
(2006) 05 AHC CK 0111

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No"s. 23854, 23939, 23940, 24090 and 25817 of 2003, 36367, 44012 and 45185 of 2004 and 164 of 2005

Vidyadhiraj Pandey and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 25-05-2006

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2006) 6 AWC 5822

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Advocate : T.P. Singh, Vikas Srivastava, Amar Nath, Anurag Pathak and Alpana Dwivedi, for the Appellant; Pradeep Kumar, Ravi Kant, M.D. Singh "Shekhar", Somesh Khare, R.D. Khare and K.R. Sirohi and S.C., for the Respondent

Judgement

Arun Tandon, J.—Heard Sri T. P. Singh Senior Advocate, assisted by Sri Amar Nath, Sri Anurag Pathak, and Alpana Dwivedi on behalf of the petitioners, Sri Pradeep Kumar has been heard on behalf of the High Court as well as judicial officer, Sri Ravi Kant Senior Advocate, Sri M.D. Singh Shekhar and Sri Somesh Khare Advocate have been heard on behalf of the respondent candidates.

2. These 9 writ petitions have been filed for quashing the selections made on the post of Stenographers and Clerks in the Judgeship of Kaushambi in pursuance of the advertisement dated 28.5.2003. Some of the petitioners claim to have been working on ad hoc basis against the vacancy which were advertised and, therefore, pray that the order, terminating their ad hoc appointments, may also be set aside and they may be permitted to continue on their respective posts.

3. The facts relevant for the purposes of the present writ petition are as follows:

An advertisement dated 28.5.2003 was published by the District Judge, Kaushambi inviting applications for Class-III and Class-IV posts (reference-Annexure-CA-4 to the counter affidavit filed on behalf of the respondents in Writ

Petition No. 164 of 2005). Under the advertisement 4 vacancies of Stenographers and 19 vacancies of Clerks were advertised amongst other. It was specifically mentioned that the recruitment shall be regulated by the Uttar Pradesh Subordinate Civil Court Ministerial Establishment Rules, 1947. The essential qualifications for the post of Stenographers were specified as follows:

- a) Intermediate or equivalent examination;
- b) Hindi Shorthand speed 100 words per minute and Hindi Typing speed 35 words per minute. English Shorthand and English Typing knowledge will be additional qualification.
- c) Diploma or Certificate in Hindi Shorthand and Hindi Typing from a recognized institution.

4. For the post of Clerks, the minimum qualification prescribed under the advertisement was Intermediate or equivalent examination. Hindi and English typing knowledge will be additional qualification.

5. In respect of the aforesaid two posts, which were mentioned at serial No. 1 and 2 of the advertisement, the procedure for selection was notified in paragraph 4 of the advertisement, which reads as follows:

4- ?ekad 01 i 02 ds inksa ds fy, fuEufyf[kr fo"k;ksa@,oa iz"u i=ksa dh ,d izfr;ksfxrk yh tk,xh%&

?d?fyf[kr ijh{kk &

?1? ljj izkys[k ?M?kQfVaXk? fgUnh esa 50 vad

?2? fuca/k vkSj lkj ys[ku] fgUnh esa 50 vad

?3? lry izysd ?M?kQfVax? vaxzsth esa 50 vad

?4? lkekU; Kku 50 vad

?[k? fgUnh Vad.k ,oa vk"qys[ku ijh{kk&

;g ijh{kk dsoy ?ekad 01 ij vafdr vk"qfyfid in ds vH;fFkZ;ksa ds fy, gksxh A UkksV % 1- bl ijh{kk ds fy, vH;fFkZ;ksa dks Vkbfiar e"kh Lo;a ykuh gksxh A

2- ?ekad 02 ij vafdr fyfid in ds vH;kfFkZ;ksa ds fy, vfrfjDr ;ksX;rk gsrq fgUnh@vaxzsth ds Vkbfiar fd ijh{kk vyx ls yh tk,xh A**

6. In accordance with the advertisement so published, the petitioners along with the respondents applied. The petitioners as well as the respondents participated in the written examination. With regards to the posts of Stenographers, shorthand and type test were taken separately.

7. A select list of candidates, in pursuance of the said examinations, is said to have been notified on the notice board of the Judgeship on 29th September, 2004. On the basis of the select list so notified, appointments have been offered

to the selected candidates. Four candidates have been appointed as Stenographers, who have been impleaded as Respondent Nos. 5 to 8 in the present writ petition. Respondent Nos. 9 to 30 except Respondent No. 27 and 28 (20 in all) have been appointed as Clerks in the Judgeship.

8. The aforesaid selections have been challenged on various grounds as mentioned in the aforesaid writ petitions. However, having regard to the seriousness of the allegations, as stated in the aforesaid writ petitions, this Court thought it proper that the original records pertaining to the selections themselves may be examined by the Court itself. Accordingly, under order of this Court dated 1st March, 2006, the District Judge Kaushambi was directed to produce the entire records pertaining to the selections held for the posts in question.

9. On 9th March, 2006, this Court, after calling for the answer sheets of selected Stenographers and few other candidates, examined the same and noticed a series of discrepancies which were serious in nature and therefore required the counsel for the District Judge, Kaushambi to ensure presence of one of the Member of the Selection Committee, who may be in active service, for explaining the discrepancies, which were noticed by this Court and recorded in detail in its order dated 9th March, 2006.

10. Sri V.K. Agrawal, Additional District Judge, who was one of the Member of the Selection Committee, accordingly appeared before this Court on 23rd March, 2006. He was unable to explain the discrepancies. This Court left with no alternative, required the then District Judge, Kaushambi Sri C.B.D. Mishra to remain present before this Court on 4th April, 2006 for explaining the aforesaid aspects. The present District Judge Kaushambi was also required to take appropriate action in accordance with law qua the appointments in dispute.

11. On 4th April, 2006 Sri Pradeep Kumar Advocate, counsel for the District Judge Kaushambi made a statement that information of the pendency of the present writ proceedings has been communicated to all the incumbents appointed in pursuance of the aforesaid selections. Sri M.D. Singh "Shekhar" Advocate thereafter put in appearance on behalf of the selected candidates.

12. Sri C.B.D. Mishra, the then District Judge Kaushambi who was present on 4.4.2006, made a statement that he has not examined any of the answer sheets and therefore he is not in a position to explain the discrepancies noticed by this Court. He stated that it would be appropriate that Chairman of the Selection Committee may be asked to explain the aforesaid. It may be recorded that on the said date Sri Vijay Kumar Agarwal, who was one of the member of the Selection Committee, filed an affidavit categorically stating that the entire records pertaining to the selections, after the written examination, were kept under the direction of the District Judge at his residence, till the declaration of the result i.e. 29th September, 2004.

13. In these circumstances this Court by means of order dated 04th April, 2006 restrained the further functioning of the selected candidates until further orders

of the Court.

