



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment reserved on: 07.08.2025  
Judgment delivered on: 27.08.2025

+ W.P.(C) 9931/2025 & CM APPL. 41349-41351/2025 & CM APPL. 42157/2025 & CM APPL. 42663/2025 & CM APPL. 45892/2025

XX .....Petitioner

versus

UNION OF INDIA & ORS. ....Respondent

**Memo of Appearance**

For the Petitioner: Mr. Jaideep Gupta, Senior Advocate, Mr. Jatan Singh, Senior Advocate, Mr. K.K. Mannan, Senior Advocate with Mr. Rana S. Biswas, Mr. Vivek Jain and Mr. Puneet Parihar, Advocates

For the Respondents: Mr. S.D. Sanjay, ASG with Mr. Gaurav Sharma, SPC-UOI, Mr. Sachin Singh, Advocate and Ms. Vidhi Gupta (GP) for R-1/UOI, Mr. Tarun Agarwal, Ms. Parthvi Ahuja, Mr. Akshat Agarwal, Mr. Bhaskar Agarwal, Mr. Shrey Patnaik, Mr. Ritwik Batra and Ms. Mitali Karwa, Advocates for R-2 & R-3

**CORAM:**  
**HON'BLE MR. JUSTICE MANOJ JAIN**

**JUDGMENT**

**MANOJ JAIN, J**

1. Petitioner challenges order dated 12.11.2024 whereby she has been terminated from service. She seeks issuance of appropriate writ directing her employer to reinstate her to the post of Assistant Director (Administration & Finance)-Legal, with all consequential benefits.

2. Petitioner has withheld her identity and has masked her name in the present writ petition. This seems to have been done for the reason that  
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during the course of her employment in question, she had filed a complaint under *Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013*. Though, the aforesaid complaint (being referred as *POSH Complaint*) has already been adjudicated, in the present matter, she would be referred to either as “petitioner” or as “XX”.

3. Let me narrate factual matrix, in brief.

4. Petitioner is admittedly a law graduate and got herself enrolled as advocate on 23.10.2011.

5. Bureau of Indian Standards (respondent no. 2 herein) is a statutory body, working under the *Ministry of Consumer Affairs, Food and Public Distribution, Government of India*. Needless to emphasize, *Bureau of Indian Standards* (in short ‘BIS’) is a National Standard Body of India established under BIS Act 2016 engaged in harmonious development of activities of standardization and system certification.

6. BIS came up with an advertisement on 05.09.2020 for various posts falling under Group-A, Group-B & Group-C.

7. One such position was *Assistant Director (Administration & Finance)-Legal* and the prescribed educational and other qualifications required for the aforesaid post were described as under in the advertisement: -

**“For Assistant Director (Administration) for legal**

*i) Degree in law from a recognized university/Bachelor of law;*

*and*

*ii) Three years’ experience in the relevant field in Central/ State/ Union Territory Government of Statutory/ Autonomous Body/ Public Sector undertaking/ reputed Government agency.*



8. The applicant/petitioner applied for the aforesaid post and was, eventually, called for interview.

9. After rigorous selection process and subjecting her candidature to thorough verification with respect to her eligibility and experience credentials, BIS, after satisfying itself about the same, offered her appointment *vide* appointment letter dated 29.07.2021.

10. Such offer was accepted by her and she, eventually, joined BIS on 01.09.2021.

11. According to petitioner, her performance as per *Annual Performance Appraisal Report (APAR)* was, always, ranked very highly and her integrity also remained beyond doubt. She even submitted her candidature for being considered as Director (Legal) within the same organization.

12. Fact remains, she was served with *show cause notice* on 13.04.2022 for concealment of facts and was asked to furnish details regarding her fulfilling the mandatory criteria of work-experience for *Assistant Director (Administration & Finance)-Legal*.

13. She submitted a comprehensive reply on 25.05.2022.

14. Her grievance is that despite the fact that BIS had, even, sought a specific clarification from *Ministry of Consumer Affairs* about her meeting the requisite criteria and that the Secretary, *Ministry of Consumer Affairs* had, in no uncertain terms, clarified that she met the requisite criteria as per the advertisement, BIS has terminated her services during her probation period holding that she was not meeting the



requisite work-experience and that she had furnished false information for securing appointment.

15. Such order is under challenge.

16. Before touching the factual aspects in some detail and taking up the rival contentions, it will be appropriate to mention here that the petitioner had earlier filed a writ petition before the Hon'ble Rajasthan High Court, *inter alia*, challenging the aforesaid *Termination Memorandum dated 12.11.2024*.

17. Her such petition was numbered as S.B. Civil Writ Petition No. 17730/2024.

18. When the aforesaid writ petition was taken up by the Hon'ble High Court of Judicature for Rajasthan, Jaipur Bench on 20.11.2024, while issuing notice, the operation of the impugned *Termination Memorandum dated 12.11.2024* was stayed with the direction that she would continue to serve as Assistant Director (Administration & Finance)-Legal.

19. However, in view of objection taken by learned Additional Solicitor General of India with respect to lack of territorial jurisdiction, the aforesaid writ petition was permitted to be withdrawn on 27.05.2025, with liberty to file fresh writ petition before this Court and, simultaneously, the interim order dated 20.11.2024 was directed to remain in operation for a period of another eight weeks.

20. It is in the aforesaid backdrop that the writ petition under Article 226 of the Constitution of India has been filed before this Court.



21. Mr. Jaideep Gupta, learned Senior Counsel contends that the impugned order is bad in eyes of law and is also against the Principle of Natural Justice and violative of fundamental rights of the petitioner. According to him, there is apparent arbitrariness and *malafide* in the impugned order. It is contended that petitioner was meeting the prescribed eligibility criteria and work-experience and submitted requisite documents in order to substantiate and corroborate the same when she applied for the aforesaid position and there was never any case of misrepresentation and, therefore, her termination on the ground that she had given false information is clearly unsustainable. She had been working on the post in question for more than three years and once selected and appointed as per merit-list and there being no misrepresentation or *malafide* on her part, her service could not have been terminated, more so, when aspect of her meeting the eligibility criteria was comprehensively dealt with, before offering her aforesaid position. According to Mr. Jaideep Gupta, learned Senior Counsel and Mr. Jatan Singh, learned Senior Counsel for petitioner, she seems to have been harassed for submitting POSH complaint and the action of the employer is on account of sheer vengeance. It is also argued that relief sought by the petitioner is in consonance with the principle of public policy, public interest and public good and the impugned order is contrary to the basic tenets of rule of law and is liable to be quashed.

