



28.10.2024 whereby, “associations of persons” have been notified by the Press Council of India (*hereinafter referred to as the ‘Council’*) under Section 5(4) of the Press Council Act, 1978 (*hereinafter referred to as the ‘Act, 1978’*) read with Press Council (Procedure for Notification of Associations of Persons) Rules, 2021 (*hereinafter referred to as the ‘Rules, 2021’*), for the purposes of constitution of 15th term of the Council. In fact, challenge is to non-inclusion of the petitioner in the said notification.

2. The petitioner has also challenged the report of the Scrutiny Committee dated 10.09.2024 whereby, its claim for nomination as an “association of persons” for the category referred to in Section 5(3)(a) of the Act, 1978 has been rejected.

3. The petitioner also seeks a direction to be issued to the respondents to re-evaluate the claims for nominations of “associations of persons” pursuant to the notice dated 09.06.2024.

FACTS

4. Press Council of India is a statutory body incorporated under Section 4 of the Act, 1978 and is a body corporate having perpetual succession and a common seal.

5. Section 5 of the Act, 1978 provides for composition of the Council which consists of a Chairman and twenty eight other Members. Out of twenty eight other Members of the Council, thirteen are nominated from amongst the working Journalists of whom six are Editors of newspapers and seven are working Journalists other than Editors. Six persons are to be nominated from amongst persons who own or carry on business of management of newspapers. One Member is nominated amongst persons



who manage news agencies and three persons are those who have special knowledge or practical experience in education, science, law and literature and culture, of whom one is nominated by University Grants Commission, one by the Bar Council of India and one by the Sahitya Academy. Rest five Members are Members of Parliament of whom three are nominated by the Speaker from amongst the Members of the Lok Sabha and two are nominated by the Chairman of the Rajya Sabha from amongst its Members. For the purposes of nomination of thirteen Members from amongst working Journalists and also for nominating six persons from amongst persons who own or carrying on business of management of newspapers and also for nominating one Member from persons who manage news agencies, the retiring Chairperson of the previous Council has to invite panels of names comprising twice the number of Members to be nominated from "associations of persons" of the working Journalists, those who own or carry on the business of management of newspapers and also those who manage news agencies. All persons are nominated as Members of the Council by the Council (except in the case of the First Council) and on nomination of persons as Members, the Central Government notifies names of persons nominated by the Council as its members. In the instant case, we are concerned with nominations of working Journalists in terms of Section 5(3)(a) of the Act, 1978.

6. Section 5 of the Act, 1978 is extracted herein below:

"5. Composition of the Council.—(1) The Council shall consist of a Chairman and twenty-eight other members.

(2) The Chairman shall be a person nominated by a Committee consisting of the Chairman of the Council of States (Rajya Sabha), the Speaker of the House of the



People (Lok Sabha) and a person elected by the members of the Council under sub-section (6) and the nomination so made shall take effect from the date on which it is notified by the Central Government in the Official Gazette.

(3) Of the other members—

(a) thirteen shall be nominated in accordance with such procedure as may be prescribed from among the working journalists, of whom six shall be editors of newspapers and the remaining seven shall be working journalists other than editors; so, however, that the number of such editors and working journalists other than editors in relation to newspapers published in Indian languages shall be not less than three and four respectively;

(b) six shall be nominated in accordance with such procedure as may be prescribed from among persons who own or carry on the business of management of newspapers, so, however, that there shall be two representatives from each of the categories of big newspapers, medium newspapers and small newspapers;

(c) one shall be nominated in accordance with such procedure as may be prescribed from among persons who manage news agencies;

(d) three shall be persons having special knowledge or practical experience in respect of education and science, law, and literature and culture of whom respectively one shall be nominated by the University Grants Commission, one by the Bar Council of India and one by the Sahitya Academy;

(e) five shall be members of Parliament of whom three shall be nominated by the Speaker from among the members of the House of the People (Lok Sabha) and two shall be nominated by the Chairman of the Council of States (Rajya Sabha) from among its members:

Provided that no working journalist who owns, or carries on the business of management of, any newspaper shall be eligible for nomination under clause (a):

Provided further that the nominations under clause (a) and clause (b) shall be so made that among the persons nominated there is not more than one person interested in any newspaper or group of newspapers under the same control or management.

¹[Explanation.—For the purposes of clause (b), a “newspaper” shall be deemed to be categorised as big, medium or small newspaper on the basis of its circulation per issue, as the Central Government may, by notification in the Official Gazette, notify from time to time.]

