



2026:CGHC:10450-DB

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WA No. 44 of 2026**

- 1** - Jyoti Portey D/o Tek Singh Portey Aged About 29 Years R/o House No 62, Kansara, Ghanaghat, District Mungeli, Chhattisgarh

- 2** - Jay Mohan Pradhan S/o Gurucharan Pradhan Aged About 32 Years R/o Sukulbathli, Tadola, District Raigarh, Chhattisgarh

- 3** - Churamani Sahu S/o Holu Ram Sahu Aged About 30 Years R/o Plot No. 06, Janki Chhaya, Near Manav Petrol Pump, Dhanora, District Durg, Chhattisgarh

- 4** - Dinesh Kumar Sharma S/o Bimbadhar Das Aged About 30 Years R/o Village Jhariyapali, Tehsil Gharghoda, District Raigarh, Chhattisgarh

- 5** - Yogesh Kumar Mahilange S/o Surendra Kumar Mahilange Aged About 26 Years R/o Tifra, Bilaspur, District Bilaspur, Chhattisgarh

- 6** - Shashikala D/o Kameshwar Singh Aged About 29 Years R/o Parwatipur, Surajpur, District Surajpur, Chhattisgarh

7 - Nidhi Netam D/o Suresh Kumar Netam Aged About 26 Years R/o Nichepara, Abhanpur, Kanker, District Kanker, Chhattisgarh

8 - Yashwant Ghritlahare S/o Thanwar Ghritlahare Aged About 34 Years R/o Quarter No. 8/437, Hospital Line, Kalibadi Chowk, Near Degree Girls College, Raipur, Chhattisgarh

9 - Kanti Kumar S/o Labho Ram Aged About 32 Years R/o Dharashiv, Tehsil Lavan, Balodabazar, District Balodabazar-Bhatapara, Chhattisgarh

10 - Vashu Dubey S/o Basant Kumar Dubey Aged About 27 Years R/o 8/918, Ward No. 7, Teachers Colony, Kawardha, District Kabirdham, Chhattisgarh

11 - Ajeet S/o Bajarū Aged About 27 Years R/o House No 1, Kumhar Para, Ward No 15, Near Chandi Mandir, Kawardha, District Kabirdham, Chhattisgarh

12 - Gopal Prasad Sahu S/o Bhagwat Prasad Sahu Aged About 32 Years R/o Birkona, Bilaspur, District Bilaspur, Chhattisgarh

13 - Churamani Patel S/o Luk Ram Patel Aged About 35 Years R/o Sarapanch Chowk, Mauhapali, Kharsiya, Raigarh, District Raigarh, Chhattisgarh

14 - Arvind Saurabh S/o Munna Prasad Aged About 31 Years R/o Azad Nagar, Dalli-Rajhara, District Balod, Chhattisgarh

15 - Ved Prakash Mandavi S/o Kanas Ram Mnadavi Aged About 26 Years Ward No 7, Dokala, Rajnandgaon, Chhattisgarh

--- **Appellants**

versus

1 - State Of Chhattisgarh Through The Secretary, Department Of Home (Police), Mantralaya, Mahanadi Bhawan, Nawa Raipur, Atal Nagar, District Raipur, Chhattisgarh

2 - State Of Chhattisgarh Through Director General Of Police, Police Headquarters, Atal Nagar Nawa Raipur, Chhattisgarh

3 - State Of Chhattisgarh Through Appointment Committee, Formed Under Chhattisgarh Police Executive (Non-Gazetted) Service Recruitment Rules 2021, And In Lieu Of Advertisement Dated 01-10-2021 Police Headquarters, Atal Nagar Nawa Raipur, Chhattisgarh

4 - State Of Chhattisgarh Through Adgp (Administration), Police Headquarters, Atal Nagar Nawa Raipur, Chhattisgarh

--- **Respondent(s)**

WA No. 89 of 2026

1 - Dinesh Kumar Sharma S/o Bimbadhar Das Aged About 30 Years R/o Village Jhariyapali, Tehsil Gharghoda, District Raigarh, Chhattisgarh

2 - Yogesh Kumar Mahilange S/o Surendra Kumar Mahilange Aged About 26 Years R/o Tifra, Bilaspur, District Bilaspur, Chhattisgarh