22. The prime contentions coming from the side of the petitioner can be enumerated as under: -



- (i) *Petitioner was meeting the requisite eligibility criteria. Such aspect was thoroughly scrutinized immediately after she had applied for the aforesaid position and after according its due satisfaction, BIS had called her for interview and, eventually, offered her employment. Not only the above, but the clarification was also sought from the Secretary of Ministry of Consumer Affairs and once the Secretary had given a very specific clarification and had opined that she was meeting the requisite eligibility criteria and work-experience, the decision, being binding and conclusive on BIS, could not have been re-opened.*
- (ii) *Petitioner was on probation and termination is stigmatic in nature and, therefore, needs to be recalled.*
- (iii) *The order is untenable also because of the fact that there is violation of principles of natural justice as she was never granted any opportunity of being heard, before the impugned order dated 12.11.2024.*
- (iv) *The action of the Executive Committee smacks of malafide and, therefore, termination order, which is, primarily, based on the decision taken by the Executive Committee, is liable to be set aside being actuated by malice.*
- (v) *The termination is at the instance of Dy. Director General (Administration) BIS and the POSH complaint filed by petitioner herein was also directed against him and thus, clearly, the entire action taken by the BIS smacks of malafide.*



23. Petitioner has also placed reliance upon (i) *Executive Committee of Vaish Degree College vs. Lakshmi Narain* : (1976) 2 SCC 58, (ii) *Varinder Hans vs. Union of India*: 2019 SCC OnLine P&H 1343, (iii) *M. S Mudhol (Dr.) vs. S D Halegkar*:(1993) 3 SCC 591, (iv) *Sarabjeet Kaur Dhaliwal vs. Punjab Agriculture University*:2003 SCC OnLine P&H 1722, (v) *Nina Lath Gupta vs Union of India*:2023 SCC OnLine Del 2518, (vi) *Union of India vs Nina Lath Gupta*:2024 SCC OnLine Del 3169, (vii) *Dave Vaishali Narhariprasad vs. Ahmedabad Municipal Corpn.*: 2024 SCC OnLine Guj 3809, (viii) *Chaudhary Charan Singh Haryana Agricultural University vs. Monika*: 2024 SCC OnLine SC 3540, (ix) *Birendra Singh Yadav v. State of Madhya Pradesh and Others*: 2024 SCC OnLine MP 7541, (x) *Distt. Collector & Chairman, Vizianagaram Social Welfare Residential School Society v. M. Tripura Sundari Devi*: (1990) 3 SCC 655, (xi) *Bhagwati Prasad v. Delhi State Mineral Development Corporation.*: (1990) 1 SCC 361, (xii) *Dipti Prakash Banerjee v. Satyendra Nath Bose National Centre for Basic Sciences*: (1999) 3 SCC 60 (xiii) *A.P. State Federation of Coop. Spg. Mills Ltd. v. P.V. Swaminathan*: (2001) 10 SCC 83, (xiv) *Ratnesh Kumar Choudhary v. Indira Gandhi Institute of Medical Science*: (2015) 15 SCC 151, (xv) *Sandeep Kumar v. GB Pant Institute of Engineering & Technology Ghurdauri*: 2024 SCC OnLine SC 541 and (xvi) *Uma Shankar Sharma v. Union of India*: (1980) 3 SCC 202.

24. Mr. S.D. Sanjay, learned Addl. Solicitor General of India has refuted all the aforesaid contentions and argues that the entire claim of



the petitioner is based on falsehood, misrepresentation and suppression of material facts and, therefore, the present petition is liable to be dismissed. It is submitted that it is a false narrative that the termination was a retaliatory measure for her having filed a POSH complaint. It is argued that when writ petition was filed before the Hon'ble Rajasthan High Court, no such ground was ever taken by her and, therefore, for the reasons best known to her, she has given a different colour to the present writ petition which is essentially a service matter concerning her recruitment eligibility and once the department came to a specific conclusion that she was not eligible to apply for the position in question, the termination was the only plausible outcome since she, even otherwise, was on probation.

25. The contentions of the respondents can be summarized as under: -
- (i) *Petitioner was on probation which was extended from time to time and termination order is without any stigma as she has been merely terminated for her not meeting the requisite eligibility conditions.*
  - (ii) *Being on probation, she has no vested or crystallized rights to continue in service, particularly when she was not eligible to apply for the aforesaid post.*
  - (iii) *The offer of appointment was subject to her meeting the eligibility criteria and even if the aforesaid aspect was earlier gone into and even if there was some opinion given by the Secretary, Department of Consumer Affairs, the decision taken by the Central*



*Government, based on the recommendations of Executive Committee is well-reasoned and cannot be interfered.*

*(iv) There was no violation of any principle of natural justice as, admittedly, pursuant to show cause notice, she had submitted her detailed reply to such show cause notice and she had even been given a personal hearing.*

26. Respondent has cited following judgments to buttress its case: -

- (i) State of Haryana Vs. Suman Dutta: (2000) 10 SCC 311*
- (ii) Samsher Singh Vs. Union of India and Others: 2021 SCC OnLine Del 3651*
- (iii) CDR. A. Swapna Vs. Union of India and Others: 2021 SCC OnLine Del 3787*
- (iv) Rakesh Kumar Singh Vs. Committee of Management, Rae Bareilly: (1996) 8 SCC 595*
- (v) Rajasthan High Court Vs. Ved Priya and Another: (2021) 13 SCC 151*
- (vi) Pratibha Vs. Union of India and Another: 2023 SCC OnLine Del 6441*

27. In the backdrop of the aforesaid rival contentions, let me come to the core issue i.e. whether the petitioner meets the requisite criteria or not.

28. The requisite educational and other qualifications required for the post of Assistant Director (Administration & Finance)-Legal have already been noted above and there are only two pre-conditions.

29. Firstly, the candidate should be having degree in law from a recognized university and secondly, the candidate should have *three years' experience in the relevant field in Central/ State/ Union Territory Government of Statutory/ Autonomous Body/ Public Sector undertaking/ reputed Government agency.*



30. Petitioner is, admittedly, having a degree in law and there is no dispute with respect to the aforesaid fact.

31. The all important issue is about the second requirement i.e. her having three years experience in the relevant field as mentioned above.

32. Let me now see as to what kind of documentary proof was given by her when she had applied for the aforesaid position with respect to her having requisite experience in the field.

