

# **Sonika Devi vs State Of U.P. Thru. Prin. Secy. Basic ... on 1 November, 2018**

**Author: Irshad Ali**

**Bench: Irshad Ali**

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

A.F.R.

Reserved on: 08.10.2018

Delivered on: 1.11.2018

Court No. - 23

Case :- SERVICE SINGLE No. - 24172 of 2018

Petitioner :- Sonika Devi

Respondent :- State Of U.P. Thru. Prin. Secy. Basic Edu. And Ors.

Counsel for Petitioner :- Ajay Sharma

Counsel for Respondent :- C.S.C.,Ajay Kumar,Karunesh Singh Pawar  
with

Case :- SERVICE SINGLE No. - 25825 of 2018

Petitioner :- Kiran Devi

Respondent :- State Of U.P. Thru Prin.Secy.Basic Education & 4 Ors.

Counsel for Petitioner :- Piyush Kumar Singh

Counsel for Respondent :- C.S.C.,Rajiv Singh Chauhan  
with

Case :- SERVICE SINGLE No. - 25954 of 2018

Petitioner :- Rajnesh Kumar & Ors

Respondent :- State Of U.P.Thru.Prin.Secretary,Basic Education,Lko.&Ors.

Counsel for Petitioner :- Mukund Madhava Asthana

Counsel for Respondent :- C.S.C.,Ajay Yadav

with

Case :- SERVICE SINGLE No. - 26078 of 2018

Petitioner :- Ramesh Kumar Yadav

Respondent :- State Of U.P.Thru.Prin.Secy.Basic Education,Lucknow & Ors.

Counsel for Petitioner :- Lalji Yadav

Counsel for Respondent :- C.S.C.,Ajay Kumar

with

Case :- SERVICE SINGLE No. - 26139 of 2018

Petitioner :- Surjeet Vishwakarma

Respondent :- State Of U.P. Thru Prin Secy Basic Education And Others

Counsel for Petitioner :- Priyanka Jaiswal,Swati Singh Rajawat

Counsel for Respondent :- C.S.C.,Ajay Kumar

with

Case :- SERVICE SINGLE No. - 26357 of 2018

Petitioner :- Neelam Yadav

Respondent :- State Of U.P. Thru. Prin.Secy., Basic Education & 5 Others

Counsel for Petitioner :- Mohd.Yasin,Haider Abbas

Counsel for Respondent :- C.S.C.,Neeraj Chaurasiya

with

Case :- SERVICE SINGLE No. - 26348 of 2018

Petitioner :- Govind Kumar Awasthi

Respondent :- State Of U.P.Thru Secy Basic Education And Others

Counsel for Petitioner :- Shilendra Kumar,Vimal Yadav

Counsel for Respondent :- C.S.C.

with

Case :- SERVICE SINGLE No. - 26315 of 2018

Petitioner :- Lalmani Yadav & Ors.

Respondent :- State Of U.P.Thru.Secy.Basic Education,Lucknow & Ors.

Counsel for Petitioner :- Vinay Misra

Counsel for Respondent :- C.S.C.,P.K.Singh Bisen

with

Case :- SERVICE SINGLE No. - 26268 of 2018

Petitioner :- Rekha Singh

Respondent :- State Of U.P.Thru.Prin.Secy.Basic Education,Lko & Ors.

Counsel for Petitioner :- Ajay Sharma

Counsel for Respondent :- C.S.C.,Ajay Kumar

with

Case :- SERVICE SINGLE No. - 26318 of 2018

Petitioner :- Vivek Kumar Mishra & Ors.

Respondent :- State Of U.P.Thru.Prin.Secy.Basic Education,Lucknow & Ors.

Counsel for Petitioner :- Lalji Yadav

Counsel for Respondent :- C.S.C.,Ajay Kumar

with

Case :- SERVICE SINGLE No. - 26272 of 2018

Petitioner :- Anupam Pratap Sharma

Respondent :- State Of U.P.Thru.Prin.Secy.Basic Education,Lko & Ors.

Counsel for Petitioner :- Ajay Sharma

Counsel for Respondent :- C.S.C.,Ajay Kumar

with

Case :- SERVICE SINGLE No. - 26603 of 2018

Petitioner :- Kuldeep Kumar

Respondent :- State Of U.P. Thru. Chief Secy. & Ors.