(4) Before making any nomination under clause (a), clause (b) or clause (c) of sub-section (3), the Central Government in the case of the first Council and the retiring Chairman of the previous Council in the case of any subsequent Council shall, in the prescribed manner, invite panels of names comprising twice the



number of members to be nominated from such associations of persons of the categories referred to in the said clause (a), clause (b) or clause (c) as may be notified in this behalf by the Central Government in the case of the first Council and by the Council itself in the case of subsequent Councils:

Provided that where there is no association of persons of the category referred to in the said clause (c), the panels of names shall be invited from such news agencies as may be notified as aforesaid.

(5) The Central Government shall notify the names of persons nominated as members under sub-section (3) in the Official Gazette and every such nomination shall take effect from the date on which it is notified.

(6) The members of the Council notified under sub-section (5) shall elect from among themselves in accordance with such procedure as may be prescribed, a person to be a member of the Committee referred to in sub-section (2) and a meeting of the members of the Council for the purpose of such election shall be presided over by a person chosen from among themselves.”

7. Prescribing the procedure for notification of “associations of persons” for the purposes of constitution of the Council, the Central Government has framed Rules, 2021 in exercise of its powers conferred on it under Section 25 read with Section 5(4) of the Act, 1978. As per Rule 3, in case of a Council subsequent to the First Council, the retiring Chairman has to invite filing of claims from eligible “associations of persons” by giving wide publicity. Rule 4 of the Rules, 2021 provides for the eligibility of “association of persons” for being eligible to file claims. According to Rule 4, to be eligible, an “association of persons” must have been registered under the relevant law for at least six years prior to last date of filing of the claims and must be conducting its business continuously thereafter. Rule 4 also requires the “association of persons” seeking its nomination to submit documents duly certified by the competent authority under the relevant law under which the association is registered.



8. Rule 5 provides for scrutiny of such claims of “associations of persons” by a Scrutiny Committee comprising of three persons to be nominated by the Chairperson from amongst the Members of the Council and such Scrutiny Committee is required to submit its report to the Council. Sub Rule 2 of Rule 5 provides that the Council, on consideration of the report submitted by the Scrutiny Committee, shall take appropriate decision and notify the “associations of persons” in terms of the requirement of Section 5(4) of the Act, 1978. The Rules, 2021 are extracted herein below:

“In exercise of the powers conferred by sub-sections (1) and (2) of Section 25 read with sub-section (4) of Section 5 of the Press Council Act, 1978 (37 of 1978), the Central Government hereby makes the following rules, namely—

1. Short title and commencement.—(1) These rules may be called the Press Council (Procedure for Notification of Associations of Persons) Rules, 2021.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.—In these rules—

(a) “Act” means the Press Council Act, 1978 (37 of 1978);

(b) “associations of persons” means associations of persons of the categories referred to in clause (a), clause (b) and clause (c) of sub-section (3) of Section 5;

(c) “Committee” means the Scrutiny Committee constituted by the Chairman under Rule 5 in exercise of powers under Section 8;

(d) “section” means a section of the Act;

(e) words and expressions used but not defined herein shall have the meanings assigned to them in the Act.

3. associations of persons to be notified.—The Central Government in the case of first Council and the retiring Chairman of the previous Council in the case of any subsequent Council shall, for the purpose of notifying associations of persons under sub-section (4) of Section 5, invite filing of claims from eligible associations of persons by giving wide publicity in at least two widely circulated national daily newspapers.



4. Eligibility of association of persons.—For being eligible to file claims under Rule 3, an association of persons must have been registered under the relevant laws for the time being in force for at least six years prior to last date of filing of the claims and must be conducting its business continuously thereafter, and shall submit documents in proof thereof, duly certified by the competent authority under such relevant laws:

Provided that the memorandum of association of such association of persons shall not restrict its membership to any particular religion, race, caste or language.

5. Scrutiny of Claims.—(1) The claims filed by associations of persons under Rule 3 shall be scrutinized by a Scrutiny Committee consisting of three persons to be nominated by the Chairman from amongst members of the Council who are not associated in any manner with any of such claimant associations and shall submit its report to the Council.

(2) The Council shall, after considering the report submitted by the Scrutiny Committee, take appropriate decision and notify the associations of persons as required under sub-section (4) of Section 5:

Provided that where the decision of the Council is at variance with the recommendations of the Scrutiny Committee, such decision shall be taken by not less than three-fourth majority of members, other than members of the Scrutiny Committee, present and voting, and in case of equality of votes, the Chairman shall have the casting vote.”