33. She submitted experience certificates issued by Rajasthan High Court Bar Association as well as IEC University, Himachal Pradesh. The relevant portions thereof read as under: -

*RAJASTHAN HIGH COURT BAR ASSOCIATION  
JAIPUR  
EXPERIENCE CERTIFICATE*

*This is to certify that XX is a Life Member of Rajasthan High Court Bar Association, Jaipur since December 2011. She is enrolled with the Bar Council of Rajasthan vide Enrollment No..... She is regularly and continuously practicing in the High Court of Judicature for Rajasthan at Jaipur Bench. Jaipur for last more than 8 Years.*

*XX possesses a good moral character and I wish her all success in her life.*

*Date: 05/10/2020*

*Place : Jaipur*

*IEC UNIVERSITY  
Himachal Pradesh*

*TO WHOMSOEVER IT MAY CONCERN*

*This is to certify that XX is associated with our institution-I.E.C. University which is established by the Himachal Pradesh State Legislature under "The IEC University Act, 2012" as an Advocate from 20.1.2015 to till date. She is practicing as an Advocate dealing*



*with various important cases of the University Civil and Criminal cases in the Tribunals, different Courts, High Court and Supreme Court. As per our records her registered certificate of practice number is..... Her behavior conduct is good and her performance is satisfactory. She is enthusiastic at work and completing the assignment timely and prudently and she is receiving the remuneration as per norms of the University.*

34. The question is whether experience certificate issued by IEC University can be equated with the experience certificate as reflected in the aforesaid advertisement or not.

35. Before discussing the above, it needs to be noticed that when the petitioner had applied for the aforesaid position, based on information received from her and other candidates, a Committee was set up to shortlist the candidates for calling them for interview and skill test and the following shortcomings were noticed in her candidature: -

- (i) *Three years' experience certificate as per the advertisement.*
- (ii) *NOC from the present employer.*

36. The Committee recommended that before finalizing the list of candidates, such shortcomings may be resolved by asking the concerned candidates, including the petitioner herein, to submit information within three days. This was as per the Resolution taken by the said Committee in its meeting dated 20.02.2021.

37. Accordingly, an email was sent to petitioner asking her to send documents to ascertain her eligibility.

38. Such email is dated 23.02.2021 and the response given by the petitioner, through email is dated 27.02.2021, followed by another email dated 02.03.2021. In her such subsequent email dated 02.03.2021, while



attaching the experience certificate of IEC University, she also claimed that said university was an ‘*autonomous body established by a statute*’ and that there was no need to take any no objection certificate (NOC) from the university.

39. Information given by her and by other candidates was considered by the aforesaid Committee and after perusal of the documents submitted by her, the Committee, in context of petitioner, noted as under:-

*“i) The candidate has submitted the copy of Experience Certificates from Rajasthan High Court Bar Association (8 years’) and also the certificate of experience from IEC University. With respect to the three years’ experience, it is seen from the Certificate No. LC/2020/508 dated 19.9.2020 the candidate has been associated with the University from 20.1.2015 to date. However, the designation and pay, etc. in the IEC have not been mentioned by the candidate, but she has five years’ experience in the relevant field.*

*ii) She has mentioned through email that there is no need to take No Objection Certificate from the University and Registrar (Administration) only information is required.*

*Observation: She is fit for shortlisting for interview.”*

40. The Committee, though, observed that she had not mentioned about her designation and pay etc., observing that she had five years’ experience in the relevant field, recommended her for shortlisting for interview in terms of its Minutes dated 03.03.2021.

41. She was, eventually, offered appointment to the post of Assistant Director *vide* communication dated 29.07.2021, to which she gave her acceptance on 04.08.2021.

42. Resultantly, she joined on 01.09.2021.

43. A *show cause notice* was issued to her on 13.04.2022.



44. Interestingly, the prime reason behind issuance of such *show cause notice* was the details which she furnished while further applying for the post of Director (Legal), by submitting application on 22.12.2021.

45. While applying for the aforesaid position of Director (Legal), BIS, she divulged that she was having LL.M degree from two different universities.

46. According to her, she did LL.M in 2015 from Mumbai University and LL.M. in 2017 from Jagannath University, Jaipur.

47. In such application, she also mentioned that she was working with RKS Partners, Rajasthan High Court, Jaipur from 01.08.2011 to 30.08.2021 while also reiterating that she was Senior Panel Advocate for IEC University from 20.01.2015 to 30.08.2021.

48. Let me have a quick glance with respect to work-experience and educational qualification mentioned by her when she initially applied for the post of Assistant Director (Administration & Finance)-Legal and when she, later on, applied for Director (Legal).

**(A) Details submitted for the post of  
Assistant Director (Administration & Finance)-Legal**

**Educational Qualifications**

Qualification acquired/ examination passed	Name of the Board/Council/ University to which the institution is affiliated	Subjects	Year of Passing	Percentage of Marks
Class X Details	CBSE	PCMBE	2003	52
Class XII Details	CBSE	PCM	2006	65
Degree in Law	HNB Gharwal University	B.A.LL.B	2011	59



## Work Experience

Experience	Organization	Type of Employment	Period from	Period To
Advocate	Rajasthan High Court	Other	2011-10-23	2020-09-26
Advocate	Supreme Court of India	Other	2015-12-01	2020-09-26

## **(B) Details submitted for the post of Director- Legal**

### Educational Qualification (Graduation onwards)

Examination passed	Name of the University/ Institute	Subject (s)/ Discipline	Division/ Grade	Percentage of Marks	Year of Completion
B.A. LL.B	HNB, Gharwal University	Bachelor of Laws	II	57%	2011
LLM	Mumbai University, Mumbai	Master in Human Rights Laws	II	51%	2015
LLM	Jagannath University, Jaipur	Master in Corporate Laws	I	65%	2017

### Experience (in Chronological Order):

Ministry/Dept Organization	Post Held on regular basis	Scale of pay/ Pay drawn	Period of Service		Total Experience (years/ months)	Nature of duties performed
			From (date)	To (date)		
RKS Partners at Rajasthan High Court, Jaipur	Advocate	As per norms	01.08.2011	30.08.2021	10 Years and 1 Month	Litigation

### \*Nature of duties performed

(i) Independently handled the court cases of RKS Partners before the Hon'ble Rajasthan High Court, Hon'ble Supreme Court of India, National Consumer Disputes Redressal Commission, National Green Tribunal, Hon'ble High Court of Delhi, Debts Recovery Tribunal, Central Administrative Tribunal, various other Courts and Tribunals along with I.E.C. University.