Counsel for Petitioner :- Amit Kr. Singh Bhadauriya

Counsel for Respondent :- C.S.C.,Ajay Kumar

with

Case :- SERVICE SINGLE No. - 26428 of 2018

Petitioner :- Sushma Srivastava

Respondent :- State Of U.P.Throu.Chief Secy.Lucknow And Ors.

Counsel for Petitioner :- Amit Kr. Singh Bhadauriya

Counsel for Respondent :- C.S.C.,Ajay Kumar

with

Case :- SERVICE SINGLE No. - 26832 of 2018

Petitioner :- Smt.Kamini Singh

Respondent :- State Of U.P.Thru.Prin.Secy.Basic Education Lucknow & Ors.

Counsel for Petitioner :- Anand Pal Singh

Counsel for Respondent :- C.S.C.,Ajay Kumar

with

Case :- SERVICE SINGLE No. - 26916 of 2018

Petitioner :- Chandra Prakash Singh & Ors.

Respondent :- State Of U.P. Thru. Prin. Secy. Basic Education & Others

Counsel for Petitioner :- Dr. V.K. Singh,Ajai Vikram

Counsel for Respondent :- C.S.C.,Ajay Kumar,Mukund M. Asthana

with

Case :- SERVICE SINGLE No. - 26697 of 2018

Petitioner :- Malti Devi & Anr.

Respondent :- State Of U.P.Thru.Prin.Secy.Basic Education,Lucknow & Ors.

Counsel for Petitioner :- Onkar Singh Kushwaha

Counsel for Respondent :- C.S.C.,Ajay Kumar

with

Case :- SERVICE SINGLE No. - 26530 of 2018

Petitioner :- Bechey Lal And 7 Ors.

Respondent :- State Of U.P. Thru Prin.Secy.Basic Edu. Lucknow And Ors.

Counsel for Petitioner :- O.P. Tiwari,H.P. Tripathi,Rajendra Singh,S.S. Chaubey

Counsel for Respondent :- C.S.C.

with

Case :- SERVICE SINGLE No. - 26454 of 2018

Petitioner :- Pallavi Dwivedi

Respondent :- State Of U.P.Thru.Prin.Secy.Basic Education,Lucknow & Ors.

Counsel for Petitioner :- Sukh Deo Singh,Paritosh Shukla

Counsel for Respondent :- C.S.C.,Ajay Kumar

with

Case :- SERVICE SINGLE No. - 26544 of 2018

Petitioner :- Uday Raj

Respondent :- State Of U.P. Thru Secy.Basic Edu. Lucknow And Ors.

Counsel for Petitioner :- Sanjay Singh

Counsel for Respondent :- C.S.C.

with

Case :- SERVICE SINGLE No. - 26508 of 2018

Petitioner :- Sheo Poojan Yadav & Anr.

Respondent :- State Of U.P.Thru.Prin.Secy.Basic Education,Lucknow & Ors.

Counsel for Petitioner :- Santosh Kr. Yadav "Warsi",Ram Janak Yadav

Counsel for Respondent :- C.S.C.,Ajay Kumar

with

Case :- SERVICE SINGLE No. - 26431 of 2018

Petitioner :- Pramila Yadav

Respondent :- State Of U.P.Throu.Chief Secy.Lucknow And Ors.

Counsel for Petitioner :- Amit Kr. Singh Bhadauriya

Counsel for Respondent :- C.S.C.,Ajay Kumar

with

Case :- SERVICE SINGLE No. - 26842 of 2018

Petitioner :- Mohammad Abrar Siddiqui

Respondent :- State Of U.P.Thru.Prin.Secy.Basic Education Lucknow & Ors.

Counsel for Petitioner :- Mukund Madhava Asthana,S.P.Maurya

Counsel for Respondent :- C.S.C.,Ajay Yadav

with

Case :- SERVICE SINGLE No. - 26874 of 2018

Petitioner :- Vandana Sharma

Respondent :- State Of U.P.Thru.Prin.Secy.Basic Edu.Civil Sectt.Lko. & Ors

Counsel for Petitioner :- Arun Kumar,Dhiraj Chaurasiya

Counsel for Respondent :- C.S.C.,Ajay Kumar

with

Case :- SERVICE SINGLE No. - 26845 of 2018

Petitioner :- Devesh Chandra Pandey & Anr

Respondent :- State Of U.P Thru Prin Secy Basic Education & Ors

Counsel for Petitioner :- Dinesh Chandra Tewari,Dharmendra Pratap Singh

Counsel for Respondent :- C.S.C,Ajay Kumar

with

Case :- SERVICE SINGLE No. - 26915 of 2018

Petitioner :- Ashish Singh & Ors.