---**Petitioner(s)**

Versus

1 - State Of Chhattisgarh Through The Secretary, Department Of Home (Police), Mantralaya, Mahanadi Bhawan, Nawa Raipur, Atal Nagar, District Raipur Chhattisgarh

2 - State Of Chhattisgarh Through Director General Of Police, Police Head Quarters, Atal Nagar Nawa Raipur, Chhattisgarh

3 - State Of Chhattisgarh Through Appointment Committee, Formed Under Chhattisgarh Police Executive (Non-Gazetted) Service Recruitment Rules 2021, And In Lieu Of Advertisement Dated 01-10-2021 Police Headquarters, Atal Nagar Nawa Raipur, Chhattisgarh

4 - State Of Chhattisgarh Through Adgp (Administration), Police Headquarters, Atal Nagar Nawa Raipur, Chhattisgarh

--- **Respondent(s)**

(Cause title taken from CIS)

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| For Appellants | : Shri Kishore Bhaduri, Advocate appears on behalf of Shri Sabyasachi Bhaduri, Advocate |
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| For Respondent/State | : Shri S.S. Baghel, Govt. Advocate. |
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Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Bibhu Datta Guru, Judge

Order on Board**Per Ramesh Sinha, Chief Justice****28.02.2026**

1. Heard Shri Kishore Bhaduri, learned Senior Advocate along with Shri Sabyasachi Bhaduri, learned counsel for the appellants. Also heard Shri S.S. Baghel, learned Govt. Advocate for the State.
2. Since both the appeals arising out of common order passed by the learned Single Judge and involves similar facts and grounds, they are being considered and decided by this common order.
3. The present Intra Court appeals have been preferred against the common order dated 26.11.2025 passed by the learned Single Judge in WPS No. 2475/2025 and other connected matter, whereby the writ petitions filed by the appellants/writ petitioners were partly allowed.
4. For the sake of convenience, the parties would be referred as per their status before the writ Court.
5. Writ Appeal No. 44/2026 has been filed with the following prayer:-

A. To set aside the judgment and order dated 26.11.2025 passed in WPS 2475/2025.

B. To direct the Respondents to publish a post-advertisement vacancy chart showing all vacancies arising under the Advertisement dated 01.10.2021 on account of non-joining, resignation, disqualification, or any other lapse of selected candidates;

C. To direct the respondents to fill up the vacancy published in the earlier advertisement dated 01.10.2021.

D. To direct that no vacancy relatable to the sanctioned cadre strength advertised on 01.10.2021 shall be filled through the subsequent Advertisement dated 21.10.2024, until all vacancies from the 2021 recruitment are duly exhausted.

E. Any other relief(s) in favor of Petitioner as this Hon'ble Court may deem fit and proper under the facts and circumstances of the case.

6. Writ Appeal No. 89/2026 has been filed with the following prayer:-

"A. To set aside the judgment and order dated 26.11.2025 passed in WPS 8595/2025.

B. To direct the respondents to fill the said 108 vacancies from the existing waitlist, and not through any subsequent recruitment process.

C. To restrain the respondents from filling, reallocating, or otherwise diverting the aforesaid 108 vacancies to the recruitment initiated under Advertisement dated 21.10.2024 or any other subsequent process.

D. Any other relief(s) in favor of petitioner as this Hon'ble Court may deem fit and proper under the facts and circumstances of the case."

7. The brief facts of the case as projected by the petitioners (appellants in WA No.44 of 2026) in WPS No. 2475/2025 (Jyoti Portey & Ors. V State of Chhattisgarh & Ors.) are that, the petitioners are aspirants in the recruitment process on the post of Subedar, Platoon Commander and Sub Inspector (Special Branch, Finger Prints, Questioned Documents, Computer & Radio) initiated by the respondent department for recruitment on 975 different posts through the advertisement published on 01.10.2021. The recruitment process was to be conducted in a phased manner comprising multiple stages of assessment, preliminary examination, mains examination, physical efficiency test and interview. The

