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WA-1453-2025

**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE BINOD KUMAR DWIVEDI

WRIT APPEAL No. 1453 of 2025

DR. SAKSHI CHOKHANDRE

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Ms. Archana Kher – Learned counsel for the appellant.

Shri Vindhyavashini Prasad Khare – Learned counsel for the respondent No.2.

Shri Bhuwan Gautam – Govt. Advocate for the respondent / State.

Ms. Kinjal Shrivastava – Learned counsel for the respondent No.4.

Shri Romesh Dave – Learned counsel for the respondent No.3
[CAVEAT].

WITH

WRIT APPEAL No. 2155 of 2025

M.P. PUBLIC SERVICE COMMISSION

Versus

DR YASHODEEP CHAUHAN AND OTHERS

Appearance:

Shri Vindhyavashini Prasad Khare – Learned counsel for the appellant / MPPSC.

Ms. Archana Kher on behalf of Shri Manoj Malviya – Learned counsel for the respondent No.3.

Shri Bhuwan Gautam – Govt. Advocate for the respondent / State.



Shri Romesh Dave – Learned counsel for the respondent No.1
[CAVEAT]

Reserved on : 11.08.2025

Delivered on : 26.08.2025.

ORDER

Per: Justice Vivek Rusia

The. W.A. No. 1453 of 2025 is filed by Dr. Sakshi Chokhandre and W.A. No. 2155 of 2025 is filed by the Madhya Pradesh Public Service Commission against the order dated 01.05.2025 passed by the learned Single Judge where by Writ Petition No. 30783 of 2023 filed by the writ petitioner / Dr. Yashodeep Chauhan, has been allowed and the appointment of the appellant / Dr. Sakshi Chokhandre to the post of Dental Specialist has been quashed with a direction to issue appointment order of the writ petitioner.

Facts of the case, in brief, are as follows:

02. The Madhya Pradesh Public Service Commission (hereinafter referred to as "the Commission") issued an advertisement dated 17.08.2022 inviting applications for appointment to fourteen (14) posts of Dental Specialist in the Department of Public Health and Family Welfare, Government of Madhya Pradesh. Out of these, two (2) posts were reserved for candidates belonging to the Scheduled Caste (SC) category, including one specifically reserved for SC (female). As per the terms of the advertisement, the last date for online submission of applications was 15.10.2022, and the last date of submission of application forms along with documents was 27.10.2022.

03. The essential qualifications and conditions were given in the advertisement. Clause 1 of the advertisement stipulated that the essential qualification for the post was possession of a post-graduate degree in



Dental Surgery from a recognised institution obtained on or before the last date for submission of online application, i.e. 15.10.2022. Clause 8 further required registration with the Madhya Pradesh Dental Council as a desirable qualification. The petitioner/Dr. Yashodeep Chauhan and the appellant/Dr. Sakshi Chokhandre, both belonging to the Scheduled Caste category, submitted their applications pursuant to the aforesaid advertisement.

04. Appellant/Dr. Sakshi Chokhandre had passed her BDS degree on 13.10.2017, followed by an internship completed on 31.10.2018, and she was registered under the Dentists Act 1948 on 04.02.2019, which was valid up to 31.12.2023. She thereafter pursued her MDS course from Government Dental College, Indore and appeared in the MDS Part-II examination held in May 2022, conducted by the Madhya Pradesh Medical Science University, Jabalpur. The online result of the said examination was declared on 27.08.2022. The printed mark sheet was issued on 07.12.2022, while the formal degree certificate was issued on 17.03.2023.

05. The MPPSC published the candidature rejection list of candidates on 14.09.2023. The Commission issued an interview call letter to the appellant on 20.10.2023. However, since the appellant was bound by the compulsory rural service bond, which was completed on 26.10.2023, her original documents were retained by the Government Dental College, Indore. Hence, the appellant was permitted to participate by producing attested copies of documents accompanied by a certificate of custody from the Principal of the College as per the terms of Clause 4 of the call letter, which envisaged such an arrangement where originals were deposited elsewhere.

06. In compliance, she submitted a certificate dated 19.10.2023 issued by the Principal of Government Dental College, Indore, along with



attested photocopies of her documents. In view of this, the Commission permitted her to participate in the interview on 31.10.2023.

07. Upon conclusion of the selection process, the Commission published the select list on 29.11.2023, wherein the petitioner/Dr. Yashodeep Chauhan was placed at serial no. 6 of the waiting list while Appellant/Dr. Sakshi Chokhandre was placed in serial no. 8 of the select list shown as selected under the SC (female) category. Along with her name and the names of a few others, the word "provisional" was appended, indicating that their selection was subject to verification of original documents. Consequently, the state government issued the appointment order dated 09.02.2024 in favour of Dr. Sakshi Chokhandre.

08. Writ Petitioner/Dr. Yashodeep Chauhan who did not find his name in the selection list, filed Writ Petition challenging the inclusion and appointment of Dr. Sakshi Chokhandre on the ground that the reservation has not been followed and casually raised the ground that the appellant did not possess the requisite qualification for the post in question, However at the time of final argument the learned argued that the appellant did not possess postgraduate qualification by the cut-off date of 15.10.2022 as her printed mark sheet and degree were issued later thus making her ineligible for the said post.

09. In reply, the Commission contended that since the appellant had appeared in the MDS examination in May 2022 and her result was declared online on 27.08.2022, the essential qualification stood acquired before the cut-off date of submission of the forms and further submitted that submission of attested copies with a custody certificate was permissible. The appellant/Dr. Sakshi Chokhandre, by filling the reply, also submitted that she had fulfilled all academic requirements before the prescribed date and that the delay in issuance of the degree was



merely procedural and for which she cannot be penalised.