Respondent :- State Of U.P.Thru.Prin.Secy.Deptt.Of Basic Education Lko&Ors

Counsel for Petitioner :- Manoj Kumar Mishra,Atul Chander Dwivedi

Counsel for Respondent :- C.S.C.,Ajay Kumar

with

Case :- SERVICE SINGLE No. - 26908 of 2018

Petitioner :- Shiv Shyam Mishra & Ors.

Respondent :- State Of U.P.Thru.Secy.Basic Edu.Deptt.Civil Sectt.Lko.&Ors.

Counsel for Petitioner :- Rajeiu Kumar Tripathi

Counsel for Respondent :- C.S.C.,Ajay Kumar

with

Case :- SERVICE SINGLE No. - 26912 of 2018

Petitioner :- Rakesh Kumar



Respondent :- State Of U.P.Thru.Secy.Basic Edu.Civil Sectt.U.P.Lko & Ors.

Counsel for Petitioner :- Vinay Misra

Counsel for Respondent :- C.S.C.,P.K.Singh Bishen

with

Case :- SERVICE SINGLE No. - 26796 of 2018

Petitioner :- Pushkar Bajpai

Respondent :- State Of U.P.Thru.Prin.Secy.Basic Education,Lucknow & Ors.

Counsel for Petitioner :- Parijat Mishra Belavra,Rajendra Kumar

Counsel for Respondent :- C.S.C.

with

Case :- SERVICE SINGLE No. - 27273 of 2018

Petitioner :- Pradeep Kumar Pandey

Respondent :- State Of U.P.Thru.Chief Secy.Govt.Of U.P.Lucknow & Ors.

Counsel for Petitioner :- Amit Kr. Singh Bhadauriya

Counsel for Respondent :- C.S.C.,A.S.G.,Amarjeet Singh,J.B.S.Rathor,Manish Mishra,Rahul

with

Case :- SERVICE SINGLE No. - 27798 of 2018

Petitioner :- Vimlesh Chandra Yadav

Respondent :- State Of U.P.Thru.Prin.Secy.Basic Edu. Civil Sectt.Lko.&Ors.

Counsel for Petitioner :- Kaushlendra Yadav,Virendra Kumar Dubey

Counsel for Respondent :- C.S.C.,Ajay Kumar

with

Case :- SERVICE SINGLE No. - 28227 of 2018

Petitioner :- Abhilash Saini

Respondent :- State Of U.P.Throu.Prin.Secy.Basic Education Lko.And Ors.

Counsel for Petitioner :- Himanshu Raghav

Counsel for Respondent :- C.S.C.,Ajay Kumar

with

Case :- SERVICE SINGLE No. - 28532 of 2018

Petitioner :- Arunima Singh

Respondent :- State Of U.P.Thru.Prin.Secy.Basic Edu.Civil Sectt. & Ors.

Counsel for Petitioner :- Ajay Sharma

Counsel for Respondent :- C.S.C.,Ajay Kumar

with

Case :- SERVICE SINGLE No. - 28627 of 2018

Petitioner :- Km. Chhaya Devi

Respondent :- State Of U.P. Thru Prin.Secy.Basic Edu. Lucknow And Ors.

Counsel for Petitioner :- Himanshu Raghav

Counsel for Respondent :- C.S.C.,Ajay Kumar

with

Case :- SERVICE SINGLE No. - 29700 of 2018

Petitioner :- Sudarshan Parashari

Respondent :- State Of U.P. Thru Prin.Secy.Basic Edu. Lucknow And Others

Counsel for Petitioner :- Ajay Srivastava,Malkhan Singh

Counsel for Respondent :- C.S.C.,Ajay Kumar

with

Case :- SERVICE SINGLE No. - 29505 of 2018

Petitioner :- Raghuvendra Singh

Respondent :- State Of U.P. Thru Prin.Secy.Basic Edu. Lucknow And Ors.

