



2026:UHC:2273-DB

Reserved

IN THE HIGH COURT OF UTTARAKHAND

AT NAINITAL

HON'BLE THE CHIEF JUSTICE MR. MANOJ KUMAR GUPTA

AND

HON'BLE SRI JUSTICE SUBHASH UPADHYAY

SPECIAL APPEAL NO. 423 OF 2025

Himanshu Aswal & anotherAppellants.

Versus

State of Uttarakhand & othersRespondents.

Counsel for the Appellants : Mr. B.M. Pingal, learned counsel.
Counsel for the State : Mr. B.P.S. Mer, learned Standing
Counsel with Mr. S.M.S. Mehta,
learned Brief Holder.
Counsel for Respondent No.4 : Mr. Pankaj Miglani, learned
counsel.
Counsel for Private Respondents : Mr. Amar Murti Shukla and Mr.
Vinay Kumar, learned counsel.

With

SPECIAL APPEAL NO. 433 OF 2025

Suraj & othersAppellants.

Versus

State of Uttarakhand & othersRespondents.

Counsel for the Appellants : Mr. Ankur Sharma, learned
counsel.
Counsel for the State : Mr. B.P.S. Mer, learned Standing
Counsel with Mr. S.M.S. Mehta,
learned Brief Holder.
Counsel for Respondent No.4 : Mr. Pankaj Miglani, learned
counsel.
Counsel for Respondent No.5 : Mr. Amar Murti Shukla, learned
counsel.

And

SPECIAL APPEAL NO. 56 OF 2026

Uttarakhand Public Service CommissionAppellant.

Versus

State of Uttarakhand & others

...Respondents.

Counsel for the Appellant : Mr. Pankaj Miglani, learned counsel.
 Counsel for the State : Mr. B.P.S. Mer, learned Standing Counsel with Mr. S.M.S. Mehta, learned Brief Holder.
 Counsel for Respondent No.4 : Mr. Amar Murti Shukla, learned counsel.

Judgment Reserved on: 24.03.2026

Judgment Delivered on: 01.04.2026

The Court made the following:

JUDGMENT: (per Hon'ble The Chief Justice Mr. Manoj Kumar Gupta)

1. These intra-court appeals have been filed against the common judgment and order of learned Single Judge dated 04.12.2025, passed in Writ Petition (S/S) No.131 of 2025, "*Prakash Singh vs. State of Uttarakhand & others*".

2. Special Appeal Nos.423 of 2025 and 433 of 2025 have been filed by the selected candidates whose selection pursuant to the selection list dated 08.01.2025 stands adversely affected as a result of the impugned judgment and connected Special Appeal No.56 of 2026 has been preferred by the Uttarakhand Public Service Commission (*hereinafter referred to as "the Commission"*).

3. The learned Single Judge has partly allowed the writ petition in the following terms: -

"27. In view of the discussion made above, the writ petition is partly allowed.

28. The select list dated 08.01.2025 issued by the respondent Commission is to be revised so as to ensure that in the Urban Development Department, only those candidates are eligible

for appointment to the post of Draughtsman, who have done their Diploma/ ITI Certificate in Draughtsman trade only.

29. The select list dated 08.01.2025 issued by the respondent Commission is quashed to the extent it includes candidates holding Diploma/ certificate other than Diploma/ ITI certificate in Draughtsman in Urban Development Department.

30. The respondent Commission is directed to issue a revised select list for appointment to the post of Draughtsman in pursuance of the advertisement dated 29.05.2023 and its corrigendum issued by the Commission, in the light of the observations made above within a month."

4. Facts of the case relevant for disposal of the instant special appeals are as follows: -

4(i). The Commission issued an advertisement on 29.05.2023 for holding recruitment on the post of Draftsman/ Cartographer in five departments of the Government of Uttarakhand. Later on, by a corrigendum dated 23.06.2023, 12 posts of Draftsman/ Cartographer in PWD Department were also included in the selection process. Thus, in all there were 77 posts, in respect of which, recruitment was held. The petitioner along with other candidates appeared in the written test comprising of objective type questions on 05.11.2023. Based on the same, on 21.12.2023, the Commission issued a list of candidates shortlisted for document verification, in which the name of the petitioner also figured. During document verification, it was observed that in service rules of three departments, i.e. Forest Department, Agriculture Department and

Culture Department, diploma in Civil Engineering is stipulated as one of the minimum essential qualifications, but the Service Rules of the Urban Development Department provided for Diploma/ ITI certificate in the 'concerned trade' as the essential qualification without naming the qualification or the trade. The Service Rules in respect of Minor Irrigation Department and Public Works Department mentions Diploma and equivalent diploma as the required qualification.

4(ii) A large number of candidates, who had cleared the cut-off in the document verification list, held Diploma in Civil Engineering and have marked their preferences in all the departments. Hence, the Commission, in order to clarify as to what would be the 'concerned trade' in which Diploma/ ITI certification could be treated as a required qualification in the Urban Development Department and what could be treated as equivalent diploma in Minor Irrigation Department and Public Works Department, *vide* three separate letters all dated 05.01.2024, addressed to each department, sought clarification. In response to the same, the Urban Development Department, *vide* letter dated 01.05.2024, clarified that under Rule 8(3) clause (ii) of the Uttarakhand Palika (Non-Centralized) Employees Service

(Group-C) Rules, 2017, the term 'diploma/ ITI certificate' in the concerned trade refers to Diploma in Civil Engineering, Diploma/ Certificate in Draftsmanship (Cartography)/ Diploma/ Certificate in Architectural Assistantship. The Minor Irrigation Department and Public Works Department clarified regarding equivalence *vide* their letters dated 21.02.2024 and 24.02.2024 respectively. Based on the clarification provided by the Departments, the Commission proceeded with the selection process and issued the final select list.

4(iii) The petitioner possesses Diploma in Draftsmanship and as stated above, though, he was called at the stage of document verification, his name did not figure in the final select list.

5. It is noteworthy that at the stage of document verification, where 225 candidates were called, as against 77 vacancies (i.e. about three times), the cut-off marks for the unreserved category candidates having Diploma in Draftsmanship was 112.9442. The petitioner who had scored 141.3782 marks, was therefore called for document verification. At the final stage, the cut-off for the general category in the Urban Development Department was 144.6418 and in other departments also, it was much higher

than 141.3782, the marks of the petitioner. Consequently, the petitioner's name did not find place in the final select list.

Petitioner's contention before the Writ Court.

6. The petitioner's contention in the writ petition was that the Commission, after declaration of cut-off marks on 21.12.2023, could not have changed the rules of the game under garb of seeking any clarification from the concerned departments. The petitioner also contended that in respect of Urban Development Department, the Rules provided for a specific qualification, i.e. Diploma/ ITI certificate in 'concerned trade', which means Draftsman and thus, Diploma/ ITI certificate in Draftsman is the **only** qualification prescribed under the Rules. There was, consequently, no ambiguity in the Rules in respect of Urban Development Department, nor any occasion for the Commission to seek any clarification in respect of the vacancies in the Urban Development Department.

7. In respect of Minor Irrigation Department and Public Works Department, the contention of the petitioner before the Writ Court was that the question of equivalence of any qualification to the prescribed qualification under the Service Rules is a matter which could have been decided only by the Expert Body and, that too, after taking into consideration the relevant aspects, like syllabus, curriculum

and the requirements of the job. The clarification given by the afore-said two departments for treating certain other qualifications as equivalent to the prescribed qualification was merely based on recommendation of a Committee comprising of officials of the Department and not of any Expert Body, therefore, in any event, the same could not have been relied upon by the Commission in treating any other qualification as an equivalent qualification.

Proceedings before the Writ Court

8. On 18.02.2025, direction was issued to the Commission to explain how, after notifying cut-off marks on 21.12.2023, it could write to the Government to clarify on the eligibility and prepare a fresh merit list, thereby ousting en-block the candidates having certificates/ diploma in draftsmanship. Appointments in pursuance of the select list was also kept in abeyance. The relevant direction, as contained in Paragraph Nos.12 and 13 of the order dated 18.02.2025, is extracted below: -

"12. Let the respondents may file their affidavit within a week to explain how the Commission wrote a letter to the Government seeking clarification on the eligibility and prepare a fresh merit list by changing cut-off marks by ousting candidates enbloc having certificate/ diploma in draftsman once the selection is over.

13. Till further orders pursuant to the impugned select list no appointment letter shall be issued."

9. Pursuant to the above direction, an affidavit was filed by the Commission and therein, it explained the circumstances, in which, it sought clarification from the concerned departments. Paragraph Nos.6 to 11 of the said affidavit, which are relevant to the controversy, are extracted below for ease of reference.

*"6. That according to the requisition and advertisement, as per the relevant service rules: In the three departments i.e. (i) The Forest Department, (ii) Agriculture Department and (iii) Culture Department require a Diploma in Civil Engineering as an education qualification but the Urban Development Department specifies Diploma/ ITI Certificate in the relevant trade as a mandatory qualification. Similarly, the Minor Irrigation Department also requires a qualification equivalent to the mandatory diploma. The Public Works Department mentions an equivalent diploma as the required qualification. During document verification, it was observed that most of the candidates who had cleared the cut-off in the document verification list held Diplomas in Civil Engineering have marked their preferences in all the departments. It was hence, to determine equivalent educational qualification for the Urban Development Department, Minor Irrigation Department and Public Works Department, a letter was sent to these departments on January 5, 2024, but the Commission. The letter inquired whether candidates holding a Diploma in Civil Engineering, Draftsmanship (Cartography), or Architectural Assistantship (similar to other departments) could be considered eligible for these positions. The true copy of the letter dated 05.01.2024 is annexed herewith as **Annexure CA 2**.*

*7. That in response thereto the Urban Development Department vide letter No.479 dated May 1, 2024 clarified that under Rule 08(3), Clause 02 of the Uttarakhand Municipal (Decentralized) Employee Service (Group 'C') Rules 2017, the term "Diploma/ ITI Certificate in the relevant trade" refers to: Diploma in Civil Engineering, Diploma/ Certificate in Draftsmanship (Cartography), Diploma/ Certificate in Architectural Assistantship. The true copy of the letter dated 01.05.2024 is annexed herewith as **Annexure CA 3**.*

8. That vide its Letter No.1809 dated February 21, 2024 the Minor Irrigation Department clarified regarding equivalent

recognized certificates that in other engineering departments, the service rules for the Draftsman cadre include qualification such as Diploma in Civil Engineering, Diploma/ Certificate in Draftsmanship, or Diploma/ Certificate in Architectural Assistantship. Therefore, if the Uttarakhand Public Service Commission proceeds with further action based on similar qualifications, the department has no objections. The true copy of the letter dated 21.02.2024 is annexed a **Annexure CA 4**.

9. That vide Letter No.122 dated February 24, 2024 the Public Works Department conveyed that the Secretary of the Uttarakhand Technical Education Board, Roorkee, Haridwar, in a letter dated February 22, 2024, confirmed that for the post of Cartographer under the Public Works Department, point B (i), (ii) & (iii) mentions the mandatory educational qualifications i.e. diploma from a recognized institute or an equivalent diploma from any other institute would also consider the candidates with Diploma in Civil Engineering, Certificate in Draftsmanship, or Diploma/ Certificate in Architectural Assistantship as eligible for the post of Cartographer under the mandatory educational qualifications. The true copy of the letter dated 24.02.2024 is annexed as **Annexure CA 5**.

10. That it is also noteworthy that there was no representative from Uttarakhand Public Service Commission in the committee constituted by the government/ department to determine equivalence. Based on the report provided by the government/ department regarding the equivalent qualifications, the answering respondent carried out the selection process in terms of the educational qualifications of the candidates and the departmental priority, in the order of merit/ excellence. Therefore, the selection process by the Commission has been conducted very fairly and in accordance with rules.

11. That the interim order dated 18.02.2025 passed by this Hon'ble Court mentions that the selection process was complete with the document verification list issued on 21.12.2023, and the cut-off marks of document verification list dated 21.12.2023 was changed in the final selection result dated 08.01.2025. It is clarified that the above-mentioned observation by the Hon'ble High Court is not factually correct as the document verification list issued by the Commission on 21.12.2023 was not the final selection result but contained the list of almost thrice (225) the number of vacancies (77). The answering respondent follows the Uttarakhand Public Service Commission Examination Result Preparation Procedure Rules-2022. As per these rules a document

verification list of twice/ thrice number of candidates is issued based on the category-wise/ subcategory-wise number of vacant positions before issuing the final selection result. This list is issued by the Confidential Section (Gopan Anubhag) of the answering respondent in which no marks of any candidate is being reflected at the time of issuing the list for document verification, also the marks of the candidates are kept secret and the cut off marks are released on the basis of the said list. The document verification is being done by a separate section of the answering respondent than that of Confidential Section (Gopan Anubhag) and both these sections have absolutely no concern with the each other. The document verification list was issued on 21.12.2023, and the cut-off marks issued were based on that list which contained the list of 225 candidates. It is also noteworthy that if the number of eligible candidates during document verification is less than the number of vacancies, a new document verification is issued. In the present case, 98 candidates who appeared in the first document verification were selected in the junior engineer examination, and affidavits were sent by them regarding the cancellation of the candidature for the concerned posts. In this regard, the candidature of the 98 candidates was cancelled, and a supplementary document verification list was issued on 09.1.2024. The cut-off marks were then re-determined based on that list. Due to the higher number of candidates being absent in the supplementary document verification, a further supplementary list was issued on 28.11.2024, and the cut-off marks were again re-determined. After this, the final selection result was declared on 08.01.2025, based on the merit list derived from the written exam marks of the eligible candidates. It should also be clarified that as the number of candidates in the document verification list is higher than the number of vacancies, the cut-off of final selection result is always different from the cut-off pertaining to document verification list. Therefore, the observation of this Hon'ble Court's order dated 18.02.2025, stating that the cut-off of 21.12.2023 was changed to the final selection result of 08.01.2025 is factually wrong. Thus, it is clear from the above that before issuing the final selection result, the Commission communicated with the government/ department regarding all equivalent qualifications, and based on the information provided by the government/ department, the selection process was conducted in accordance with the rules."

10. On 17.03.2025, the appellants in Special Appeal Nos.423 of 2025 and 433 of 2025 and some other selected candidates applied for their impleadment in the writ petition. On 18.03.2025, the Deputy Secretary, Urban Development Department filed a counter-affidavit stating that in pursuance of the letter of the Commission dated 05.01.2024, the Director, Urban Development Department *vide* his letter dated 11.01.2024, sought clarification from the State Government. On 02.04.2024, a meeting under the Chairmanship of Principal Secretary, Urban Development Department, Joint Secretary, Department of Personnel and Vigilance, Uttarakhand Government and Additional Director, Urban Development Directorate, Uttarakhand was held. The Committee deliberated over the issue and resolved that the phrase 'Diploma/ ITI certificate in concerned trade' under Rule 8(3) of the Uttarakhand Palika (Non-Centralized) Employee Service (Group 'C') Rules, 2017 would mean 'Diploma in Civil Engineering or Diploma/ Certificate in Draftsman (Manchitrakar) or Diploma/ Certificate in Architectural Assistant. The recommendation of the Committee was thereafter communicated to the Commission by the Directorate, Urban Development Department *vide* letter dated 01.05.2024, together with a copy of the minutes of the meeting dated 02.04.2024.

11. On 01.09.2025, the learned Single Judge passed a detailed order accepting the contention of the petitioner that the 'concerned trade' in the Service Rules of Urban Development Department would mean Draftsman and no other trade. The word 'concerned trade' is only related to the post on which recruitment is to be made and since the recruitment in question was for the post of Draftsman, the concerned trade could only be Draftsman. Therefore, there was no occasion for the Commission to seek any clarification with reference to essential qualification for the post of Draftsman in the Urban Development Department. For coming to the said conclusion, learned Single Judge has placed reliance on the case of the Supreme Court in ***Zahoor Ahmad Rather and others Vs. Sheikh Intiyaz Ahmad and other and connected case, (2019) 2 SCC 404***, particularly, Paragraph No.27 thereof. The relevant findings recorded by the learned Single Judge in this behalf, in respect of Urban Development Department, are extracted below: -

"15. In the instant case, in so far as Urban Development Department is concerned, the education qualification is Intermediate (10+2) from a Board/ Institution recognized by the Central or State Government and Diploma/ ITI Certificate in the concerned Trade from an Institution recognized by the Central or State Government. This qualification is "THE" qualification for the post. No equivalent qualification has been given for this post.

16. It is being argued on behalf of the Commission that one of the essential qualifications for appointment of Draughtsman in the Urban Development Department is Diploma/ ITI Certificate in the concerned Trade. Pressing upon the word 'concerned' it is argued that it was sought to be clarified by the Government that

what does this work 'concerned' mean. This argument has less merits for acceptance. The essential qualification does not speak of any equivalence. The word 'concerned' is only related to the post on which recruitment is to be made and that post is Draughtsman. At the cost of repetition, this Court reiterates that the word 'concerned' relates to 'Draughtsman' and to no other. As stated, there is no equivalence. Therefore, this court is of the view that the respondent Commission has no occasion to seek any clarification in so far as essential qualification for recruitment of Draughtsman in the Urban Development Department is concerned."

12. In relation to Minor Irrigation Department and Public Works Department, the learned Single Judge did not find fault in the action of the Commission in seeking clarification from the departments regarding equivalency as the Service Rules provides for the same. However, the learned Single Judge held that equivalency is the domain of experts, who have to take decision based on proper assessment and evaluation of the relevant academic standards and practical attainments of such qualification. For the said purpose, reliance has been placed on the judgment of the Supreme Court in ***Mohd. Shujat Ali and others vs. Union of India and others and connected matter, (1975) 3 SCC 76***. The learned Single Judge, after holding that equivalency in qualification communicated by the afore-said departments to the Commission was based merely on recommendations of its own officers and not on opinion of any expert body, itself provided to constitute a Committee comprising of the following persons to examine the question

of equivalency of qualification in respect of the post of Draftsman in the Department of Minor Irrigation and Public Works: -

"1) Chief Engineer/ Head of the Department, Minor Irrigation Department, Uttarakhand.

2) Chief Engineer/ Head of the Department, Public Works Department, Uttarakhand.

3) Head of the Department of Civil Engineering, IIT Roorkee, Roorkee, District Haridwar.

4) One Expert of Uttarakhand Technical Education Council Roorkee, District Haridwar, as may be nominated by its Secretary.

5) An official of the Commission, as may be nominated by its Secretary, who shall convene the meeting of this expert body."

13. In pursuance of the said direction, the Committee examined the matter and submitted its report to the Commission. The same was brought on record by the Commission along with an affidavit dated 23.09.2025 and the said Committee also recommended for treating diploma holders in Civil Engineering and Architectural Assistant as equivalent to the prescribed qualification, i.e. Certificate of Draftsmanship.

14. On 04.12.2025, the learned Single Judge decided the writ petition finally. The learned Single Judge held that the issue in respect of Urban Development Department as to whether Diploma/ ITI certificate in any trade other than Draftsman could be recognized had attained finality by order dated 01.09.2025 and, therefore, declined to re-examine the

same. In respect of Minor Irrigation Department and Public Works Department, the Court repelled the challenge advanced by the petitioner as the Committee of experts constituted by it had also opined that Diploma in Civil Engineering, Diploma/ Certificate in Draftsman, and Diploma/ Certificate in Architectural Assistant, would be equivalent qualification to the prescribed qualification stipulated under the relevant service rules. Accordingly, the writ petition has been partly allowed and only in respect of Urban Development Department, direction was issued to recast the final select list by including only the candidates who have Diploma/ ITI Certificate in Draftsmanship.

15. The questions which arise for consideration are, whether the expression 'concerned trade' in the Service Rules of the Urban Development Department admits of any clarification by the employer; whether such clarification amounts to alteration of the eligibility conditions; whether the learned Single Judge was justified in restricting the eligibility to Draftsman trade; whether the department was competent to make clarification itself or it could have been done only after referring the issue of equivalence to expert committee, and; whether the clarification given by the Department amounts to change of rules of the game during the progress of selection process.

16. The essential qualification for the post of Draftsman in respective departments as per the advertisement is as follow: -

Sl. No.	Department	Essential Qualifications as per Advertisement
1.	Forest Department (Cartographer)	A candidate for direct recruitment to a post in the service must possess a certificate of Draftsmanship or a Diploma in Civil Engineering from a recognized University or Institution.
2.	Minor Irrigation Department (Draftsman)	High School Examination from U.P./Uttarakhand Board of Secondary Education or any other equivalent examination recognized by the government. Cartography Certificate from U.P./Uttarakhand State Council for Technical Education or any other government-recognized equivalent certificate.
3.	Public Works Department (Cartographer)	(a) Must have passed the High School Examination conducted by the Uttarakhand Board of Secondary Education or any other equivalent examination recognized by the government. (b) Certificate of passing any of the following examinations or courses: 1. Diploma in Draftsman from a Polytechnic Institute recognized by the Uttarakhand Board of Technical Education or an equivalent diploma from any other recognized institute in Uttarakhand or any other State. 2. Diploma in Draftsmanship from an Industrial Training Institute (ITI) recognized by the Directorate of Training & Employment, Uttarakhand, or an equivalent diploma from any other recognized institute in Uttarakhand or any other State. 3. Diploma in Draftsmanship or an equivalent degree awarded by a University established by the law in India.
4.	Urban Development	1. Intermediate (10+2) from a board/institution recognized by the Central or State Government. 2. Diploma/ITI Certificate in the Concerned Trade from an institution recognized by the Central or State Government.
5.	Agriculture Department (Cartographer)	a) High School Examination from the Uttarakhand Board of Secondary Education or any other equivalent examination recognized by the government. b) One of the following qualifications: 1. Certificate in Cartography from Roorkee University. 2. Certificate in Cartography issued by the Uttarakhand State Council for Technical Education. 3. Three-year Cartography Certificate from Banaras Hindu University.

		<p>4. Three-year Diploma in Architectural Assistance from Government Art College, Lucknow.</p> <p>5. Three-year Diploma in Civil Engineering from Uttarakhand State Council for Technical Education.</p> <p>6. Diploma in Civil Engineering from any government-recognized.</p> <p>7. Cartography Certificate issued by the National Council for Vocational Training (NCVT), Ministry of Labour & Employment, Government of India.</p> <p>8. Two-and-a-half-year Cartography Certificate from Aligarh Muslim University.</p>
6.	Culture Department (Cartographer)	<p>1. Must have passed the High School Examination from the Uttarakhand Board of Secondary Education or any other equivalent examination recognized by the government.</p> <p>2. Certificate or Diploma or any degree in Civil Engineering or Draftsman (Civil) or Architectural Assistantship from any institution recognized by the government.</p>

17. Although, the Commission held a combined selection for six departments, but service rules of every department are separate. The selection and appointment to the post of Draftsman in Urban Development Department is governed by the Uttarakhand Palika (Non-Centralized) Employees Services (*Group 'C'*) Rules, 2017 (*hereinafter referred to as "the Rules"*). Rule 8(3) prescribes the essential qualification for various posts, including the post of Draftsman, which is as follows: -

(3)	Draftsman	<p>1. <i>Intermediate from a Board/ Institution recognized by the Centre or State Government.</i></p> <p>2. <i>Diploma in concerned Trade/ I.T.I. Certificate from a Institution recognized by the Centre or State Government.</i></p>
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18. Thus, the essential qualification, apart from intermediate degree, is "Diploma in concerned trade/ ITI

certificate.” The rule, thus, does not specify the trade, in which, Diploma/ ITI certificate is required. In contrast, the Service Rules of Forest Department, Culture Department and Public Works Department specifies, *inter alia*, a Certificate of Draftsman as one of the essential qualifications for the post. Thus, the main issue is regarding interpretation of the expression ‘concerned trade’ under the relevant Service Rules in respect of Urban Development Department. The Service Rule does not confine eligibility to a single specified trade. It employs of broad and category based expression, namely, ‘concerned trade’, which is inherently referable to the requirements of the post in the department concerned.

19. When the Commission noticed at the stage of document verification where candidates more than two times the number of vacancies were called that a large number of candidates having Diploma/ ITI certificates in different trades have also given preference for appointment, *inter alia*, in the Urban Development Department, it sought clarification *vide* its letter dated 05.01.2024 from the Urban Development Department, which is the employer. The Urban Development Department, being the employer, was aware of the nature of duties attached to the post and the technical qualifications required for its effective discharge. The Department constituted a Committee under the Chairmanship of Principal Secretary, Urban Development Department, Joint Secretary,

Department of Personnel and Vigilance, Uttarakhand Government and Additional Director, Urban Development Directorate, Uttarakhand, which deliberated over the issue and, thereafter, clarified that qualifications such as Diploma in Civil Engineering and Architectural Assistant would fall within the ambit of 'concerned trade'. The clarification is not an external addition to the eligibility condition, but an exposition by the employer of the scope of the expression used in the Service Rules and the advertisement.

20. Importantly, it is not a case where equivalence of qualification was sought to be determined vis-à-vis specific prescribed qualification in contrast to the Minor Irrigation Department and Public Works Department. It is noteworthy that in various other departments, there was specific mention of Certificate of Draftsman as essential qualification, but in the Service Rules governing the appointment to the post of Draftsman in the Urban Development Department, the Service Rules do not prescribe the Certificate of Draftsman, but only speaks of 'concerned trade'. The inquiry, therefore, was not for equivalence, but identification of what constituted the 'concerned trade' for the post. In such a situation, in our considered opinion, no expert body was required. The employer-department was the best judge of the scope of work and the qualification necessary therefor.

21. Here, it is worthwhile to observe that the post of Draftsman in Urban Development Department involves not only preparation of maps, but extends to preparation of plans, layouts, and technical drawings requiring foundational knowledge of Civil Engineering and Architectural principles and, therefore, the Department being the employer, having insight to the scope of work and nature of duties, was the best judge to give clarification in respect of the 'concerned trade', which would be relevant.

22. The principle that 'Rules of the Game' cannot be changed midstream is not attracted to the facts of the instant case inasmuch as there has been no alteration of the eligibility conditions. What has been undertaken is only a clarification of a open textured expression forming part of service rules and the advertisement. Such clarification was necessary to ensure a meaningful and workable selection process and cannot be equated with changing the rules of the game in midst of the selection process.

23. The learned Single Judge has placed much reliance on **Zahoor Ahmed Rather** (supra). In the said case, the Supreme Court was dealing with the recruitment to the post of Technician-III in the Power Development Department. The post of Technician-III was created under a Government Order dated 04.12.1996 and the qualification for that post was

“Matric with ITI”. The qualification for the post of Junior Engineer which was a higher post was BE (Electrical)/ Diploma (Electrical). In the advertisement dated 23.02.2013, the prescribed qualification was stated as “Matric with ITI in relevant trade”. The advertisement contained a note to the effect that mere possession of a higher qualification would not entitle a candidate to be called for interview or to any weightage unless so decided by the Board. During the course of selection, the Board noticed inconsistency at the district level. In some districts, candidates holding Diploma in Electrical Engineering has been provisionally interviewed, while in others, such diploma holders were treated as ineligible. The matter was placed before the Board, and the Board decided that only ITI in relevant trade, namely Electrician, is to be considered as prescribed in the advertisement. Thereafter, the final select list was issued in which the diploma holders were excluded. The candidates before the Supreme Court did not possess the ITI qualification, but a higher qualification, namely, Diploma in Electrical Engineering/ Electronic Engineering and since their names were not included in the final select list, feeling aggrieved, they approached the High Court. The learned Single Judge in that case had taken a view that since Diploma in Electrical Engineering was a higher qualification and diploma holders could even be eligible for the higher post of

Junior Engineer, such candidates should not be excluded from consideration for Technician-III. The matter was carried forward in intra-court appeal and wherein, the judgment of the learned Single Judge was reversed. What is significant in the case of **Zahoor Ahmed Rather** (supra) is the true ratio of the decision. The Supreme Court did not hold as an abstract proposition that expressions such as 'relevant trade' or 'concerned trade' must always receive a narrow construction. What the Supreme Court held was that the employer or the recruiting agency which has prescribed the qualification and has understood the relevant trade in a particular manner should be respected. The Court cannot enlarge the zone of eligibility by importing qualification, which the employer has not accepted, as satisfying the prescription. The Court also explained that Note 12 did not compel the Board to treat higher qualifications as automatically satisfying the basic eligibility requirement, it only conferred a discretion to give weightage to higher qualifications among other eligible candidates, if the Board so desired.

24. The distinction from the present case can, therefore, be stated thus- in **Zahoor Ahmed Rather** (supra), the Board itself confined relevant trade to ITI Electrician and excluded diploma holders, who lacked the mandatory ITI qualification. The Supreme Court upheld that determination and refused to substitute its own view merely because some

candidates possessed what they described as a higher qualification. In the present case, however, the Urban Development Department itself clarified that the 'concerned trade' includes qualification, such as Diploma in Civil Engineering and Architectural Assistant. Thus, unlike in **Zahoor Ahmed Rather** (supra) where the candidate was seeking inclusion of a higher qualification through the Court of Law, in the instant case, the employer itself has identified the scope of the work required for the post and the Court is being invited to narrow the determination made by the employer.

25. Indeed, if the ratio in **Zahoor Ahmed Rather** (supra) is correctly applied, it supports the appellants rather than the writ petitioner. The principle flowing from that judgment is one of deference to the employer's understanding of the prescribed trade. In **Zahoor Ahmed Rather** (supra) that understanding was restrictive. Here, the employer's understanding is broader. In both situations, the same rule applies, i.e. the Court ought not to substitute its own construction for that of the employer, unless the employer's view is shown to be arbitrary, malafide or contrary to the governing rules. In the present case, no such arbitrariness or malafide could be demonstrated.

26. Relying on the same ratio set out in **Zahoor Ahmed Rather** (supra), a Co-ordinate Bench in "*Manali Chaudhary & others vs. State of Uttarakhand & others*", (Special Appeal No.285 of 2025), refused to interfere with the clarification given by the employer- State that two year diploma in Agriculture prescribed for recruitment to the posts of Sugar Cane Supervisor, would include three year diploma, as after high-school, the duration of diploma course is three years.

27. It is evident that the Commission, upon finding the necessity for clarification, sought the same from the concerned departments at the stage well before the preparation of the final select list. The minutes of the meeting dated 21.12.2023 presided by the Chairman of the Commission and three Members, wherein it was resolved to seek clarification, form part of the record as Annexure SSA-2. The mere inclusion of name of the petitioner at the stage of document verification, where candidates more than two times the number of vacancies were called did not confer any indefeasible right in favour of the petitioner to claim appointment. The clarification given by the Department has been applied uniformly by the Commission, and the petitioner has failed to demonstrate any arbitrariness or discriminatory action on part of the Commission in this regard.

28. Before parting, we take note of one more submission on behalf of the writ petitioner. It was contended that the order of the Single Judge dated 01.09.2025 holding that no other qualification except Diploma/ ITI in Draftsman would be admissible for the post of Urban Development Department attained finality as it was not challenged at that stage. The appellants cannot be permitted to reopen the controversy by means of the present appeals. The argument is specious and is to be rejected. Albeit, the order holds as contended, but direction for revising the final result, on basis of the said finding, which ultimately affected the appellants, came to be issued while passing the final order. The order passed on 01.09.2025, thus got merged with the final order passed in the writ petition and while challenging the final order, the validity of the order passed at the earlier stage of the proceedings, i.e. 01.09.2025 can definitely be examined.

29. In view of the discussion made above, we are of the firm opinion that judicial intervention by the Writ Court was not needed and it has unnecessarily resulted in derailment of the selection process.

30. Consequently, the appeals are allowed. The judgment and order of learned Single Judge dated 04.12.2025 is set-aside. Interim order is vacated. The

Commission is at liberty to proceed ahead and conclude the selection process without any further delay.

31. There shall be no order as to costs.

32. Pending application, if any, also stands disposed of.

(MANOJ KUMAR GUPTA, C.J.)

(SUBHASH UPADHYAY, J.)

Dated: 01st April, 2026

NISHANT