9. The term of the 14th Press Council of India expired on 05.10.2024.

Before the expiry of its term, the Council issued a notice on 09.06.2024 inviting filing of claims for notification of “associations of persons” for constituting 15th Press Council of India under Rule 3 of the Rules, 2021.

The notice dated 09.06.2024 mentions eligibility of “association of persons” which is extracted herein below:

“Eligibility of association of persons:

association of persons must have following:

- a) It must have been registered under the relevant laws for the time being in force for at least six years prior to last date of filing of the claims;
- b) It must be conducting its business continuously thereafter, and shall submit documents in proof thereof, duly certified by the competent authority under such relevant laws;
- c) The Memorandum of Association (MoA) of such association of persons shall not restrict its membership to any particular religion, race, caste or language.



The claims shall be filed in a sealed envelope superscribed "Claims with the name of the Association" on the letter head of the association carrying the registered address for correspondence, email i.d., contact numbers with the CHAIRPERSON PRESS COUNCIL OF INDIA, SOOCHNA BHAWAN, 8, CGO COMPLEX, LODHI ROAD, NEW DELHI-110003, so as to reach on or before 5:00 PM of 24th July, 2024."

10. The said notice also mentioned the supportive documents to be filed which are as under:

"SUPPORTIVE DOCUMENTS TO BE FILED"

The claims should be accompanied by supportive documents showing that the associations eligible in terms of the Act and the Rules made thereunder to represent anyone of the categories set out above and also to establish that it is qualified to represent the category under which it is staking its claim.

Following documents authenticated by Notary Public need to be filed:

- (a) A copy of the MoA/Constitution/MoU of the Association;
- (b) Copy of the Registration Certificate of the claimant body, with up to date renewal certificate wherever applicable;
- (c) Minutes of the General Body meetings for the last six years preceding the issuance of advertisement filed before the appropriate authority i.e. Registrar of Societies or such authorities under relevant laws under which the associations of persons is registered to show their existence for at least six years prior to last date of filing of the claims;
- (d) Certificate of the Competent Authority under relevant law in the following format:

Dated:
<i>Certificate</i>
<p>I _____ (Full Name) do hereby certify _____ (Name of the Association) has been registered/incorporated under (Name of the Act) on _____ (Date, Month & Year) and conducting its business continuously thereafter.</p> <p style="text-align: right;">(Signature and Seal of the Competent Authority)</p>



(e) An upto date detailed list of its members representing the category under which the claim is being filed with complete particulars as set out below, in hardcopy as well as soft copy in Pen Drive:

(1) SURNAME, FIRST NAME

(2) RESIDENTIAL ADDRESS OF THE MEMBER(S)

(3) TITLE OF THE NEWSPAPER BEING REPRESENTED ALONGWITH REGISTRATION NUMBER

(4) LANGUAGE IN WHICH THE NEWSPAPER IS PUBLISHED

(5) NEWSPAPER PUBLICATION ADDRESS ALONG WITH STATE NAME

(6) OFFICE ADDRESS WITH NAME OF THE STATE AT WHICH THE MEMBER IS CURRENTLY POSTED

(7) DESIGNATION IN THE NEWSPAPER i.e. EDITOR, WORKING JOURNALIST OTHER THAN EDITORS, OWNER/PUBLISHER OR MANAGER

(8) CIRCULATION OF THE NEWSPAPER OWNED OR MANAGED BY THE MEMBER [INFORMATION REGARDING THIS POINT TO BE PROVIDED BY ASSOCIATIONS FILING CLAIM UNDER SECTION 5(3)(b)]

(9) WHETHER MEMBER OF ANY OTHER PARALLEL ASSOCIATION

(10) YEAR OF JOINING THE ASSOCIATION AND

(11) MEMBERSHIP FEE UPTO DATE OR OUTSTANDING

THE ASSOCIATION SHALL SPECIFY THE CATEGORY UNDER WHICH THEY ARE STAKING THEIR CLAIM.

The President/Secretary/authorized signatory to the association shall make and subscribe to a declaration to be sworn before the Notary Public, verifying that he/she has been duly authorized by the association of persons to file the claim and the facts stated in the claim application and the particulars attached thereto are true to the best of his/her knowledge and belief and information.

The claimant association shall also subscribe to a declaration establishing that the claim of the said body is valid and free from all encumbrances/disputes/litigation. The Press Council may at its discretion reject any claim if any such encumbrances are brought to its notice.



No claim made by any person other than a person duly authorized under the Constitution of the association shall be entertained.

Any claim not in conformity with the above is liable to be rejected.

The Press Council of India will be within its right to call for such additional information or verify such information as might be considered necessary.