entire selection process including conducting examination, valuation of candidates and preparation of merit list was to be carried out under the provisions of The Chhattisgarh Police Executive (Non Gazetted) Service Recruitment Rules, 2021 (in short, the Rules, 2021). The advertisement dated 01.10.2021 was also issued under the said Rules, 2021. The petitioners filled up their application form and participated in the recruitment process. The preliminary examination was conducted on 29.01.2023 and on 22.02.2023 the respondent department declared the result of preliminary examination and candidates were shortlisted for mains examination. The mains examination was conducted in between 26.05.2023 and 29.05.2023. The petitioners were qualified in mains examination also and became eligible to participate in the physical efficiency test. The said physical efficiency test was to be held in between 18.07.2023 and 30.07.2023 and thereafter they were qualified for personal interview. The petitioners also appeared in personal interview conducted between 17.08.2023 and 08.09.2023 and final merit list was to be prepared by the respondent department. The final list of successful candidates were published on 20.10.2024, however,

the petitioners name were not shown in the final list. It is the case of petitioners that respondent department have also subsequently published the cutoff marks applicable for all categories of post in accordance with the prescribed recruitment rules. Despite competition of selection process, the respondent department published only merit list of selected candidates without providing overall rank of all the candidates participated in the selection process. The selected candidates were thereafter granted appointment on 03.03.2025. Despite making application under Right to Information Act, 2005 for disclosure of final merit list of all the candidates who appeared in the selection process along with waitlist, no information were supplied to the candidates by the respondents. On 24.03.2025 they submitted their representation to the respondent No.4 for publication of final merit list and the waitlist of all the candidates under the Rules, 2021, but their representations were also unanswered then present writ petitions have been filed.

8. The facts of the case as projected by the petitioners (appellants in WA No.89 of 2026) in WPS No.8595/2025 (Dinesh Kumar Sharma & Anr. V State of Chhattisgarh & Ors.)

are that they were also aspirants on the recruitment process of 975 posts in different category of Subedar, Platoon Commander and Sub Inspector (Special Branch, Finger Prints, Questioned Documents, Computer & Radio) initiated by the respondent department under the advertisement dated 01.10.2021 which was to be carried out under the provisions of the Rules, 2021. The petitioners participated in the preliminary examination held on 29.01.2023, mains examination held in between 26.05.2023 and 29.05.2023 and physical efficiency test conducted between 18.07.2023 and 30.07.2023 and appeared in interview also conducted between 17.08.2023 and 08.09.2023. When the final list was published, the name of petitioners were not reflected. The overall ranking of all the candidates participated in the selection process were also not published by the department. Even after making application under the Right to Information Act for disclosure of final merit list and wait list of all the candidates who participated in the selection process, if any, the same was not disclosed by the department. Challenging the action of respondent authority, the present petitioners who are also petitioners No.4 & 5 (in WPS No.2475 of 2025)

had already filed WPS No.2475 of 2025, however, during pendency of that writ petition, the respondent authorities have issued another advertisement dated 21.10.2024 through Chhattisgarh Public Service Commission Raipur for appointment on 341 posts of Subedar/Sub Inspector/Platoon Commander (Home/Police Department) and therefore they claimed for setting aside the impugned advertisement dated 21.10.2024 and to direct the respondent authority to fill up the vacancy published in the earlier advertisement dated 01.10.2021.

9. In WPS No. 2475/2025, the respondent/State filed their return and submitted that after completion of all phases of examination the final select list was published by the department on 28.10.2024. Out of total 975 advertised posts, the select list was published for 959 posts. The marks obtained by 1436 candidates were already uploaded in the official website of the police department on 05.11.2024 and information is available on the website of the department. The final select list has already been annexed by the petitioners themselves along with writ petition as Annexure P/6 & P/8. So far as wait list is concerned, rule 12 of Rules, 2021 provides

that publication of final select list is mandatory, however, rule 12(2) of Rules, 2021 provides only preparation of wait list. The language of both these rules i.e. rule 12(1) and (2) of Rules, 2021 make it clear that rule 12(2) of Rules, 2021 is directory in nature which provides only preparation of wait list and in compliance thereof, the selection committee has already prepared the wait list. It is also submitted by the State in the return that on 21.10.2024 a new advertisement of 341 posts of Subedar/Sub Inspector/Platoon Commander have been issued and recruitment process is going on. Since new advertisement dated 21.10.2024 is published and recruitment process is already initiated for filling up of 341 posts, the State Govt. has decided not to fill up the vacant posts remained under the advertisement dated 01.10.2021 and from the wait list of that recruitment process. It is also submitted that mere inclusion of the name of the candidates in the select list/wait list will not give any indefeasible right to the candidates to be appointed on the posts. Since the State Govt. has already initiated selection process and issued fresh advertisement for filling up of 341 posts and decided not to fill up the vacancy from the wait list, no direction can be issued to the

respondent/State.

