



2025:CGHC:30088-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 1983 of 2025**

- 1** - Arvind Kumar S/o Late Ramgopal Aged About 29 Years R/o Smriti Bhavan Sirri, Village Sirri, Tahsil Pamgarh, District Janjgir-Champa Chhattisgarh
- 2** - Pramod Kumar S/o Nohar Lal Aged About 31 Years R/o Purani Basti, Ward No. 07, Balodabazar, District Balodabazar-Bhatapara Chhattisgarh
- 3** - Kishan S/o Tulash Ram Aged About 30 Years R/o Village And Post Bharsela (Bada), Balodabazar District Balodabazar- Bhatapara Chhattisgarh
- 4** - Shraddha Sahu D/o Ajay Sahu Aged About 26 Years R/o Shitlapara, Ward No. 21, Gobra Nawapara, Raipur District Raipur Chhattisgarh
- 5** - Swatee D/o Dhananjay Kumar Aged About 30 Years R/o House No. 499 Hasda No. -1, Amlidia, Dhamtari District Dhamtari Chhattisgarh
- 6** - Garima Chandrakar D/o Rajneesh Kumar Chandrakar Aged About 27 Years R/o Quarter No. 4-A/street -23 Sector -10, Bhilai, District Durg Chhattisgarh
- 7** - Nitesh Kumar Sahu S/o Digambar Sahu Aged About 29 Years R/o Ward No. 05, Ardhnarishwar Chowk Rampur, Po Rampur Sub District Kartala, District Korba Chhattisgarh
- 8** - Abhinav Chandravanshi S/o C.R. Chandravanshi Aged About 27 Years R/o Ward No. 57, Katul Road, Near Shiv Mandir, Saf Line Bhilai, Durg District Durg Chhattisgarh
- 9** - Vaibhavi D/o Gopal Singh Aged About 26 Years R/o Ward No. 56, Angan Badi, Sai Nagar, Baghera, Durg, District Durg Chhattisgarh
- 10** - Roshnee Sahu D/o Deepak Sahu Aged About 29 Years R/o 11-D, Street 29, Sector-5, Ward No. 45, Civic Center, Bhilai, Durg, District Durg Chhattisgarh

- 11** - Heena Dhruwe D/o Ganga Prasad Dhruwe Aged About 24 Years R/o Ward No. 4 Dhadhutola Rajnandgaon, District Rajnandgaon Chhattisgarh
- 12** - Harshit Shukla S/o Anil Kumar Shukla Aged About 24 Years R/o Arihant Height Khandelwal Colony Durg District Durg Chhattisgarh
- 13** - Divya Verma D/o Rekhrum Verma Aged About 29 Years R/o Basti Para Pahanda Durg District Durg District Durg Chhattisgarh
- 14** - Gaurav Rathore S/o Dhanesh Rathore Aged About 24 Years R/o Ward No 10 Naya Baradwar District Jangir Champa Chhattisgarh
- 15** - Surjeet Singh Kanwar S/o Dhirpal Singh Aged About 24 Years R/o Pandaniya District Korba Chhattisgarh
- 16** - Urvashi Bhagat D/o Ravindra Bhagat Aged About 25 Years R/o Mayuri Height Borsi Durg District Durg Chhattisgarh
- 17** - Ankita Nag D/o Dashkadam Nag Aged About 27 Years R/o Quarter No 114 A Zone 1 Charoda Bhilai 3 Durg District Durg Chhattisgarh
- 18** - Mansi Verma D/o Khoobchand Verma Aged About 25 Years R/o House No 7 Street 2 Mennakshi Nagar Durg District Durg Chhattisgarh
- 19** - Vikash Chouhan S/o Dharam Singh Chouhan Aged About 28 Years R/o Civil Line Ward No 5 Dharamjaigarh Raigarh District Raigarh Chhattisgarh
- 20** - Tarun Joshi S/o Daneshwar Joshi Aged About 34 Years R/o 538/7 Street 4 Ashish Nagar (East) Risali Durg District Durg Chhattisgarh

Petitioners

versus

- 1** - State Of Chhattisgarh Through Its Secretary, Department Of Public Health Engineering Department, Mahanadi Bhawan, Mantralaya Atal Nagar, New Raipur, District Raipur (C.G.)
- 2** - Engineer In Chief Public Health Engineering Department Indravati Bhawan Naya Raipur District Raipur Chhattisgarh
- 3** - C.G. Professional Examination Board Vyapam Bhawan North Block Sector 19 Atal Nagar New Raipur (C.G.)

