$~P-1

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

Decided on: 28.05.2025

\+ W.P.(C) 16721/2024

ASHWINI KUMAR .....Petitioner

Through: Mr. Navendu Kumar and Mr. Karan Chopra, Advocates.

versus

UNION OF INDIA AND ORS .....Respondents

Through: Mr. Ripu Daman Bhardwaj, CGSC with Mr. Kushagra Kumar, Mr. Amit Kumar Rana and Mr. Abhinav Bhardwaj, Advocate for Respondents No.1 to 5/UOI.
Mr. Avneesh Arputham and Mr. Ankit Sharma, Advocates for R-7.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

JUDGEMENT

1. By way of this petition under Article 226 of the Constitution, the petitioner seeks a writ of *quo warranto* against the appointment of respondent No. 7 as Chairman and Managing Director ["CMD"] of National Hydroelectric Power Corporation Ltd. ["NHPC"]. He also seeks a declaration that the selection process undertaken by the Union of India ["UOI"] and the Public Enterprises Selection Board ["PESB"] [respondent Nos. 1 to 5 herein] was illegal.

A. *Facts*:

2. The impugned recruitment to the post of CMD, NHPC, commenced with an advertisement dated 17.06.2022, issued by PESB. For the purposes of the present litigation, the following features of the advertisement are relevant: -

A) The "*date of vacancy*" was mentioned as 01.09.2022.

B) Section III of the advertisement dealt with eligibility of candidates. It provided *inter alia* as follows: -

> ***"2. Employment Status:***
>
> ***The applicant must, on the date of application, as well as on the date of interview, be employed in a regular capacity -and not in a contractual/ad-hoc capacity*** *-in one of the followings:-*
>
> *(a) Central Public Sector Enterprise (CPSE) (including a full-time functional Director in the Board of a CPSE);*
>
> *(b) Central Government including the Armed Forces of the Union and All India Services;*
>
> *(c) State Public Sector Enterprise (SPSE) where the annual turnover is* ****Rs.2,000 crore or more****;*
>
> *(d) Private Sector in company where the annual turnover is* ****Rs.2,000 crore or more.***
>
> ***Preference would be given to candidates from listed Companies.***
>
> *(* The average audited annual turnover of three financial years preceding the calendar year in which the post is advertised shall be considered for applying the approved limits)"*

C) The advertisement also specified the following pay scales, at which candidates from Central Public Sector Enterprises ["CPSE"] must be working:

"***5. Pay Scale:***

(a) CentraI Public Sector Enterprises Eligible Scale of Pay

(i) Rs. 8250-9250 (IDA) Pre 01/01/1992

(ii) Rs. 11500-13500 (IDA) Post 01/01/1992

(iii) Rs. 23750-28550 (IDA) Post 01/01/1997

(iv) Rs. 62000-80000 (IDA) Post 01/01/2007

(v) Rs. 150000-300000 (IDA) Post 01/01/2017

(vi) Rs. 22400-24500 (CDA) Pre-revised

(vii) Rs. 67000-79000 (CDA) Post 01/01/2006

(viii) Rs. 182200-224100 (Level 15) CDA

The minimum length of service required in the eligible scale will be one year for internal candidates, and two years for others as on the date of vacancy."[1]

3. Respondent No. 7 herein, at the time of the advertisement, was working as an Executive Director of NHPC. He applied for the post of CMD and was called for an interview. A communication dated 26.12.2022, addressed by PESB to the Secretary, Ministry of Power, has been annexed to the writ petition, which shows that seven candidates were called for the interview, including six candidates who were already working in NHPC. At the time of the interview, respondent No. 7 was working as Director (Technical and Projects) at NHPC.

4. At a meeting held on 07.03.2024, PESB recommended respondent No. 7 for the said post. By notification dated 06.08.2024, respondent No. 7 was appointed. The notification states that the appointment was made upon approval of the Appointments Committee of the Cabinet ["ACC"], "*in relaxation of the eligibility criteria*". His appointment was until the

[1] Emphasis supplied.

date of superannuation, i.e. 30.06.2025, or until further orders, whichever was earlier.