(ii) Assisted Attorney General, Solicitor General, Additional Solicitor General of India, Advocate General of various states and other Senior Advocates for the matters.						
(iii) Drafting of opinion, various other legal documents, appearing and arguing matters of Union of India and various other clients before the Hon'ble Supreme Court of India.						
(iv) Drafting Contracts, Appeals, Civil, Criminal, Service matters etc.]						
IEC, University	Senior Panel Advocate	As per the norms	20.01.2015	30.08.2021	6 years 7 months	Litigation
Bureau of Indian Standards	Assistant Director (A&F)- Legal	Level-10 (Rs. 56100/-)	01.09.2021	Till date	4 months	****
<b>** Nature of duties performed in Legal Department of the Bureau:</b>						
(i) Handling, monitoring and rendering advice in court cases (Supreme Court, Delhi High Court, District Courts, Commission, Tribunals, Consumer Courts, etc.) at BIS HQs, Delhi;						
(ii) Legal Opinion on any matter having legal implications;						
(iii) Vetting of Memorandum of Understanding (MoU), Contracts, Request for Proposal (RFP), Expression of Interest (EoI), Agreements etc;						
(iv) Interpretation of provisions of various Acts, Rules and Regulations;						
(v) Drafting of reply to legal notices or show cause notices pertaining to BIS HQs;						
(vi) Administrative work including leave files and monthly reports; and						
(viii) Any other work assigned by the Senior Officers.						

49. In response to *show cause notice* dated 13.04.2022, petitioner sent an exhaustive reply on 25.05.2022.

50. While issuing the aforesaid *show cause notice* on 13.04.2022, BIS questioned as to why she did not disclose her being already LLM, when she applied for the post of Assistant Director (Administration & Finance)-Legal and also noticed that she had not submitted any '*No Objection Certificate*' from her employer. It was also mentioned in the show cause  
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notice that her work-experience with IEC University was questionable as, during the same period, she had also been pursuing LLM in regular mode and, therefore, she was issued notice as to why action should be not taken against her for concealment of facts concerning her qualification and work-experience and was also requested to submit complete details and documents from IEC University detailing nature of engagement, number of cases handled and her salary/payment details and as to why her experience with IEC University be at all considered when during the same time, she was enrolled in regular LLM Course. She was also asked to give nature of association with RKS Partners.

51. In her reply dated 25.05.2022, she, *inter alia*, narrated as under: -

*“The contents of Paras 1 and 2 of the Show-Cause Notice dated 13.04.2022 are admitted as stated on account of their factual accuracy. The contents of Para 3 are not admitted as stated and denied. It is brought to your kind attention that I have disclosed the relevant factual information as sought on the Attestation Form for the post of Assistant Director (Legal), and have neither furnished false information nor suppressed any material facts. It is submitted that the Attestation Form required me to only disclose my eligibility-level educational qualification, which I have duly done. In any event, the omission to disclose obtaining of two L.L.M. degrees would have only worked to my benefit and not detriment. As per the established position of law and general sense, the suppression of any material information must be with a view to obtain an undue advantage in the recruitment process. Here, however, the non-disclosure as stated by the Director Establishment would have worked to my benefit. Hence, no show-cause proceedings ought to be initiated against me on the basis of such "suppression", from which I derive no benefit. As far as the question of my experience with the "RKS Partners" goes, my experience as an advocate for the period of 2011-2021 flows from my work as an advocate. It is to be noted that during my interview*



*also I told the Competent Authority headed by the Director General that I have worked with various Assistant Solicitors General of India including \*\*\*\*\*. There is thus no contradiction in my disclosure as being a practicing advocate. A bare review of the order sheets for the relevant period where my appearance is marked would be sufficient to corroborate this averment. To recapitulate, there was no false information furnished by me as well as no suppression of material facts, and there is no contradiction between me being a practicing advocate and being engaged with the RKS Partners.”*

52. In relation to query with respect to her work-experience with IEC University, her response was as under: -

**8.1 Reply to Query - 4(a)**

*Vide Advertisement bearing No. 2/2020/ESTT applications were invited for the post of Assistant Director (Legal) and experience sought for the said post was:*

**i) Degree in Law from a recognized university/ Bachelor of law; and**

*(ii) Three years' experience in the relevant field in Central/ State/ Union Territory Government or Statutory/ Autonomous Body/ Public Sector Undertaking/ reputed Government agency.*

*It is humbly submitted that admittedly I am having the degree in law i.e. B.A. LLB from recognized university and same was duly verified and there has been no shortage of educational qualification. Further the advertisement was issued in terms of the Bureau of Indian Standards (Recruitment to Administration, Finance and Other Posts) Regulations, 2020 where also the minimum experience sought for the post of Assistant Director (A&F)- Legal is degree in Law. As per the experience, the degree in Law was required and same was validly submitted and is duly verified. Even LLM was also cleared by me prior to joining the said Post. It is also to be noted that as per the said Advertisement in the educational qualification only Degree in Law was called and not the Masters in Law and for that reason same was not filed in the Application Form. It is submitted that any alleged "suppression" must be made with a view to benefit me in the*



*recruitment process. Hence, in view of the above, I have the requisite educational experience as well as other experience as required under the said Advertisement and there has been no concealment. It is also submitted that the degree higher to this was not a disqualification for this post. As per the Advertisement, I possess the eligibility-level qualification i.e. Bachelors in Law from a recognized university and same was duly disclosed in the Attestation Form. I would like to bring to your attention that I have strictly complied with the terms of the recruitment advertisement, which was to disclose my BA, LL.B. degree as obtained in the year 2011, and it would be highly preposterous and contrary to all precepts of justice to initiate show-cause proceedings against me for the fact that I complied with the terms of the recruitment advertisement.*

53. While mentioning about the certificates issued by IEC University and Rajasthan High Court Bar Association, she further submitted as under: -

*“That these all documents are already on record and same were duly verified by the Screening & Selection Committee and the Experience has been found to be complete against the said Post as per advertisement.*

*Further, I humbly submit that I was associated with IEC University from 20.01.2015 till 19.09.2020 and have submitted the offer letter, No-objection to apply for the said post as well as release letter and same was duly verified. It is submitted that I was empanelled with IEC University after a thorough and rigorous process, and was regularly providing legal assistance to IEC University in the capacity of such association as well as diligently and regularly appearing before the Hon'ble Supreme Court of India, the Hon'ble High Court as well as various courts and tribunals. I have worked and appeared for IEC University & its associated institutions before various courts and same was duly disclosed by me and the same was duly verified by the Competent Authority while considering my recruitment. It is humbly submitted that after looking to all these credentials the Screening & Selection Committee duly verified my candidature & approved my selection and I was appointed on the said Post and there has been no new facts which warrants for any interference with the said decision. Court has been duly verified by the esteemed office of the Ld. Registrar (Admn.) of the*