Findings of the Writ Court

10. After hearing the submissions and perusing the record, the learned Single Judge has allowed the writ petition, holding that the appellant/Dr. Sakshi Chokhandre was not eligible as on the cut-off date of 15.10.2022, as she did not possess the final mark sheet or degree certificate by that date and that mere declaration of online results was insufficient to satisfy the eligibility criteria, which required formal certification.

11. Learned single judge also observed that the call letter permitting production of attested copies could not override the essential eligibility conditions stipulated in the advertisement. Relying on the decisions in *State of Bihar V/s Madhu kant Ranjan* reported in (2021) 17 SCC 141 and *State of U.P. V/s Vijay Kumar Mishra* reported in (2017) 11 SCC 521, the writ court concluded that eligibility must be established on the cut-off date and cannot be supplemented later. Even if the appellant was qualified, she did not possess the mark-sheet or the degree of PD qualification. Consequently, the writ petition was allowed, the appointment of the appellant was quashed, and the respondents were directed to include the name of the writ petitioner in the select list and issue an appointment order within three weeks.

Writ appeal by the appellant and the Commission

12. Aggrieved by the order of the Writ Court, the affected candidate, Dr. Sakshi Chokhandre and the Commission have preferred the present appeals before this Court, praying that the impugned order be set aside.

Submission of Appellant / Dr. Sakshi Chokhandre

13. Smt. Archana Kher, learned counsel appearing for Dr. Sakshi Chokhandre, submitted that the impugned order suffers from serious errors both on law and on fact. The appellant had acquired the essential



educational qualification required for appointment prior to the cut-off date prescribed in the recruitment notification.

14. Learned counsel submitted that once a candidate did appear in the final examination of MD and the result had been officially declared, the qualification stands acquired and the subsequent issuance of documents such as printed mark sheets or a formal certificate are ministerial acts which cannot in any manner affect her eligibility or merit.

15. Mrs. Kher learned counsel further submitted that the appellant had fulfilled all the eligibility conditions prescribed under the recruitment rules given in the advertisement and that her candidature was validly considered and selected through a merit-based process. The selection was described as provisional only in relation to the verification of original documents and not in respect of her eligibility or qualification, and the term "provisional" as reflected in the selection list does not denote any deficiency in the selection of the appellant.

16. Learned counsel submitted that the clarification was issued by the State Government vide letter dated 14.05.2024 addressed to the Chief Medical and Health Officer, Jabalpur, wherein it was categorically affirmed that the appellant had appeared in the MDS examination in May 2022 and had successfully cleared the same and was, therefore, eligible for appointment. Once the Commission was satisfied with the desired clarification possessed by the appellant, the same cannot be challenged now.

17. Learned counsel for the appellant submitted that the selection process was carried out by a constitutional body of high repute in strict conformity with law, and the appellant was selected on the basis of her merit. The Commission has also confirmed the entitlement of the appellant and the validity of her selection before the writ court and has supported the case of the appellant. Hence, the appeal be allowed and



the impugned order be set aside and the petition be dismissed as finally prayed by the learned counsel.

18. In support of his submissions, learned counsel placed reliance on the decisions of the Hon'ble Apex Court in *Charles K. Skaria V/s Dr. Mathew* reported in (1980) 2 SCC 752 and *Dolly Chandra V/s Chairman, JEE* reported in (2005) 9 SCC 779.

Submission of M.P.P.S.C.

19. Shri V.P. Khare, learned counsel appearing in the writ appeal filed by the Commission, submitted that the recruitment process in question was conducted strictly in accordance with the requisition received from the Public Health and Family Welfare Department and in conformity with the terms of Advertisement No. 09/2022 dated 17.08.2022.

20. Learned counsel submitted that the Commission entrusted with the responsibility of conducting selections in a fair, transparent and rule-bound manner followed due process in shortlisting, interviewing and selecting candidates for the post of Dental Specialist under the said advertisement. The post in question reserved for a Scheduled Caste was filled in accordance with the points specified in the requisition, and all candidates belonging to the said category, including the petitioner and respondent no. 3 were treated equally under the same selection criteria.

21. Shri Khare learned counsel submitted that candidates up to five times the number of vacancies were called for interviews and in terms of Clause 4 of the interview call letter the appellant was allowed in interview only after submitting the certified copies of documents along with certificate from the Dean duly explaining the situation and thus was permitted to appear provisionally for the interview and her name was accordingly included in the final selection list with the remark "provisional" indicating that her selection was subject to verification of original documents but not with respect to eligibility.



22. Learned counsel submitted that the grievance against the selection of Respondent No. 3 by the petitioner is misplaced as no relaxation or preferential treatment was granted to her, and her merit position was higher than that of the petitioner. The commission did not perform arbitrarily or in breach of its obligations, and the entire selection process was conducted uniformly across all categories. The original writ petitioner participated in the process and, having failed to secure higher merit, cannot now be permitted to challenge the selection on speculative or hyper-technical grounds as held by the Apex court in catena of cases.

23. Learned counsel finally submitted that the interference with the selection process by the learned Single Judge is unwarranted, contrary to established legal principles and undermines the authority of the commission to conduct recruitment processes independently and fairly and thus prayed that the impugned order be set aside and the petition be dismissed.