The associations notified for the present term of the Press Council (2021-2024) may also take note of this Notice and file fresh claim applications.

The list of the claimant's Associations shall be published on the website of the Council on or before 25th July, 2024. Any person can file objection questioning the eligibility of claimant's Associations by 1st August, 2024. The claims shall be decided by the Scrutiny Committee thereafter.

No claim made after 5:00 PM of 24th July, 2024 will be entertained.”

11. The notice dated 09.06.2024 also required the claimant association to subscribe a declaration establishing that claim of the concerned association is valid and free from all encumbrances/disputes/litigations. It also provided that the Council may at its discretion reject any claim if any such encumbrances are brought to its notice. According to the said notice, no claim made by a person other than a person duly authorized under the constitution of the association shall be entertained and any claim which is found not in conformity with such requirements is liable to be rejected. It was further provided therein that the Press Council of India will be within its right to call for such additional information or verify such additional information as might be considered necessary.

12. The petitioner submitted its application pursuant to the notice dated 09.06.2024. The application of the petitioner and those of other associations were scrutinized by the Scrutiny Committee which submitted its report/recommendation on 10.09.2024. In respect of the application of the



petitioner, recommendation made by the Scrutiny Committee in its report dated 10.09.2024 was to reject the application for reasons stated in the said recommendation. The recommendation made in respect of the petitioner is as follows:

<p>3. <i>Editors Guild of India filed by Shri Anant Nath, President</i></p>	<p>REJECTED -</p> <ol style="list-style-type: none"> <i>1. Copy of Registration Certificate, MoA and Constitution, List of members and Minutes are not notarized</i> <i>2. No proof given of submission of minutes to competent authority</i> <i>3. The Certificate of Competent Authority doesn't mention conducting of business Continuously</i> <i>4. Declaration establishing that the claim of the said association is valid and free from all encumbrances/disputes/litigation not submitted.</i>
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13. The Press Council of India *vide* impugned notification dated 28.10.2024 notified the “associations of persons” pertaining to different categories, including the category with which we are concerned with in this matter, namely, the category as contemplated in Section 5(3)(a) of the Act, 1978, however, accepting the recommendation made by the Scrutiny Committee dated 10.09.2024, name of the petitioner was not included in the List of “Associations of Persons” as notified by the Council on 28.10.2024.

14. It may also be noted that the recommendation made by the Scrutiny Committee dated 10.09.2024 was considered by the Council in its meeting held on 27.09.2024 whereby, all the recommendations made by the Scrutiny Committee were accepted, including the recommendation of rejection in



respect of the petitioner. The relevant extract of the Minutes of the Meeting of the Press Council of India held on 27.09.2024 is quotes hereunder:

“Rule 5. Scrutiny of Claims.- (1) The claims filed by associations of persons under rule 3 shall be scrutinized by a Scrutiny Committee consisting of three persons to be nominated by the Chairman from amongst members or (he Council who are not associated in any manner with any of such claimant associations and shall submit its report to the Council.

(2) The Council shall, after considering the report submitted by the Scrutiny Committee ,take appropriate decision and notify the associations of persons as required under subsection (4) of section 5.

Provided that where the decision of the Council is at variance with the recommendations of the Scrutiny Committee, such decision shall be taken by not less than three fourth majority of members, other than members of the Scrutiny Committee, present and voting, and in case of equality of votes, the Chairman shall have the casting vote.

The Council proceeded to consider the report of the Scrutiny Committee. All the claims in the Scrutiny Committee report (attached as annexure A) and recommendations thereupon were read out before the full Council and disapprovals, if any, on each decision were sought. Not a single decision could muster three fourth (3/4th) of total members present (1 member through video conferencing) and voting (17). Accordingly, the Council adopted the Scrutiny Committee report in its entirety by majority. However, eight votes were against the recommendations in case of Claim No. 27 i.e. Mumbai Press Club filed under the Category Working Journalists other than Editors.”

15. After notifying the eligible “associations of persons”, the Council *vide* notification dated 13.11.2024 invited panels of names comprising twice the requisite number of working journalists from the “associations of persons” notified *vide* notification dated 28.10.2024 for nomination to the Council as its members in terms of Section 5(4) of the Act, 1978.

16. The petitioner initially chose not to challenge either the notification dated 28.10.2024 issued by the Press Council of India, or the report of the Scrutiny Committee dated 10.09.2024. The instant petition was filed only on 03.12.2024, that too when W.P.(C) 16202/2024 filed by the Press Club, Mumbai in respect of the recommendation made for rejection of its claim



was allowed by a learned Single Judge of this Court by means of the judgment and order dated 22.11.2024.