Counsel for Petitioner :- Chandra Prakash Singh

Counsel for Respondent :- C.S.C.,Ajay Kumar

with

Case :- SERVICE SINGLE No. - 30065 of 2018

Petitioner :- Rahul Yadav

Respondent :- State Of U.P. Thru Prin.Secy. Basic Edu. & Ors.

Counsel for Petitioner :- Ram Janak Yadav,Santosh Kr. Yadav

Counsel for Respondent :- C.S.C.,Ajay Kumar

with

Case :- SERVICE SINGLE No. - 31277 of 2018

Petitioner :- Samar Jeet

Respondent :- State Of U.P.Thru Prin.Secy. Basic Edu. Lucknow & Ors.

Counsel for Petitioner :- Himanshu Raghav,Sushil Prakash Pandey

Counsel for Respondent :- C.S.C.,Ajay Kumar

with

Case :- SERVICE SINGLE No. - 31273 of 2018

Petitioner :- Anil Kumar Verma

Respondent :- State Of U.P.Thru Prin.Secy. Basic Edu. Lucknow & Ors.

Counsel for Petitioner :- Himanshu Raghav, Sushil Prakash Pandey

Counsel for Respondent :- C.S.C., Ajay Kumar

with

Case :- SERVICE SINGLE No. - 31269 of 2018

Petitioner :- Shobhit Singh

Respondent :- State Of U.P.Thru Prin.Secy. Basic Edu. Lucknow & Ors.

Counsel for Petitioner :- Himanshu Raghav, Sushil Prakash Pandey

Counsel for Respondent :- C.S.C., Ajay Kumar

with

Case :- SERVICE SINGLE No. - 29185 of 2018

Petitioner :- Sonu Verma

Respondent :- State Of U.P. Thru Prin.Secy. Basic Edu. Lko. & Ors.

Counsel for Petitioner :- Ajai Vikram

Counsel for Respondent :- C.S.C., Ajay Kumar Yadav

with

Case :- SERVICE SINGLE No. - 29117 of 2018

Petitioner :- Gyanesh Kumar Jaiswal

Respondent :- State Of U.P. Thru Prin.Secy.Basic Edu. Lucknow & Ors.

Counsel for Petitioner :- Sunil Kumar

Counsel for Respondent :- C.S.C.,Ajay Kumar

with

Case :- SERVICE SINGLE No. - 29129 of 2018

Petitioner :- Smt. Neelam Kumari

Respondent :- State Of U.P. Thru Secy. Basic Edu. Civil Sectt.Lko. & Ors.

Counsel for Petitioner :- Rama Pati Shukla

Counsel for Respondent :- C.S.C.,Prashant Arora

Hon'ble Irshad Ali,J.

1. Heard learned counsel for the petitioner.

2. Learned Advocate General appeared on behalf of the respondent Nos.1, 2 and 4.

3. This writ petition was filed by the petitioner and other petitioners of bunch of writ petitions, which are connected along with the present writ petition. In Writ Petition No.24172 (S/S) of 2018 filed by Sonika Devi, direction was issued to the respondents to produce the answer book of Set-B paper of Assistant Teachers Recruitment Examination 2018 having roll No.29301607435 and registration No.3000001882 before this Court to verify the allegations levelled in the writ petition. The writ petition was entertained on 24.8.2018, on which date, this Court issued direction to the learned counsel for the respondents to seek instruction in the matter and place correct position of the awarding of marks to the petitioner by fixing a date on 28.8.2018.

4. On 28.8.2018, when the matter was taken up, no response in regard to the awarding of marks to the petitioner was produced before this Court, therefore, the matter was posted for 30.8.2018 with the direction to the Secretary, Examination Regulatory Authority to appear in person before this Court along with the record of the petitioner and answer key issued by the respondents. Thereafter, record of the petitioner along with the answer book was produced by the Secretary, Examination Regulatory Authority on 30.8.2018.

5. On 30.8.2018, following order was passed:

"In compliance of the order passed by this Court on 24.08.2018, Secretary, Examination Regulatory Authority is present today in the Court in person along with original answer sheet of the petitioner.

On perusal of the answer sheet it appears that the handwriting bearing on the carbon copy of the answer sheet of the petitioner is different.

On a pointed query being made in this regard, learned Advocate general, who is present in the Court, pointed out that the answer book contains a bar code on the first page as well as on each and every page of the answer book. Therefore, this Court may examine the bar code bearing on the answer book and in this regard arrangement shall be made tomorrow in the Court.