24. In support of his submissions the learned counsel relied on the decision of Hon'ble Apex Court in the cases of *Tajvir Singh Sodhi V/s State of Jammu and Kashmir* reported in *AIR 2023 SC 2014*; *Amlan Jyoti Borooah V/s State of Assam* reported in *(2009) 3 SCC 227* and *Union of India V/s S.Vinodh Kumar* reported in *(2007) 8 SCC 100*.

Submission of Dr. Yashodeep Chauhan / Writ Petitioner

25. Shri Romesh Dave, learned counsel appearing for Dr. Yashodeep Chauhan, submitted that the appellant was not eligible for consideration for the post of Dental Specialist under the selection process initiated pursuant to the advertisement dated 17.08.2022, as she did not possess the essential qualification on the stipulated cut-off date of 15.10.2022.

26. Shri Dave learned counsel submitted that the eligibility condition as expressly laid down in the advertisement mandated that the candidate must possess a post-graduate degree in the concerned discipline, along



with requisite documentation, namely the MDS degree certificate and registration in the State Dental Council as on the last date of application. The advertisement further made it unequivocally clear that not only qualifications but the documents as well acquired after the cut-off date would be entertained for the purpose of determining eligibility. Learned counsel has drawn attention towards the relevant portions of the advertisement to demonstrate that possession of the degree and valid registration were essential and not mere declaration of result.

27. Learned counsel submitted that the appellant, by her own admission, appeared for her MDS final examination in May 2022 and was declared to have passed on 27.08.2022. However, her MDS degree was issued only on 17.03.2023, and she secured registration with the M.P. State Dental Council as late as 17.07.2023. These events after the cut-off date of 15.10.2022 rendered her ineligible for consideration, and the appellant had annexed her BDS registration in the application but had failed to produce her MDS registration or degree certificate at the relevant time, as they were only obtained subsequently.

28. Learned counsel also placed reliance on the rejection of candidature of other similarly placed candidates by the Commission by Notification dated 16.10.2023, wherein it was reiterated that failure to furnish the requisite documents before the cut-off date would result in disqualification and submitted that selective indulgence in the case of appellant amounted to a discriminatory and arbitrary exercise of powers by the commission.

29. Learned counsel finally submitted that the findings of the learned Writ Court in setting aside the selection of the appellant and directing inclusion of Respondent No. 3 in the selection list are based on a clear appraisal of the legal requirements and the attempt by the appellant to cast doubts on the is totally misconceived.



30. In conclusion, learned counsel reiterated that the appellant, having failed to meet the eligibility criteria on the specified date, could not seek appointment contrary to the statutory requirements laid down in the recruitment process and prayed that the appeal be dismissed.

31. In support of his submissions, he placed reliance on *State of Bihar V/s Madhu Kant Ranjan (Supra)*; *State of U.P. V/s Vijay Kumar Mishra (Supra)* and *Charles K. Skaria V/s Dr. C. Mathew reported in (1980) 2 SCC 752*.

Submission of the State of M.P.

32. Shri Bhuwan Gautam, Learned Government Advocate appearing on behalf of the State, opposed the writ appeals and submitted that the impugned order dated does not suffer from any illegality or infirmity warranting interference by this Court.

33. Learned Govt. Advocate submitted that the advertisement dated 17.08.2022 clearly stipulated that the essential qualification of a postgraduate degree in Dental Surgery was required to be obtained on or before 15.10.2022, which was the last date prescribed for submission of online application forms. The terms of the advertisement further required that all relevant certificates must accompany the application itself, except the registration certificate of the Employment Exchange, which alone could be produced at the time of interview. Thus, the eligibility was required to be satisfied strictly by the cutoff date, and no relaxation was permissible.

34. Learned G.A. submitted that the appellant had indeed appeared in the MDS examination in May 2022, and although the online result was declared on 27.08.2022, the formal degree certificate was issued only on 17.03.2023. Admittedly, the appellant did not enclose the said certificate with her application by the last date i.e., 15.10.2022 and the reliance placed on a certificate dated 19.10.2023 issued by the Dean of the



Dental College, Indore is clearly of no avail being beyond the cutoff date and thus the learned Single Judge had rightly held that the appellant was not eligible in terms of the advertisement conditions.

35. Learned Govt. Advocate submitted that the writ petition was rightly allowed by the learned Single Judge by setting aside the selection and appointment of the appellant as the eligibility for the post of Dental Specialist had to be fulfilled on or before 15.10.2022 as per the recruitment advertisement and the appellant had failed to submit the same by that date and had instead relied on certificates and clarifications issued much later which cannot cure the ineligibility.

36. Learned Govt. Advocate submitted that the law is well settled that eligibility must exist on the cut-off date, and since the petitioner was the next eligible candidate in merit, he was rightly directed to be appointed and thus prayed that the appeal be dismissed.

37. Learned Deputy Govt. Advocate placed reliance on judgments of Hon'ble Apex Court in *Dr. B.S. Chauhan vs. Ugrasen* reported in (2010) 11 SCC 557; *State of Bihar V/s Madhu Kant Ranjan (Supra)*; *State of U.P. V/s Vijay Kumar Mishra (Supra)*; *Charles K. Skaria V/s Dr. C. Mathew (Supra)* and also relied on the division bench decisions of this court in *Vishnu vs. State of M.P* in W.A. 1150/2020 and *Smt. Mamta Shrivastava V/s Women & Child Development Department* in W.A. 387/2020.

