



W.P. No. 5636/2025 & Connected Cases

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

BEFORE

**HON'BLE SHRI JUSTICE SANJEEV SACHDEVA,
CHIEF JUSTICE**

&

HON'BLE SHRI JUSTICE VINAY SARAF

WRIT PETITION No. 5636 of 2025

ABHILASH JAIN AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

WITH

WRIT PETITION No. 19644 of 2025

DINESH GARG AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

WRIT PETITION No. 23918 of 2025

DEEPAK GARG AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

WRIT PETITION No. 38165 of 2025



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PRADEEP KUMAR AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

WRIT PETITION No. 40275 of 2025

PRATEEK JAIN AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

WRIT PETITION No. 40991 of 2025

AJAY KUMAR SHARMA AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

WRIT PETITION No. 41837 of 2025

PRIYANKA PATHAK AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

WRIT PETITION No. 41861 of 2025

PRIYANKA SAXENA AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

WRIT PETITION No. 43894 of 2025

DHEERAJ KUMAR LODHI AND OTHERS



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*Versus****THE STATE OF MADHYA PRADESH AND OTHERS*****WRIT PETITION No. 44140 of 2025*****BADRILAL DANGI****Versus****THE STATE OF MADHYA PRADESH AND OTHERS*****WRIT PETITION No. 46106 of 2025*****HIRESHWAR RAO KAWDE AND OTHERS****Versus****THE STATE OF MADHYA PRADESH AND OTHERS*****WRIT PETITION No. 46262 of 2025*****BHOOPENDRA BHATT****Versus****THE STATE OF MADHYA PRADESH AND OTHERS*****WRIT PETITION No. 46330 of 2025*****PRAVIN UMARE AND OTHERS****Versus****THE STATE OF MADHYA PRADESH AND OTHERS*****WRIT PETITION No. 46400 of 2025*****RAJESH KUMAR MANJHI****Versus*



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THE STATE OF MADHYA PRADESH AND OTHERS**WRIT PETITION No. 47765 of 2025*****MANISH KOSHTHI****Versus****THE STATE OF MADHYA PRADESH AND OTHERS*****WRIT PETITION No. 47851 of 2025*****SHAREEF KHAN AND OTHERS****Versus****THE STATE OF MADHYA PRADESH AND OTHERS*****WRIT PETITION No. 47890 of 2025*****YOGESH KUMAR PATLE AND OTHERS****Versus****THE STATE OF MADHYA PRADESH AND OTHERS*****WRIT PETITION No. 48215 of 2025*****KHILESHWAR PRASAD TIWARI****Versus****THE STATE OF MADHYA PRADESH AND OTHERS*****WRIT PETITION No. 48380 of 2025*****MOHAN RAJAK AND OTHERS****Versus****THE STATE OF MADHYA PRADESH AND OTHERS***



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WRIT PETITION No. 48512 of 2025

DHANEDRA KUMAR DWIVEDI AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

WRIT PETITION No. 48700 of 2025

SHIVRANI YADAV AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

WRIT PETITION No. 48848 of 2025

ABDUL SAMAD SHEIKH AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

WRIT PETITION No. 48853 of 2025

SUMIT YADAV AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

WRIT PETITION No. 49013 of 2025

BHARAT LAL GUPTA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

WRIT PETITION No. 49346 of 2025



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RAHUL SOLIYA AND OTHERS*Versus****THE STATE OF MADHYA PRADESH AND OTHERS*****WRIT PETITION No. 49366 of 2025*****ROHIT KUMAR TIWARI****Versus****THE STATE OF MADHYA PRADESH AND OTHERS*****WRIT PETITION No. 49683 of 2025*****ANAND KHANDELWAL AND OTHERS****Versus****THE STATE OF MADHYA PRADESH AND OTHERS*****WRIT PETITION No. 49810 of 2025*****KOMAL SINGH YADAV AND OTHERS****Versus****THE STATE OF MADHYA PRADESH AND OTHERS*****WRIT PETITION No. 50312 of 2025*****SUMANT BHARGAVA AND OTHERS****Versus****THE STATE OF MADHYA PRADESH AND OTHERS*****WRIT PETITION No. 50364 of 2025*****RAMESH KUMAR KHADE AND OTHERS***



