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WP-12783-2025

IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE DEEPAK KHOT

ON THE 8<sup>th</sup> OF DECEMBER, 2025

WRIT PETITION No. 12783 of 2025

*SANA KHAN*

*Versus*

*THE STATE OF MADHYA PRADESH AND OTHERS*

.....  
Appearance:

Shri Dinesh Singh Chauhan - Advocate for the petitioner.

Shri Anshuman Swamy - Government Advocate for the  
respondents/State.

Shri Siddhartha Sharma - Advocate for the respondent No.2.

.....  
WITH

WRIT PETITION No. 11022 of 2025

*NAMAMI DIXIT*

*Versus*

*THE STATE OF MADHYA PRADESH AND OTHERS*

.....  
Appearance:

Shri Dinesh Singh Chauhan - Advocate for the petitioner.

Shri Anshuman Swamy - Government Advocate for the  
respondents/State.

Shri Sudeep Chaterjee - Advocate for the respondent No.2.

.....  
WRIT PETITION No. 15406 of 2025

*PRIYANKA PATEL AND OTHERS*

*Versus*

*THE STATE OF MADHYA PRADESH AND OTHERS*



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Appearance:

Shri Dinesh Singh Chauhan - Advocate for the petitioner.

Shri Anshuman Swamy - Government Advocate for the respondents/State.

Shri Siddhartha Sharma - Advocate for the respondent No.2.  
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ORDER

Regard being had to the similitude of the issue involved in the aforementioned cases, they are being heard and decided by this common order, however, for the sake of convenience, the facts are being taken up from the lead case i.e. WP No. 12783/2025.

It is apropos to mention here that in all the petitions the petitioners either belong to Other Backward Class or Economically Weaker Sections.

The petitioner has filed this petitions under Article 226 of the Constitution of India seeking following relief:-

(i) Issue a writ in the nature of mandamus directing the respondent no. 2 to quash the result of the petitioner (Annexure P/4) to the extent of not qualified and further her result may be declared as qualified, in the interest of justice.

(ii) Issue a writ in the nature of mandamus, directing the respondent no. 2 to give appointment to the petitioner in the prescribed post as per her merit position, in the interest of justice.

(ii) That, this Hon'ble High Court may kindly be pleased to direct the respondent no. 2 to follow the instructions given at clause 15 sub-clause (iv) of rule book of Recruitment Test 2023, in the interest of justice.



(iv). Any other relief/order, which this Hon'ble Court deemed fit looking to the facts and circumstances of the case in the ends of justice.

2. It is contended by the learned counsel for the petitioner that the respondent no. 2 has issued a notification i.e. Police Constable Recruitment Test-2023 for appointment of Police Constables as per the Rule Book of recruitment vide Annexure P/1. The petitioner belongs to Other Backward Class. The petitioner has submitted her candidature form and also applied for the benefit of reservation under the OBC category alongwith the certificate vide Annexure P/2. Thereafter, examination was commenced and the petitioner appeared in the first phase of examination in which the petitioner obtained 77.68 marks and qualified for the second phase of examination i.e. Physical Proficiency Test for which a call letter was issued to the petitioner on 25.10.2024 (Annexure P/3). The petitioner appeared in the Physical Proficiency Test in which she obtained 67 marks i.e. total 144.68 marks in both the phases of examination. Copy of final result of the petitioner is annexed as Annexure P/4.

3. It is contended by the learned counsel for the petitioner that the cut-off marks for the unreserved category is 143.53, but the respondents have rejected the candidature of the petitioner and not appointed the petitioners despite the fact that she has obtained more marks than the cut off marks and the candidates who have obtained less marks than the petitioner have been selected. It is submitted that as per Clause 15(iv) of the Rule Book, the petitioner should be treated under the unreserved category and declared qualified for the post since she has obtained more marks than the cut off



marks prescribed for the unreserved category.

4. It is submitted by the learned counsel for the petitioner that on 11.03.2025 (Annexure P/7), the respondents have issued a waiting list in which they have changed the category of the candidates and allotted seats as per their merit. It is further submitted that similarly situated two candidates namely, Ekta Mahajan and Shivani Tanwar, who belong to OBC and EWS category, have been selected and given appointment against the unreserved category vide Annexure P/8, which is against the provisions of Rule Book and hence prayed for quashment of the impugned result-Annexure P/4.

5. To bolster his submission, learned counsel for the petitioner has placed reliance in the cases of **Tej Prakash Pathak and others vs. Rajasthan High Court and others** reported in (2013) 4 SCC 540, **Saurav Yadav vs. State of U.P.** reported in AIR 2021 SC 233 and **Sadhana Singh Dangi and others vs. Pinki Asati and others** reported in (2022) 12 SCC 401.