Submission of M.P. Medical Science University, Jabalpur

38. Shri Kinjal Shrivastav, learned counsel appearing for Madhya Pradesh Medical Science University submitted that the University was impleaded pursuant to the order of this court dated 13.05.2025 for the limited purpose of clarifying the date of declaration of results of the PG Degree (Dental Faculty) MDS Part-II Examination, May 2022 and in compliance thereto the respondent no.4 has filed reply stating that the



said result was duly declared on 27.08.2022 and has also relied on Notification No. MPMSU/Conf./2022/12092 issued on the same date by the Controller of Examinations i.e. MPMSU.

Appreciation and conclusion

39. The Commission issued an advertisement dated 17.08.2022 in which the last date of submission of the online application was 15.10.2022 and the last date of submission of the document in its office was 27.10.2022. Two posts were reserved for the Scheduled Castes category candidates; the petitioner and appellant both applied for the post of Dental Specialist. The qualification for the post in question as per the recruitment rules provided in the advertisement and as per the special note the candidate must have possessed the qualification on the last date of submission of online application i.e. 15.10.2022, therefore, the essential requirement by the Commission in the advertisement that the candidate must possess the qualification for the post in question prior to 15.10.2022. The appellant disclosed her qualification in the application form, which is the essential qualification and is not in dispute. It is correct that, as per clause 4, the candidate was required to submit a photocopy of the certificate along with the online application form, especially in respect of verification of age, disability, educational qualification, experience certificate of contractual employee, caste certificate, government service certificate, etc.

40. The Commission had issued a notice dated 14.09.2023 disclosing the names whose candidature had been rejected, in which the name of the appellant was not included; hence, the Commission had no issue with the qualifications and the documents submitted by the appellant. The appellant was called for an interview, and she secured the position in the merit list. The writ petitioner approached this Court by filing a writ petition by impleading appellant as a respondent No.3. In the entire



petition, there is no specific allegation made that the appellant does not possess the necessary qualification for the post in question. Only in ground No.3, it is pleaded that the appointment of respondent No.3 is liable to be set aside as she was illegally shortlisted for the purpose of the interview, and she did not fulfill the minimum eligibility criteria required for being shortlisted in the interview. Therefore, in the absence of specific pleading in the petition, there was no occasion for appellant or other respondents to give a parawise reply.

41. At the time of final arguments, the counsel for the petitioner raised a sole issue that the respondent No.3 i.e. appellant, passed the MDS examination in the year 2022, but no such degree or certificate was annexed along with the application form. She obtained the degree on 17.03.2023, i.e. much after the cut-off date and in view of the law laid down by the Hon'ble Apex Court in the case of *State of Bihar V/s Madhu Kant Ranjan (supra)*, the appointment is liable to be set aside. The learned Writ Court has observed that the appellant did not submit the requisite certificate of the MDS along with an application, which is correct as the certificate was obtained on 19.10.2023, whereas the last date of advertisement was 15.10.2022, but the qualification was there. Thus, the appellant possessed the qualification before the cut-off date, but she did not have the degree/certificate issued by the College / University. Neither the selection agency nor the Government had any objection to that, hence she was rightly selected on the basis of merit.

42. The Government Dental College issued a certificate dated 19.10.2025 stating that all the original mark-sheets are deposited with the college because of the Bond submitted by the appellant to serve in a rural area, and the bond period is liable to be completed on 26.10.2023. Thus, before 26.10.2023, the appellant was not in possession of her original documents. As per the list, there is a certificate in respect of



registration of the M.P. State Dental Council.

43. So far as the degree of MDS is concerned, the M.P. Medical University has duly certified that the result of MDS (Final) had already been issued on 27.08.2022. Vide order dated 09.02.2024, this appellant was provisionally selected, and she was directed to submit the necessary documents before joining the post of Dental Specialist. It is a settled law that selection does not confer any right unless the appointment order is issued and the joining is given. Before the date of joining, the appellant was required to submit the original document for verification of the qualification and that she was in possession of it. Even otherwise, the petitioner obtained the "P.G. Degree (Dental Faculty) MDS Part-II Examination, May-2022" and the date of printing of the mark-sheet is 07.12.2022. If there was a delay in the issuance of the mark-sheet, then the appellant cannot be made to suffer because the result had already been declared on 27.08.2022.

44. Shri Dave, learned counsel for the writ petitioner, strongly placed reliance on the judgment passed by the Apex Court in the case of *State of Bihar V/s Madhu Kant Ranjan (supra)*. In the said case, the petitioner therein produced the NCC 'B' certificate after 3 years from the cut-off date. On the basis of the said certificate, he was entitled to five additional marks; therefore, this certificate was required to be seen at the time of selection. The Hon'ble Apex Court held that, as per the settled position of the law, the candidate/applicant has to comply with all conditions/eligibility criteria as per the advertisement before the cut-off date. Thus, in this case, there is no dispute that the appellant was not possessing the qualification before the cut-off date; only the mark-sheet and degree were not in her hand.

45. The Hon'ble Apex Court in the case of *Charles K. Skaria and others V/s Dr. C. Mathew and others* reported in (1980) 2 SCC 752 has



held in paragraph Nos.20, 24 & 26 as under:

"20. There is nothing unreasonable or arbitrary in adding 10 marks must be obtained at least on or before the last date for application, not later. Proof of having obtained a diploma is different from the factum of having got it. Has the candidate, in fact, secured a diploma before the final date of application for admission to the degree course? That is the primary question. It is prudent to produce evidence of the diploma along with the application, but that is secondary. Relaxation of the date on the first is illegal, not so on the second. Academic excellence, through A diploma for which extra mark is granted, cannot be denuded because proof is produced only later, yet before the date of actual selection. The emphasis is on the diploma; the proof thereof subserves the factum of possession of the diploma and is not an independent factor. The prospectus does say:

(4)(b) 10% to diploma holders in the selection of candidates to M. S., and M. D., courses in the respective subjects or sub-specialities.