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*Versus****THE STATE OF MADHYA PRADESH AND OTHERS*****WRIT PETITION No. 50400 of 2025*****RASHMI****Versus****THE STATE OF MADHYA PRADESH AND OTHERS*****WRIT PETITION No. 50423 of 2025*****SANDEEP KUMAR MISHRA****Versus****THE STATE OF MADHYA PRADESH AND OTHERS*****WRIT PETITION No. 50446 of 2025*****MOHIT BATHAM****Versus****THE STATE OF MADHYA PRADESH AND OTHERS*****WRIT PETITION No. 50493 of 2025*****RAMMOHAN SHARMA****Versus****THE STATE OF MADHYA PRADESH AND OTHERS*****WRIT PETITION No. 50503 of 2025*****VIKASH PANDEY AND OTHERS****Versus*



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THE STATE OF MADHYA PRADESH AND OTHERS**WRIT PETITION No. 50507 of 2025*****GARIMA TIWARI AND OTHERS****Versus****THE STATE OF MADHYA PRADESH AND OTHERS*****WRIT PETITION No. 50536 of 2025*****RAMSWAROOP DEHARIYA AND OTHERS****Versus****THE STATE OF MADHYA PRADESH AND OTHERS*****WRIT PETITION No. 50559 of 2025*****URMILA SHUKLA****Versus****THE STATE OF MADHYA PRADESH AND OTHERS*****WRIT PETITION No. 50575 of 2025*****SAKSHI CHAURASIYA AND OTHERS****Versus****THE STATE OF MADHYA PRADESH AND OTHERS*****WRIT PETITION No. 50579 of 2025*****ANOOP KUMAR SONI****Versus****THE STATE OF MADHYA PRADESH AND OTHERS***



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WRIT PETITION No. 50587 of 2025

ARTI DEVI AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

WRIT PETITION No. 50593 of 2025

JAIVEER SINGH YADAV AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

WRIT PETITION No. 50637 of 2025

GARIMA TIWARI

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

WRIT PETITION No. 105 of 2026

ARTI SHUKLA AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

WRIT PETITION No. 185 of 2026

SURYADEV SINGH RAJAWAT AND ANOTHER

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

WRIT PETITION No. 246 of 2026



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VAISHALI PRAJAPATI AND OTHERS*Versus****THE STATE OF MADHYA PRADESH AND OTHERS*****WRIT PETITION No. 331 of 2026*****SHALINI SHUKLA****Versus****THE STATE OF MADHYA PRADESH AND OTHERS*****WRIT PETITION No. 579 of 2026*****SHER SINGH RAJAK****Versus****THE STATE OF MADHYA PRADESH AND OTHERS*****WRIT PETITION No. 926 of 2026*****GANESH PRASAD AHIRWAR AND OTHERS****Versus****THE STATE OF MADHYA PRADESH AND OTHERS*****WRIT PETITION No. 1010 of 2026*****ANIL YADAV AND OTHERS****Versus****THE STATE OF MADHYA PRADESH AND OTHERS*****WRIT PETITION No. 1095 of 2026*****SUDHIR MISHRA***



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*Versus****THE STATE OF MADHYA PRADESH AND OTHERS*****WRIT PETITION No. 1096 of 2026*****VARSHA BHADORIYA AND OTHERS****Versus****THE STATE OF MADHYA PRADESH AND OTHERS*****WRIT PETITION No. 2723 of 2026*****SHUBHAM SOLANKI AND OTHERS****Versus****THE STATE OF MADHYA PRADESH AND OTHERS*****WRIT PETITION No. 7751 of 2025*****SMT. RICHA PATHAK****Versus****THE STATE OF MADHYA PRADESH AND OTHERS***

Appearance:

Shri Dinesh Singh Chauhan - Advocate through VC for the petitioner in WP No. 5636/2026.