6. Per contra, learned counsel for the respondents placing reliance upon the return has denied all the contentions raised by the learned counsel for the petitioner and submitted that the petitioner belongs to the OBC category and has applied for the examination under the said category. The recruitment process was conducted in two phases i.e., the Written Examination and Physical Proficiency Test and the candidates, who qualified in the written examination, were eligible to be appeared in the Physical Proficiency Test. It is submitted that the petitioner had secured 77.68 (normalized) marks in the Written Examination and thereby qualified in the first phase under the OBC category, as the cut off marks for the OBC



category were 75.74, whereas the cut-off marks for the unreserved category were 79.72. Accordingly, the petitioner became eligible to participate in the second phase after availing the benefit of her OBC category status. Copy of list of first phase cut-off marks is annexed as Annexure R/1. Thereafter the petitioner was called to appear in the Physical Proficiency Test in which the petitioner secured 67 marks, thereby making a total of 144.68 marks (77.68+67). The final cut off marks for the OBC (Female) category were 151.07, which is higher than the marks obtained by the petitioner, making her ineligible for selection under the said category. However, the final cut-off marks for the unreserved (female) category stood at 143.55, which is lower than the marks secured by the petitioner and as such the petitioner has claimed that she ought to have been considered for selection under the unreserved category on the basis of her higher merit position. The Final Result is annexed as Annexure R-2.

7. It is further contended that since the petitioner was considered and was qualified under the OBC category in the first phase of the selection process for the Physical Proficiency Test, she cannot claim consideration under the unreserved category in the second phase. The candidature of the petitioner has been evaluated under the OBC category, therefore, she cannot subsequently seek to shift her claim to unreserved category for the purpose of final selection. Thus, prayed for dismissal of the petition.

8. So far as the contention of the petitioner that two candidates, namely Ekta Mahajan and Shivani Tanwar, belonging to the OBC and EWS categories, were selected against unreserved category vacancies, it is



submitted that those candidates were treated under the unreserved category in the second phase because they had secured marks equal to or higher than the unreserved category cut-off marks in the first phase and the operational framework of the Rulebook permits consideration under the unreserved category only for those candidates who have achieved the unreserved category standard in the initial stage as stipulated in Clause 15 (iii) of the Rulebook. It is also submitted that the said clarification has been reiterated and emphasized by the communication dated 03.02.2025 (Annexure R/3) issued by the Police Department at the time of preparation of result, which clarifies that any candidate who had qualified taking benefit of relaxation in the first phase cannot claim migration to the unreserved category. On the basis, prayed for dismissal of the petition.

9. To establish their case, the respondents have placed reliance in the case of **Union of India & Ors vs. Sajib Roy** reported in 2025 SCC Online SC 1943.

10. Heard the learned counsel for the parties and perused the record.

11. The only question, which has been raised by the learned counsel for the petitioner is that as per the Rulebook for the appointment/selection, final merit list was to be prepared consolidating the marks of written test and Physical Proficiency Test. It is submitted that the petitioner has secured 144.68 total marks combining the result of written test and Physical Proficiency Test. It is submitted that as per the final result sheet for Constable unreserved female category, cut off marks have been shown as 143.55 and waiting cut off marks have been shown as 139.89. Similarly, for



OBC female candidate, cut off marks have been shown as 151.07 for merit and for waiting cut off marks have been shown as 149.44.

12. Clause 11 of the Rulebook reads as under:-

**११. शारीरिक दक्षता परिक्षण-**

(i) ----

(ii) ---

(iii) प्रथम चरण लिखित परीक्षा के कट-ऑफ अंकों के आधार पर, वटिकल श्रेणी के विज्ञापित पदों के विरुद्ध सात गुना अभ्यर्थी को अगले चरण के लिए चुना जाएगा, प्रथम चरण की परीक्षा में कट-ऑफ के बराबर अंक प्राप्त करने वाले सभी अभ्यर्थी को शारीरिक दक्षता परिक्षण के लिए बुलाया जाएगा, भले ही कुल संख्या विज्ञापित रिक्तियों की सात गुना से अधिक हो.