17. It is noticed that before the petitioner instituted the instant writ petition, the notification dated 28.10.2024 which is under challenge herein was already acted upon in the sense that pursuant to the said notification, the Council issued another notification dated 13.11.2024 inviting panels of names for the purposes of nomination to the Council as its members in terms of Section 5(4) of the Act, 1978. It is this notification dated 28.10.2024 issued by the Council and the report of the Scrutiny Committee dated 10.09.2024 which are under challenge herein.

SUBMISSIONS ON BEHALF OF THE PETITIONER

18. Mr. Rajshekhar Rao, learned senior counsel representing the petitioner has argued that the reasons given by the Scrutiny Committee in its report dated 10.09.2024 recommending rejection of its application are not tenable even on facts. It has been submitted in respect of the objection of the Scrutiny Committee to the effect that copy of the Registration Certificate, Memorandum of Association (*hereinafter referred to as the 'MoA'*), constitution of the petitioner, list of members and Minutes were not notarized that the notarized documents were submitted by the petitioner *vide* its representation dated 06.10.2024. In respect of the objection that the petitioner did not submit any proof of submission of Minutes to the competent authority, it has been argued on behalf of the petitioner that under Rule 4 of Rules, 2021 there is no requirements for furnishing proof of submission of Minutes.



19. It is also the argument of Mr. Rajshekhar Rao, learned senior counsel that in fact, while seeking the requisite certificate from the competent authority under the Societies Registration Act, 1860 (*hereinafter referred to as the 'Act, 1860'*) namely, Sub-Divisional Magistrate (*hereinafter referred to as the 'SDM'*), all the relevant disclosures were made before the SDM and therefore, once the said certificate was issued by the SDM on the basis of the disclosures made and the documents filed before him, the certificate issued by the SDM ought to have been treated by the Scrutiny Committee as valid certificate fulfilling the requirement.

20. In respect of the objection that certificate of competent authority does not mention conducting of its business by the petitioner continuously for six years, the submissions made on behalf of the petitioner is that all the relevant documents evidencing continuous transaction of business for past six years, such as the Minutes of the Meeting of the Annual General Body of last six years, audited financial reports and bank statements were submitted to the competent authority under the Act, 1860, namely SDM, who, based on his satisfaction on the basis of such documents, had issued the certificate which was submitted by the petitioner while making the application to the Council for being declared as eligible “association of persons” and therefore, the said objection taken by the Scrutiny Committee is not tenable.

21. As regards non-submission of declaration establishing that the claim of the petitioner is valid and free from all encumbrances/disputes/litigation, it has been submitted by Mr. Rajshekhar Rao, learned senior counsel that updated declaration was submitted *vide* representation dated 16.10.2024. Further it has been argued on behalf of the petitioner that the petitioner made



all reasonable efforts to comply with the requirements of Rule 4 of Rules, 2021 as also those of the notice dated 09.06.2024.

22. It is the submission of the petitioner that the petitioner organization was formed in the year 1978 and was registered under the Act, 1860 in the year 1998 and accordingly, it submitted its request for issuance of the requisite certificate to the competent authority (SDM HQ, Firms and Societies) and while making the said request it was specified by the petitioner that the certificate asked for was required for the purposes of constitution of the Council. Along with the request for issuance of the certificate, the petitioner also submitted bank statement of last three years, as well as Minutes of the Meeting. With the said request, the petitioner had also submitted the certificate dated 02.06.2021 issued by the SDM for the previous application processes and accordingly, having satisfied himself, the SDM HQ issued the certificate dated 25.06.2024 which was furnished by the petitioner along with its application for its inclusion in the list of eligible “association of persons”.

23. Mr. Rajshekhar Rao, learned senior counsel has also submitted that the certificate submitted by the petitioner, dated 25.06.2024 pursuant to the notice dated 09.06.2024 was identical to the certificate issued on 02.07.2021 on the basis of which the petitioner was included in the list of eligible “associations of persons” for the purposes of constitution of the previous term of the Council i.e. its 14th term and therefore, on the basis of an identical certificate, once the respondents were satisfied that the petitioner is an eligible “association of persons”, rejecting the application for the



constitution of 15th Council on the basis of identical certificate is absolutely unreasonable.