Shri Naman Nagrath - Senior Advocate with Shri Suyas Vyas – Advocate for petitioner.

Shri Amit Chaturvedi - Advocate for petitioner in WP Nos.50575/2025 and 50637/2025.



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Shri R.K. Verma - Senior Advocate with Shri Bhuvnesh Sharma -Advocate for Petitioner in WP No.40275 /2025.

Ms. Priyal Rahangdale - Advocate for the petitioner in WP No. 49013/2025.

Shri Dhreeraj Tiwari - Advocate for the petitioner in WP No.48853/2025.

Shri Aryan Urmaliya - Advocate for Petitioner in WP No.46106 of 2025, WP No.19644 of 2025, WP No.23918 of 2025, WP No.46262 of 2025, WP No.46400 of 2025, WP No.46330 of 2025, WP No.43894 of 2025, WP No.41861 of 2025 and WP No.38165 of 2025, WP No.47890/2025, WP No. 48380/2025, WP No.48848/2025, Wp No. 49346/2025, WP No. 49810/2025, WP No.50312/2025, WP No. 50364/2025, WP No. 50503/2025, WP No. 50593/2025, WP No. 185/2026, WP No. 1010/2026, 1 WP No. 2723/2026.

Shri Joyveer Singh Saini - Advocate for Petitioner in WP No.49366/2025.

Shri Mayank Prajapati - Advocate for the petitioner in WP No. 246/2026.

Shri Aniket Tiwari and Shri Rishabh Singh - Advocate for the petitioner in WP No. 50579/2025.

Shri Vineet Mishra - Advocate for the petitioner in WP No. 48215/2025.

Shri Siddharth Sharma - Advocate for respondent No. 5 in WP. No.19644/2025.

Dr. S.S. Chauhan - Government Advocate for Respondents/State.

Reserved on - 28.04.2026

Pronounced on - 22.05.2026

JUDGMENT

Per: Justice Sanjeev Sachdeva

1. The question arising for determination in these petitions is as to whether a candidate, belonging to a reserved category, who qualifies the Teacher Eligibility Test by taking advantage of relaxation of lower



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qualifying marks prescribed for reserved category can subsequently claim selection in an unreserved category.

2. Madhya Pradesh Teacher Recruitment Rules, 2018 (hereinafter referred to as the 'Rules 2018') prescribe the procedure for selection and appointment through direct recruitment. Rule 11(5) of the Rules 2018) prescribes that for unreserved category, minimum percentage of marks to qualify in the Teacher Eligibility Test exam shall be 60% and for all reserved categories, minimum percentage of marks for qualification shall be 50%.

3. Petitioners appeared in the Middle & Primary School Teacher Eligibility Test, 2023 as reserved category candidates and qualified the test in the said category. Petitioners qualified Teacher Eligibility Test, 2023 with a percentage of more than 50%, but less than 60% availing the relaxation extended to the reserved category candidates.

4. Madhya Pradesh Employee Selection Board issued an advertisement for recruitment of Middle School Teacher and Primary School Teacher in various subjects by publishing the advertisement, wherein the rules for selection were also notified and Clause 12.4 prescribes that the candidates who had obtained less than 90 marks out of 150 (i.e. 60%) in the Eligibility Test and qualified in the reserved category, their candidature for selection test shall be considered in the reserved category only and they would not be entitled for selection in the unreserved category. The rule also



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5. The contention on behalf of the petitioners is that though petitioners have secured more marks than the last candidate selected in the unreserved category in the Selection Examination, 2024, they have not been considered in the unreserved category. Clause 12.4 of Rule Book, 2024 issued with recruitment advertisement has been challenged by the petitioners in the subject writ petitions on the ground that the same is contrary to the Rules, 2018 and discriminatory, arbitrary, unconstitutional and thus, liable to be quashed. In addition, petitioners have sought further for consideration of their candidature in unreserved category.

6. By respective interim orders passed in these writ petitions, petitioners who had secured more marks than the last selected candidate in the unreserved category, were permitted to upload their documents and the respondents were also directed to verify the said documents, subject to the outcome of these writ petitions.