14. The interim order so passed by this Court was challenged before the Division Bench of this Court by way of Special Appeal No. 364 of 2006 and the Division Bench by means of its order dated 19th April, 2006 set aside the part of the order dated 04th April, 2006 (in so far as it restrained the working of the respondents). However, it was directed that the matter may be heard and decided by the Single Judge with liberty to pass fresh orders. It was also specifically noticed in the order of Division Bench that "by this time the selected candidates have had long notice and their counsels are thoroughly prepared with their cases".

15. When the matter came up before this Court again on 24.4.2006, counsel for the respondents came up with a plea that he may be granted three weeks" time to file reply to contents of the writ petition. The application was considered by this Court in light of the observations made by the Division Bench in Special Appeal No. 364 of 2006 (referred to above). The respondents were, however, granted time to file counter affidavit by 27th April, 2006, which was fixed as the date for disposal of the writ petition. It was further specifically provided that all the original records pertaining to the selections in question shall be available for appreciation in the Court on the next date fixed. The selected candidates, who were represented by Sri M.D. Singh "Shekhar", were also specifically afforded an opportunity to examine the answer sheet in original on the next date fixed, in the Court itself.

16. On 27th April, 2006, none of the persons, who have been appointed as Stenographers namely respondent Nos. 5 to 8, appeared nor they examined the answer sheets despite the opportunity. Accordingly, the Court permitted their counsel Sri M.D. Singh "Shekhar" to look into the answer sheets of the selected candidates. This Court also required the Personal Assistant attached to trace out the answer sheets of all the selected candidates for the post of Clerks as well as to select some other answer sheets on random basis.

17. On the said date an application for impleadment was filed by one Sri Rajni Kant Srivastava, which was allowed and he was impleaded as Respondent No. 30. The District Judge Kaushambi was granted time to produce the original cross list prepared in respect of the selections. For the said purpose the matter was adjourned to the next date.

18. On 28th April 2006, 1st May 2006, 3rd May 2006, 4th May 2006, 5th May 2006 and 8th May 2006 this Court, with the help of the counsels appearing for the parties, examined the answer sheets of all the selected candidates (Stenographers as well as Clerks) as also the answer sheets of 11 candidates, which had been taken out on random basis from the original records. The various discrepancies, which were noticed in the answer sheets, have already been recorded in the order dated 28th April 2006 and dated 8th May 2006, in so far as it pertains to the post of Stenographers.

19. With regards to the answer sheets, which have been examined qua the post of Clerk, detail facts shall be referred to at the appropriate stage.

20. On 10th May 2006 submissions were heard on behalf of the parties. Written arguments have been filed on behalf of the selected candidates by Sri Ravi Kant Senior Advocate, assisted by Sri Amit Krishna as well as Sri M.D. Singh "Shekhar". With reference to the discrepancies, which have been noticed by this Court and which shall be detailed herein after, neither the counsel for the District Judge nor the counsel representing for the selected candidates were able to provide any assistance. It is specifically recorded that counsel appearing for the respondents have specifically stated that records have already been examined by this Court and therefore the facts, which are apparent on record, cannot be explained. However, it was contended on their behalf that this Court in exercise of power under Article 226 of the Constitution of India may not cancel the entire selection inasmuch as the selectees who have been beneficiary of irregularities and illegalities can be weeded out and the selection of the remaining candidates can be saved. In that regard reliance has been placed upon the judgment of the Hon"ble Supreme Court in the case of Union of India (UOI) and Others Vs. Rajesh P.U., Puthuvalnikathu and Another, It is further contended that this Court may not travel beyond the pleadings in the present writ petition and, therefore, may examine the merit of the writ petition including the selections held only with reference to the allegations made in the writ petition. It is also contended that this Court cannot act as an expert body and therefore should not re-evaluate the answers as given by the candidates qua the selections in question.

21. Lastly it has been contended that the petitioners themselves, having been inducted in the service through back door without following the procedure known to law, are not entitled to any equitable relief under Article 226 of the Constitution of India. More so, in the facts of the present case where they had participated in the selection alongwith the selected candidates but could not compete.

22. Since this Court has already examined the answer sheets of all the selected candidates in the presence of their counsels and has noticed irregularities, which could not be explained, and this Court, being Court of record as well as the Court which exercises power of superintendence under Article 227 of the Constitution of India upon subordinate judiciary, without confining itself to the pleadings of the parties, feels it just and proper to record the discrepancies as are writ large on the record of the selection proceedings.

23. A copy of the question paper in respect of written examination held (which was common for both the posts) was produced before this Court by the Counsel for the District Judge. The question paper is in four parts, Khand 1, 2, 3 and 4, each Khand is of maximum 50 marks, total marks being 200. Khand-1 comprises of three questions. 1-A, 1-B and 1-C. Question 1-A is of 20 marks, question 1-B is of 20 marks while 1-C is of 10 marks. Khand-2 consist of two questions. Question No. 2 and 3-A & B. Question No. 2 is of 25 marks. Question No. 3-A is

of 20 marks and question No. 3-B is of 5 marks. Khand-3 consist of three questions 4-A & B, 5 and 6. 4-A is of 20 marks, 4-B is of 5 marks. Question No. 5 is of 15 marks. Question No. 6 is of 10 marks. Last Khand-4 consist of objective type questions, total number of question being 25. Question No. 6 and 9 have four sub parts each. Each question is of 2 marks.

24. For the purposes of this case, the controversy in respect of the selection in question is being divided in following two broad head:

- (a) That pertaining to the post of Stenographers, and
- (b) Clerks.

Discrepancies qua the posts of Stenographers

25. This Court on 9.3.2006, 28.4.2006 and 1.5.2006 had recorded the various discrepancies, which have been noticed in respect of the answer sheets of the selected candidates as also those pertaining to candidates with Roll Nos. 240 and 168. The last two answer sheets were randomly selected for examination from the records of the entire selection.

(a) General discrepancies noticed in all the aforesaid answer sheets: -

(i) Under the terms of the advertisement no marks were required to be awarded in respect of shorthand and typing test. The candidates were required to achieve the prescribed minimum speed of 100 words per minute in Hindi Shorthand and a minimum speed of 35 words per minute in Hindi Typing. The original shorthand sheets and the type sheets of the aforesaid candidates do not record as to what exact speed has been achieved by the selected candidates in respect of Hindi Shorthand/Hindi Typing. At this stage the Court may reproduce the known procedure for evaluation of shorthand answer books, which is as follows:

"Procedure for Evaluation of Short hand Answerbooks Time for Dictation: Speed: w.p.m. 1. Total correct words typed 2. (-) Minus total mistakes 3. Divided by time (No. of minutes for dictation) Mistakes 1. Full stop, Comma and other punctuation marks - Half mistake 2. Wrong spacing - Half mistake 3. Para - Half mistake 4. Capital letters - Half mistake 5. Spelling mistake - Full mistake 6. Over typing - Full mistake 7. Shorthand writing for every wrong outline - Full mistake

26. The Chairman of the Selection Committee Sri Krishan Chandra (since retired) appeared before the Court and admitted that only marks have been awarded on the shorthand sheets as well as on typing sheets. Roll No. 232 has been awarded 18 marks for shorthand and 19 marks for typing. Roll No. 162 has been awarded 20 marks for shorthand and 20 marks for typing. Roll No. 311 has been awarded 16 marks for shorthand and 15 marks for typing. Roll No. 133 has been awarded 18 marks for shorthand and 18 marks for typing. Roll No. 168 has been awarded 17 marks for shorthand and 17 marks for typing. Roll No. 240 has been awarded 16 marks for shorthand and 17 marks for typing. The maximum marks in respect

of the shorthand and typing had been fixed by the Selection Committee as 50.