24. It is also the submission of Mr. Rajshekhar Rao, learned senior counsel that existence of fact of eligibility on the cut-off date is distinct from proof of fact and that the latter may be excused if fact of eligibility is proved. In support of his submission, reliance has been placed by the petitioner on ***Charles Skaria v. Dr. C. Mathew, (1980) 2 SCC 752***. Further submission on behalf of the petitioner is that the approach of the Scrutiny Committee while considering the application of the petitioner is formalistic, unrealistic and ritualistic and therefore, it is unjust and subversive of the purpose of consideration of such application. Relying on a judgment of the Hon'ble Supreme Court in the case of ***Dolly Chhanda v. Chairman, Jee and Others, (2005) 9 SCC 779*** it has been argued that depending on the facts of the case, there can be some relaxation in the matter of submission of proof and it will not be proper to apply any rigid principle as it pertains to the domain of procedure and further that every infraction of rule relating to submission of proof need not necessarily result in rejection of the application of the petitioner.

25. It is also argued on behalf of the petitioner that the rule relating to procedure has to be construed in a manner which does not become too technical leaving no room for reasonable elasticity of interpretation, otherwise such an approach would frustrate furtherance of justice. In this regard reliance has been placed by the petitioner on ***Sangram Singh v. Election Tribunal, Kotah, 1955 SCC OnLine SC 21***.



26. Placing reliance on *Commissioner of Central Excise, New Delhi v. Hari Chand Shri Gopal & Ors.*, (2011) 1 SCC 236, it has been argued by Mr. Rajshekhar Rao, learned senior advocate representing the petitioner that the petitioner had fulfilled the requirement of the Rules and the notice in essence and substance and therefore, the Scrutiny Committee has adopted a flawed approach by emphasizing more on form and less on essence. It is also the submission of the petitioner that no opportunity was granted to the petitioner to respond to the objections or cure the defects, contrary to the principles of natural justice. According to the petitioner, a fair and equitable approach would have entitled the petitioner an opportunity to remove any defects. Reliance in this regard has been placed on the judgment in *Dheerender Singh Paliwal v. Union Public Service Commission*, (2017) 11 SCC 276 and *Neeraj Sharma v. Union of India*, 2023 SCC OnLine Del 923.

27. Our attention has been drawn to the letter dated 10.09.2024 written by one of the members of the Scrutiny Committee whereby, its report was submitted to the Council wherein, it has been stated that the said member had resigned from the membership of Rajya Sabha and that therefore he seized to be a member of the Council. It is stated in this regard that once the said member seized to be a member of the Rajya Sabha, he would cease to be a member of the Council as well and therefore the constitution of the Scrutiny Committee, which submitted its report, was vitiated and hence the report of the Scrutiny Committee dated 10.09.2024 could not have been acted upon.



28. On these counts it has been prayed on behalf of the petitioner that the writ petition be allowed by quashing the report of the Scrutiny Committee dated 10.09.2024 and the impugned notification dated 28.10.2024 and a direction be issued to re-evaluate the application of the petitioner.

SUBMISSIONS ON BEHALF OF THE RESPONDENT NO.1

29. Opposing the writ petition, Mr. Vikramjit Banerjee, learned Additional Solicitor General representing respondent no.1 - Council has argued that non-compliance with the requirements of Rule 4 of the Rules, 2021 and the notice dated 09.06.2024 is apparent on the basis of perusal of the records which disentitles the petitioner to be declared as an eligible “association of persons”.

30. Learned ASG has stated that as per the requirement of Rule 4 of Rules, 2021, for an “association of persons” for being notified as an eligible “association of persons” to file nominations, it must be registered under the relevant laws for at least six years prior to last date of filing of the claims and also that it must be conducting its business continuously thereafter. He has stated that Rule 4 of Rules, 2021, thus, mandates that in proof thereof, the “association of persons” shall submit documents, duly certified by the competent authority and that the notice dated 09.06.2024 required the applicants that while submitting their claims, the documents such as copy of MoA, Constitution, Memorandum of Understanding (*hereinafter referred to as the ‘MoU’*) of the Association, copy of registration certificate with up to date renewal certificate and Minutes of the Meeting should be authenticated by a Notary Public.



31. Learned ASG has also drawn our attention to the format of the certificate which was to be obtained by the petitioner from the competent authority under the relevant law and has submitted that the said format required the certificate to contain certain information, including certification of the fact that the applicant has been conducting its business continuously after its registration. Taking us to various requirements of Rule 4 of the Rules, 2021 as also the notice dated 09.06.2024 it has been argued by learned ASG that the petitioner did not submit along with its application, copies of the documents duly authenticated by a Notary Public and therefore, on account of non-fulfilment of the said requirements, the application was rightly recommended to be rejected by the Scrutiny Committee. It is his further submission that the certificate of the competent authority submitted by the petitioner was also not in the format as given in the notice dated 09.06.2024.