Respondents

&

WPS No. 2012 of 2025

1 - Dhagendra Kumar Sahu S/o Shri Salik Ram Sahu Aged About 33 Years R/o House No.- 87/1, Sheetlapara Bhurkoni, Ward No.-05, Village- Bhurkoni, Bhurkoni, District- Mahasamund, Chhattisgarh

2 - Saurabh Vishwakarma S/o Surendra Vishwakarma Aged About 33 Years R/o Brahm Road, Sangam Chowk, Ambikapur, District- Surguja, Chhattisgarh

3 - Girish Kumar Chandravanshi S/o Ramsharan Chandravanshi Aged About 32 Years R/o 10, Near Atal Chowk, Bhareli, Karhatta, P.O.- Bodla, District- Kawardha, Chhattisgarh

---Petitioners

Versus

1 - State Of Chhattisgarh Through - The Secretary, Public Health And Engineering Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District- Raipur, Chhattisgarh

2 - Engineer-In-Chief Public Health And Engineering Department, Indravati Bhavan, Atal Nagar, Nawa Raipur, District- Raipur, Chhattisgarh

3 - Superintending Engineer (Administration) And Chairman Department Selection Committee, O/o Engineer-In- Chief, Public Health And Engineering Department, Indravati Bhavan, Atal Nagar, Nawa Raipur, District- Raipur, Chhattisgarh

4 - Director Directorate Employment And Training, Indravati Bhavan, First Floor, 4th Block, Atal Nagar, Nawa Raipur, District- Raipur, Chhattisgarh

5 - Chhattisgarh Professional Examination Board (C.G. Vyapam) Vyapam Bhawan, North Block, Secot-19, Atal Nagar, Raipur, Chhattisgarh

Respondents

(Cause title is taken from Case Information System)

For Respective Petitioners	: Mr. Ajay Shrivastava, Mr. G.P. Mathur and Ms. Pratibha Sahu, Advocates
For State	: Mr. Shashank Thakur, Dy. AG
For CG Vyapam	: Mr. Avinash Singh, Advocate
For Intervener	: Mr. Uttam Pandey and Mr. Bharat Sharma, Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Bibhu Datta Guru, Judge
Order on Board

Per, Bibhu Datta Guru, Judge

03/07/2025

Heard.

1. Since, the common question of law and facts involved in both these Writ Petitions, therefore, they are being considered together and decided by this common order.
2. The petitioners in **Writ Petition No. 1983/2025** has prayed for following reliefs:-

“(i) That, this Hon'ble Court may kindly be pleased to held that the impugned Schedule -III Sr. No. 1 Column no. 5 of Chhattisgarh Public Engineering (Non-Gazette) Recruitment and Condition of Service, Rules 2016 (Annexure P/1) may kindly be declared as ultra-virus to the extent it provides only diploma as prescribed qualification and debars Engineering Graduate for participation for the recruitment of Sub Engineer (Civil/Mechanical/Electrical), in the interest of justice.

(ii) That, this Hon'ble Court may kindly be pleased to direct the respondent authorities to mention minimum qualification instead of prescribed qualification in the rules impugned Schedule -III Sr. No. 1 Column no. 5 of Rules 2016 and advertisement (Annexure P-2) may kindly be quashed, in the interest of justice.

(iii) Any other relief which may be suitable in the facts and circumstances of the case, may also be granted.

3. The petitioners in **Writ Petition No. 2012/2025** has prayed for following reliefs:-

“10.1 That, this Hon'ble Court may kindly be pleased to issue an appropriate writ to declared that Rule 8 (II) [column (5) of Scheduled-III (SI.No.1 Sub-Engineer (Civil/Electrical/Mechanical)] of Chhattisgarh Public Health Engineering Department (Non-Gazetted) (Recruitment and Conditions of Service) Rules, 2016 (Annexure P-1) published in Chhattisgarh Raj Patra notification dated 30th December 2016 is Ultra Vires.

10.2 That, this Hon'ble Court may kindly be pleased to issue an appropriate writ and direct the Respondent No. 1 to also include "Degree in Bachelors of Engineering" as a requisite qualification in that Rule 8 (II) [column (5) of Scheduled-III (SI.No.1 Sub-Engineer (Civil/Electrical/Mechanical)] of Chhattisgarh Public Health Engineering Department (Non-Gazetted) (Recruitment and Conditions of Service) Rules, 2016, along with the qualification of diploma.

10.3 That, this Hon'ble Court may kindly be pleased to direct the respondent authorities to allow the candidates possessing degree in engineering to participate in the on-going recruitment process for the post Sub-Engineer post.

10.4 This Hon'ble Court may kindly be pleased to direct the respondents to compensate the cost of petition.

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

4. (a) Case of the petitioners is that they are aspiring candidates holding graduate degree in Engineering, seeking to participate in the direct recruitment examination for the post of Sub-Engineer (Civil) / Sub Engineer (Mechanical/ Electrical) scheduled to be held on 27.04.2025 by the Respondent- Chhattisgarh Public Health Engineering (PHE) Department, advertised on 07.03.2025 (Annexure P/2 to WPS No. 1983/2025). The petitioners contended that they are graduate in Civil / Mechanical Engineering. The service condition for recruitment of Sub Engineering in the Public Health Engineering Department is governed by the rules namely “The Chhattisgarh Public Engineering Department (Non-Gazetted) (Recruitment and Condition of Service), Rules 2016 (for short, the Rules of 2016)”. As per Schedule -III Sr. No. 1 Column No. 5, the prescribed educational qualification for Sub Engineer (Civil/Mechanical/Electrical) is three years Diploma in Civil/Mechanical/Electrical Engineering from any institute recognized by the State Govt.
- (b) The aforesaid clause is contrary in schedule-II Sr. No. 1 & 2 Column No. 8, wherein it is mentioned that Diploma/Degree holders both are eligible for promotion on the post of Sub Engineer for 5% quota, but for direct recruitment, only Diploma holder has been permitted and the higher qualified Degree holders have been impliedly debarred from participating for the post of Sub Engineer which is violative of 14 and 16 of the Constitution of India, as higher qualification is not a bar for recruitment.

(c) The said anomaly is due to mentioning of 'विहित शैक्षणिक योग्यता' (prescribed educational qualification) instead of 'न्यूनतम शैक्षणिक योग्यता' (minimum educational qualification). Learned counsel would submit that in accordance with above Rules of 2016, the advertisement was issued for the post of Sub Engineer (Civil/Electrical/Mechanical) in which it was provided that any three year Diploma holder in concerned Branch from recognized institution of State of Chhattisgarh, can apply. Due to above provision, in the advertisement only Diploma holders are permitted whereas in the earlier Rules of 2012, also similar provision was there but in the advertisement issued at that time, it was mentioned in the education qualification as minimum qualification of Diploma due to which, higher qualification of Engineering Graduates were not debarred. Learned counsel would further submit that in the other Departments, such as Public Works Department, advertisement was issued for the post of Sub Engineer in which both Diploma and Degree holders are permitted to participate. Similar advertisement of CSPDCL was issued in which also, both Diploma and Degree holders were permitted by mentioning minimum qualification as Diploma.

(d) According to the learned counsel, Graduation in Engineering is higher than the Diploma, and hence it cannot be the disqualification for appearing in the examination of Sub Engineer. Thus Schedule-III Sr. No. 1 Column no. 5 which provides only Diploma as prescribed educational qualification instead of minimum educational

qualification debars the equal and higher qualified Engineering Graduates and the same is violative of Article 14 & 16 of the Constitution of India. Learned counsel would submit that the petitioners who are Degree holders have a better case for participation. Thus, the petitioners would pray that Rule-8 (II) Column (5) of Schedule-III i.e. Serial No. 1 Sub-Engineer (Civil/Mechanical/Electrical) of the Rules 2016 published in the Gazette Notification dated 30/12/2016 may be declared as *Ultra-Vires*. To buttress the contention, learned counsel would place reliance on the judgment of the Apex Court in the matter of ***Puneet Sharma & Others v. Himachal Pradesh State Electricity Board Limited & Another, (2021) 16 SCC 340*** wherein the Apex Court had directed the State to allow the degree holders to participate in the recruitment process and further to process candidature of all applicants, including the degree holders who participated.

5. (i) Learned counsel appearing for the State *ex-adverso*, would submit that prior to enactment of the Rules 2016, the Rules of 1979 were in force and the Rules 1979 also provided the same qualification for recruitment to the post of Sub-Engineer, thereafter the rules titled as Chhattisgarh Public Health Engineering Department (Non-Gazette) Service (Recruitment and Conditions of Service) Rules 2012, were framed and the same were published in the Gazette dated 25.08.2012. In Schedule III of the Rules 2012 the prescribed educational qualification for the post of Sub-Engineer was the same (i.e. 03 years

of Polytechnic Diploma). He would further submit that the Rules 2016 were framed and presently the said rules are in force and in the Rules 2016 also there is no change with respect to the provision of the prescribed educational qualification for the post of Sub-Engineer in the department. As per Schedule II of the Rules, 2016, out of 100% posts of the Sub-Engineers, 95% posts are to be filled by Direct recruitment whereas 5% posts are to be filled by promotion of the members of the service. According to the learned counsel these 5% posts of in service candidates are the Tracer and Assistant Draftsman working in the department.

(ii) Learned counsel would further submit that there are many persons who are appointed as Assistant Draftsman on the basis of the certificate issued by the Industrial Training Institute. However, during the course of their service they obtained higher degrees, such as Diploma and AMIE which is equivalent to Engineering Degrees and taking note of this fact in Schedule II, Sr. No. 1, Clause No.8 specific provision has been made that as far as 5% quota for the departmental candidates are concerned, Diploma/Degree holders are eligible for promotion and there is no illegality in keeping the said provision and the petitioners have wrongly made effort to demonstrate before the Court that discrimination is being meted out. In support of his contention, he placed reliance upon the decisions rendered by the Supreme Court in the matter of **Ankita Thakur & Anr. v. H.P. Staff Selection Commission & Anr., 2023 SCC Online SC 1472**, and

upon the decision rendered by this Court in the matters **Ms. Durgawati v. State of Chhattisgarh & Others (WPS No. 4292/2019 decided on 14/06/2023)** and **Bhim Bali Yadav & Others v. High Court of Chhattisgarh & Anr (WPS No. 1496/2022 decided on 07/02/2025)**.

6. Learned counsel appearing for Respondent CG Vyapam would submit that the petitioners have not claimed any relief against it and the said respondent is only the recruiting agency on the basis of the extant rules and the requisition sent by the concerned Departments of the Govt.
7. Learned counsel for the intervenor would support the contention raised by the learned counsel for the State and reiterated the same facts and grounds.
8. We have heard learned counsel for the parties and perused the pleadings.
9. For the sake of convenience, it would be appropriate to quote Rule 8 (II); relevant portion of the subject matter of Sub-Engineer (Civil/Mechanical/Electrical) of Schedule-III; Schedule -II and the relevant portion of the advertisement, wherein the Education qualification has been prescribed as under:-

Rule-8

***“Rule 8. Conditions of eligibility for direct recruitment.-
In order to be eligible to be selected a candidate must***

satisfy the following conditions, namely:-

(I) XXXXXXXXXXXXXXXXXXXX

(II) Education Qualifications.- The Candidate must possess the educational qualifications prescribed for the service as shown in column (5) of Schedule-II.