13. According to the said Rule, if the candidate secures more marks than the cut off marks then he or she will be eligible for the next Physical Proficiency Test. The respondents have submitted that the petitioner has secured less marks than the marks assessed for the cut of marks for the unreserved category. The candidature of the petitioner has been considered under the OBC category by granting her benefit of reservation. By getting such benefit, the petitioner could enter into the second phase of Physical Proficiency Test. The cut off marks for the first phase for unreserved category have been declared as 79.72 while the petitioner has secured only 77.68 marks in the first phase. Thus, applying the aforesaid Rule, the petitioner was not qualified to reach in the second phase of examination, if she had been considered in the unreserved category. As the petitioner has applied under the OBC category, she has been granted the benefit of OBC category wherein the cut off marks for the first phase has been declared as 75.54 while the petitioner has obtained 77.68, which is more than the cut off marks of the OBC. Thus, the petitioner has received the benefit of the reservation in the first phase and because of the said benefit only, the



petitioner could succeed to face second phase of the examination.

14. The contention of the petitioner is that the open category is open to all, and only condition for a candidate is to secure position in merit, regardless of whether reservation benefit of either type is available to him or her. The relevant observation made by the Hon'ble Apex Court in the case of **Saurav Yadav (supra)** reads as under:-

"66. I would conclude by saying that reservations, both vertical and horizontal, are method of ensuring representation in public services. These are not to be seen as rigid "slots", where a candidate's merit, which otherwise entitles her to be shown in the open general category, is foreclosed, as the consequence would be, if the State's argument is accepted. Doing so, would result in a communal reservation, where each social category is confined within the extent of their reservation, thus negating merit. The open category is open to all, and the only condition for a candidate to be shown in it is merit, regardless of whether reservation benefit of either type is available to her or him."

In **Tej Prakash Pathak (supra)**, the Hon'ble Apex Court has observed as under:-

"11. Those various cases [ (a) *C. Channabasavaih v. State of Mysore*, AIR 1965 SC 1293; *State of Haryana v. Subash Chander Marwaha*, (1974) 3 SCC 220 : 1973 SCC (L&S) 488; *P.K. Ramachandra Iyer v. Union of India*, (1984) 2 SCC 141 : 1984 SCC (L&S) 214; *Umesh Chandra Shukla v. Union of India*, (1985) 3 SCC 721 : 1985 SCC (L&S) 919; *Durgacharan Misra v. State of Orissa*, (1987) 4 SCC 646 : 1988 SCC (L&S) 36 : (1987) 5 ATC 148; *State of U.P. v. Rafiquddin*, 1987 Supp SCC 401 : 1988 SCC (L&S) 183 : (1987) 5 ATC 257; *Maharashtra SRTC v. Rajendra Bhimrao Mandve*, (2001) 10 SCC 51 : 2002 SCC (L&S) 720; *Pitta Naveen Kumar v. Narasaiah Zangiti*, (2006) 10 SCC 261 : (2007) 1 SCC (L&S) 92; *K. Manjusree v. State of A.P.*, (2008) 3 SCC 512 : (2008) 1 SCC (L&S) 841; *Hemani Malhotra v. High Court of Delhi*, (2008) 7 SCC 11 : (2008) 2 SCC (L&S) 203; *K.H. Siraj v. High Court of Kerala*, (2006) 6 SCC 395 : 2006 SCC (L&S) 1345; *Ramesh Kumar v. High Court of Delhi*, (2010) 3 SCC 104 : (2010) 1 SCC (L&S) 756; *Rakhi Ray v. High Court of Delhi*, (2010) 2 SCC 637 : (2010) 1 SCC (L&S) 652; *Hardev Singh v. Union of India*, (2011) 10 SCC 121 : (2012) 1 SCC (L&S) 390 — Where procedural rules were altered.(b) *P. Mahendran v. State of Karnataka*, (1990) 1 SCC 411 : 1990 SCC (L&S) 163 : (1990) 12 ATC 727; *M.P. Public Service Commission v. Navnit Kumar Potdar*, (1994) 6 SCC 293 : 1994 SCC (L&S) 1377 : (1994) 28 ATC 286; *Gopal Krushna*



Rath v. M.A.A. Baig, (1999) 1 SCC 544 : 1999 SCC (L&S) 325; Umrao Singh v. Punjabi University, (2005) 13 SCC 365 : 2006 SCC (L&S) 1071; Mohd. Sohrab Khan v. Aligarh Muslim University, (2009) 4 SCC 555 : (2009) 1 SCC (L&S) 917 — [Where the eligibility criteria were altered.] deal with situations where the State sought to alter (1) the eligibility criteria of the candidates seeking employment, or (2) the method and manner of making the selection of the suitable candidates. The latter could be termed as the procedure adopted for the selection, such as, prescribing minimum cut-off marks to be secured by the candidates either in the written examination or viva voce as was done in Manjusree [K. Manjusree v. State of A.P., (2008) 3 SCC 512 at p. 524, para 27 : (2008) 1 SCC (L&S) 841] or the present case or calling upon the candidates to undergo some test relevant to the nature of the employment (such as driving test as was in Maharashtra SRTC [Maharashtra SRTC v. Rajendra Bhimrao Mandve, (2001) 10 SCC 51 at pp. 55-56, para 5 : 2002 SCC (L&S) 720]).