B. *Submissions of Counsel:*

5. I have heard Mr. Navendu Kumar, learned counsel for the petitioner, Mr. Ripu Daman Bhardwaj, learned Central Government Standing Counsel, and Mr. Avneesh Arputham, learned counsel for respondent No.7.

6. Mr. Kumar argued that respondent No. 7 was ineligible for the post on two grounds, both based upon an Office Order dated 29.09.2021, issued by NHPC, under which respondent No. 7 was promoted to the post of Executive Director, NHPC. The relevant extracts of the said Office Order are reproduced below: -

> *"Sh. Raj Kumar Chaudhary, General Manager(Civil), Emp. No. 101344H in the IDA scale of pay of Rs.120000-3%-280000 (E08) is* ***promoted as Executive Director in the IDA scale of pay of Rs.150000-3%-300000 (E09) with effect from 03.09.2021****.*
>
> *2****. He will be on probation for a period of one year****, which may be extended, if found necessary."*[2]

7. Mr. Kumar submitted that the petitioner was on probation for a period of one year with effect from 03.09.2021, and thus did not satisfy the eligibility condition, which specifically required candidates to be employed in the stated categories of organizations, "*in a regular capacity – and not in a contractual/ad-hoc capacity*".

8. Mr. Kumar further submitted that the petitioner's appointment to a post in the IDA scale of pay of Rs. 1,50,000-3%-3,00,000 was effective

[2] Emphasis supplied.

from 03.09.2021. He had therefore been in the eligible pay scale, in terms of Clause 5(a) of the advertisement, for less than the minimum stipulated period of one year, as prescribed for internal candidates. Mr. Kumar drew my attention to Clause 15 of the Compendium of Guidelines in Board Level Appointments in CPSE ["the Guidelines"], issued by Department of Personnel and Training, which provides that the cut-off date for deciding eligibility of candidates is the date of occurrence of the vacancy which, in the present case, was 01.09.2022.

9. Mr. Kumar contended that PESB had no power to relax the eligibility criteria, as it had sought to do by an Office Memorandum dated 02.07.2024, relied upon by respondent Nos. 1 to 5, which reads as follows: -

> *"The undersigned is directed to invite a reference to Ministry of Power's O.M. No. 9/10/2021-NHPC dated 22/06/2024 and to state that the shortlisting for the post of CMD, NHPC was discussed in the Board on 01.12.2022. Out of the 7 applications received under internal category, 5 candidates (including Sh. Raj Kumar Chaudhary) were promoted to the pay scale, of Rs. 1,50,000-3,00,000/- w.e.f. 03.09.2021. As on the date of vacancy i.e. 01.09.2022,* ***the aforesaid 5 candidates were falling short of the required one year of service in the eligible scale by 2 days. However, the date of vacancy i.e. 01.09.2022 had elapsed at the time of discussion of the above matter in the Board (PESB) and the candidates had completed more than 1 year of service in the eligible scale as on date of discussion i.e. 01.12.2022.***
>
> *2. The matter was deliberated by the Board and* ***it was decided that the criteria of completion of 1 year service in the eligible scales may be relaxed by 30 days/ 1 month maximum for internal candidates in order to enlarge the pool of candidates for the interview.***
>
> *3. Accordingly, the 5 candidates, including Sh. Raj Kumar Chaudhary, were given relaxation in the shortfall of service in the eligible scale by 2 days and subsequently called for the interview dated 07.03.2024.*

4. This issues with the approval of the competent authority."[3]

10. Mr. Kumar argued that PESB's decision to relax the eligibility criteria was ultra vires its powers, as the power of relaxation has been vested only in ACC under Clause J of the Guidelines. Learned counsel further contended that in any event, PESB could not have changed the eligibility criteria in the course of the recruitment process. He relied upon the judgments in *Rakesh Kumar Sharma v. State (NCT of Delhi)*[4], *Bedanga Talukdar v. Saifudaullah Khan*[5] *and Ankita Thakur v. H.P. Staff Selection Commission*[6], in support of this contention.