10. After considering the rival contentions of both the parties and on the basis of material available on record, the learned Single Judge partly allowed the writ petitions by the order impugned and has observed as under:-

“21. Considering the pleadings made in the writ petitions, the submissions advanced by the counsel for the parties and also considering the judgments of Supreme Court in the above referred cases, this court is of the considered opinion that the respondent authority can only be directed for publication of wait list, however, the candidates cannot claim as a matter of right to be appointed on the vacant post under advertisement dated 01.10.2021. Further, fresh advertisement has also been issued on 21.10.2024 and the candidates may participate in the fresh recruitment process under the said advertisement. Therefore, except the claim of publication of wait list, the other reliefs are rejected.

22. Accordingly, all these writ petitions are partly allowed to the extent indicated hereinabove. No order as to costs.”

11. (a) Learned counsel for the appellants would submit that the learned Single Judge failed to exercise jurisdiction vested under Article 226 of the Constitution by not calling for or examining the essential recruitment records, despite specific allegations of arbitrariness, mala fide exercise of power, and

colourable exercise of authority. The State's stand regarding the 2024 advertisement, non-operation of the waitlist, and treatment of unfilled 2021 vacancies was accepted without production of cadre strength, vacancy position, finance sanction, file notings, or other contemporaneous material. Judicial review requires scrutiny of the decision-making process, not mere acceptance of executive assertions. The learned Single Judge erroneously treated the issue as one of executive policy, whereas the core question was purely legal whether the State could abandon an ongoing recruitment process, despite preparation of a waitlist and availability of admitted vacancies, without assigning reasons or producing the underlying record. Such refusal to examine the legality of the action amounts to abdication of jurisdiction.

(b) It is further submitted that grave prejudice has been caused to the appellants due to the State's own delay in keeping the 2021 recruitment pending for nearly four years, during which several candidates have crossed the upper age limit and lost future opportunities. The State cannot be permitted to take advantage of its own inaction. Material information including the complete merit list, waitlist, vacancy

data, and details of non-joining was withheld despite repeated RTI requests, preventing timely legal recourse. The impugned order itself records that Rule 12(2) mandates publication of a waitlist, acknowledges that a waitlist was prepared, and notes that vacancies remained due to non-joining and resignations; yet the Court declined to direct operation of the waitlist. This internal inconsistency renders the reasoning unsustainable and contrary to the statutory scheme under Rules 12, 13 and 14 of the 2021 Rules.

(c) Learned counsel further submits that issuance of the fresh advertisement dated 21.10.2024 for 341 posts, while the 2021 recruitment remained incomplete with existing vacancies and a prepared waitlist, is arbitrary and violative of Articles 14 and 16 of the Constitution. The State cannot initiate a parallel recruitment for the same posts without exhausting the earlier process or demonstrating bona fide administrative necessity, which has neither been disclosed nor examined. Denying consideration to candidates who completed all stages of selection, while permitting fresh entrants to compete, amounts to unequal treatment and violates Article 16(1). The appellants, having undergone the entire multi-

stage selection process, had a legitimate expectation that the recruitment would be concluded in accordance with law. The impugned order, having failed to examine these constitutional and statutory dimensions, is liable to be set aside.