12. If the principle of Manjusree case [K. Manjusree v. State of A.P., (2008) 3 SCC 512 at p. 524, para 27 : (2008) 1 SCC (L&S) 841] is applied strictly to the present case, the respondent High Court is bound to recruit 13 of the “best” candidates out of the 21 who applied irrespective of their performance in the examination held. In such cases, theoretically it is possible that candidates securing very low marks but higher than some other competing candidates may have to be appointed. In our opinion, application of the principle as laid down in Manjusree case [K. Manjusree v. State of A.P., (2008) 3 SCC 512 at p. 524, para 27 : (2008) 1 SCC (L&S) 841] without any further scrutiny would not be in the larger public interest or the goal of establishing an efficient administrative machinery.

13. This Court in State of Haryana v. Subash Chander Marwaha [(1974) 3 SCC 220 : 1973 SCC (L&S) 488] while dealing with the recruitment of Subordinate Judges of the Punjab Civil Services (Judicial Branch) had to deal with the situation where the relevant rule prescribed minimum qualifying marks. The recruitment was for filling up of 15 vacancies. 40 candidates secured the minimum qualifying marks (45%). Only 7 candidates who secured 55% and above marks were appointed and the remaining vacancies were kept unfilled. The decision of the State Government not to fill up the remaining vacancies in spite of the availability of candidates who secured the minimum qualifying marks was challenged. The State Government defended its decision not to fill up posts on the ground that the decision was taken to maintain the high standards of competence in judicial service. The High Court upheld the challenge and issued a mandamus. In appeal, this Court reversed and opined that the candidates securing minimum qualifying marks at an examination held for the purpose of recruitment into the service of the State have no legal right to be appointed. In the context, it was held: (Subash Chander Marwaha case [(1974) 3 SCC 220 : 1973 SCC



(L&S) 488] , SCC p. 227, para 12).

“12. ... In a case where appointments are made by selection from a number of eligible candidates it is open to the Government with a view to maintain high standards of competence to fix a score which is much higher than the one required for more (sic mere) eligibility.

14. Unfortunately, the decision in Subash Chander Marwaha [(1974) 3 SCC 220 : 1973 SCC (L&S) 488] does not appear to have been brought to the notice of Their Lordships in Manjusree [K. Manjusree v. State of A.P., (2008) 3 SCC 512 at p. 524, para 27 : (2008) 1 SCC (L&S) 841] . This Court in Manjusree [K. Manjusree v. State of A.P., (2008) 3 SCC 512 at p. 524, para 27 : (2008) 1 SCC (L&S) 841] relied upon P.K. Ramachandra Iyer v. Union of India [(1984) 2 SCC 141 : 1984 SCC (L&S) 214] , Umesh Chandra Shukla v. Union of India [(1985) 3 SCC 721 : 1985 SCC (L&S) 919] and Durgacharan Misra v. State of Orissa [(1987) 4 SCC 646 : 1988 SCC (L&S) 36] . In none of the cases, was the decision in Subash Chander Marwaha [(1974) 3 SCC 220 : 1973 SCC (L&S) 488] considered.

15. No doubt it is a salutary principle not to permit the State or its instrumentalities to tinker with the “rules of the game” insofar as the prescription of eligibility criteria is concerned as was done in C. Channabasavaih v. State of Mysore [AIR 1965 SC 1293] , etc. in order to avoid manipulation of the recruitment process and its results. Whether such a principle should be applied in the context of the “rules of the game” stipulating the procedure for selection more particularly when the change sought is to impose a more rigorous scrutiny for selection requires an authoritative pronouncement of a larger Bench of this Court. We, therefore, order that the matter be placed before the Hon'ble Chief Justice of India for appropriate orders in this regard.”

Further in **Sadhana Singh Dangi (supra)**, the Hon'ble Apex Court has

observed as under:-

"23. The law laid down in Saurav Yadav [Saurav Yadav v. State of U.P., (2021) 4 SCC 542 : (2021) 1 SCC (L&S) 752] is very clear that even while applying horizontal reservation, the merit must be given precedence and that if the candidates who belong to SCs, STs and OBCs have secured higher marks or are more meritorious, they must be considered against the seats meant for unreserved candidates.