7. Madhya Pradesh School Education Service (Teaching Cadre), Rules, 2018 were notified by the State of Madhya Pradesh for the purpose of recruitment to the posts of High School Teacher, Middle School Teacher and Primary School Teacher. As per the Rules 2018,



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two layer examination process has been prescribed. Firstly, the candidates are required to appear in the Teacher Eligibility Test and the candidates who qualify in the Teacher Eligibility Test would be eligible to appear in the Selection Examination.

8. Originally, the validity period of the Teacher Eligibility Test was fixed as two years after the declaration of the result or till the conduct of the next Selection Examination, whichever was earlier. However, by a 2022 amendment, the validity period of Teacher Eligibility Test has been extended to lifetime. Meaning thereby that once the Teacher Eligibility Test is qualified by a candidate, there is no requirement to appear in the next Teacher Eligibility Test. Before the amendment, the last Teacher Eligibility Test was held in the year 2018 and after the amendment, the Teacher Eligibility Test was held in the year 2023, therefore, in the subject advertisement for the Selection Examination of 2024, the candidates who had qualified in the year 2018 and the year 2023 were permitted to participate.

9. As per the petitioners, who all belong to the reserved category, they have secured higher marks in the Selection Examination as compared to the last selected candidate in the unreserved category, and therefore, their candidature is required to be considered for unreserved category posts by applying the migration rules and their candidature cannot be denied on the ground that in the Teacher Eligibility Test, they could not secure 60% marks and qualified the



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Teacher Eligibility Test with relaxed criteria applicable to reserved category.

10. Learned counsels submits that the Teacher Eligibility Test was merely an Eligibility Test and once it is qualified, the relaxation granted to the reserved category candidates is immaterial and the merit list should be prepared only on the basis of marks secured by the candidates in the Selection Examination. It is contended on behalf of the petitioners that in the Rules, 2018, no such prohibition was prescribed, consequently, Clause 12.4 of Rule Book, 2024 notified for the Selection Examination, 2024, is contrary to the Rules, 2018, and thus, *ultra virus* the Rules, 2018 and liable to be quashed. It is contended that the petitioners have not taken any benefit of any relaxation or concession in the recruitment process, and therefore, migration rules ought to have been applied in the cases of petitioners and those who have secured more marks than the last selected candidates of the unreserved category should be considered in the unreserved category.

11. Learned counsel for the petitioners rely upon the judgments of the Supreme Court in *Deepa E.V. vs. Union of India and Ors.* (2017) 12 SCC 680, *Jitendra Kumar Singh and another vs. State of U.P. and others*, (2010) 3 SCC 119, *Gaurav Pradhan and others vs. State of Rajasthan and others*, (2018) 11 SCC 352, *Vikas Shankhala vs. Vikas Kumar Agrawal* (2017) 1 SCC 350, *Union of India and others vs.*



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Dhanvanti Devi and others (1996) 6 SCC 44, to contend that the migration rules will cease to operate only in those cases where candidate belonging to reserve category has taken benefit of any relaxation or concession in the recruitment process and not otherwise, and if, in the terms and conditions of the advertisement of the governing rules and regulations, it is not prescribed that if a reserved category candidate has obtained eligibility qualification on relaxed standard, he/she would not be considered against unreserved posts and the general rule of migration will be applicable.

12. It is submitted that the eligibility criteria for the qualifying examination of the selection or recruitment process is only to qualify the Teacher Eligibility Test, which was conducted separately and is not connected with the process of recruitment. Qualification of Teacher Eligibility Test is a criteria amongst various qualifications enumerated in the advertisement for participation by candidate in the recruitment or selection process. When in the Rules, 2018, it has not been prescribed that in the recruitment or selection process, Teacher Eligibility Test qualified candidates can be treated separately, prescribing Clause 12.4 in the Rule Book of the Advertisement, 2024, is completely discriminatory and arbitrary and thus, liable to be quashed being contrary to the provisions of Rules, 2018.