27. In none of the answer sheets pertaining to shorthand and typing any mistake has been noticed nor the speed achieved by the candidates has been calculated). This Court, therefore, insisted upon the Chairman of the Selection Committee to explain as to how the marks awarded, in respect of shorthand and typing, to the selected candidates reflect their speed.

28. Sri Krishan Chandra, the then Chairman of the Selection Committee, after making certain calculation on piece of paper (which has been kept on record of the present writ petition) informed the Court that the typing and the shorthand speed achieved by the aforesaid candidates was as follows:

Roll No.	Typing Speed (w.p.m.)	Shorthand Speed (w.p.m.)
240	60	85
168	50	75
232	40	70
162	60	85
311	40	55
133	45	60

29. It is apparent that none of the selected candidate could achieve the minimum speed prescribed for shorthand even on the calculation done by the Chairman of the Selection Committee. On being asked by the Court as to how the aforesaid calculation has been done and whether he was justified in mentioning the speed, as recorded herein above qua the selected candidates, without noticing the full mistakes and half mistakes, as are necessarily to be looked into for the purposes of working out the speed, Sri Krishan Chandra, Chairman of the Selection Committee made a statement that there has been an error and the speed of the selected candidates cannot be worked out without noticing the mistakes committed in respect of the shorthand test and typing test. He also requested the Court to pardon him for the mistake committed.

30. It is, therefore, established that the process adopted for judging the speed of the selected candidates by the respondent officers qua shorthand and type test is only a farce. The speed of the candidates can not be ascertained unless the method fixed/settled for such calculation is adopted. It is, therefore, held that the respondent authorities have not calculated the speed of the selected candidates in respect of the type and shorthand in Hindi nor they are in a position to establish that the selected candidates possessed the prescribed minimum speed as per the advertisement.

(ii) From the advertisement it is apparently clear that the selections for the post of Stenographer was to be held on the basis of merit secured in the written examination maximum marks where of had been prescribed as 200. However selected candidates were required to achieve the minimum speed in Shorthand/Typing in the test to be held for the said purpose before they could be offered such appointment. The advertisement did not contemplate any marks being fixed for Shorthand/Typing test or for the merit list being prepared with reference to the total marks obtained in the written test as well as in the Shorthand/typing test. The procedure adopted in the facts and circumstances of the present case for appointment on the post of Stenographer whereby merit has been determined on the basis of the marks obtained in the written test as well as

Shorthand/Typing test (which according to the respondent was of maximum 50 marks each) is de-hors the terms and conditions mentioned in the advertisement.

(b) Individual Discrepancies:

31. Individual discrepancies, which were noticed by this Court and some of which have been recorded in the orders dated 9.3.2006, dated 28.04.2006 and dated 01.05.2006 in the presence of the Chairman of the Selection Committee/District Judge/the Counsel for the respondents, may also be reproduced.

Roll No. 162:

(i) Answers to question Nos. 5 and 6 both have been crossed, yet marks awarded are 7 and 5 respectively.

(ii) The letter written makes absolutely no sense.

(iii) The answer sheet records 40/100 marks on the first page, while two lines have been drawn across the shorthand transcript, which apparently suggest that the entire script has been scored out, yet 20 out of 50 marks have been awarded for shorthand, Similarly in respect of typing 20 out of 50 marks have been awarded, without any reason being discernible.

Roll No. 0133-

(i) Following grand totals have been recorded on the first page of the answer sheet:

02/100, 36/100, 64+46/200, 110/200 and 146/300.

First two totals have been scored out. No explanation for the aforesaid could be furnished by the Chairman of the Selection Committee or by the District Judge.

(ii) Question No. 4-A has been crossed and 0 mark awarded. However, for question No. 4-B initially 3 marks were awarded, thereafter 6 marks have been awarded, when the maximum marks are 5 only. For question No. 2 initially only 4 marks were awarded. Subsequently it has been scored out and 10 marks have been recorded.

(iii) In respect of question Nos. 1-A, 1-B and 3-A marks are in two digits namely 11, 11 and 12. Both the digits in respect of all the aforesaid three answers are in different ink. Explanation furnished by the Chairman of the Selection Committee is that probably the ink of the pen had dried after recording of first digit and therefore in respect of each of the answers the second digits are in different ink.

(iv) For shorthand 18 marks have been awarded and for typing similarly 18 marks have been awarded. On tabulation of individual marks qua written examination Sri Pradeep Kumar, counsel for the District Judge stated that the total works out to 101/200, while marks recorded on the first page of answer sheet are 110/200. As a consequent thereto the total marks awarded out of 300 would come to only 137, while the merit of the candidate has been determined

on the basis of grand total of 146/300.

32. With reference to the shorthand answer sheet and typing answer sheet, the Chairman of the Selection Committee stated that it appears that only one mark each was awarded and therefore the grand total recorded on the first page of the answer sheet was 02/100, which has been scored out. Subsequently figure 8 has been added to both the digits so as to read as 18 each. The total, therefore, subsequently recorded is 36/100.

Roll No. 232:

(i) Corrections have been made in respect of question Nos. 6, 7, 8, 9, 11-D, 14, 16, 17, 18, 20, 21, 23, 24 and 25. The corrections are apparently in different handwriting with different pen. The Chairman of the Selection Committee was specifically asked to look into the aforesaid aspect in the open Court. He categorically admitted that the corrections are in different handwriting as noticed by this Court.

(ii) Total marks in respect of the written examination worked out to 117/200, while marks recorded on the first page are 100/200.

(iii) Shorthand answer sheet has been written with the help of pencil. Marks awarded are 18 without noticing any mistake whatsoever. Marks awarded in respect of typing are 19.

Roll No. 311:

(i) There are five grand totals recorded on the first page of the answer sheet namely 43.5/200, 00/100, 31/100, 99/20.0 and 130/300. The first two totals have been scored out.

(ii) The candidate has disclosed his identity in full in his answer to question No. 5. His answer sheet/therefore, could not have been examined and he was to be disqualified. Not only the answer sheet has been examined, he has also been selected.