(d) Learned counsel for the appellant lastly contended that rule 12(2) of Rules, 2021 clearly provides preparation of wait list of 25 percent of the posts from the real vacancies by following the rules of reservation. Although, it is not mentioned in rule 12(2) of Rules, 2021 that wait list should also be published, but in all fairness, it has to be published in consonance with rule 12(1) of Rules, 2021 that final merit list, if published, the wait list should also be published. The candidates have a right to know their position in the merit list or wait list so that they may claim their right, if any illegality or infirmity found in the list. Mere preparation of wait list and not publishing the same amounts to non preparation of wait list which is violative of rule 12(2) of the Rules, 2021. The candidate does not know whose name are there in the wait list and who are going to be picked up from the said wait list. Although, appointment from wait list is not infeasible right of the petitioners or wait list candidates, but they have right to

know about their position in the wait list. He would also submit that from the conjoint reading of rule 12(1) and (2) of the Rules, 2021, both these lists i.e. merit list as well as wait list are required to be published. The State has to show a reasonable ground for exercising their jurisdiction of non appointing the candidates of wait list if there was already posts vacant under the advertisement dated 01.10.2021. He would rely upon the judgment passed by Hon'ble Supreme Court in Vivek Kaisth and Another Vs. State of Himachal Pradesh & Others, 2024 (2) SCC 269.

12. Per contra, learned counsel for the State opposed the submissions made by the counsel for the petitioners and submitted that after appreciating the entire facts and circumstances of the case in its true perspective the learned Single Judge has rightly passed the order impugned. He would submit that Rule 12(2) of Rules, 2021 does not provide publication of wait list. The only list to be published is the select list as provided under rule 12(1) of the Rules, 2021. Rule 12(2) of the Rules, 2021 provides only preparation of select list which the respondent authorities have prepared. He would refer to document dated 04.11.2024 which discloses that

under the provisions of rule 12(2) of the Rules, 2021, the wait list of 25 percent of total advertised post have been prepared after following the reservation guidelines. The petitioners have no infeasible right to be appointed on the advertised post. The State Govt. has issued a fresh notification dated 21.10.2024 for appointment on the total 341 posts of Subedar/Sub Inspector/Platoon Commander and the State Govt. has decided not fill up the vacant posts remain unfilled under the advertisement dated 01.10.2021. He also submits that the select list was valid only for one year from the date of its issuance as provided under rule 13(3) of the Rules, 2021. The petitioners have made their application under Right to Information Act for disclosure of wait list on 24.12.2024 and in response to that it was disclosed that wait list is not published as provided under the relevant provisions of the Rules, 2021. The first appeal filed by the petitioners have also been disposed of on 29.01.2025 by the first appellate authority. He would pray for dismissal of both the writ appeals.

13. We have heard learned counsel for the parties and perused the material available in the record.
14. The learned Single Judge, after considering the pleadings,

statutory provisions and binding precedents of the Hon'ble Supreme Court, has recorded a clear finding that though Rule 12(2) of the 2021 Rules mandates preparation of a wait list, it does not impose any statutory obligation upon the State to operate such wait list or to fill up all advertised vacancies. The Court specifically held that inclusion in the merit list or wait list does not confer any indefeasible right of appointment and that advertisement is merely an invitation to apply.

15. In view of the settled law that the employer retains discretion to decide whether or not to fill vacancies, subject to non-arbitrariness, the learned Single Judge found no legal duty cast upon the State to exhaust the wait list. Accordingly, except to the extent of directing publication of the wait list in the interest of transparency, all other reliefs were rightly rejected.
16. The decision of the State to close the 2021 recruitment after issuance of final merit list for 959 posts and to carry forward remaining vacancies in the subsequent advertisement dated 21.10.2024 falls within the executive domain. In absence of any statutory mandate requiring compulsory filling of vacancies from the wait list, and there being no material to

establish mala fide or arbitrariness, judicial interference was held to be unwarranted. The learned Single Judge thus exercised jurisdiction properly and granted only limited relief consistent with law.

17. In these circumstances, both the writ appeals do not disclose any perversity, patent illegality, or jurisdictional error in the findings recorded by the learned Single Judge. The conclusions are based on settled principles governing public employment and discretion of the State in matters of filling vacancies. The appeals, therefore, being devoid of merit, deserve to be dismissed.
18. For the reasons discussed hereinabove, we are of the considered view that while passing the order impugned, the learned Single Judge has not committed any illegality, irregularity or jurisdictional error. The same is just and proper, warranting no interference of this Court.
19. Accordingly, both the writ appeals are dismissed.

Sd/-

(Bibhu Datta Guru)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice