari vrs. Delhi Stock Exchange Association Ltd. and others : reported in (1994) 2 SCC 117. He also referred to judgment in the case of Union of India and others vrs. Bikash Kuanar : reported in (2006) 8 SCC 192 wherein the Hon'ble Supreme Court has observed that in absence of allegations of favouritism or bias, selection process cannot be presumed to have been done in a mechanical manner. Further the onus is on the party alleging favouritism or bias to prove the same, it was held that there exists no basis for reviewing the selection process and cancelling the appointment of the selected candidates.

39. Per contra, Mr. S. Palit, learned senior counsel appearing for the OLA-Opposite Party No.1 relying upon the counter affidavit in W.P.(C) No.6171 of 2022 supported the decision of the Opposite Party No.1 to cancel the recruitment process. He further sought for the leave of this Court to float a fresh advertisement after cancelling the earlier advertisement under Annexure-1. Mr. Palit, learned senior counsel further submitted that taking into consideration the allegations made and further keeping in view the note of dissent a decision has been taken by the Opposite Parties to cancel the recruitment process for

appointment to the post of reporters. He further submitted that enough justification has been given for cancellation of such recruitment process. Therefore, the writ application filed by the petitioners is devoid of merit and accordingly, the same should be dismissed.

40. Learned senior counsel appearing for the Opposite Party No.1 did not controvert the factual aspect much in course of his argument, however, by referring to the note of dissent dated 29.08.2021, he submitted that a decision has been taken keeping in view the sanctity and fairness of the recruitment process to cancel the recruitment test. In course of his argument, he did not assail the recruit process up to final publication of the selected candidates and he also did not submit Rules, 1983 has been violated in any manner. The entire focus of Mr Palit, learned senior counsel's argument was to defend the conduct of the Opposite Parties, in taking a decision to cancel the recruitment process and the entirely based on the note of dissent and the allegation made against the said recruitment process. However, Mr. Palit, learned senior counsel in course of his argument very fairly submitted that the copy of the so-called dissent is not available on record which fact is also evident from the record produced before this Court pursuant to the direction of this Court. He also did not dispute the memorandum dated 23.08.2021 of the Selection Board wherein the Examination Committee recommended the name of the petitioners in order of merit for appointment as reporters and accordingly, the Secretary, OLA had convened a meeting of the Selection Board. Of course, that meeting never took place and the same was being postponed from time to time. So far the factual aspects of the matter as argued by Mr. Palit, learned senior counsel is concerned, the same needs no elaborated discussion here as this Court has already elaborately discussed the entire note-sheet of the record which were placed before this Court.

41. Mr. Palit, learned senior counsel appearing for the Opposite Party No.1 assailed the prayer in W.P.(C) No.31988 of 2021 on the ground that mere placing/positioning of the name of the candidates in the select list does not confer a vested right to be appointed against said post. In the said context, he has referred to the judgment in the case of Shamkarsan Dash vrs. Union of India : reported in AIR 1991 SC 1612, State of Orissa and another vrs. Rajkishore Nanda and others : reported in AIR 2010 SC 2100, S.S. Bali and another vrs. State of Kerala and others : reported in (2009) 2 SCC 479, Union of India and others vrs. K.V. Vijeesh : reported in AIR 1996 SC 3031.

On perusal of such judgment, this Court is of the considered view that the law pronounced by Hon'ble Supreme Court in the aforesaid judgments are quite well settled and therefore, the same does not required any further discussion here.

42. Mr. Palit, learned senior counsel further took a plea that the writ petition is not maintainable on the ground (I) the same is premature as the selection process to the post of reporter is not over (II) no court can direct the authorities to execute the select list which has not been finalized by following the due process of selection and as per the governing rules.

43. While analyzing the said two grounds, this Court is of the considered view that it is true that the selection process is not yet over as the same is to be finalized by the Hon'ble Speaker in consultation with the Selection Board as per Rule 7(2) of the Rules 1983. However, in view of the settled position of law, this Court can always direct the authorities to expedite and to conclude the selection process in view of the fact that such selection process is a statutory one and the same has to be carried out by following the rules, 1983. Moreover, as a public body guided by the rule of law, the Opposite Parties cannot take the plea that there is no obligation to conclude the selection process within a stipulated period of time. Even otherwise also this Court on examination of records found that there are several posts of reporters which are lying vacant at the moment as a result of which the work of Legislative Assembly is likely to be affected adversely. Therefore, this Court in larger public interest have always issued a mandamus exercising of jurisdiction conferred under Article 226 to direct the authorities to conclude the selection process strictly in terms of rules governing such selection process. Therefore, such argument of Mr. Palit is bound to fail.

44. Next ground that has been taken by learned senior counsel for the Opposite Parties is that when statute/rules provides for a thing is to be done in a particular manner, the same should be done in that manner and no other manner. Such a principle of law is well recognized by a catena of judgments although he had specifically referred to the case of Ramchandra Keshave Adke (Dead) by Lts. And others vrs. Govind Joti Chavare and others : reported in (1973) 1 SCC 559. By referring to the aforesaid judgment Mr. Palit submitted that the process prescribed under Rule 7(2) of the recruitment rules having not yet been followed, it cannot be said that the process has attained finality. He further submitted that in view of such rule, the Hon'ble Speaker in consultation with the Selection Board has to finally approve the names of the selected candidates. The same having not been done yet, this Court cannot give a direction for appointment of the petitioners. He further submitted that final select list submitted by the Examination Committee has not been finally approved as required under Rule 7(2) of the Rules, 1983. Therefore, the right of the petitioners has not been crystallized so that they would pray for issuance of mandamus directing the Opposite Parties to appointment the petitioners against two posts of reporter.