13. It is further contended on behalf of the petitioners that when petitioners have obtained more marks than the last selected candidates



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of the unreserved category in the selection or recruitment exam, refusal to migrate the petitioners in unreserved category resulted in selection of less meritorious candidates and exclusion of the meritorious candidates in the final merit list, which is contrary to the very object of the selection examination.

14. It is contended that there is no express provision in the Rules of 2018 that qualification of eligibility with relaxed standards would disentitle the reserved category candidates to seek consideration of their candidature against general category post, even, if in the recruitment process, they had secured marks more than the cut off marks of the general category candidates and, therefore, Clause 12.4, which prohibits the migration of the reserved category candidates who have qualified Teacher Eligibility Test with relaxed standard for reserved category to the unreserved category, is unjust, illegal and liable to be quashed and the respondents be directed to consider the candidature of the petitioners against the unreserved category posts.

15. *Per contra*, the learned counsel appearing on behalf of the respondents submits that a candidate becomes eligible to participate in the process of selection for appointment to the post of Middle School Teacher or Primary School Teacher, only in case, he qualifies the Teacher Eligibility Test and until and unless the eligibility test is qualified, said candidate would not be eligible to participate in the selection process. He further submits that in Rules 11 (5) of Rules of



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2018, category wise minimum percentage of marks to qualify in Teacher Eligibility Test have been prescribed and as per the said sub rule, the prescribed marks are 60% and above for the unreserved category and 50% and above for the reserved category. He further submits that the petitioners who were allowed to clear Teacher Eligibility Test on the relaxed criteria are not on the same footing as general candidates, and therefore, their entry in the recruitment process is on the basis of their eligibility acquired on relaxed criteria and once they have taken the benefit of relaxation, they cannot claim the benefit of the rule of migration on the ground that they have secured more marks than the cut off marks of the unreserved category.

16. It is further contended that Clause 12.4 is neither in contravention of the Rules, 2018 nor the Constitution of India. Once, a candidate has taken benefit of any relaxation, said candidate cannot claim the rule of migration and his candidature would be confined only to the post earmarked for his respective reserved category.

17. Learned Counsel for the respondent rely upon the judgment of the Supreme Court in *Govt. (NCT of Delhi) and Ors. vs. Pradeep Kumar & Ors. (2019) 10 SCC 120* and *Union of India vs. Sajib Roy, 2025 SCC Online SC 1943*, to contend that a reserved category candidate who has availed relaxation would not be entitled to migrate to an unreserved category seats, if there is an embargo imposed under the relevant recruitment rules.



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18. In the present case, there is no dispute that all the petitioners qualified in the Teacher Eligibility Test, 2018 and Teacher Eligibility Test 2023 by availing the benefit of relaxation available to the reserved category candidates.

19. Clause 12.4 of the Requirement cum Selection Advertisement 2024, prescribes that candidates who have secured less than 60% or 90 marks in the Teacher Eligibility Test and qualified the Teacher Eligibility Test by availing relaxation applicable to the reserved categories, will not be eligible to migrate to the unreserved category, despite securing more marks than the cut off of the unreserved category in the Selection Examination.

20. Petitioners are claiming migration to the unreserved category on the ground that they have secured more marks than the cut off marks of the unreserved category, and their qualification of the Teacher Eligibility Test by availing relaxation applicable to the reserved categories, is immaterial. *Per contra* Respondents are supporting Clause 12.4 of the Advertisement of 2024 by submitting that once the qualification is obtained by relaxation, candidate cannot claim migration to the unreserved category upon securing more marks than the cut off of the unreserved category. It must be kept in mind that the subject recruitment is under the Advertisement of 2024.