11. Learned counsel for the respondents raised a preliminary objection as to the maintainability of the writ petition in its present form, at the instance of the petitioner herein. They submitted that the petitioner had not demonstrated, or even averred, any connection with the grievance ventilated, and therefore lacks *locus standi*. They alleged that the petition was instituted *mala fide*. It was further submitted that, even in the writ petition, the petitioner has stated that the petition has been filed in public interest. However, the petitioner has not complied with the rules of this Court relating to Public Interest Litigation ["PIL"], notified on 25.11.2010.

12. On merits, learned counsel for the respondents proceeded on the basis that the appointment of respondent No. 7 was made in relaxation of the rules by ACC, in exercise of a power which it admittedly possesses. It was contended that PESB had relaxed the eligibility criteria only for

[3] Emphasis supplied.
[4] (2013) 11 SCC 58.
[5] (2011) 12 SCC 85.
[6] 2023 SCC OnLine SC 1472.

internal candidates, i.e. candidates working with NHPC itself, by a period of one month, to enhance the pool of eligible candidates, having regard to the fact that the number of eligible candidates was otherwise only two. It was specifically stated that only five internal candidates became eligible as a result, all of whom participated in the process, and there was no complaint by any party in this regard.

13. Mr. Kumar, in rejoinder, argued that in a petition seeking a writ of *quo warranto*, strict rules of *locus standi* are inapplicable. Any citizen of India is entitled to the assurance that public offices are occupied by persons qualified to hold them, in terms of the relevant statutes and rules.

14. Learned counsel for parties also cited certain other authorities in support of their submissions, to which I shall refer later in this judgment.

C. *Analysis*:

15. In order to address the preliminary objection with regard to maintainability of the writ petition in its present form, at the instance of the petitioner, it is necessary to consider nature of the writ of *quo warranto*, and the particular requirements of *locus standi* for such a writ.

16. In *Rajesh Awasthi v. Nand Lal Jaiswal*[7], cited by Mr. Kumar, the Supreme Court referred to three earlier decisions, to hold that a writ of *quo warranto* will lie when an appointment is made contrary to statutory provisions.[8] This was followed in another Supreme Court judgement in *Gambhirdan K. Gadhvi v. State of Gujarat*[9], with the observation that the jurisdiction of the Court to issue such a writ is a limited one, which can only be issued when a person holding public office does not fulfill the

[7] (2013) 1 SCC 501 [hereinafter, "*Rajesh Awasthi*"].
[8] *Ibid*, paragraph 19.

prescribed eligibility criteria or when the appointment is contrary to statutory rules.

17. Particularly on the question of *locus*, Hon'ble Dipak Misra J., in a supplementing opinion in *Rajesh Awasthi*, observed that a citizen can claim such a writ without any special interest or personal interest. This view has also been followed by a Division Bench of this Court in *Suresh Gaur v. Government of NCT of Delhi*[10].

18. In *Gambhirdan*, however, the Supreme Court relied on the observations in *Armed Forces Medical Association v. Union of India*[11], to state that strict rules of *locus standi* are relaxed "*to some extent*" in *quo warranto* proceedings.[12] Two other judgments of the Supreme Court, cited by Mr. Bhardwaj, also indicate that the question of standing of the petitioner is not altogether irrelevant, even when a writ of *quo warranto* is sought:

a) In *S. Chandramohan Nair v. George Joseph*[13], the challenge before the Court was to the appointment of a member of the Kerala Consumer Disputes Redressal Commission. The writ petitioner before the High Court[14] claimed to have filed the writ petition in public interest, against a usurper of public office. While setting aside the writ granted by the High Court, the Supreme Court observed as follows: -

---

[9] (2022) 5 SCC 179 [hereinafter, "*Gambhirdan*"], paragraph 16.
[10] 2023 SCC OnLine Del 3352 [hereinafter, "*Suresh Gaur*"].
[11] (2006) 11 SCC 731.
[12] *Gambhirdan*, paragraph 17.
[13] (2010) 12 SCC 687 [hereinafter, "*S. Chandramohan Nair*"].
[14] Respondent No.1 before the Supreme Court.