13. Certificates to be produced: In all cases true copies of the following documents have to be produced:-

(k) Any other certificates required along with the application.

This composite statement cannot be read formalistic fashion. Mode of proof is geared to the goal of the qualification in question. It is subversive of sound interpretation and realistic decoding of the prescription to telescope the two and make both mandatory in point of time. What is essential is the possession of a diploma before the given date; what is ancillary is the safe mode of proof of the qualification. To confuse between a fact and its proof is blurred perspicacity. To make mandatory the date of acquiring the additional qualification before the last date for application makes sense. But if it is unshakeably shown that the qualification has been acquired before the relevant date, as is the case here, to invalidate this merit factor because proof, though undubitable, was adduced a few days later but before the selection or in a manner not mentioned in the prospectus, but still above-board, is to make procedure not the handmaid but the mistress and form not as subservient to substance but as superior to the essence.

24. It is notorious that this formalistic, ritualistic, approach is unreal-istic and is unwittingly traumatic, unjust and subversive of the purpose of the exercise. This way of viewing problems dehumanises the administrative, judicial and even legislative processes in the wider perspective of law for man and not man for law. Much of hardship and harassment in administration flows from over-emphasis on the external rather than the



essential. We think the government and the selection committee rightly treated as directory (not mandatory) the mode of proving the holding of diplomas and as mandatory the actual possession of the diploma. In actual life, we know how exasperatingly dilatory it is to get copies of degrees, decrees and deeds, not to speak of other authenticated documents like mark-lists from universities, why, even bail orders from courts and government orders from public offices. This frustrating delay was by-passed by the State Government in the present case by two steps. Government informed the selection committee that even if they got proof of marks only after the last date for applications but before the date for selections they could be taken note of and secondly the Registrars of the Universities informed officially which of the candidates had passed in the diploma course. did not violate any mandatory rule nor act arbitrarily by accepting and act-The selection committee ing upon these steps. Had there been anything dubious, shady or unfair about the procedure or any mala fide move in the official exercises we would never have tolerated deviations. But a prospectus is not scripture and common sense is not inimical to interpreting and applying the guide-lines therein. Once this position is plain the addition of special marks was basic justice to proficiency measured by marks.

26. Even so, there is a snag. Who are the diploma holders eligible for 10 extra marks? Only those who, at least by the final date for making applications for admissions possess the diploma. Acquisition of a diploma later may qualify him later, not this year. Otherwise, the date-line makes no sense. So, the short question is when can a candidate claim to have got a diploma? When he has done all that he has to do and the result of it is officially made known by the concerned authority. An examinee for a degree or diploma must complete his examination written, oral or practical - before he can tell the selection committee or the court that he has done his part. Even this is not enough. If all goes well after that, he cannot be credited with the title to the degree if the results are announced only after the last date for applications but before selection. The second condition precedent must also be fulfilled, viz., the official communication of the result before the selection and its being brought to the ken of the committee in an authentic manner. Maybe, the examination is cancelled or the marks of the candidates are withheld. He acquires the degree or diploma only when the results are officially made known. Until then his qualification is inchoate. But once these events happen his qualification can be taken into account in evaluation of equal opportunity provided the selection committee has the result before it at the time of not after the selection is over. To suin up, the applicant for post-graduate degree course earns the right



to the added advantage of diploma only if (a) he has completed the diploma examination on or before the last date for the application, (b) the result of the examination is also published before that date, and (c) the candidate's success in the diploma course is brought to the knowledge of the selection committee before completion of selection in an authentic or acceptable manner. The prescription in the prospectus that a certificate of the diploma shall be attached to the application for admission is directory, not mandatory; a sure mode, not the sole means. The delays in getting certified copies in many departments have become so exasperatingly common that realism and justice forbid the iniquitous consequence of defeating the applicant if, otherwise than by a certified copy, he satisfies the committee about his diploma. There is no-thing improper even in a selection committee requesting the concerned universities to inform them of the factum and get the proof straight aight by communication therefrom-unless, of course, this facility is arbitrarily confined only to a few or there is otherwise some capricious or unveracious touch about the process."

46. In the case of *Dolly Chhanda V/s Chairman, JEE and others* reported in (2005) 9 SCC 779, the Hon'ble Apex Court has held that the general rule is that while applying any course of study or a post, a person must possess the eligibility qualification on the last date fixed for such purpose and also observed that depending upon the facts of the case, there can be some relaxation in the manner of submission of proof and it will not be proper to apply any rigid principle as it pertains in the domain of procedure. Every infraction of the rule relating to submission of proof need not necessarily result in rejection of candidature. Para 7 of the judgment is reproduced below:

"7. The general rule is that while applying for any course of study or a post, a person must possess the eligibility qualification on the last date fixed for such purpose either in the admission brochure or in application form, as the case may be, unless there is an express provision to the contrary. There can be no relaxation in this regard i.e. in the matter of holding the requisite eligibility qualification by the date fixed. This has to be established by producing the necessary certificates, degrees or marksheets. Similarly, in order to avail of the benefit of reservation or weightage, etc. necessary certificates have to be produced. These are



documents in the nature of proof of holding of particular qualification or percentage of marks secured or entitlement to benefit of reservation. Depending upon the facts of a case, there can be some relaxation in the matter of submission of proof and it will not be proper to apply any rigid principle as it pertains in the domain of procedure. Every infraction of the rule relating to submission of proof need not necessarily result in rejection of candidature."