21. Reference may be had to the judgment of the Supreme Court in *Chaya & Ors. vs. State of Maharashtra & another*, 2026 INSC 277,



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wherein the Supreme Court after referring to the judgments in *Jitendra Kumar Singh (supra)*, *Vikas Shankhala (supra)*, relied upon by the Petitioners and *Pradeep Kumar (supra)*, *Sanjib Roy (supra)* relied upon by the Respondents and other judgments of the Supreme Court enunciated the legal principles as under:-

“19. From the aforesaid decisions, the following legal principles can be culled out: - (i) A concession/relaxation in a qualifying examination merely enables entry of a candidate into the zone of consideration and cannot be treated as relaxation in the standard prescribed for qualifying the written examination if such relaxation does not affect the merit which has to be determined solely on the basis of performance in the main examination and the interview, if any.

(ii) A relaxation or concession in the qualifying examination merely creates a level playing field where no concession or relaxation is granted in the ultimate selection and the same is solely made on the basis of inter se merit.

(iii) If a candidate belonging to a reserved category, does not fulfil the essential eligibility criteria prescribed for a selection, he/she cannot be permitted to migrate to an open category.

(iv) Migration of a reserved category candidate who has availed of a concession/relaxation in qualifying examination depends on the Recruitment Rules or the employment notification. If such Recruitment Rules or employment notification permits such migration, the same is permissible.



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(v) Such migration shall also be permissible if the Recruitment Rules or employment notification are either silent or do not expressly prohibit it.”

22. In the case of *Chaya (supra)*, the Supreme Court has held that more meritorious candidates than the last selected candidates under the general category, cannot be excluded for consideration under the general category in the absence of any express prohibition in the Recruitment Rules/Notification and the relaxation in qualifying criteria only affects eligibility and not merit. Migration is permissible in the absence of any prohibition.

23. In light of the law laid down by the Supreme Court, it is necessary to examine as to whether there is any prohibition in the Recruitment Rules or Employment Notification of migration of a reserved category candidate to unreserved category, in case he has qualified the eligibility test by availing the relaxation applicable to the reserved category.

24. As per the petitioners, in the Rule 2018, there is no such prohibition prescribed. In Rule 11(5) of the Rules, 2018, it is prescribed that the minimum percentage marks to qualify the Teacher Eligibility Test shall be 60% for the unreserved category and 50% for reserved category candidates. Implying thereby that a relaxation has been prescribed in the rules for the reserved category candidates in Teacher Eligibility Test. Further, sub rule 8 and 9 of the Rule 11



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25. Subject Employment Notification was issued by the Madhya Pradesh Employee Selection Board, which is duly authorised by the State Government for conducting recruitment examination and in the Rule Book notified with the advertisement; Clause 12.4 prescribes the aforesaid restriction on migration. As per Clause 12.4, if a candidate of reserved category had secured less than 60% or 90 marks in the Eligibility Test, which is prescribed as the minimum passing criteria for unreserved category in the Eligibility Test and clears the Eligibility Test taking benefit of reservation, said candidate shall not be eligible for migration to the unreserved category in the Selection Examination, even if said candidate has secured more marks than the cut off of the unreserved category. It is also prescribed that only if a



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reserved category candidate had secured more than 60% or 90 marks in the Eligibility Test, said candidate would be considered for migration to unreserved category in case in the Selection Test he secured 50% or more marks.

26. In *Jitendra Kumar (supra)* Supreme Court considered the Recruitment Rules and Advertisement and held that the concession granted in fee and age to the candidates belonging to the reserved category merely enabled their entry to the zone of consideration and could not be treated as relaxation in the standard prescribed for qualifying the written examination, and thus, the migration of the reserved category candidate into unreserved category candidate was approved. However, in the present case, the question is with regard to qualifying the Eligibility Test by taking benefit of relaxation applicable to the reserved category. Thus the judgment in *Jitendra Kumar (supra)* is not applicable to the facts of the present case.

27. In *Vikas Shankhala (supra)*, it has been held that, benefit extended to the reserved category candidate must be in connection with “level playing field”, and if, the relaxation had no nexus with level playing field, migration to the unreserved category was held permissible, where reserved category candidates secured more marks than cut off of unreserved category. Clearly said judgment is also not applicable to the facts of the present case as it is only on the basis of



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such relaxation the Petitioners have become eligible for consideration for the Selection Test.