Put up this matter tomorrow i.e. 31.08.2018 at 11.00 a.m. The original answer book as well as carbon copy of the answer book may be kept on record in sealed cover."

6. On 31.8.2018, Sri Dharmendra Shahi, Technical Expert produced by the learned Advocate General verified the bar code bearing on the first page and the bar code bearing on the inner pages of the answer sheet of the petitioner in the open Court proceedings and found that the same do not tally with the inner pages of the answer book of the petitioner.

7. On 31.8.2018, learned Advocate General assured that necessary enquiry in this regard shall be made at the level of Government and person found involved in the matter shall be punished in accordance with law. Therefore, the case was adjourned on the assurance given by the learned Advocate General with the direction that on the date fixed i.e. 17.9.2018, learned Advocate General shall inform to this Court in regard to the progress of enquiry.

8. Thereafter, the matter was taken up on 17.9.2018, on which date, an information was furnished to this Court that proceeding is going on in regard to re-counting of marks of each and every candidate whether he has been selected or not, a 3 members committee was constituted to enquire into the complaint lodged in regard to the selection on the post of Assistant Teacher and the appointment made was subject to final outcome of the writ petition.

9. On 25.9.2018, when the matter was taken up, following order was passed:

"The Addl. Chief Standing Counsel has filed an affidavit bringing on record a copy of the order of suspension passed against Smt. Sutta Singh, Secretary, Examination Regulatory Authority, the order of the Secretary Basic Education dated 08.09.2018 appointing Three Members Committee comprising of Sri Sanjay R. Bhusreddy, Principal Secretary, Sugar Industries & Sugarcane Development as Chairman, Sri Vedpati Mishra, Director, Sarva Shiksha Abhiyan as Member and Sri Sarvendra Vikram Singh, Director, Basic as Member of the Committee.

It is very surprising state of affairs on the part of the Enquiry Committee constituted by the State Government. Almost three weeks have passed but till date the State machinery is not able to find out the name of the persons involved in the change of pages of the answer-book of Sonika Devi and other candidates.

On the request of learned Standing Counsel, put up this matter as fresh day after tomorrow i.e. 27.09.2018 at 2.15 p.m. On the next date the learned Standing Counsel shall produce the progress report of the enquiry made by the Committee constituted under the order dated 08.09.2018, failing which the Chairman of the Enquiry Committee shall remain present before this Court along with records of enquiry on the next date."

10. In compliance of the order passed by this Court on 25.9.2018, learned Advocate General appeared and has produced progress of the enquiry dated 26.9.2018, wherein it has been admitted that there are 12 candidates, whose copies were found to be changed and accordingly, after revaluation of their correct copies, correct marks have been awarded. It has further been admitted in the report that in the result declared, 23 candidates who were declared to be qualified have been found to be not qualified in the first list. It has further been recorded in the enquiry report that in the second list, 24 candidates who were found not qualified in the written examination declared on 13.8.2018 have been found to be qualified. It has further been recorded that the firm which was engaged for coding and decoding has committed mistake and pages of the copies of the candidates were found attached to copies of other candidates appeared in the said examination.

11. The report placed by the learned Advocate General be taken on record.

12. In Writ Petition No.27798 (S/S) of 2018 (Vimlesh Chandra Yadav Vs. State of U.P. & others), which is connected to the leading petition of Sonika Devi, there was an allegation of the same nature and in pursuance thereof, answer sheet of the petitioner and answer key was summoned. The allegation was that question Nos.38 and 137 of series-A was supplied to the petitioner and he has tallied the answer sheet with the answer key issued by the Examination Regulatory Authority and found those 2 answers to be correct, in spite of that the petitioner was awarded 65 marks. In the category of the petitioner, the candidates who have obtained 67 marks have been selected. In case 2 marks are awarded correctly to the petitioner, she would have been selected in the said recruitment process.

13. On perusal of the answer sheet of the petitioner of Writ Petition No.27798 (S/S) of 2018, Court finds that answers given by the petitioner of question Nos.38 and 137 are correct as per the answer key issued by the respondents but zero marks were awarded to the petitioner. The candidates, who have obtained 67 marks of the category of the petitioner have been selected. In case the petitioner would have correctly been awarded 2 more marks on the correct answer, he would have also been selected on the said selection proceeding.