> *"21. As mentioned above,* ***Respondent 1 had nothing to do with the appointment of the members of the State Commission*** *and who did not place any material on record to show as to how the appointment of the appellant would adversely affect the members of the Samiti.* ***His position was nothing more than that of a meddlesome interloper/busybody and the Division Bench of the High Court gravely erred in entertaining the writ petition filed by him and converting the same into a writ of quo warranto****."*[15]

b) Similarly, in *B. Srinivasa Reddy v. Karnataka Urban Water Supply & Drainage Board Employees' Assn*[16], the Court was concerned with a writ petition seeking writ of *certiorari* and *quo warranto,* etc. The writ petitioner before the High Court was an association of employees whose registration as a trade union had been cancelled. The Court held that the High Court ought to have examined the question of *locus standi,* cautioning that the doors of the Court should not be opened "*if a citizen is no more than a wayfarer or officious intervener without any interest or concern that what belongs to anyone of the 660 million people of this country*". It was further specifically observed as follows: -

> *"43. …..In such a situation,* ***the High Court, in our view, erred in law in issuing a writ of quo warranto the rights under Article 226 which can be enforced only by an aggrieved person except in the case where the writ prayed for is for habeas corpus****.*
>
> *xxx xxx xxx*
>
> *51. It is settled law by a catena of decisions that the court cannot sit in judgment over the wisdom of the Government in the choice of the person to be appointed so long as the person chosen possesses the prescribed qualification and is otherwise eligible for appointment. This Court in R.K. Jain v. Union of India [(1993) 4 SCC 119 : 1993 SCC (L&S) 1128 : (1993) 25 ATC 464] was pleased to hold that the evaluation of the comparative merits of the candidates would not be*

[15] Emphasis supplied.
[16] (2006) 11 SCC 731 (2) [hereinafter, "*B. Srinivasa Reddy*"].

gone into a public interest litigation and only in a proceeding initiated by an aggrieved person, may it be open to be considered. It was also held that in service jurisprudence it is settled law that it is for the aggrieved person, that is, the non-appointee to assail the legality or correctness of the action and that a third party has no locus standi to canvass the legality or correctness of the action. Further, it was declared that public law declaration would only be made at the behest of a public-spirited person coming before the court as a petitioner. ***Having regard to the fact that neither Respondents 1 and 2 were or could have been candidates for the post of Managing Director of the Board and the High Court could not have gone beyond the limits of quo warranto so very well delineated by a catena of decisions of this Court and applied the test which could not have been applied even in a certiorari proceedings brought before the Court by an aggrieved party who was a candidate for the post.***

xxx *xxx* *xxx*

53. ……Having regard to this aspect of the matter, the ***High Court ought to have dismissed the writ petition on that ground alone and at any event should have refused to issue a quo warranto, which is purely discretionary. It is no doubt true that the strict rules of locus standi are relaxed to an extent in a quo warranto proceedings. Nonetheless an imposter coming before the Court invoking public law remedy at the hands of a constitutional court suppressing material facts has to be dealt with firmly.****"*[17]

19. A Division Bench of this Court in *Devinder Gupta (Dr.) v. Union of India*[18], has taken the same view, even in the context of a PIL. The principle has been explained in the following terms:

"7. It is true that in a writ of quo warranto the question of locus standi is not examined as strictly as in the cases of writs of certiorari or mandamus, as observed in Gadde Venkateswara Rao v. Government of Andhra Pradesh, AIR 1966 SC 828 (vide para 8), in which the Supreme Court observed:

> *"The right that can be enforced under Article 226 also shall ordinarily be the personal or individual right of the petitioner himself, though in the case of some of the writs like habeas corpus or quo warranto this rule may have to be relaxed or modified."*

8. ***However, in our opinion, this does not mean that anybody can file***

[17] Emphasis supplied.
[18] 2006 SCC OnLine Del 283 [hereinafter, "*Dr. Devinder Gupta*"].

a petition for a writ of quo warranto challenging any appointment on any post in the country even though he may not have any direct connection or grievance or interest in the matter.