28. In *Pradeep Kumar (supra)* the Supreme Court held that, if the Teachers Eligibility Test was qualified as an OBC candidate, said candidate could not be permitted to be considered against the vacancy of open category and migration of such candidate to open category was is not permissible.

29. In *Sajib Roy (supra)* the Supreme Court has held that, if the recruitment rules or employment notification prohibits migration of reserved category candidate to unreserved category and if such a candidate has qualified by getting relaxation in the qualification, migration would not be permissible otherwise the standard of relaxation will be examined.

30. The Supreme Court in *Union of India vs. G. Kiran & Ors., 2026 INSC 15*, has held as under:

“37. In light of the above exposition of law, we are of the opinion that in the present fact situation, the ‘General Insider’ vacancy in Karnataka was rightfully allocated to Respondent No.3, who qualified the Preliminary Examination, Main Examination, and Interview on general standard. It is needless to say, Respondent No.1, having qualified the Preliminary Examination availing ‘relaxed standard’, becoming eligible for the Main Examination must be considered against the reserved vacancies only and cannot be considered on general/unreserved vacancies for the purpose of cadre allocation.”



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31. The Supreme Court of India in *G. Kiran (supra)* has held that if a candidate of SC/ST and OBC has taken any relaxation or concession in the eligibility or in the selection criteria, at any stage of the examination, he may not get any benefit to claim the vacancy of the unreserved category, even though, the preliminary examination is merely a screening test and marks obtained may not be counted for determining final merit.

32. The Supreme Court in *Pradeep Kumar (supra)*, *Sajib Roy (supra)*, *G. Kiran (supra)* and *Chaya (supra)*, has thus held that if there is an embargo in the Recruitment Rules or Employment Notification, migration of reserved category candidate to unreserved category shall not be available, even if the candidate obtains more than the cut off marks of unreserved category, if benefit of relaxation has been claimed by the reserved category candidate in qualifying test for the recruitment candidature.

33. In the present case, the Employment Notification contains a specific embargo that is unless, the reserved category candidate had secured 60% or more marks in the Eligibility Test, such candidate would not be eligible to migrate to the unreserved category posts even he has secured more marks than the cut off of the unreserved category in the Selection Examination. Clause 12.4 of the Employment Notification/Advertisement is not contrary to the Rules of 2018 on the contrary said restriction has been included by the Selection Board in



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furtherance to the liberty granted by sub rule 8 and 9 of Rules, 2018. Thus, Clause 12.4 is not *ultra virus* to Rules, 2018.

34. Further, we may note that the Rules of 2018 had prescribed a validity period of two years for the Eligibility Test. This was subsequently amended by the 2022 which removed the validity period of the Eligibility Test and made it perpetual. The employment notification that placed an embargo on migration was never put to challenge by the petitioners before participating and as they cannot be permitted to challenge the same after having participated and being declared unsuccessful. Respondents have also not contended that there is no migration permissible. Migration has been considered for those candidates of the reserved category candidates who had qualified the Eligibility Test by securing more marks than the cut off of the general category. It has been denied to only those candidates who had qualified the Eligibility Test by availing the benefit of reservation.

35. In view of above, these petitions are disposed of in the following terms:

- (i) Clause 12.4 of the Recruitment Notification / Advertisement, 2024 is not *ultra virus* the Rules of 2018 and is a valid and applicable clause; and
- (ii) Clause 12.4 creates an embargo on migration of the reserved category candidates to the unreserved category posts upon securing more marks than the cut off of unreserved category, if they had qualified the Eligibility Test by not securing 60% or 90 marks or more and



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minimum 50% marks in Selection Examination and
availed the benefit of reservation; and

- (iii) Candidates who had qualified the Eligibility Test by availing the benefit of relaxation available to the reserved category candidates are not eligible for migration to the unreserved category; and
- (iv) The writ petitions are accordingly dismissed, with no order as to costs.

(SANJEEV SACHDEVA)
CHIEF JUSTICE

(VINAY SARAF)
JUDGE

Irfan/rk/HJ