(iii) In respect of question Nos. 5 and 6 initially 0 marks are recorded, subsequently figure 1 has been added in different ink before the figure 0, so as to read as 10 respectively. Both the letters make absolutely no sense.

33. On being confronted, the Chairman of the Selection Committee made a statement that since the candidate has disclosed his identity he was to be disqualified and submits that a mistake has been committed for which he may be pardoned. He further admitted that figure 1 added in front of figure 0 is in different ink. He further stated that he cannot explain as to how total marks 43.5 were initially recorded on the first page of the answer sheet. Similarly, he cannot explain as to how 00/100 have been initially recorded in respect of shorthand and type text.

34. It appears that originally only 0 marks were awarded in respect of shorthand

and type text, however, subsequently figure 5 was added in front of figure 0 and thereafter 16 and 15 marks were recorded in respect of shorthand and type test respectively after putting a line of oblique (/), so as to suggest that 16 and 15 marks have been awarded out of 50 marks. In respect of shorthand absolutely no mistakes whatsoever have been noticed.

General Category (no. 1 in waiting list) Roll No. 4548.

(i) There are five grand totals recorded on the first page of answer sheet namely 52/200, 15/100, 100/200, 35/100 and 135/300. The first two totals have been scored out.

(ii) In respect of question Nos. 1, 1-B and 1-C the marks awarded are in two digits i.e. 14, 12 and 12. Both the digits are in different ink. It appears that figure 1 has subsequently been added in respect of all the three answers. Maximum marks for question 1-C are 10 only.

(iii) In respect of shorthand initially marks awarded were 8, thereafter figure 1 added so as to read 18. Again one mark was deducted and figure now read as 17. In respect of typing similarly 17 marks have been awarded and it appears that figure 1 has subsequently been added. The Chairman of the Selection Committee could not explain the marks, as have been noticed on the answer sheet and has shown his helplessness in the matter.

Roll No. 240:

(i) Grand total recorded on the first page of the answer sheet are 56.5/200, 100/200, 33/100 and 133/300. The first total has been scored out, while there is overwriting in respect of the third total.

(ii) Marks given in respect of answers of first four questions namely 1-A, 1-B, 1-C and question No. 2 are in two digits namely 14, 12, 12 and 14. Both the figures are in different handwriting and ink. In respect of question No. 3-A marks recorded are 1, 2 and then 6, out of which 1 and 2 have been scored out. Maximum marks provided for question No. 1-C are 10 only, while marks awarded are 14.

(iii) In respect of shorthand originally marks awarded appear to be 6, thereafter figure 1 has been added. Similarly, in respect of type test original marks awarded were 07, which have been scored out and now marks awarded are 17. The original total works out to 13/100, which is recorded on the first page of the answer sheet, subsequently corrected to read as 33/100. On being confronted with the aforesaid, the Chairman of the Selection Committee as well as District Judge could not explain the discrepancies and again asked for indulgence of the Court to pardon for the mistakes.

Discrepancies relating to the cadre of Clerk:

35. As already recorded above answer sheets of all the selected candidates of various categories as Clerk have been examined by the Court in the presence of

the Counsel for the Selected Candidates and the District Judge. The counsels were afforded an opportunity to look into the answer sheets and to explain the discrepancies which have been noticed. The Respondent Nos. 9 to 18 have been appointed as Clerk under the General Category, Respondent Nos. 19 to 23 have been appointed in the Reserved Category of Other Backward Classes while Respondent Nos. 24 to 26 and No. 29 have been selected and appointed under the category of Scheduled Caste. Respondent No. 30 claims to have been appointed in excess of the advertised vacancies, his case shall be dealt with separately.

36. From the order declaring the select list issued by the District Judge, Kaushambi dated 29.9.2004 the names of the selected candidates, the category under which they have been appointed along with the wait list prepared in respect of the respective categories with reference to the marks recorded on the answer sheets of the candidate concerned, may be tabulated hereunder:

Chayanit Evam Pratiksharat Lipikon Ki Soochi Select List (General Category)

No.	Roll	No.	Name	Resp.	Category	Marks	No.	Sl. obtained
1413		Ashish		Pandey	9	Unreserved		1. 150
1639	Chandra	10		Unreserved	149	Prakash		2. Ashthana
4086		Ram		Chandra	11	Unreserved		3. 148
3909		Rajesh		Singh	12	Unreserved		4. 147
4555	Ravindra	13		Unreserved	146	Kumar		5. Singh
5132	Sushil		Kumar	14	Unreserved		145	6. Pandey
4290		Rajeev		15	Unreserved		144	7. Agarwal
1434		Bhuvneshwar		16	Unreserved		143	8. Tewari
0770	Abhay		Pratap	17	Unreserved		142	9. Singh
4454	Ramesh	18		Unreserved	141	Chandra		10. Tripathi

Select List (O.B.C. Category)

No.	Roll	No.	Name	Resp.	Category	Marks	No.	Sl. obtained
								11.

5908	Vinay	Kumar	19	O.B.C.	140	Prajapati	12.
5619	Shahnaz	20		O.B.C.	135	Ahmad	13.
3122	Afzal	Ansari	21		O.B.C.		134
5115	Sanjay	Kumar	22	O.B.C.	132	Yadav	14.
3763	Pradeep	23	O.B.C.	131	Kumar	Yadav	15.

Select		List		(S.C./S.T.		Category)		
No.	Roll	No.	Name	Resp.	Category	Marks	No.	Sl. obtained
2895		Manoj		SC/ST	130		Kanaujia	16. 24
0726		Ajay	Kumar	SC/ST	129		Chaudhary	17. 25
1227		Arun	Kumar	SC/ST			127	18. 26
3383		Om	Prakash	SC/ST	125		Sonkar	19. 29

Wait		List		(General		Category)		Sl.
No.	Roll	No.	Name	Resp.	Category	Marks	No.	obtained
4548	Rajni	Kant	--	Unreserved	139	Srivastava	20.	
2432	Shusnood	--	Unreserved	138	Ahmad	21.		
2032	Gaurav	Kumar	--	Unreserved	137	1/2	22.	
3492	Pavan	--	Unreserved	137	Srivastava	23.		
1372	Arvindjeet	Singh	--	Unreserved	136	24.		
0792	Abhikshek	--	Unreserved	135	Tripathi	25.		
6127	Virendra	Kumar	--	Unreserved	134	26.		
6261	Akhilesh	--	Unreserved	133	Srivastava	27.		
3560	Prakash	Chand	--	Unreserved	132	Shukla	28.	
							29.	

5875	Vivek	Gaur	--	Unreserved	131
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Wait		List		(O.B.C.		Category)	
No.	Roll	No.	Name	Resp.	Category	Marks	No. obtained
5319		Sushma	Yadav	--	O.B.C.	130	30.
3347		Neeraj	Kumar	--	O.B.C.		31.
4309		Navindra	Pratap	--	O.B.C.	128	32.
2118		Gyanendra	--	O.B.C.	127		33.
0499		Ashish	Kumar	--	O.B.C.		34.
4498		Ramu	Bhartiya	--	O.B.C.		35.