9. If we accept the submission of the learned Counsel for the petitioner that a petition for writ of quo warranto can be filed by anyone even though he may have no connection with the appointment of the respondent, then this Court will be flooded with tens of thousands of petitions challenging all kinds of appointments or elections to various posts. ***Hence, we cannot accept the submission that in a petition for a writ of quo warranto the question of locus standi cannot be raised at all. As already observed above, the Court no doubt takes a broader view of locus standi in a writ of quo warranto as compared to the writs of certiorari and mandamus, but it is not so broad as to permit anyone to file such a writ. The objection of locus standi can be taken even in a writ of quo warranto***."[19]

20. Two judgments of other High Courts have also been cited by Mr. Arputham in this connection:

a) In *Shamurailatpam Devadutta Sharma v. State of Manipur*[20], a Division Bench of the Manipur High Court observed that a writ of *quo warranto* can be sought by any person whose fundamental or legal rights are being breached or, in the absence of a breach of rights, when a question of public interest arises. It was further observed that the application must be *bona-fide* in public interest, and not for any hidden political struggle or undercurrent or in the expectation of any benefit or unethical gain. The Court held that, in the absence of even a remote connection to the appointment, no writ of *quo warranto* can be sought. Even if *locus standi* is relaxed, there must be some connection between the petitioner and the appointment to public office, i.e. the person invoking the jurisdiction of the Court must be an "*aggrieved person*", failing

[19] Emphasis supplied.
[20] 2023 SCC OnLine Mani 239.

which the Court will, in its discretion, deny him the extraordinary remedy[21]. A Special Leave Petition[22], filed against this judgment, was dismissed by the Supreme Court on 03.11.2023.

b) In *Mahesh Chandra Gupta v. Dr. Rajeshwar Dayal*[23], a Division Bench of the Allahabad High Court was considering an application for a writ of *quo warranto*, in respect of a professor in a medical college in Agra, Uttar Pradesh. The petitioner was an Advocate practicing in Allahabad. The Court held that, although the rule of *locus standi* is relaxed to some extent in writ of *quo warranto*, as compared to a writ of *certiorari* or *mandamus*, and hence it is not necessary that the petitioner has suffered a personal injury or has some personal grievance, a person cannot file a writ of *quo warranto* if he has not even the remotest connection with the holder of the public office. It was therefore held that the requirement that the petitioner should be a person aggrieved is dispensed with to a great extent, but not altogether.

21. It may be noticed also that this Court has entertained petitions for *quo warranto* as PILs, for example in *Dr. Devender Gupta*, and *Saddam Ali v. Union of India*[24], which was dismissed by the Division Bench judgment on 01.06.2024[25]. *Suresh Gaur*, upon which Mr. Kumar places reliance was also a case under the PIL jurisdiction, which is governed by very different principes relating to *locus standi*.

22. The principle which emerges from the aforesaid decisions is that

[21] *Ibid*, paragraphs 17, 24 and 27.
[22] SLP(C) 24417/2023.
[23] 2003 SCC OnLine All 1805.
[24] 2024 SCC OnLine Del 4280.

strict rules of *locus standi* applicable to writ petitions generally, are somewhat relaxed in the context of *quo warranto* petitions. While the supplementing opinion in *Rajesh Awasthi* does indicate that no special interest or personal interest is required, the prior judgments of the Supreme Court in *B. Srinivasa Reddy* and *S. Chandramohan Nair* explain the matter in some detail, as do the Division Bench decisions of this Court, the Manipur High Court, and the Allahabad High Court, cited above. Despite the relaxed standards, these judgments hold that it is not open to a complete stranger to apply for a writ of *quo warranto*, and consideration of such a petition will be a matter of discretion of the Court, as to whether it is appropriate to grant such relief at the instance of the petitioner.