24. The observations made by the High Court in the instant case, in our view, do not lay down the correct law. The High Court failed to appreciate that conceptually there would be no distinction between vertical and horizontal reservations, when it comes to the basic idea that even the candidates belonging to reserved categories can as well stake a claim to seats in unreserved categories if their merit position entitles them to do so.

25. We have, therefore, no hesitation in setting aside the judgment



and order under appeal and in dismissing the writ petitions and other connected matters challenging the revised select list. Ordered accordingly."

15. Regard being had to the principle laid down by the Hon'ble Apex Court in the case of **Saurav Yadav (Supra)**, when the facts of the present case have been tested, it is found that the petitioner though in the final round has secured more marks than the cut off marks of the unreserved category, but she cannot take the benefit of it because her selection has been made phase-wise as per Clause 11 of the Rulebook, which rules that the candidate has to first clear the first test and then he or she can appear in the second Physical Proficiency Test. The said filter is by the Rule, which is applicable in the case in hand and undisputably admitted by the petitioner.

Clause (xi) of the Rule 14 of the Rulebook reads as under:-

xi आरक्षित वर्गीकल श्रेणी :-

क. किसी भी आरक्षित वर्गीकल श्रेणी यथा OBC/ST/SC/EWS, के अभ्यर्थी जिनके अंक अनारक्षित वर्गीकल (UR) श्रेणी के कट ऑफ अंक से कम नहीं हैं परन्तु उन्होंने उम्र, शैक्षणिक योग्यता अथवा शारीरिक योग्यता में छूट का लाभ लिया है तो उनकी गणना केवल आरक्षित श्रेणी में ही होगी.

As per Rule, though the petitioner has not secured more marks than the cut off marks of unreserved category for the first phase, has been given chance to appear in the second Physical Proficiency Test by granting benefit of the OBC reserved category in which the cut of marks were less than the marks obtained by the petitioner then there is no question of taking into consideration the total marks for the selection by applying the principle of adjusting the reserved category candidate against the unreserved category candidate, who has secured more marks than the cut of marks of the unreserved category. Thus, if the principle emerges from the above cited cases is applied in the present case then the reservation of OBC had not been



applied in the case of the petitioner and she would have not been selected for the second phase and the candidature of the petitioner would have been rejected at the first phase itself, but, as the petitioner has been given the benefit of reservation of OBC, the petitioner could reach in the second phase. Therefore, the marks, which the petitioner has obtained in total, cannot be made criteria once the petitioner has been given the benefit of the reservation at the first stage. Thus, the facts of the cases cited by the petitioner are distinguishable and not applicable in the case in hand.

16. The Hon'ble Apex Court in the case of **Sajib Roy (supra)** has held as under:-

"32. On an analysis of the aforesaid cases, we summarise as follows:  
"Whether a reserved candidate who has availed relaxation in fees/upper age limit to participate in open competition with general candidates maybe recruited against unreserved seats would depend on the facts of each case. That is to say, in the event there is no embargo in the recruitment rules/employment notification, such reserved candidates who have scored higher than the last selected unreserved candidate shall be entitled to migrate and be recruited against unreserved seats. However, if an embargo is imposed under relevant recruitment rules, such reserved candidates shall not be permitted to migrate to general category."

17. On the basis of the above principle laid down by the Hon'ble Apex Court, it is clear that the facts of each case where the candidates have availed relaxation to participate in open competition with general category is to be seen while applying the principles laid down by the Hon'ble Apex Court in the cases of **Saurav Yadav, Tej Prakash Pathak and Sadhana Singh Dangi (supra)**. In the present case in hand, the Rules, which are applicable, state that the candidates can succeed to second phase only after securing more marks than the cut of marks in the first phase. Thus, the embargo has been created by the Rules. Thus, the petitioner cannot be permitted to migrate to



unreserved category seat on consideration of total marks of both the phases, as petitioner has been benefited of reservation in first phase.

18. In view of the aforesaid analysis of the facts and law, this Court is of the considered opinion that the petitioner has obtained the benefit/reservation of the OBC category in the first phase to compete in the second phase. Thus, the petitioner cannot seek for migration in the unreserved category by adding the total marks of both the phases. Thus, all the aforesaid petitions sans merit and are hereby dismissed.

**(DEEPAK KHOT)**  
**JUDGE**

RAGHVENDRA