Wait		List		(S.C./S.T.		Category)	
No.	Roll	No.	Name	Resp.	Category	Marks	No. obtained
3616		Prashan	Kumar	--	S.C./S.T.	118	36.
5806		Udai	Raj	--	S.C/S.T		37.
5869		Virendra	Kumar	--	S.C./S.T.	116	38.

General Irregularity applicable to the selection for the post of Clerks:

37. Under note 2 to the advertisement it was provided that knowledge of Hindi/ English typing shall be additional qualification for which separate typing test shall be held. From the records it is established that no type test (English/Hindi) was conducted for the post of Clerk and therefore no effort has been made to test the additional qualification as per the terms of the advertisement. The selections are therefore not in accordance with terms/conditions of advertisement.

Individual Irregularities found by this Court in respect of Answer Sheets of the Selected Candidates:

Roll No. 1413- Ashish Pandey (Total marks obtained 150):

Nil.

Roll No. 1639- Chandra Prakash Asthana (Total marks obtained 149):

Nil.

Roll No. 4086- Ram Chandra (Total marks obtained 148):

(i) Answers to question No. 3, 5, 8, 9 (wrongly numbered as 12), 13 and 14 are incorrect while question No. 24 has not been answered. Still the candidate has been awarded 50 out of 50 marks in respect of Khand-4 (Objective Questions). If the incorrect answers are deducted as noticed by the Court, his total would work out to only

(ii) Maximum marks provided for question No. 1-C are only 10. The candidate has been awarded 12 marks in respect of the same.

Roll No. 3909- Rajesh Singh (Total marks obtained 147):

(i) Apparently the answers given to the objective questions are in two different hand writing. The correct answers are in a different hand writing written after scoring out the earlier answers which were incorrect.

(ii) Maximum marks for the question 1-C are 10 while the marks awarded qua to the said answer are 12.

(iii) Hand writing in the last answer of the answer sheets i.e. 1-A appears to be in different hand writing when compared to the answers which have been earlier given to the same question and has been scored out.

Roll No. 4555 Ravindra Kumar Singh (Total marks obtained 146):

Nil.

Roll No. 5132- Sushil Kumar Pandey (Total marks obtained 145):

(i) Question No. 5 of Khand-4 has not been answered, yet full 50 marks have been awarded.

(ii) The candidate has disclosed names at two places of his answer sheets. According to the statement made by the Chairman of the Committee, his answer sheet was not liable to be examined because of the disclosure of the identity in the answer sheet.

Roll No. 4290 Raleev Agrawal (Total marks obtained 144):

(i) Maximum marks awarded in respect of question 1-C are 10 only while marks awarded are 12.

(ii) In respect of objective questions Khand-4, question No. 2, 5, 6-C, 9 11-C, 11-D, 15, 19, 20, 21, 22, 24 and 25 have not been answered i.e. 13 questions. Yet the total marks awarded in respect of same are 50 (i.e. maximum). If the marks of the aforesaid questions, which have not been answered, are excluded, the marks would work out to 24 only.

(iii) Maximum marks provided for question No. 4-B were 5 only, however the

total marks awarded on the answer sheets are 8. Similarly in respect of question 5 the letter written is incomplete, yet 13 marks have been awarded, 3 marks have been added subsequently. On being asked it has been informed by the Counsel for the District Judge that revaluation of the answer sheet must have been done.

Roll No. 4134- Bhuvneshwar Tewari (Total marks obtained 143):

(i) For question 1-C maximum marks are 10, while marks awarded in the answer sheets are 15.

(ii) Last answer of the answer sheet appears to be in different hand-writing when compared to the writing in respect of other answers.

Roll No. 0770- Abhay Pratap Singh (Total marks obtained 142):

(i) For question 1-C maximum marks are 10, while marks awarded in the answer sheets are 15.

(ii) The candidate has disclosed his name in his answer to question No. 5, although the answer has been scored out, the name is clearly legible. His answer sheet could not have been examined.

Roll No. 4454- Ramesh Chandra Tripathi (Total marks obtained 141):

(i) In respect of objective question of Khand-4, question No. 5 has not been answered while question No. 14, 15 and 25 have been wrongly answered, yet full marks i.e. 50 have been awarded in respect of said question.

(ii) Question No. 1-C is of 10 marks while marks awarded is 15.

Roll No. 5908- Vinay Kumar Prajapati (Total marks obtained 140):

(i) In respect of question No. 1-B maximum marks are 15. The answer given by the candidate runs into two pages and at both the pages 15 marks separately have been awarded i.e. 30 marks. These 30 marks have been computed for working out the total marks obtained by the candidate.

(ii) Question No. 1-C is of 10 marks while marks awarded are 15.

(iii) In respect of objective questions of Khand-IV, question No. 4 and 7 have not been answered. Question No. 10 has been answered at two places. Originally the marks awarded in respect of said question were 50 which have been scored out and the marks now recorded are 35 only. The basis for 35 marks being awarded could not be explained by any of the counsels.

(iv) In respect of question No. 2, 5 marks have been awarded on page 1 while 5 marks have been awarded on the next page. Both the marks have been added for computing the grand total.

Roll No. 5619 Shahnaz Ahmad (Total marks obtained 135) :

(i) In respect of question 1-A original marks awarded were 15. Subsequently 5 marks have been added, the total thereafter recorded is 20. Explanation given is that revaluation has been done.

(ii) In respect of question No. 1-B total marks originally awarded is 15, subsequently 5 marks have been added, the total marks now recorded are 20. Explanation given is that revaluation has been done.

(iii) In respect of objective question of Khand-4, answer to question No. 2, 3, 4, 5, 5-A, 5-B 15, 17 and 24 are incorrect. While question No. 10-C has not been answered. Total marks awarded in respect of said Khand-4 are 50 (i.e. maximum). When as a matter of fact if the incorrect answers are scored out the total marks would work out to 37 Vz only.

(iv) There has been addition of marks subsequently which according to the counsel for the respondent is because of revaluation.

(v) The last answer bears no question No. and in respect whereof counsel for the petitioners could not explain to which question it relates. Initially 10 marks were awarded thereafter 2 1/2 have been added, the total now recorded is 12 1/2.

Roll No. 3122- Afzal Ansari (Total marks obtained 134) :

(i) Candidate has answered all 25 answers of Khand-4. For last 5 question, marks have not been awarded. The answer given to all the question except for question No. 24 are correct, yet the total marks awarded to the candidate are 40 only. When in fact he should have been awarded 48 marks.

(ii) Question No. 1-C is of 10 marks while marks awarded are 15.

(iii) Zero marks have been awarded in respect of question No. 6 when the letter written by the candidate is apparently correct.