47. In case of *Dheerender Singh Paliwal V/s Union Public Service Commission* reported in (2017) 11 SCC 276, the Hon'ble Apex Court in paras 11, 14, 15 & 16 has held as under:

"11. We heard Mr V. Shekhar, learned Senior Counsel for the appellant who drew our attention to the various interviews narrated above which are part of our record and also relied upon the decision of this Court in *Charles K. Skaria v. C. Mathew* wherein this Court has held as under in paras 21 & 26: (SCC pp. 762 & 764)

"21. Before the Selection Committee adds special marks to a candidate based on a prescribed ground it asks itself the primary question: has he the requisite qualification? If he has, the marks must be added. The manner of proving the qualification is indicated and should ordinarily be adopted. But, if the candidate convincingly establishes the ground, though through a method different from the specified one, he cannot be denied the benefit. The end cannot be undermined by the means. Actual excellence cannot be obliterated by the choice of an incontestable but unorthodox probative process. Equity shall overpower technicality where human justice is at stake.

* * *

26. Even so, there is a snag. Who are the diploma-holders eligible for 10 extra marks? Only those who, at least by the final date for making applications for admissions possess the diploma. Acquisition of a diploma later may qualify him later, not this year. Otherwise, the dateline makes no sense. So, the short question is when can a candidate claim to have got a diploma? When he has done all that he has to do and the result of it is officially made known by the authority concerned. An examinee for a degree or diploma must complete his examination-written, oral or practical-before he can tell the Selection Committee or the court that he has done his part. Even



this is not enough. If all goes well after that, he cannot be credited with the title to the degree if the results are announced only after the last date for applications but before selection. The second condition precedent must also be fulfilled viz. the official communication of the result before the selection and its being brought to the ken of the committee in an authentic manner. May be, the examination is cancelled or the marks of the candidates are withheld. He acquires the degree or diploma only when the results are officially made known. Until then his qualification is inchoate. But once these events happen his qualification can be taken into account in evaluation of equal opportunity provided the Selection Committee has the result before it at the time of-not after the selection is over. To sum up, the applicant for postgraduate degree course earns the right to the added advantage of diploma only if (a) he has completed the diploma examination on or before the last date for the application, (b) the result of the examination is also published before that date, and (c) the candidate's success in the diploma course is brought to the knowledge of the Selection Committee before completion of selection in an authentic or acceptable manner. The prescription in the prospectus that a certificate of the diploma shall be attached to the application for admission is directory, not mandatory, a sure mode, not the sole means. The delays in getting certified copies in many departments have become so exasperatingly common that realism and justice forbid the iniquitous consequence of defeating the applicant if, otherwise than by a certified copy, he satisfies the committee about his diploma. There is nothing improper even in a Selection Committee requesting the universities concerned to inform them of the factum and get the proof straight by communication therefrom-unless, of course, this facility is arbitrarily confined only to a few or there is otherwise some capricious or unveracious touch about the process."

14. Having considered the respective submissions and having noted the dictum of this Court as noted above, we are of the view that in the light of the prescription noted in the advertisement, the particulars furnished by the appellant in response to the said advertisement and the production of the degree certificate for having secured the B.Sc. degree with Zoology as the subject at a later point of time there was substantial compliance with the requirement to be fulfilled in the matter of the essential qualifications possessed by the



appellant. Therefore, applying the principle set down by this Court, the respondent Commission ought to have considered the application and more so when the appellant was already in the services of the Forensic Science Laboratory as Senior Scientific Assistant and his essential qualifications were very much on record in the form of résumé and therefore pursuant to the direction of the Tribunal when the respondent Commission interviewed the appellant and found him fit to be selected and appointed for the post of Senior Scientific Officer in all fairness should have appointed the appellant.

15. In the first place, it must be stated that it is not a case of the appellant not possessing the required essential qualifications but was of only not enclosing the certificate in proof of the added qualification of Zoology as one of the subjects at B.Sc. level, from a recognised University. In the application when once the appellant, marked '1' against Column 9 and thereby confirmed that he possesses the essential qualification, namely, the postgraduate qualification as well as the degree level qualification, if at all there was any doubt about any of the qualification, the appellant should have been called upon to produce the required certificate in proof of such essential qualification. In fact in this context, when we refer to the interview proceedings of the appellant as well as two other candidates we find that the appellant produced the original B.Sc./M.Sc. degree in Zoology and also submitted the attested photocopy of B.Sc. Zoology degree. The outcome of the said interview was that the appellant should be cleared of his selection. Insofar as other two candidates, namely, Miss Babyto and Miss Imrana, are concerned, we find that the production of their caste certificate was not in the prescribed pro forma initially, nevertheless those candidates were allowed to produce the original caste certificate issued by the competent authority and after verifying the same by accepting the attested photocopies of such caste certificates, their cases were cleared. Therefore, when such a course was adopted by the respondent Commission in regard to those two candidates there is no reason why the candidature of the appellant alone was kept in suspension, though he also cleared interview process. Even assuming such clearance was not made awaiting the outcome of the order of the Tribunal, when the Tribunal upheld his selection and directed the respondent to issue necessary orders for appointment, in all fairness the respondent Commission should have issued the order of appointment. We are of the view that such an approach of the respondent Commission was unfair having regard to the very trivial issue, namely, a non-production of an added qualification as part of the essential qualification at the degree level which the appellant did possess and for mere asking, the appellant could have readily produced



the same through his employer.