14. Likewise, in Writ Petition No.25871 (S/S) of 2018, the petitioner has been awarded 65 marks and on issuance of scanned copy, which has been brought on record before this Court, the petitioner

would have been awarded 70 marks and he would have been selected as the merit fixed for selection was 67.

15. The similar controversy is in regard to the petitioner of Writ Petition No.26268 (S/S) of 2018, who has been awarded 65 marks and after supply of his scanned copy, he would have been awarded 80 marks, in Writ Petition No.26272 (S/S) of 2018, the petitioner has been awarded 61 marks and after supply of his scanned copy, he would have been awarded 91 marks, in Writ Petition No.26508 (S/S) of 2018, the petitioner has been awarded 66 marks and after supply of his scanned copy, he would have been awarded 80 marks.

16. There are large number of writ petitions, complaining the same complaint in regard to the award of marks in the said examination proceedings, wherein candidates have been awarded 65 marks and their 3 to 4 questions have wrongly been examined and they have not been awarded marks accordingly.

17. On perusal of the records of the said writ petitions and the leading writ petition of Sonika Devi, it is revealed that the awarding of marks to the candidates appears to be deliberate to defeat their right of selection. The allegations of corruption are made against the agency as well as against the examination conducting authorities, therefore, there exist justification for enquiry/investigation against the Officers involved in the entire selection proceedings.

18. The 3 members committee was constituted to enquire into the corruption made in the selection proceeding of Assistant Teachers Recruitment Examination-2018, but till date, even those candidates who have been found under scrutiny to be come within the zone of consideration, have not been selected.

19. On perusal of the progress of enquiry report submitted by the 3 members committee, it is transpired that 2 of the members of committee belong to the Basic Education Department, therefore, under the Doctrine of Legitimate Expectation, both would not have been appointed members of the enquiry committee, wherein the Officers of the same department are under investigation in completion of free and fair enquiry in the matter.

20. Allegations of rampant corruption and illegal selections have been levelled in the present selection proceeding. It is expected from the State Government to make free and fair selections. In the Basic Schools, there are complaints in wide-scale illegal selections with nefarious objective to fulfill political manifesto as well as to promote parochial menace in the services of the State and thereby blatantly violating the Fundamental Rights of the citizens.

21. In the present selection proceeding, on perusal of the records made available, this Court is prima-facie satisfied that there is material evidence to establish that the examination conducting authorities have misused their power and to give undue advantage to the candidates of their choice, have entered into corrupt practices. The candidates who have been awarded lesser marks have been found to be awarded higher marks in the written examination and the answer-book of certain candidates have been torned and pages were changed to declare them to be failed so that candidates



on considerations of the authorities may be selected.

22. The agency which was hired by the State Government for bar coding had also accepted that copies of 12 candidates were changed, in spite of that acceptance, no criminal proceeding for making cheating in change of copies has been initiated against the agency till date.

23. This Court cannot shut its eyes in permitting the large number of corruption to continue in the selection on the post of Assistant Teachers in such a manner, therefore, Court is satisfied that this is a case wherein investigation is required to be done by an independent agency.

24. From almost last 20 years, in each and every selection proceeding conducted by the State Government or by the selection board or commission, it is seen that sometimes question papers are out, sometimes the officers who are involved in the selection proceeding have been found to be involved in corrupt practices, but in spite of that no strict action is taken and only to divert the mind of the candidates, certain enquiry committees have been constituted who have done nothing, therefore, time has come that this Court may proceed with foolproof process to investigate the process of selection, therefore, this Court is satisfied that the State Government only to save the skin of the officers involved have constituted 3 members committee to whom there are 2 officers who belong to the Basic Education Department to which recruitment on the post of Assistant Teachers were held by holding the examination in 2018 and the committee did nothing.

25. This Court is also prima-facie satisfied that there is a breach of trust of the candidates who have applied for under bonafide belief that there shall be free and fair selection proceeding for recruitment of Assistant Teachers as well as it is found that there are large number of deliberate and willful attempts in not awarding correct marks to the candidates appearing in the said recruitment process.

26. This is an examination for providing employment in the State of Uttar Pradesh to the unemployed youth who are waiting since long to get employment in these hard days.