23. A possible reconciliation of these views emerges, in my opinion, from the fact that a petition for *quo warranto* can, in given circumstances, be considered as a PIL. To maintain such a petition, a person with no personal interest whatsoever in the matter, would have to satisfy requirements applicable to PILs, which are also considered on relaxed principles of *locus standi*.

24. The petitioner in the present case has clearly stated in the writ petition that he was filing the petition "*in public interest*".[26] This has been reiterated in paragraph 2 of the written submissions filed on his behalf. In the normal course, in these circumstances, I would have directed that the present writ petition be placed before the Division Bench taking up PILs. However, the respondents have rightly pointed out that the petition,

---

[25] SLP (C) 21378/2024 against the Division Bench judgment was dismissed on 20.09.2024.
[26] Paragraph 3 of the writ petition.

despite stating as above, does not conform to the PIL Rules of this Court, particularly to the requirements of Rule 9, with regard to the essential averments and affidavit. The petition was first listed on 04.12.2024 before a learned Single Judge, and has been listed on six occasions thereafter, but no submission was made seeking transfer of the petition to the Division Bench taking up PIL matters. At the hearing on 23.05.2025, Mr. Kumar was given the opportunity to consider whether the petitioner would prefer to avail of the PIL remedy, but he declined to do so, and requested this Court to deal with the matter as considered appropriate.

25. In this context, when the averments in this writ petition are examined, the only statement with regard to the petitioner's interest in the matter is as follows:

> *"3. That the Petitioner is a citizen of India. It is submitted that the Petitioner has a locus to file the instant PIL and that it is a well settled position of law that a person, despite being unrelated to the matter, can move the Hon'ble Court under its Writ Jurisdiction praying for a Writ of Quo Warranto challenging the illegal and arbitrary appointment of any person on a government post. A Writ Petition seeking a Writ of Quo Warranto is maintainable in the case of service matters, keeping in mind the Judgement of the Hon'ble Supreme Court in the case of Rajesh Awasthi v. Nand Lal Jaiswal (2013) 1 SCC 501 which was also followed by this Hon'ble Court vide order dated 24.05.2023 passed in W.P.(C) 6050/2021 & CM APPL. 19148/2021 in the matter of Suresh Gaur Vs Government of NCT of Delhi & Ors."*

26. The respondents, in their counter affidavits, have squarely taken the objection with regard to maintainability, as argued above, but the petitioner has not filed rejoinders, despite opportunity granted by order dated 28.04.2025. In the written submissions filed by the petitioner also, the petitioner has stated that any public-spirited individual can seek such a writ, relying upon the judgments cited by Mr. Kumar, recorded in paragraph 17 above.

27. The aforesaid averments in this petition are clearly insufficient to establish the petitioner's rights, even on the lower threshold applicable to *quo warranto* petitions. In fact, other than his citizenship, the petition is conspicuously silent as to any particulars, including the petitioner's educational qualifications, professional or occupational status, etc. There is also no averment whatsoever, as to the petitioner's interest or connection with the appointment to the post of CMD in HPCL. I am therefore of the view that the petitioner has failed to demonstrate even a minimal connection with recruitment to the post in question, and a writ petition, at his instance, does not warrant issuance of a writ of *quo warranto.*

28. The case can also be considered from the perspective of the principles of discretion in the exercise of writ jurisdiction. The judgment in *B. Srinivasa Reddy* clearly holds, in the context of writ of *quo warranto*, that grant of relief by the writ court is discretionary.