16. We are therefore convinced that the interference with the order of the Tribunal by the Division Bench was uncalled for and accordingly while setting aside the impugned Judgment of the Division Bench of the High Court, the order of the Tribunal dated 9-12-2009 stands restored. The appeal is allowed. The appellant shall be appointed as Senior Scientific Officer as directed in the aforesaid order and shall be granted all the benefits Including restoration of the seniority as on the date of the appointment of any of his juniors in the said position pursuant to the selection made in the Advertisement dated 28-2-2009 to 6-3-2009. However, applying the principle of not having actually performed the duties of the Senior Scientific Officer, we hold that such conferment of benefits shall be made on notional basis without any monetary liability. Above directions shall be carried out within two weeks from the date of production of the copies of this order."

48. In case of *Food Corporation of India V/s Rimjhim* reported in **(2019) 5 SCC 793**, the Hon'ble Apex Court in paras 8, 10 & 13 has held as under:

"8. At the outset, it is required to be noted that the original writ petitioner was denied the appointment on the post of Assistant Grade II (Hindi) on the ground that the original writ petitioner did not produce the certificate of one year's experience of translation from English to Hindi and vice versa along with the application and/or even at the time of verification of documents. According to the FCI, one year's experience of translation from English to Hindi and vice versa was essential to become a candidate eligible for the post in question. It is required to be noted that the aforesaid stand was taken by the FCI for the first time before the learned Single Judge in a writ petition filed by the original writ petitioner. Therefore, the original writ petitioner produced the certificates dated 14-1-2015 and 18-7-2016 issued by her erstwhile employer, in support of her case that she was having one year's experience of translation from English to Hindi and vice versa.

10. So far as the case on behalf of the FCI that as the original writ petitioner did not produce the certificate of one year's experience along with the application is concerned, it is required to be noted that in the advertisement there was no such requirement. What is provided in the advertisement is that a candidate must have one year's experience of translation from English to Hindi and vice versa along with the other qualifications. The advertisement does not provide specifically and/or provide that a candidate shall produce the certificate of



experience along with the application. Therefore, the Division Bench of the High Court has rightly observed that non-production of one year's experience certificate along with the application cannot be said to be fatal to the case of the original writ petitioner and on that ground the original writ petitioner could not have been denied the appointment, if otherwise she is found to be meritorious. We are in complete agreement with the view taken by the Division Bench of the High Court.

13. to have produced the experience certificate along with the application is concerned, at this stage, a decision of this Court in *Charles K. Skaria v. C. Mathew* and the subsequent decision of this Court in *Dolly Chhanda v. JEE* are required to be referred to. In *Charles K. Skaria*, this Court had an occasion to consider the distinction between the essential requirements and the proof/mode of proof. In the aforesaid case, this Court had an occasion to consider the distinction between a fact and its proof. In the aforesaid case before this Court, a candidate/student was entitled to extra 10% marks for holders of a diploma and the diploma must be obtained on or before the last date of the application, not later. In the aforesaid case, a candidate secured diploma before the final date of application, but did not produce the evidence of diploma along with the application. Therefore, he was not allowed extra 10% marks and therefore denied the admission. Dealing with such a situation, this Court observed and held that what was essential requirement was that a candidate must have obtained the diploma on or before the last date of application but not later, and that is the primary requirement and to submit the proof that the diploma is obtained on or before a particular date as per the essential requirement is secondary. This Court specifically observed and held that "What is essential is the possession of a diploma before the given date; what is ancillary is the safe mode of proof of the qualification." This Court specifically observed and held that "To confuse between a fact and its proof is blurred perspicacity." This Court further observed and held that: (*Charles K. Skaria* case, SCC p. 762, para 20)

"20... To make mandatory the date of acquiring the additional qualification before the last date for application makes sense. But if it is unshakeably shown that the qualification has been acquired before the relevant date, as is the case here, to invalidate the merit factor because proof, though indubitable, was adduced a few days later but before the selection or in a manner not mentioned in the prospectus, but still above board, is to make procedure not the handmaid but the mistress and form not as subservient to substance but as superior to the essence."

While observing and holding so, in paras 20 and 24, this



Court observed and held as under: (*Charles K. Skaria case*, SCC pp. 762-63)

20. There is nothing unreasonable or arbitrary in adding 10 marks for holders of a diploma. But to earn these extra 10 marks, the diploma must be obtained at least on or before the last date for application, not later. Proof of having obtained a diploma is different from the factum of having got it. Has the candidate, in fact, secured a diploma before the final date of application for admission to the degree course? That is the primary question. It is prudent to produce evidence of the diploma along with the application, but that is secondary. Relaxation of the date on the first is illegal, not so on the second. Academic excellence, cannot be denuded because proof is produced only later, yet before the date of actual ce, through a diploma for which extra mark is granted, selection. The emphasis is on the diploma; the proof thereof subserves the factum of possession of the diploma and is not an independent factor... Mode of proof is geared to the goal of the qualification in question. It is subversive of sound interpretation and realistic decoding of the prescription to telescope the two and make both mandatory in point of time. What is essential is the possession of a diploma before the given date; what is ancillary is the safe mode of proof of the qualification. To confuse between a fact and its proof is blurred perspicacity. To make mandatory the date of acquiring the additional qualification before the last date for application makes sense. But if it is unshakeably shown that the qualification has been acquired before the relevant date, as is the case here, to invalidate this merit factor because proof, though indubitable, was adduced a few days later but before the selection or in a manner not mentioned in the prospectus, but still above board, is to make procedure not the handmaid but the mistress and form not as subservient to substance but as superior to the essence.