27. India is a democratic country governed by a written constitution. It is the Constitution, which is supreme and sovereign. The Constitution is the *suprema lex* in this country. All organs of the State, including the Hon'ble Supreme Court and this Court derive their authority, jurisdiction and powers from the Constitution and owe allegiance to it. Highlighting the fundamental features of a federal Constitution. The essential characteristic of federalism is "the distribution of limited executive, legislative and judicial authority among bodies which are coordinate with and independent of each other". The supremacy of the Constitution is fundamental to the existence of a federal State in order to prevent either the legislature of the federal unit or those of the member States from destroying or impairing that delicate balance of power which satisfies the particular requirements of States which are desirous of union, but not prepared to merge their individuality in a unity. This supremacy of the Constitution is protected by the authority of an independent judicial body to act as the interpreter of a scheme of distribution of powers.

28. It is trite that in the constitutional scheme adopted in India, besides supremacy of the Constitution, the separation of powers between the legislature, the executive and the judiciary constitutes the basic features of the Constitution.

29. There is a distinct and rigid separation of powers under the Indian Constitution. There is no doubt that the Constitution has entrusted to the judicature in the country the task of construing the provisions of the Constitution and of safeguarding the Fundamental Rights of the citizens.

30. In the present case, when the fundamental rights, as enshrined in Part III of the Constitution, which include the right to equality (Article 14); the freedom of speech [Article 19(1)(a)] and the right not to be deprived of life and liberty except by procedure established by law (Article 21), as alleged in the instant case, are violated, can their violation be immunised from judicial scrutiny on the touchstone of doctrine of separation of powers between the Legislature, Executive and the Judiciary.

31. The Constitution is a living and organic document. It cannot remain static and must grow with the nation. The Constitutional provisions have to be construed broadly and liberally having regard to the changed circumstances and the needs of time and polity.

32. The Constitution of India expressly confers the power of judicial review on the Hon'ble Supreme Court under Article 32 and on this Court under Article 226 of the Constitution of India. Article 32 is the very soul of the Constitution. By now, it is well settled that the power of judicial review, vested in the Supreme Court and the High Courts under the said Articles of the Constitution, is an integral part and essential feature of the Constitution, constituting part of its basic structure.

33. In view of the above, under Article 226 of the Constitution of India, this Court has power of judicial review being an integral part of the basic structure of the Constitution, no Act of Parliament can exclude or curtail the powers of the Constitutional Courts with regard to the enforcement of fundamental rights. As a matter of fact, such a power is essential to give practicable content to the objectives of the Constitution embodied in Part III and other parts of the Constitution.

34. In view of the above, this Court is satisfied that there is a sufficient material to exercise its Constitutional power of judicial review and direct the Central Bureau of Investigation to take up the investigation within the jurisdiction of the State.

35. Under the provisions of Delhi Special Police Establishment Act, 1946, Central Bureau of Investigation is vested with wide powers of investigation regarding the issue of corruption adopted by the authorities who are involved in the selection proceedings in the recruitment examination of the post of Assistant Teachers, 2018.

36. A query was made to the learned Advocate General that whether the State Government is ready to investigate the prima-facie corruption found on examination of records by the Central Bureau of Investigation or not, after grant of time to the learned Advocate General to seek instruction in the matter, he replied to the aforesaid query made by this Court that the State Government is not ready to hand over the investigation of the Assistant Teachers Recruitment Examination 2018 to the

Central Bureau of Investigation.

37. Therefore, this Court, under compelling circumstances, is issuing following direction:

"The Director, Central Bureau of Investigation shall make investigation in regard to the entire process of selection initiated for the recruitment of Assistant Teachers in Primary Schools against 68,500 posts, which is known as Assistant Teacher Recruitment Examination, 2018 initiated in pursuance to an advertisement dated 23.1.2018, taking into consideration the observation made in the order and the material taken notice by this Court and submit a report of the progress of the investigation in the matter to this Court on the date fixed. However, it is further directed that against the Officers who are found involved in corrupt practices, if any, necessary action in accordance with law be taken by the competent authority."

38. It is directed that the Officers who were the part of the selection proceeding shall co-operate in the investigation and place the necessary documents required by the Central Bureau of Investigation.

39. List this petition after three weeks on 26.11.2018.

40. The Central Bureau of Investigation shall complete the investigation expeditiously, say within a period of 6 months from the date of pronouncement of this order.

Order Date :-01.11.2018 Gautam