32. Mr. Vikramjit Banerjee, learned ASG has, thus, also pointed out that the petitioner in its representation dated 16.10.2024 has admitted that the documents submitted by the petitioner along with its application for claim were not notarised and further that declaration submitted by the petitioner did not subscribe to the requisite undertaking and that the certificate of registration was also not in the format as prescribed in the notice dated 09.06.2024 and therefore, admittedly, the claim filed by the petitioner was not in conformity with the requirements of Rule 4 of the Rules, 2021 and the notice dated 09.06.2024. It has also been stated on behalf of the respondent no.1 – Council that other similarly placed associations had filed the certificate in the prescribed manner and therefore, the certificate filed by the



petitioner, which was issued by the competent authority, could not have been accepted for the reason that admittedly, it was not in the proper format as prescribed in the notice dated 09.06.2024.

33. Learned ASG has also submitted that no challenge either to Rules, 2021 or to the notice dated 09.06.2024 was made by the petitioner; rather it made the application pursuant to the notice dated 09.06.2024, thereby it accepted the requirements as mentioned in Rule 4 of Rules, 2021 as also in the notice dated 09.06.2024 without any protest. The submission, thus, is that now it is not open to the petitioner to argue that requirements in the notice or in the Rules are not mandatory for the reason that it participated in the process pursuant to the notice inviting claims, dated 09.06.2024, without any protest. In support of this submission, reliance has been placed by the respondent no.1 – Council on ***Tarun Kataria v. Union of India & Ors., 2024 SCC OnLine Del 935*** and ***Union of India v. C. Girija & Ors., (2019) 15 SCC 633.***

34. A ground of inordinate delay in filing the petition has also been taken on behalf of the respondent no.1 – Council by submitting that the Scrutiny Committee made its recommendation on 10.09.2024 which was considered by the Council on 27.09.2024 and thereafter, the eligible “associations of persons” were notified *vide* notification dated 28.10.2024, however, the petitioner approached this Court only on 02.12.2024 after considerable delay, that too only on learning the judgment of this Court in ***W.P.(C) 16202/2024.*** Such delay in filing the instant writ petition disentitles the petitioner to claim any relief for the reason that the entire process is for



constitution of the Council whose term had expired way back on 05.10.2024.

35. On behalf of the respondents, reliance has been placed on the judgment in ***Chandigarh Administration & Anr. v. Jagjit Singh & Anr.***, (1995) 1 SCC 745 to argue that merely because the claim filed by the petitioner on the basis of identical certificate of registration issued by the competent authority was considered for the last term of the Council, it cannot be a legal basis to extent any benefit to the petitioner for acceptance of its claim for 15th term of the Council as in case any such claim is accepted by this Court, it will amount to perpetuate an illegality. Learned ASG also stated that granting relief in this petition to the petitioner will result in thwarting the entire process of constitution of the 15th term of the Council at the behest of the petitioner who approached the Court after much delay and that delay in filing the petition in this case, has to be construed to be fatal.

36. It has thus, been submitted by learned ASG that the writ petition is, thus, bereft of any good ground which is liable to be dismissed.

ANALYSIS AND CONCLUSION

37. Having considered the competing arguments made by the learned counsel representing the respective parties and on perusal of the records available before us on this writ petition, we are of the opinion that the writ petition is liable to be dismissed for the following reasons:

37.1 Delay in filing the instant writ petition is fatal to the prayers made herein for two reasons, namely:

a) The Scrutiny Committee had made the impugned recommendations on 10.09.2024 based on which the notification by the Council containing the



list of eligible “associations of persons” was notified by the impugned notification issued on 28.10.2024. It is also to be noticed that the impugned recommendation made by the Scrutiny Committee on 10.09.2024 was considered by the Council in its meeting held on 27.09.2024 where after, the notification enlisting therein the eligible “associations of persons” was issued by the Council by means of a notification which is under challenge herein on 28.10.2024. It is not that the petitioner was unaware of the recommendations of the Scrutiny Committee dated 10.09.2024 or of the meeting of the Council held on 27.09.2024 before issuance of the final notification dated 28.10.2024. As a matter of fact, the petitioner had made the representation on 16.10.2024 itself against the report of the Scrutiny Committee, dated 10.09.2024.

We may also note that based on the impugned notification dated 28.10.2024 the Council also, *vide* its notification dated 13.11.2024, had invited the panel of names from the eligible “associations of persons”, however, even after that the instant writ petition was not filed. The petition in fact, was filed on 02.12.2024, that too when it was noticed by the petitioner that *W.P.(C) 16202/2024* has been allowed.