29. Indeed, the grant of relief in a writ petition is always discretionary, and subject to the Court's satisfaction that such relief is required for doing substantial justice. Reference in this connection be made to the recent order of the Supreme Court in *M.S. Sanjay v. Indian Bank*[27], which held as follows:

> "*9. **It is well settled that interference by the Writ Court for mere infraction of any statutory provision or norms, if such in-fraction has not resulted in injustice is not a matter of course…**……*
>
> *10. It has been rightly observed that **legal formulations cannot be enforced divorced from the realities of the fact situation of the case. While administering law it is to be tempered with equity and if the equitable situation demands after setting right the legal***

[27] 2025 SCC OnLine SC 368.

> ***formulations not to take it to the logical end, the High Court would be failing in its duty if it does not notice equitable consideration and mould the final order in exercise of its extraordinary jurisdiction****. Any other approach would render the High Court a normal Court of Appeal, which it is not. It is a settled principle of law that* ***the remedy under Article 226 of the Constitution of India is discretionary in nature and in a given case, even if some action or order challenged in the petition is found to be illegal and invalid, the High Court while exercising its extraordinary jurisdiction thereunder can refuse to upset it with a view to doing substantial justice between the parties.***"[28]

30. The Court relied, for this purpose, on the following observations in *Shiv Shanker Dal Mills v. State of Haryana*[29]:

> *"Article 226 grants an extraordinary remedy, which is essentially discretionary, although founded on legal injury. It is perfectly open for the court, exercising this flexible power, to pass such order as public interest dictates and equity projects. Courts of equity may, and frequently do, go much further both to give and withhold relief in furtherance of the public interest than they are accustomed to go where only private interests are involved. Accordingly, the granting or withholding of relief may properly be dependent upon considerations as of public interest."*

31. The only allegation of the petitioner – a complete stranger to the process – is that PESB had relaxed the eligibility conditions in violation of the Guidelines, whereas the power of relaxation was vested only in ACC. However, the relaxation of the eligibility criteria was ultimately granted by ACC itself, in its order dated 06.08.2024. This was in exercise of the power under Clause J of the Guidelines, the existence of which has not been disputed. In fact, it is the petitioner's case that ACC alone has such power. In these circumstances, PESB's decision dated 02.07.2024 can, at best, be seen as enlarging the pool of candidates, but subject to the

[28] Emphasis supplied.
[29] (1980) 2 SCC 437.

final decision of ACC. Significantly, the relaxation affected only internal candidates, i.e. candidates who were already working with NHPC. It has clearly been stated in the counter affidavit that there were only five other candidates who became eligible as a result of the relaxation, and factually, all of them applied for the post and were called for interview. In these circumstances, no affected candidate or potential candidate was excluded from consideration due to the relaxation granted by PESB[30]. Having regard to these particular facts, I do not consider it appropriate to interfere with the appointment of respondent No. 7 on the legal principles laid down in the judgments cited by Mr. Kumar. The appointment of respondent No. 7 is also valid only for a further period of approximately one month, until 30.06.2025.

32. Having regard to all these factors, including the absence of any complaint from any affected person, the undisputed grant of ACC approval, and the fact that the term of respondent No. 7 is, in any event, coming to an end in a period of one month, I do not consider this to be an appropriate case for grant of discretionary relief under Article 226 of the Constitution.

D. Conclusion:

33. For the reasons stated, the writ petition is dismissed, but without any orders as to costs.

E. *Post Script*

33. This case has raised a question of whether a petition for a writ of *quo warranto*, when sought by a person with no personal interest at all, should be heard as an ordinary writ petition relating to service matters, or

[30] Paragraph 9 of the counter affidavit.

as a PIL. The Registry had raised a specific defect on this point, in response to which counsel for the petitioner only cited the judgments in *Rajesh Awasthi* and *Suresh Gaur*. In order to obviate such controversy in further cases, particularly in cases such as the present one, where *locus* was not demonstrated, I am of the view that the petition should be treated as a PIL, and subjected to the same Rules as applicable to PILs, including with regard to the *bona-fides* of the litigant. Subject to directions of Hon'ble the Chief Justice, the Registry is directed to take necessary steps in this regard.

PRATEEK JALAN, J

MAY 28, 2025
Bhupi/PV/Ainesh/