*aforementioned Court who is an officer of the constitutional court and same is on record and not in question.*

### **7.3 Reply to Query - 4(c)**

*As per the BCI and as well as UGC Norms, LLM can be pursued while practicing as well as working and I have obtained 1- year LLM degree after duly meeting the requirements of the University. In this regard, the BCI Letter dated 23.01.2010 clearly stated that BCI passed Resolution in its meeting held on 18<sup>th</sup> & 20<sup>th</sup> December, 2009 and resolved that the practicing advocates can join in LLM Course as a regular student without suspending the practice. Relevant documents are enclosed herewith as **Annexure- 12**.*

*I have requisite experience as stated above and same is already in record of the Establishment Department as the same was duly scrutinized, verified and approved by the Screening & Selection Committee and I was given appointment on the said Post and same was duly checked at the stage of document verification also. Thus, admittedly my experience as sought in terms of the Advertisement is not in question.*

### **7.4 Reply to Query- 4(d)**

**Reply:** *I was advising & appearing for the firm in the legal matters before the Hon'ble Rajasthan High Court and other courts. All my correspondence with Bureau of Indian Standards has been made on my email ID which is owned and maintained by RKS Partners. I have never concealed my involvement with the aforementioned law firm, and in fact a bare perusal of your own record would show that I have always openly stated the same. In this regard, your attention is drawn to email dated 23.02.2021 sent by Director Establishment to me through his official email ID (dest@bis.gov.in) for submission of certain documents. I am the recipient of this email on my email ID viz,..... Thus, it is rather confounding that association with RKS Partners is being brought under scrutiny, as if it was some clandestine fact, at such belated stage, when I have always openly declared the same. For your clarification, it is once again stated that it is not a new fact declared by me in my application for Director (Legal) that I was involved with RKS Partners. There is no contradiction and new declaration as the Establishment Department is at pains to portray. A simple search on the website of the Hon'ble*



*Rajasthan High Court would disclose that I was making regular appearances at the Hon'ble Rajasthan High Court, Jaipur Bench, for the relevant period and that I was not merely an enrolled advocate but was actively involved in practice of law, a fact which has also been verified by the esteemed office of Registrar (Admn.) of the aforementioned court. It is also pertinent to observe that without any intention of casting aspersions, that despite being more than qualified for the position I am currently holding as well as for the position of Director (Legal), the present show-cause notice was issued against was rejected and it came to my knowledge after perusing the record on 11.5.2022 of the selection of the Director (Legal) that similarly situated candidate was considered and also entirely irrelevant experience of a project officer who has no experience in the Legal field was arbitrarily considered and were called for the interview. It has also come to my knowledge that this show-cause notice has been issued against me to provide benefit favored person who had also applied for the position that I currently hold. I had been appointed to the position of Assistant Director (Legal) through established procedure, and had secured the most marks cumulatively in the selection process and though hard work and on the strength of my work experience was given appointment. It is beyond doubt that I was properly selected as per due procedure. Hence, I humbly submit that in view of above, I fulfill each and every educational qualification and experience criteria after clearing the written examination and interview I was appointed as per due procedure and verification and I humbly submit that the proceedings arising in pursuance of the show-cause notice be dropped and oblige.”*

54. It is also not in dispute that BIS sent a communication to IEC University and in response to such communication, IEC university vide its letter dated 19.05.2022 informed them that the letters in question were issued by them and were genuine and verified. It also claimed that remuneration was paid to the petitioner as per the university norms.

55. Though, initially, the petitioner did not appear before the Committee but a personal hearing was, eventually, given to her and she appeared before the Committee on 06.07.2023 and submitted her



clarifications to the Committee on 10.07.2023. In her such response, she claimed that IEC University had status of an autonomous body established by a statute. The Committee was, however, of the view that IEC is a 'private university' and showing its reservation whether expression "autonomous" used in the advertisement could be extended to a 'private university' created under the statute of a State Government, it sent communication to Department of Consumer Affairs to provide clarity.

56. In its such communication dated 06.09.2023, BIS requested as under: -

*"In view of the above foregoing, I am hereby directed to request DoCA to kindly provide clarity with regard to following points:*

*(i) Can the requirement of Experience from Autonomous Body as mandated in BIS (Recruitment to Administration, Finance and Other Posts) Regulations, 2020, be extended further and cover the Private Bodies having functional Autonomy. And;*

*ii) XX was empanelled as an Advocate with IEC University and not an employee of IEC University. Therefore, can the requirement of 'experience (as mandated in BIS (Recruitment to Administration, Finance and Other Posts) Regulations, 2020) also cover those experiences which served as empanelled Advocate.*

57. The aforesaid aspect was examined by the concerned Secretary and vide order dated 19.12.2023, it opined as under:-

*"11. And now therefore, considering the overall facts, submissions and also taking into consideration, the hearing of DDG, Admin (BIS) and XX, AD, Legal in my chamber on 08.12.2023 at 1.00 PM, it has been found that XX, AD, Legal fulfils the condition of the post as advertised by BIS.*

*12. The experience of an applicant who is a lawyer and has also worked as an empanelled lawyer in private and autonomous universities is found to be relevant and meets the required*



*qualifications advertised by BIS for the post of Assistant Director-(A&F) Legal and therefore having considered all the facts and experience details available, I find that the appointment offered to XX is a per the conditions advertised and the BIS reference, therefore, is accordingly settled in favor of XX to be complying with all conditions of employment. The matter stands decided and BIS may take further appropriate administrative actions in the instant case as appropriate”*

58. Let me now assess and evaluate as to what actually was the requirement, contemplated in terms of the advertisement in question and what information was divulged by the petitioner. It also needs to be seen whether there was any false statement or suppression of facts by her.

59. Right here, this Court would also like to mention that since the minimum eligibility criteria was to have a Bachelor’s Degree in Law, it would not mean anything substantial even if petitioner had not divulged that she was also having a degree in Masters in Law. Ideally, she should have disclosed the same but her non-disclosure would not be taken adverse to her selection, in the present context, though, certain eyebrows are likely to be raised as during the period, she was pursuing her LLM from Mumbai which was a regular course and for which she was required to attend classes physically, even if in the evening, how and in what manner she managed the same while residing in Jaipur.

60. Undoubtedly, the key words as appearing in the advertisement are *“Three years’ experience in the relevant field in Central/ State/ Union Territory Government of Statutory/ Autonomous Body/ Public Sector undertaking/ reputed Government agency”*.