45. Taking into consideration such argument advanced by learned senior counsel for the Opposite Party No.1, this Court is of the view that the appointment has to be made strictly in terms of Rules, 1983. Further on perusal of Rule 7(2), it appears that the Selection Board has not yet met to finalize the selection even one and accordingly, names of the petitioners have not been recommended by such Selection Board. Further on perusal of the record, it also appears that although the meeting was convened on several occasions, the same was postponed due to inconvenience of members of the Board.

46. Additionally, learned senior counsel appearing for the Opposite Parties argued that Article 14 and 16 of the Constitution of India mandates that the selection

process has to be conducted in a fair, transparent and accountable manner. Irregularities and illegalities of process of recruitment deprives the genuine candidates of an equal opportunity to participate in the recruitment process and to be appointed to the posts. Therefore, the same definitely affects the rights of the candidates as contained in Article 14 and 16 of the Constitution of India. Therefore, he submitted that sanctity of the recruitment process can never be compromised. In considering such argument of Mr. Palit, this Court has no other opinion that the argument advanced by Mr. Palit is based on facts or allegation of irregularities in the selection process and on pre-suppositions of a scenario that irregularities and illegalities have been committed in the recruitment process. This Court, on detailed analysis of facts as well as records found that there is no record to show that there exists any illegality or irregularity in the selection process. His entire argument on irregularity and illegality based on a note of dissent which was not even available on record and the same was never produced before this Court despite specific direction. Moreover, no attempt was ever made to conduct an enquiry in the matter. Therefore such a ground is not available to him to be taken in the facts and circumstances of the present case.

47. The last plank of argument of learned senior counsel appearing for the Opposite Party No.1 is that in view of the fact that the purity of the selection process to public posts as mandate under Section 16 of the Constitution of India cannot be compromised. Alternatively purity in the selection process discovered in the slightest manner the procedure is to be discarded and such post cannot be filled up by following a tainted process of selection. He further submitted that there is enough material on record to show that the selection process is tainted. This Court upon a careful consideration of the aforesaid contention of Mr. Palit is of the considered view that the proposition of law advanced by him is a settled position of law and the same cannot be denied. So far purity of examination process is concerned, the principle of law argued by Mr. Palit shall have application depending on the facts and circumstances of each case. So far the present case is concerned, the record does not reveal any irregularity or illegality on the contrary, a note of dissent has been referred to in the note-sheet whereas the said note of dissent was neither produced before this Court nor the same is available on record. Other than, such allegation, there is no materials which would impeach the fairness and the transparency of selection process which in fact was sought to be defended by filing the counter affidavit in W.P.(C) No.31988 of 2021 although a different counter affidavit has been filed in W.P.(C) No.6171 of 2022. On a careful and close scrutiny of the records as well as note-sheet this Court also observed that the recruitment process has been conducted by following the rules very meticulously and accordingly names were finally uploaded on 28.09.2021. The note of dissent which was discussed for the first time in November, 2022 is more than one year after the final select list was published.

48. In such view of the matter, this Court has no hesitation to come to a conclusion that the Opposite Parties have failed to produce any material to impeach fairness and impartiality of the selection process. However, while

observing so, this Court is also view that the recruitment process which was started pursuant to the advertisement under Annexure-1 is still incomplete as the requirement of Rule 7(2) of Rules, 1983 has not been completed. As such no mandamus could be issued at this juncture to give appointment to the petitioners.

49. In view of the aforesaid analysis of facts as well as law, this court is of the considered view that the Opposite Parties have failed to provide a valid justification to cancel the selection process on the ground of sanctity and fairness of such recruitment process. Moreover, the documents or the note of dissent basing on which such allegations were made have not yet seen the light of the day and the same was never produced before this Court despite specific direction by this Court. Therefore, this Court is well within its discretion to draw an interference that such a document never existed. Moreover, no steps whatsoever having been taken to conduct any sort for enquiry to find out the veracity of such allegation made by any of the unsuccessful candidates. As a result this Court has not hesitation to hold that the opposite parties have failed to provide any valid/ legal justification in coming to a conclusion to cancel the recruitment process after almost one and half years after the final select list was recommended by the Examination Committee. Accordingly, this Court directs the Opposite Party No.1 to immediately convene a meeting of the Selection Board in terms of Rule 7(2) of Rules, 1983. The names of the selected candidates which were up-loaded in the website of OLA dated 28.09.2021 be placed before such Selection Board. Thereafter, necessary action be taken by the Opposite Party No.1 pursuant to the decision of the Selection Board and the Hon'ble Speaker within a period of eight weeks from the date of communication of a copy of this judgment. It is further made clear that in the event the Selection Board gives its concurrence to the list of selected candidates, then the Opposite Parties shall do well to giving the petitioners appointment against the posts of reporters pursuant to the advertisement under Annexure-1.

50. In view of the aforesaid judgment passed in W.P.(C) No.31988 of 2021, the writ application filed by Satya Narayan Maharana bearing W.P.(C) No.6171 of 2022 which was heard analogously along with the present writ application is devoid of merit and accordingly, the same hereby dismissed.

51. Accordingly, the writ petition bearing W.P.(C) No.31988 of 2021 stand allowed. However, there shall be no order as to cost.

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