Roll No. 5115-Sanjay Kumar Yadav (Total marks obtained 132):

(i) Corrections have been made in respect of question Nos. 7, 8, 9, 12, 19, 20, 21 and 24, which appear to be in different handwriting and with different ink.

(ii) In respect of English language (Khand-3) three answers have been written by the candidate, which have been scored out, subsequently all the three questions have been answered as the last answers. On comparison of handwriting of the answers given subsequently viz-a-viz the handwriting of the answers given in the earlier part of the answer sheet, which have been scored out, this Court has no hesitation to record that both are in different handwriting. Similarly, the last answer given in the answer sheet in Hindi is also in different handwriting when compared with the handwriting of the earlier answers.

Roll No. 3763- Pradeep Kumar Yadav (Total marks obtained 131):

(i) Question No. 4-A is in two different hand-writings.

(ii) In respect of question No. 6 certain interpolations have been made by different hand-writing and different ink.

Roll No. 2895- Manoj Kanaujia (Total marks obtained 130):

(i) Cover of the answer sheet records three grand total, (a) 29 1/2 out of 200, (b) 145 out of 200 and (c) 130 out of 200. The first two grand totals have been scored out

(ii) In respect of question No. 1 and 1-B, 5 marks have been added subsequently to the original marks 10. The total now recorded are 15 each.

(iii) In respect of question No. 1-C, 5 marks were added to the original marks 10. Total has been recorded as 15 then scored out and again recorded as 15 while the maximum marks prescribed for the said question are only 10.

(iv) In respect of objective Khand-4 answers to question No. 1, 2, 3, 4, 5, 6-C, 8, 9, 14, 17, 18, 19 and 24 are incorrect. If the incorrect answers are excluded the marks to which the candidate is entitle would come to 24 only. On the answer sheet originally the marks awarded were 50 which has been scored out and total marks now recorded are 45.

(v) In respect of question No. 2 the marks awarded are 2, 20 and 10. First two marks have been scored out. In respect of question No. 4, marks awarded initially were 10 which has been scored out and now the marks awarded are 5. Explanation in that regard as furnished by the counsel for the respondents is that revaluation has been done.

Roll No. 0726- Ajay Kumar Chowdhary (Total marks obtained 129):

(i) On first page of the answer sheet the marks recorded are 125 out of 200 which have been scored out and the marks thereafter recorded are 129 out of 200. In respect of Khand-4 petitioner has given correct answer to ail the questions. He was originally awarded 50 marks which has been scored out and total marks now recorded are 40 only. No explanation could be furnished by the counsel for the respondents for the reduction of marks.

(ii) In respect of question No. 1-C original marks awarded to the candidate were 15 which have been scored out and the marks now recorded are 10. Explanation is that re-evaluation has been done.

(iii) In respect of question No. 4-A marks awarded are 10 which have been scored out no other marks have been awarded in respect thereto.

(iv) In respect of question No. 5 marks recorded are 15, 5, 10 and lastly 4. The first three marks have been scored out.

(v) In respect of question No. 6 marks awarded were 5 which have been scored out and the marks now awarded are Zero. Counsel for the District Judge nor the counsel for the respondents could explain the reasons for deduction of the marks except for stating that there appears to have been re-evaluation.

Roll No. 1227- Arun Kumar (Total marks obtained 127):

(vi) 5 marks have been added to the original marks awarded in respect of question No. 6. The candidate has been awarded full marks for the said answer, although the same is apparently incomplete. Reason for addition of 5 marks as disclosed by the respondents is re-evaluation.

(vii) Similarly in respect of question No. 1-C full 10 marks have been awarded while the letter is apparently incorrect....

Roll No. 3383- Om Prakash Sonkar (Total marks obtained 125):

(i) In respect of question No. 2, which runs into two pages, marks have been awarded on page 1 are 15, on page 2 are 10. Both have been added for computing the grand total.

(ii) In respect of Khand-4 answers to question No. 5, 6-C and D, 7, 11-B and C and 15 are incorrect. There is an apparent difference in writing and ink in respect of corrections made qua answers number 8, 9, 14 & 15 the marks awarded are 40.

(iii) A comparison of answer to question No. 5 and 6 with the answer to same question in the earlier pages of the answer sheets which have been scored out apparently suggest that there has been manipulation. The language of the answers earlier given suggests that the candidate has no knowledge of English while the answers given subsequently show sufficient good knowledge of English.

(iv) The total of the individual marks awarded works out to 123 only while the total marks noticed on the first page of the answer sheet are 125.

Roll No. 4548- Rajnikant Srivastava (Total marks obtained 139): (from wait list)

(i) In respect of Question 1-C maximum marks prescribed are 10 while marks awarded are 12. The marks awarded in respect of question No. 2 were initially recorded as 20 which have been scored out and the marks subsequently recorded are 18. Explanation furnished is that there has been re-evaluation of certain answer sheets.

(ii) In respect of objective question of Khand-IV, question Nos. 5, 14 and 25 have not been answered, question Nos. 12, 13, 16, 21 and 24 are wrongly answered, yet the marks awarded in respect of said answers are 40. If the wrong answers and unanswered questions are excluded, the total marks to which candidate would be entitled would work out to 34 only.

Answer Sheets of Other Candidates Selected on Random Basis:

38. This Court has also examined the answer sheets of Roll Nos. 5222, 1842, 1040, 4475, 4768, 169, 3011, 187 and 1648 which were randomly selected from the records of the selection. This Court has not noticed any irregularity or infirmity in respect of the said answer sheets including the marks awarded therein. However, none of the aforesaid candidates have been selected.

39. Similarly, the answer sheets of Roll Nos. 4662, 696 and 1010 were also randomly selected and examined by the Court. No marks have been awarded to the candidates. Their answers have not been checked. The Chairman of the Selection Committee as well as District Judge have made a statement that since these candidates have disclosed their identity in the answers given to the various questions, they have been disqualified and their answer sheets have not been examined after marking "Z" in red ink on the first page of the answer sheet.

40. The Chairman of the Selection Committee has made a statement that as many as 800 answer sheets of such candidates, who have disclosed their identity in various answers given, have not been examined and all such unexamined answer sheets are available on the record.

41. From the facts as noticed herein above it is apparent that in addition to general irregularities in the selections for the post of Stenographers and Clerks (as noticed above), in respect of each and every candidate selected (except Roll Nos. 1413 and 1369 and 4555) one or more of the following irregularities (as per their answer sheets) have been committed:

- a. Awarding of marks in excess of maximum marks prescribed.
- b. Wrong answers being treated as correct.
- c. Selective revaluation and thereby increase of marks.
- d. Grand total of marks awarded as noticed on the first page of the answer sheet being incorrect and of different types.
- e. Reduction of marks which were originally allotted on the basis of alleged selective revaluation.
- f. Answer sheets being written in two different hand-writings.
- g. Interpolation in marks awarded.
- h. Answers though correct, marks not awarded.
- i. Correction in grand total.