61. I would lay strong emphasis to word “in” used in the aforesaid criteria.
62. It lays bare the actual requirement.
63. Unquestionably, ‘working for organization’ cannot be equated with ‘working in organization’.
64. A person may represent a governmental body before a Court of law but that would not mean that he is also working in such organization or governmental body.
65. This one small word “in” suggests the real intent and objective of BIS.
66. Had the position been thrown open for mere practicing advocates, it could have been easily mentioned by BIS in the advertisement itself and, therefore, merely because a candidate is a practicing advocate and, in such capacity, such candidate is also representing any governmental agency would not mean that such candidate meets the eligibility criteria.
67. It also needs to be highlighted that other shortlisted candidates for the aforesaid position were all working.
68. One was working as a Civil Judge while two others were working in Insurance Companies.
69. Let me now switch to the decision taken by the Executive Committee.
70. There is no doubt that in terms of *Bureau of Standards (Recruitment to Administration, Finance and Other Post) Regulations, 2020* (hereinafter referred to as “BIS Regulations, 2020”) Executive



Committee can be constituted. These Regulations were notified on 25.06.2020 and as per Regulation 13, if there is any question regarding interpretation of these Regulations, same would be decided by the Executive Committee with the approval of Central Government. The Schedule attached to the aforesaid Regulations stipulates educational and other qualifications required for various positions, including for the post of Assistant Director (Administration & Finance)-Legal.

71. These also contain provisions regarding method of recruitment and also, *inter alia*, provide for relaxation of any provision of aforesaid Regulations in respect of any class or category of persons.

72. The Executive Committee, in its meeting dated 06.08.2024, took up the aspect of eligibility of XX for the said post as Item No. 33.

73. As per aforesaid agenda item, in view of Regulation No. 13 of BIS Regulations, 2020, the Committee was requested to consider and interpret whether requirement of experience from autonomous body as provided in the aforesaid Regulations be extended further and whether it would cover empanelment as advocate in a private university.

74. The decision of Executive Committee is as under:-

*“On the basis of three factors, namely:-*

*a. It is apparent that the experience of XX is from a private organization contrary to the mandated conditions of Regulations that the candidate must have three years' experience of working at a Central/State/Union Territory Government or Statutory/ Autonomous Body/Public Sector Undertaking/reputed Government Agency;*

*b. contrary to the mandated condition of Regulations of having three years of full time experience as an employee, XX was empaneled/associated/panel of lawyers as stated by IEC and;*



c. *considering the recruitments that taken place since 2020 and future recruitments this case puts BIS in predicament as other candidates having experience from private sector or having experience as a panelist have been rejected and what has to be followed in future recruitments.*

*EC interpreted that the recruitment of XX does not fulfil the mandated conditions mentioned in the Recruitment Regulations, 2020. As per Regulations, it should be sent to DoCA for approval of the Central Government.”*

75. On the basis of such decision taken by the Executive Committee, communication was sent to Central Government and said recommendation was approved by Central Government *vide* communication dated 08.11.2024 whereby the approval of the Hon’ble Minister was conveyed to Director General, BIS.

76. Consequent to such approval from the Central Government, the *Termination Memorandum dated 12.11.2024* has been issued, which is under challenge.

77. Admittedly, when the matter was pending consideration before the Executive Committee, XX was never afforded any opportunity to represent her case. To me, even if, on previous occasions, she was heard and her response was also sought, there was no automatic absolution and BIS should have sought her response afresh, instead of going ahead with the meeting and deliberation, in one-sided manner.

78. Coming back to the impugned *Termination Memorandum*, it mentions about one *Office Memorandum No. 11012/7/91 dated 19.05.1993* which stipulates that if any government servant, who was not



qualified or eligible in terms of the Recruitment Rules or had furnished false information or produced a false certificate in order to secure appointment, should not be retained in service and, if on probation, such public servant should be discharged or his service should be terminated.

79. Referring to the above *Office Memorandum*, the services of XX have been terminated with immediate effect.

80. Undoubtedly, foregoing discussion would make it evident that the work experience should have been with respect to working in a governmental agency.

81. Word 'employment' cannot be confused or equated with 'empanelment'.

82. Therefore, apparently, the petitioner was not having requisite work experience as she was not working in IEC University and was merely representing them in the Courts/Tribunals. It, really speaking, is of no concern whether said university was 'private' or 'autonomous'.

83. Fact remains that there was never any misrepresentation or submission of any false certificate by her.

84. She had submitted two certificates – one was experience certificate issued by Rajasthan High Court Bar Association which was to the effect that she had been regularly and continuously practicing in the High Court of Judicature of Rajasthan at Jaipur Bench, Jaipur for last more than eight years and the other issued by IEC University which also was to the effect that she was practicing as advocate and was representing IEC University in various Courts/Tribunals.



85. Even when she had filled up the form for the aforesaid recruitment, in the relevant column qua experience, she categorically described herself as an advocate.

86. Against the column “type of employment”, she selected option as “other”.

87. The aforesaid certificates clearly indicated that she was never working in IEC University and was rather continuously practicing as an advocate.

88. BIS was, though, having reservation and uncertainty about her such work-experience, for the reasons best known to them, they chose to ignore the same and offered her employment.

89. They have also, somehow, kept the aforesaid issue alive for around four years.

90. Advertisement is dated 05.09.2020 and the form was filled up by the petitioner immediately thereafter. She appeared for online examination and was declared successful and thereafter she was shortlisted for interview. A five Members’ Committee of BIS considered about her candidature from a specific and definite perspective-whether she had the requisite work-experience certificate or not. The Committee, after thorough deliberation, took conscious decision and held her fit for being shortlisted. If the Committee was not satisfied with her work-experience certificate or was of the view that it is not in synchronization with the eligibility criteria described in the advertisement, it should have, then and there, declared her unfit.



91. Fact, however, remains that there was never concealment, misrepresentation or suppression of any fact from her side and she always described herself as a practicing advocate and submitted the aforesaid two certificates showing that she had experience in the relevant field i.e. field of law.

92. The offer of appointment, generally speaking, is always provisional in nature and subject to verification of documents and eligibility criteria and when a five Members' Committee had already declared her fit and once, even, the employment was offered to her based on the same material, BIS should have not have reopened said issue all over again. Undoubtedly, if there is any fraudulent misrepresentation or submission of any false document, such aspect can always be gone into even at a subsequent stage but here nothing of that sort was existing and the said two certificates, which she had already given, were made subject matter of interpretation on various subsequent occasions.