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24. It is notorious that this formalistic, ritualistic, approach is unrealistic and is unwittingly traumatic, unjust and subversive of the purpose of the exercise. This way of viewing problems dehumanises the administrative, judicial and even legislative processes in the wider perspective of law for man and not man for law. Much of hardship and harassment in administration flows from overemphasis on the



external rather than the essential. We think the Government and the selection committee rightly treated as directory (not mandatory) the mode of proving the holding of diplomas and as mandatory the actual possession of the diploma. In actual life, we know how exasperatingly dilatory it is to get copies of degrees, decrees and deeds, not to speak of other authenticated documents like mark-lists from universities, why, even bail orders from courts and government orders from public offices. This frustrating delay was bypassed by the State Government in the present case by two steps. Government informed the selection committee that even if they got proof of marks only after the last date for applications but before the date for selections they could be taken note of and secondly the Registrars of the Universities informed officially which of the candidates had passed in the diploma course. The selection committee did not violate any mandatory rule nor act arbitrarily by accepting and acting upon these steps. Had there been anything dubious, shady or unfair about the procedure or any mala fide move in the official exercises we would never have tolerated deviations. But a prospectus is not scripture and common sense is not inimical to interpreting and applying the guidelines therein. Once this position is plain the addition of special marks was basic justice to A similar view is taken by this Court subsequently in *Dolly Chhanda*, relying upon the aforesaid decision of this Court in *Charles K. Skaria*."

49. In case of *Aarav Jain V/s Bihar Public Service Commission and others* reported in (2022) 14 SCC 35, the Hon'ble Apex Court in paras 3 & 15 has held as under:

"3. One of the conditions required was to submit the originals of certificates detailed therein which included educational certificates, caste certificates if claiming any benefit of reservation, no-objection certificates of previous employer, character certificate of the last attended college/university and other certificates of residence, etc. at the time of interview. Some of the candidates could not produce the original certificates as required, as a result of which their candidatures were cancelled by the Commission vide their meeting dated 27-11-2019. In its 102nd meeting of the Commission organised on 27-11-2019, the eligibility of the candidates on the basis of their educational certificates, marksheets, documents, etc.



presented at the time of the interview which was conducted in between the dates of 21-10-2019 to 27-10-2019 under the 30th Bihar Judicial Service Examination (Advertisement No. 06/2018), the Commission examined the shortcomings and the non-fulfilment of the requirement of the production of the original documents/certificates at the time of the interview and after dealing with each of the candidates, found deficit in fulfilling the said requirement and cancelled the candidature of as many as 58 candidates for different reasons.

15. Considering the facts and circumstances of the case, without entering into the respective argument we are of the considered view that the rejection of the candidates was improper, unjustified and not warranted. We have also taken note of the fact that there are vacancies available, which if filled up by meritorious candidates would only be an asset for the institution helping in disposal of cases pending in huge numbers."

50. In the case of *Sweety Kumari V/s State of Bihar and others* reported in (2023) SCC OnLine SC 1212, the Hon'ble Apex Court in Para 19 has held that the proof is available and the true photocopies were on record. The appellants' candidature could not have been rejected merely because the original was not produced before the Commission at the time of interview in particular when such requirement was not mandatory. Paras 18 & 19 are reproduced below:

"18. The view taken by this Court is fortified by the analogy drawn in the case of *Charles K. Skaria v. Dr. C. Mathew*, (1980) 2 SCC 752 whereby Justice Krishna Iyer speaking for the Court held that the factum of eligibility is different from factum of proof thereof. This Court held that if a person possesses eligibility before the date of actual selection, he cannot be denied benefit because its proof is produced later.

19. In the present case, the proof is available and true photocopies were on record. The appellants' candidature could not have been rejected merely because the original was not produced before the Commission at the time of interview in particular when such requirement was not mandatory, in view of the manner in which the Rules are couched."

51. In the case of *Karn Singh Yadav V/s Government of NCT of Delhi and others* reported in (2024) 2 SCC 588, the Hon'ble Apex Court has held that the Selecting authority not permitting the candidate to



rectify the defect in the caste certificate after the cut-off date for availing the benefit of reservation is unwarranted.

52. The present appellant is a lady belonging to the Scheduled Caste, she studied upto Post Graduation in the medical field, she was qualifying before the cut-off date but the mark-sheet / degree was not annexed alongwith online application because it was not issued immediately after declaration of the result before the cut-off date, therefore, the Commission has rightly accepted her candidature. After the selection, she was permitted to file the documents before joining by the State Government, thus it is all within the domain of the recruitment agency or the employer to have satisfaction about the qualification, and both were satisfied in selecting the candidate. The Writ Court has wrongly interfered with the selection of the writ petitioner and has wrongly set aside the same; therefore, the writ petition ought to have been dismissed.

53. In view of the above, the impugned order dated 01.05.2025 passed in Writ Petition No. 30783 of 2023 is hereby *set aside*. As a result, Writ Petition No.30783 of 2023 stands dismissed. With the aforesaid, both the present writ appeals, i.e. Writ Appeal No.1453 of 2025 and Writ Appeal No.2155 of 2025, stand **allowed**.

54. Let a photocopy of this order be kept in the record of Writ Appeal No.2155 of 2025.

(VIVEK RUSIA)
JUDGE

(BINOD KUMAR DWIVEDI)
JUDGE