XXX XXXX XXXX XXXX

Schedule-III

S. No.	Name of Post	Minimum age limit	Maximum age limit	Prescribed educational qualifications	Remarks
(1)	(2)	(3)	(4)	(5)	(6)
None Gazetted State Wide Cadre (Class-III Executive)					
1.	Sub-Engineer (Civil/Mechanical /Electrical	18 years	30 years	Three years diploma in Civil/Mechanical/Electrical Engineering from any institute recognized by the State Government	Relaxation in age limit shall be given to the members of Scheduled Castes./ Scheduled Tribes/Other Backward Classes (Non-creamy layer/ Women/ Ex-servicement according to Rule 8

Schedule-II

S. No.	Name of service / posts	Total no. of Duty posts	Percentage of the duty posts to be filled			Departmental Promotion Committee/ Selection Committee	Remarks
			By Direct recruitment See Rue 6 (1) (a)	By Promotion of the members of the Service (See Rule 6 (1) (b)	By temporary transfer of persons from other service (See Rule 6 (1) (c)		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	Sub-Engineer (Civil)	406	95%	5%	-	(1) Superintending Engineer nominated by Engineer-in-	5% posts shall be filled in by promotion from

						chief,- Chairman (ii) Executive Engineer- Member (S.T.) (iii) Executive Engineer- Member (S.C.) (iv) Executive Engineer- Member (General)	Technical (Executive) Diploma/D egree Holder Employee working in different posts.
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कार्यालय प्रमुख अभियंता
लोक स्वास्थ्य यांत्रिकी विभाग
इन्द्रावती भवन, अटल नगर, नवा रायपुर (छ.ग.)

અટલ નગર, દિનાંક 15.01.2025

छत्तीसगढ़ शासन, लोक स्वास्थ्य यांत्रिकी विभाग, मंत्रालय, महानदी, नवा रायपुर, अटल नगर के पत्र क्रमांक एफ 2-1/2024/34-1 दिनांक 26.09.2024 से वित्त विभाग का जावक क्रमांक 1210/सी.एन बजट-2/वित्त/चार/2024, दिनांक 20.09.2024 द्वारा राज्य स्तरीय तृतीय श्रेणी उप अभियंता (सिविल) के 118 पद एवं उप अभियंता (वि/यां) के 10 पद को सीधी भर्ती से भरे जाने हेतु अनुमति प्राप्त है। उक्त पदों को सीधी भर्ती के लिये छत्तीसगढ़ के स्थानीय निवासियों से ऑनलाईन आवेदन पत्र छत्तीसगढ़ व्यावसायिक परीक्षा मण्डल, अटल नगर, नवा रायपुर के वेबसाइट पर आमंत्रित किये जाते हैं, परीक्षा संबंधित जानकारी छत्तीसगढ़ व्यापम की **Website** पर उपलब्ध रहेगी।

पदनाम	वेतनमान	श्रेणी	रिक्त पदों की संख्या	विहित शैक्षणिक योग्यता
उप अभियंता (सिविल)	लेवल-8, वेतन 35400-112400	तृतीय श्रेणी (कार्यपालिक)	118	राज्य शासन द्वारा किसी मान्यता प्राप्त संस्था से सिविल इंजिनियरिंग में तीन वर्षीय डिप्लोमा।
उप अभियंता (वि/यां)	लेवल-8, वेतन 35400-112400	तृतीय श्रेणी (कार्यपालिक)	10	राज्य शासन द्वारा किसी मान्यता प्राप्त संस्था से मेकेनिकल/इलेक्ट्रिकल इंजिनियरिंग में तीन वर्षीय डिप्लोमा।

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10. From the nature and complexity of the aforesaid provisions, it is manifest that the exclusion of degree holders who are better with the requisite knowledge and technical skills is not only unreasonable but also counter productive to the objective of recruiting competent individuals for the post. This arbitrary restrictions undermines the principles of fairness and equal opportunity. Even, the same is also in clear violation of the fundamental rights guaranteed under Article 14, 16 & 21 of the Constitution of India.
11. It is brought to the notice of this Court that in other departments of the State e.g. Department of Public Works and CSPDCL for the post of Sub-Engineer, the eligibility criteria permits both Diploma as well as Degree holders. Thus, the act of the State in excluding the Degree holders for recruitment on the post of Sub-Engineer in the department of Public Health and Engineering is an act of discrimination.
12. The Supreme Court in the matter of ***Shayara Bano vs Union Of India And Ors. Ministry Of Women, (2017) 9 SCC 1*** observed that Legislation can be struck down, if it is manifestly, arbitrary, and the said manifest arbitrariness is the ground to negate legislation as well as under Article 14 of the Constitution of India. Para 101 of the said decision reads as under:-

“101. It will be noticed that a Constitution Bench of this Court in Indian Express Newspapers (Bombay) (P) Ltd. v. Union of India stated that it was settled law that

subordinate legislation can be challenged on any of the grounds available for challenge against plenary legislation. This being the case, there is no rational distinction between the two types of legislation when it comes to this ground of challenge under Article 14. The test of manifest arbitrariness, therefore, as laid down in the aforesaid judgments would apply to invalidate legislation as well as subordinate legislation under Article 14. Manifest arbitrariness, therefore, must be something done by the legislature capriciously, irrationally and/or without adequate determining principle. Also, when something is done which is excessive and disproportionate, such legislation would be manifestly arbitrary. We are, therefore, of the view that arbitrariness in the sense of manifest arbitrariness as pointed out by us above would apply to negate legislation as well under Article 14."

13. It is the trite law that any classification made by the State based on intelligible differentia and must bear a rational nexus with the object sought to be achieved. It is also well settled that any eligibility criteria must bear a reasonable correlation with the functional recruitment of the posts, the nature of the duties to be performed and the aptitudes necessary to fulfill those duties effectively.
14. Applying the well settled principles of law to the facts of the present case and for the reasons made hereinabove, the Rule 8 (II) Column (5) of Schedule-III, Serial No. 1 Sub-Engineer (Civil/Mechanical/Electrical) of the Rules 2016 published in the Gazette Notification dated 30/12/2016 is declared as illegal, without jurisdiction and *Ultra-Vires*.

15. At this juncture, it is worthwhile to mention here that when the matters were listed before this Court on 25/03/2025, learned counsel appearing for the respective petitioners had submitted that the last date for submitting the application forms was 01/04/2025 and hence, they would pray for interim protection to the effect that the petitioners, who are the degree holders, may be allowed to participate in the recruitment process. On proper appreciation of the submissions of the learned counsel for the parties, this Court passed the following interim orders:-

“Considering the fact that since the last date for submission of the online form in the portal of the CGVYAPAM is upto 5 p.m. of 01.04.2025, the respondent No. 1/State is directed to issue necessary instruction to the respondent- CGVYAPAM who has to conduct the examination, to make necessary changes/amendments in the online portal for the intending candidates / participants of the examination in question for submission of their online forms and the petitioners are at liberty to submit their forms in the online portal, however, their participation shall be subject to the final out come of the present petitions.

It is made clear that this order would operate in rem and not in personam and would be applicable to all the similarly situated candidates having Degree in Engineering, subject to the condition that they fulfill other requisite criteria as may be prescribed by the respondent Department in the advertisement in question.”

16. Since, pursuant to the interim order passed by this Court, the candidates having the degree in engineering have participated in the recruitment process, and this Court declared the Rule 8 (II) Column (5) of Schedule-III, Serial No. 1 Sub-Engineer (Civil/Mechanical/ Electrical) of the Rules 2016 published in the Gazette Notification dated 30/12/2016 as *Ultra Vires*, the respondent's authorities are directed to continue with the further selection process, subject to the condition that the candidates fulfill other requisite criteria as may be prescribed by the Respondents' Department in the advertisement.
17. In the result, both the Writ Petitions are **allowed**.

Sd/-

(Bibhu Datta Guru)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice

HEAD NOTE

Any eligibility criteria must bear a reasonable correlation with the functional recruitment of the posts, the nature of the duties to be performed and the aptitudes necessary to fulfill those duties effectively.