93. Show cause notice was issued to her on 13.04.2022 but, as already noticed above, it was in a different context. While applying for Director (Legal), she revealed that she was also having LL.M degrees and also that she was working with RKS Partners and it was in the aforesaid backdrop only that the aspect of her having the requisite work experience was re-evaluated. She responded to show cause notice and was given a personal hearing also but BIS was still not very sure about her being eligible and, therefore, sought opinion from the concerned Secretary, who opined in her favour by replying that she fulfilled all conditions of



employment. Despite having such clarification from top-bureaucrat, BIS, in an apparent stealth and unilateral manner, constituted an Executive Committee which, eventually, took decision against her, which was, later, approved by Central Government.

94. As already noticed above, there is no suppression of facts by XX and rather she, all along, described herself as a practicing advocate.

95. By submitting the aforesaid two certificates, she merely wanted to indicate that she had been representing one autonomous body before various Court and Tribunals.

96. Therefore, as already noted above, once a five Members' Committee had minutely considered her such candidature and found her fit and employment was offered to her and since thereafter, in any case, XX had acquired three years' experience in BIS itself, it is too late in the day to have terminated her, in the manner it has been.

97. Undoubtedly, if a person is on probation and does not meet the eligibility criteria, employer, in terms of its Recruitment Rules, can always take appropriate action and can discharge or terminate such person for not meeting the eligibility criteria. If, for any reason, any such employee is not found fit, even in such a situation, without giving any reason, the services of any such employee can be terminated during probation.

98. Here, there is no question mark over her suitability or about her performance.

99. Her integrity, too, remained beyond doubt.



100. As per Reviewing Authority, she was always graded nine or above with respect to each of the sixteen parameters for the periods ending on 31.03.2022, 15.04.2023 and 09.08.2023. In view of such excellent *Annual Performance Appraisal Reports* (APARs), it cannot be said that she was not fit for the job in question.

101. As already noticed above, during the intervening period, in any case, she had acquired experience, *albeit*, within the same organization.

102. Petitioner relies upon *M.S. Dudhol (Dr.) v. S.D. Halegkar: 1993 SCC OnLine SC 213*. In said case, the question was with respect to eligibility of a candidate for the post of Principal of Delhi Kannada Senior Secondary School, New Delhi. The person, eventually, selected for the aforesaid post was not having required experience of teaching for ten years since he was, for some period, working as an Inspector of School. The petitioners in those cases, who were members of the teaching staff of the same school, were of the view that such selected candidate lacked the essential qualification and, therefore, they moved High Court by a writ of *quo warranto*. Such writ petition was dismissed, *inter alia*, on the ground of laches and the petitioners challenged the aforesaid order by filing a Special Leave Petition. *The Hon'ble Supreme Court noted that although, such candidate did not have requisite academic qualification but since he continued to hold the post in question for last twelve years, it would be inadvisable to disturb him from said post at such late stage, particularly, when he was not at fault when his selection was made. It was also observed that there was*



*nothing on record to show that he had, at the time of securing abovesaid position, projected his qualifications other than what he possessed. Holding that if therefore, in spite of placing all his cards before the Selection Committee, the Selection Committee, for some reason or the other, had thought it fit to choose him for the post, it would be iniquitous to make him suffer for the same. It was also observed that illegality, if any, was committed by the Selection Committee and they alone were to be blamed for the same.*

103. The aforesaid judgment is, virtually, on all fours herein.

104. There is no misrepresentation of facts by XX. There is nothing to indicate that she had submitted any false or forged certificate. BIS itself sought response from IEC University about genuineness of the certificate issued by them and in their direct communication addressed to BIS, IEC University categorically affirmed the genuineness of such certificate. The Selection Committee, despite noticing alleged shortcomings, found her fit and offered her job and, therefore, in such a situation, when she has already, in the interregnum, acquired the requisite work-experience, it is not appropriate for BIS to terminate her by claiming that she was not having the requisite work experience.

105. Reference be also made to *Varinder Hans v. Union of India: 2019 SCC OnLine P&H 1343* and *Sarabjeet Kaur Dhaliwal vs. Punjab Agricultural University: 2003 SCC OnLine P&H 1722*. In those cases also, Hon'ble Punjab & Haryana High Court, while referring to the *M.S. Dudhol (Dr.) v. S.D. Halegkar* (supra) went on to hold that the



termination was not appropriate as the concerned employee, after the appointment in question, had acquired sufficient experience and, therefore, even if such employee lacked the prescribed qualification, the experience gained during such employment would be sufficient for their continuation in service. In *Varinder Hans v. Union of India* (supra), there was no misrepresentation of facts on the part of concerned employee and the documents submitted by him were duly checked by the Scrutiny Committee which found him eligible. A waitlisted candidate raised doubt about the experience certificate submitted by the petitioner therein and, therefore, his selection was reviewed and it was recommended that he be terminated from the service. *It was held that there was no misrepresentation on his part and that he had already worked for about one year and eight months and there was no observation that he was lacking in skill or that his work was not upto the standard and, resultantly, his termination was set aside.*

106. In *Sarabjeet Kaur Dhaliwal vs. Punjab Agricultural University* (supra), there was never any concealment by the concerned employee about her degrees and qualifications and she clearly stated in her application that she did not possess a second-class in her B.A. degree. In that case also, after being offered employment, in view of objections raised by audit, a Committee was constituted and such Committee observed that she was not eligible for the post in question and since she was having third division, she could not have been considered for the post in question and was terminated. *Therein also, there was no*



*misrepresentation on her part as when she applied, in her application, she very clearly stated that she did not possess second-class in her B.A. degree and while taking note of overall facts including that she had been working as Assistant Economist from her initial appointment on 10.09.1998 till her termination on 12.06.2001 was, by itself, sufficient experience and, therefore, even if she lacked prescribed qualification, the experience would be sufficient for her continuation and thus it was held that it was not proper on the part of respondent-university to have terminated her services. Undoubtedly, in that case, the termination was without holding any departmental inquiry which also weighed in the mind of the Court but fact remains that the two important governing aspects would be – whether there is any suppression or fraudulent misrepresentation of fact regarding eligibility criteria and whether despite exhaustively scrutinizing candidature and thereafter offering any such candidate with the employment, the experience acquired during such employment would have any bearing or not.*

107. The requirement herein is for work experience for three years and, as already noticed, she has, in the intervening period, acquired such work experience with BIS and since her APARs were also outstanding, she cannot be said to be not suitable for the service.

108. The termination, in such a situation, while again referring to her work-experience was, therefore, not appropriate from any angle whatsoever.



109. Issue cannot be kept alive in perpetuity and if XX was not meeting full criteria, she should not have been shortlisted her for interview. On the basis of same very documents which she had submitted earlier and which were thoroughly scrutinized. BIS is now, virtually, precluded from looking into those facts, all over again, unless and until such certificates were found forged, fabricated and procured.

110. According to BIS, petitioner is on probation and since her termination is without any stigma, there is nothing bad in her termination as during probation, she has no vested and crystallized rights to continue in service for indefinite period. It is contended that the mere fact that she was having good APARs would not entitle her to continue in service.

111. Such contention does not hold any water, in the present factual backdrop, at least.

112. The purpose of putting someone on probation is to judge capacity, capability and suitability of such person under probation. A probation period is a "trial period" where the ability of probationer to hold the position, permanently, is tested. The entire objective of probation is to provide employer an opportunity to evaluate the probationer's performance and to assess his suitability for a particular post and then to take further appropriate decision. During probation, conduct as well as efficiency of probationer is under scrutiny and on the basis of his overall performance, a decision is taken as to whether his services should be confirmed or not. Such an exercise is a necessary part of the process of recruitment, and cannot not be undertaken in a casual manner.



113. Quite obviously, when a probationer's appointment is terminated, the message, direct or indirect, is that probationer is unfit for the job. Reasons can be numerous. It can be even misconduct or incompetence. Therefore, generally speaking, stigma, would, be inherent in any such termination and, therefore, the task is to find out the real cause.

114. *Rajasthan High Court v. Ved Priya*, (*supra*), on which BSI has relied upon, throws much needed light as to when termination of a probationer can be said to be stigmatic, necessitating judicial intervention. In that case, the termination was eventually upheld on the ground that it was not stigmatic. Hon'ble Supreme Court noted that the entire objective of probation is to provide employer an opportunity to evaluate the probationer's performance and to test his suitability for a particular post. Such an exercise is a necessary part of the process of recruitment and must not be treated lightly. It has been rightly observed therein as under:-

*“19. Probationers have no indefeasible right to continue in employment until confirmed, and they can be relieved by the competent authority if found unsuitable. It is only in a very limited category of cases that such probationers can seek protection under the principles of natural justice, say when they are “removed” in a manner which prejudices their future prospects in alternate fields or casts aspersions on their character or violates their constitutional rights. In such cases of “stigmatic” removal only that a reasonable opportunity of hearing is sine qua non. Way back in Parshotam Lal Dhingra v. Union of India [Parshotam Lal Dhingra v. Union of India, AIR 1958 SC 36] , a Constitution Bench opined that : (AIR p. 49, para 28)*

*“28. ... In short, if the termination of service is founded on the right flowing from contract or the service rules then, prima*



*facie, the termination is not a punishment and carries with it no evil consequences and so Article 311 is not attracted. But even if the Government has, by contract or under the rules, the right to terminate the employment without going through the procedure prescribed for inflicting the punishment of dismissal or removal or reduction in rank, the Government may, nevertheless, choose to punish the servant and if the termination of service is sought to be founded on misconduct, negligence, inefficiency or other disqualification, then it is a punishment and the requirements of Article 311 must be complied with.”*

**20.** *The order of termination of services of Respondent 1 recites that:*

*“the Rajasthan High Court, Jodhpur, after examining all the relevant records has been of the opinion that Shri Ved Priya has not made sufficient use of his opportunities and has otherwise also failed to give satisfaction as a probationer in the Rajasthan Judicial Service.”*

*It is explicit from these contents that neither any specific misconduct has been attributed to Respondent 1 nor any allegation made. The order is based upon overall assessment of the performance of Respondent 1 during the period of probation, which was not found satisfactory. Such an inference which can be a valid foundation to dispense with services of a probationer does not warrant holding of an enquiry in terms of Article 311 of the Constitution. It is thus not true on the part of Respondent 1 to allege that it was a case of an indictment following allegations of corruption against him.*

**21.** *True it is that the form of an order is not crucial to determine whether it is simpliciter or punitive in nature. An order of termination of service though innocuously worded may, in the facts and circumstances of a peculiar case, also be aimed at punishing the official on probation and in that case it would undoubtedly be an infraction of Article 311 of the Constitution. The Court in the process of judicial review of such order can always lift the veil to find out as to whether or not the order was meant to visit the probationer with penal consequences. If the Court finds that the*



*real motive behind the order was to “punish” the official, it may always strike down the same for want of reasonable opportunity of being heard.*

*22. There is nothing on record in the present case to infer that the motivation behind the removal was any allegation. Instead, it was routine confirmation exercise. The evaluation of services rendered during the probationary period was made at the end of the first respondent's tenure, along with 92 others. Vigilance reports were called not just for Respondent 1-petitioner, but also for at least ten other candidates. It is thus clear that the object was not to verify whether the allegations against the first respondent had been proved or not, but merely to ascertain whether there were sufficient reasons or a possible cloud on his suitability, given the higher standard of probity expected of a Judge.”*

115. Thus, though probationer would not have any such vested right to continue, herein, the termination, noticeably, attributes malafide upon the probationer. According to BIS, she was not having the requisite eligibility and that there was suppression of facts. As noted already, there was never any misrepresentation by her. On the contrary, BIS itself was completely unsure, wary and suspicious about the exact criterion as despite being aware about her credentials, she was declared fit and offered employment. The same material, on which she had earlier been cleared and absolved, was made basis of her termination and at the final leg, when the matter was with Executive Committee, she was not even given any opportunity to respond.

116. Thus, the manner of termination, for all purposes, has the trappings of stigma.

117. BIS is responsible for the position it finds itself in for not appropriately interpreting the criterion and permitting her to join them. Since, by now, she has already acquired the requisite experience while



working in BIS, there was, actually speaking, no reason to have terminated her.

118. Respondents cannot contend that the interim order should not have been passed. If they had any reservation in this regard, they could have challenged such interim order when the matter was pending before Rajasthan High Court and was, eventually, permitted to be withdrawn.

119. In view of my foregoing discussion, writ petition is allowed and, consequently, the *Termination Memorandum* dated 12.11.2024 is hereby quashed.

120. Since petitioner continues to be in service, there is no requirement of passing any further direction. Needless to say, she would be deemed to be in continuous service with all consequential benefits.

121. No order as to costs.

**(MANOJ JAIN)**  
**JUDGE**

**AUGUST 27, 2025/dr/pb**