42. It is settled law that this Court cannot act as an expert and re-value the answer sheets in so far as it pertains to the theoretical answers nor any such exercise has been undertaken by the Court. (Reference 2003 (2) E.S.C 738 (Ravishu Arora v. Union of India)).

43. The illegalities which have been noticed by this Court are only based on the consideration of objective type question or with reference to the maximum marks prescribed for the answer/computation of the individual marks awarded in respect of the answer and apparent interpolation. It is made clear that this Court has not looked into the merit of the individual answers in respect of theoretical question nor is expressing any opinion in respect thereto, as this Court cannot act as an expert on the subject. Although it may be recorded that on comparison

of the answers given to the theoretical questions there appears to be a great leniency in favour of the selected candidates with regards to awarding of marks viz-a-viz the other candidates. However no final opinion is being expressed qua the said issue.

44. In view of the illegalities noticed on such a large scale pertaining to the selected Stenographers and the selected Clerks only, as detailed above, this Court has no hesitation to record that selections made were not free and fair. This Court is satisfied that ulterior considerations/outside pressures have weighed with the Selection Committee/District Judge concerned in respect of examination in question otherwise there was no occasion for such large number of irregularities being deducted.

45. At the pain of repetition it is recorded that qua the post of clerks no such irregularities could be noticed by the Court in respect of the answer sheets of the other candidates which were randomly selected. It logically follows that manipulations/interpolations have been done qua the answer sheets of selected candidates only.

46. Another striking feature of the entire selection is that the present District Judge Kaushambi has filed an affidavit categorically stating that no cross list in respect of the selections is available on records of the judgeship. The then District Judge of Kaushambi namely Shri C.B.D. Mishra however, produced a photo-stat copy of the cross list which according to him was prepared by the Chairman of the Committee. The cross list has been taken on record. He was afforded an opportunity to search for the original cross list from the records which have been summoned by this Court. Sri C.B.D. Mishra has made a statement that he cannot assist the Court in this respect nor he can trace out the original cross list.

47. Non availability of the original cross list is without any explanation and in itself creates a doubt about the authenticity of the photostat copy of cross list provided by C. B. D. Mishra. The original cross-list would have been a clue for arriving at a conclusion as to whether the interpolation in the marks of the selected candidates has been done subsequent to the preparation of the original cross-list or not and as to what were the original marks awarded to the selected candidates. It may also be recorded that the Court cannot examine each and every copy of the candidates who had participated in examination so as to come to a conclusion that the cross list produced by Shri C. B. D. Mishra is based on the marks actually awarded to the candidates or not.

48. It is no doubt true that the Hon''ble Supreme Court of India in the case of Union of India and Ors. v. Rajesh P.U. Puthuvalnikathu and Anr. (supra) has held that if the beneficiaries of irregularities or illegalities can be segerated then an attempt must be made to save the selection of the candidates whose selection is not vitiated. The principle laid down by the Hon''ble Supreme Court of India referred to above, cannot be doubted. However, the judgment of the Hon''ble

Supreme Court itself notices an exception namely, if there are widespread infirmities of an all-pervasive nature, which could be really said to have undermined the very process itself in its entirety or as a whole, the selections in their entirety must go.

49. In the present case, qua three selected candidates with Roll No. 1413, 1639 and 4555, this Court has not found any individual illegality apparent on the face of the record of the answer sheets, yet their selections and inclusion in the merit list does not deserve to be saved inasmuch as (i) The general illegalities noticed above vitiate the entire selections as the selections are not in accordance with the terms and conditions of advertisement, (ii) With reference to Roll No. 726 it has been found that the candidate concerned had secured 165 marks out of 200 marks, which were subsequently over written and reduced to 129 out of 200 because of selective revaluation. If the revaluation had not taken place the candidate would have been placed at serial No. 1 of the main select list. He has now been shifted to the S.C. Category. Similarly, in respect of Roll No. 726 this Court has noticed deduction of marks without any explanation being given, (iii) Lastly the large scale irregularities and mal evaluation of the answer sheets as noticed by the Court lead to only one irresistible conclusion that the entire selections are a farce and preparation of the select list is only an eye wash.

50. In the totality of the facts as are writ large on the record pertaining to the selections in question, this Court feels that no purpose would be served by saving selections which are an out come of an spoiled system. The Hon''ble Supreme Court in the case of State of U.P. and others Vs. U.P. State Law Officers Association and others, has held that there is no in public interest to save illegal appointments, which are based on a spoiled selection. The relevant portion of the judgment of the Hon''ble Supreme Court is being quoted herein below:

There is. therefore, no public interest involved in saving all appointments irrespective of their mode. From the inception some engagements and contracts may be the product of the operation of the spoiled system. There need be no legal anxiety to save them.

Consideration of Appointment of Respondent No. 30 (Roll No. 4548):

51. From the records of the present writ petition it is apparent that all the selected candidates from the main list had been offered appointment so as to fill in the entire advertised vacancies. Respondent No. 30 has not disclosed as to against which vacancies he has been appointed nor the counsel for the respondent No. 30 could explain as to how the said respondent could have been offered appointment. The select list stood exhausted with the appointment of the selected candidates from the main list against the total advertised vacancies. The nature of the vacancy against which respondent No. 30 claims appointment has not been disclosed. On being asked, counsel for the District Judge Kaushambi has also not been able to explain as to against which vacancy respondent No. 30 has been appointed. In such circumstances this Court has no hesitation to record

that appointment of respondent No. 30 is in excess of the advertised vacancies and has been made in pursuance of the select list which stood exhausted with the appointment of selected candidates from the main list against the total advertised vacancies. The legal position in that regard has been settled by the Division Bench of this Court in the case of The District Judge and The Hon''ble High Court of Judicature Vs. Sri Anurag Kumar, Deepak Nigam, Narendra Kumar Khare and Sri Tarun Pratap Yadav, The appointment of respondent No. 30 is as such illegal and is also accordingly quashed.

52. Accordingly the selections/appointments on the post of Stenographers and Clerks in pursuance of the advertisement dated 28.5.2003 in the Judgeship at Kaushambi are quashed in their entirety.

53. Having come to the conclusion that the selections made on Class-III posts of Stenographers and Clerks in the Judgeship of Kaushambi being farce and therefore unsustainable, the further relief to which the petitioners are entitled has also to be examined.

54. The petitioners have admittedly been appointed on ad hoc basis and therefore their entry into the system is also through back door. This practice of entry through back door and thereafter continuance for years together on ad hoc basis must also be brought to an end. The petitioners have admittedly not been working since 2004, since the termination of their ad hoc appointments after declaration of the result in the month of September, 2004, such petitioners cannot be granted relief for setting up a fresh claim for being again appointed on ad hoc basis, after the present selections are quashed by this Court, on the ground that they had earlier been granted an order by the Court, whereby they were permitted to continue till regular selections are made.

55. This Court is of the opinion that the petitioners are also not entitled to be permitted to seek any fresh appointment in the Judgeship even after the selections are quashed by this Court. Since the selected candidates will not be entitled to continue once their appointments are quashed under this judgment, there may be some difficulty in the working of the Judgeship. However, the Court is conscious that the civil work of the Court shall practically remain suspended because of summer vacation in the month of June and, therefore, in order to take care of the difficulty, which may be faced by the Judgeship after summer vacation, the following directions are being issued in the matter:

(a) Selections and appointments made on the posts of Stenographers and Clerks in pursuance of the advertisement dated 28.05.2003 are quashed.

(b) The candidates already appointed in pursuance to the said selection shall not be permitted to continue any further.

(c) The petitioners shall not be entitled for any claim being set up for fresh ad hoc appointment being offered to them on the basis of their earlier appointment.

(d) The District Judge, Kaushambi shall take all steps for holding fresh selections

(on the basis of earlier advertisement) for the posts in question on or before 1st July, 2006 and for the said purpose he may publish an advertisement in newspapers informing the candidates, who had applied earlier in response to advertisement dated 28.5.2003 to appear from their respective centers again on the date notified with their old admit cards. In case admit cards are lost, candidates may be issued new admit cards from the Registry of the District Court.

(e) All possible assistance, financial or otherwise, shall be provided by the Registry of the High Court for ensuring that the fresh selections are held within the time specified by this Court. The result of the selection so held shall be notified within a period of 15 days from the date of selection and fresh appointments may be offered accordingly.

(f) No ad hoc engagement shall be made by the District Judge in the month of June, 2006. If after holding the fresh selections and till the declaration of the result some difficulty arises in day-to-day working of the Judgeship, the District Judge may engage such number of Class-III employees, as may be necessary, on daily wage basis for a fixed period only.

56. This leads us to the issue as to whether judicial officers, who were involved in mass irregularities qua the selections, should be permitted to go scot free or appropriate action be taken. Although repeated requests have been made on behalf of the judicial officer for taking a lenient view in the matter, the Court is not inclined to accept their request for the following reasons:

(a) Judiciary is the third pillar of democracy and in the present scenario every citizen of the country looks up at the judiciary for safeguarding its interest, property and other rights. High Court has been repeatedly punishing officers and employees of the government departments and other establishments who have deliberately acted de hors the rules contrary to fairness expected from them or on considerations which could not be justified. It is high time that the High Court may clean its own house so that the faith of the common Indian in the Highest Judiciary of the State is not shaken.

57. This Court was initially of the opinion that the matter should be referred for investigation to some external agency namely Central Bureau of Investigation, however such a direction is not being issued by this Court inasmuch as it would be more appropriate that the records of the present writ petition along with answer sheets of the selected candidates, which have been examined by this Court, as well as this judgment may be placed before the Hon'ble the Chief Justice by the Registrar General within two weeks from today for appropriate action being taken in the matter in accordance with law i.e. (i) for getting appropriate investigation done through external agencies in the matter (ii) for disciplinary action being taken against the judicial officers responsible.

58. This Court may also take note of series of petitions which are being filed on judicial side of this Court questioning the propriety and legality of the selections made in various judgeship which are under the control and supervision of the

Hon"ble High Court.

Reference-

- (i) Writ Petition No. 18363 of 2005 (Judgeship of Bareilly)
- (ii) Writ Petition No. 43372 of 2005 (Judgeship of Mirzapur) (with three more petitions)
- (iii) Writ Petition No. 10341 of 2005 (Judgeship of J.P. Nagar) (with four more petitions)
- (iv) Special Appeal No. 720 of 2005 (Judgeship of Hathras) (with five other petitions)
- (v) Special Appeal No. 1467 of 2005 (Judgeship of Gaghpat) (with four other petitions)
- (vi) Present 9 petitions) (Judgeship of Kaushambi)

59. This Court has been called upon repeatedly to exercise extraordinary jurisdiction under Article 226 of the Constitution of India to correct the mistakes committed in respect of the selections, which are said to be in flagrant violation of the rules and based on unexplained considerations. It is in this background the Division Bench of this Court in the case of The District Judge and The Hon"ble High Court of Judicature Vs. Sri Anurag Kumar, Deepak Nigam, Narendra Kumar Khare and Sri Tarun Pratap Yadav, in paragraph 63 had made a specific recommendation that necessary amendments in the rules may be made subject to the approval of Hon"ble The Chief Justice so that selections on Class-III Ministerial posts may be conducted by the High Court or some other Agency at the central level.

60. The extent of malpractices noticed in the facts of the present writ petition make the need of such central selections more imperative/compelling and therefore this Court would again request the Hon"ble The Chief Justice to act upon the recommendation made by the Division Bench at the earliest possible.

61. In view of the aforesaid, writ petitions are partly allowed with cost of Rs. 50,000/- each to be paid by Sri C.B.D. Mishra, the then District Judge, Kaushambi (now posted as District Judge, Mirzapur) as well as the Chairman of the Selection Committee namely Sri Krishan Chandra, who has since retired and is said to be residing in district Kausharnbi. The cost may be paid through Bank Draft drawn in favour of Registrar General of this Court. The cost shall be paid by the aforesaid two persons within one month from today. In case of default, the District Magistrate of Mirzapur and Kaushambi shall ensure recovery of the same as a land revenue from the aforesaid two persons and a compliance report thereto shall be submitted before the Registrar General of this Court for being brought to the knowledge of the Court. The money so collected shall be placed in the fund of "High Court Legal Services Committee, Allahabad".

62. The Registrar General is directed to place the records of this petition alongwith the judgment before the Hon''ble The Chief Justice for appropriate action against the guilty officers and for further investigation, as is necessary in the matter, through external agency.

25.05.2006

V.R./PKB

Note-

1. Answer sheets of all the selected and appointed candidates for the post of Stenographers (examined by this Court) are kept in sealed Envelop-A.
 2. Answer sheets of all the selected and appointed candidates for the post of Clerks (examined by the Court) are kept in sealed Envelop-B.
 3. Answer sheets of all other candidates, selected on random basis,(examined by this Court) are kept in sealed Envelop-C.
 4. Hand written calculation done by Sri Krishna Chandra, letter of the District Judge dated 29.9.2004 declaring the select list Envelop-D.
 5. Photostat copy of the cross list produced by Sri C.B.D. Mishra, the then District Judge, Kaushambi is kept in sealed Envelop-E.
63. All the aforesaid shall be part of the record of Writ Petition No. 164 of 2005 and may be handed over to the authority concerned under orders of Hon''ble The Chief Justice as and when further investigation or departmental enquiry is initiated.
64. The District Judge Kaushambi is permitted to take away the other records of selections, which were summoned by this Court earlier.