In the facts of the case, thus, we are of the opinion that the writ petition was filed with inordinate delay and therefore, no interference in this petition is warranted.

b) The impugned recommendation made by the Scrutiny Committee dated 10.09.2024 and the notification issued by the Council dated 28.10.2024 are in the process of constitution of the 15th term of the Council and therefore, not taking prompt steps to challenge the impugned notification and the report of the Scrutiny Committee respectively is fatal for



the reason that process of constitution of the Council needs to be continued without any unwanted interruption.

37.2 For the aforesaid two reasons, we hold that the petitioner by not acting with requisite promptness, disentitles itself to seek any relief in the instant writ petition.

37.3 The submission of the learned senior counsel for the petitioner that on the basis of an identical certificate of registration, the petitioner's claim was accepted at the time of constitution of the last term of the Council and therefore, rejection of its claim treating an identical certificate issued by the competent authority to be a deficiency, is also not tenable in our opinion, which cannot be accepted. As a matter of fact, the 14th Council was constituted at a time when Rules, 2021 were not in vogue.

37.4 In any case, if on account of some omission or inadvertence the certificate submitted by the petitioner along with its claim for its nomination as an "association of persons" was accepted and identical certificate has been rejected in the current process, it cannot be said that despite non-fulfilment of the requirements of Rule 4 of the Rules, 2021 and the notice dated 09.06.2024 petitioner ought to have been held eligible. Reference in this regard may be had to certain observations made by Hon'ble Supreme Court in *Chandigarh Administration (supra)* wherein, it has been held by the Hon'ble Supreme Court that the mere fact that an authority passed a particular order in case of another person similarly situated, can never be the ground of issuing a writ in favour of the petitioner on the plea of discrimination.

37.5 Hon'ble Supreme Court has further held that if any order in favour of the other person is found to be illegal or unwarranted, it is obvious that such



illegal or unwarranted order cannot be made basis of issuing a writ compelling an authority to repeat the same illegality.

37.6 Paragraph 8 of the judgment in *Chandigarh Administration (supra)* is extracted herein below:

“8. We are of the opinion that the basis or the principle, if it can be called one, on which the writ petition has been allowed by the High Court is unsustainable in law and indefensible in principle. Since we have come across many such instances, we think it necessary to deal with such pleas at a little length. Generally speaking, the mere fact that the respondent—authority has passed a particular order in the case of another person similarly situated can never be the ground for issuing a writ in favour of the petitioner on the plea of discrimination. The order in favour of the other person might be legal and valid or it might not be. That has to be investigated first before it can be directed to be followed in the case of the petitioner: If the order in favour of the other person is found to be contrary to law or not warranted in the facts and circumstances of his case, it is obvious that such illegal or unwarranted order cannot be made the basis of issuing a writ compelling the respondent—authority to repeat the illegality or to pass another unwarranted order. The extraordinary and discretionary power of the High Court cannot be exercised for such a purpose. Merely because the respondent—authority has passed one illegal/unwarranted order, it does not entitle the High Court to compel the authority to repeat that illegality over again and again. The illegal/unwarranted action must be corrected, if it can be done according to law — indeed, wherever it is possible, the Court should direct the appropriate authority to correct such wrong orders in accordance with law —but even if it cannot be corrected, it is difficult to see how it can be made a basis for its repetition. By refusing to direct the respondent-authority to repeat the illegality, the Court is not condoning the earlier illegal act/order nor can such illegal order constitute the basis for a legitimate complaint of discrimination. Giving effect to Such pleas would be prejudicial to the interests of law and will do incalculable mischief to public interest. It will be a negation of law and the rule of law. Of course, if in case the order in favour of the other person is found to be a lawful and justified one it can be followed and a similar relief can be given to the petitioner if it is found that the petitioners' case is similar to the other persons' case. But then why examine another person's case in his absence rather than examining the case of the petitioner who is present before the Court and seeking the relief. Is it not more appropriate and



convenient to examine the entitlement of the petitioner before the Court to the relief asked for in the facts and circumstances of his case than to enquire into the correctness of the order made or action taken in another person's case, which other person is not before the case nor is his case. In our considered opinion, such a course —barring exceptional situations — would neither be advisable nor desirable. In other words, the High Court cannot ignore the law and the well-accepted norms governing the writ jurisdiction and say that because in one case a particular order has been passed or a particular action has been taken, the same must be repeated irrespective of the fact whether such an order or action is contrary to law or otherwise. Each case must be decided on its own merits, factual and legal, in accordance with relevant legal principles. The orders and actions of the authorities cannot be equated to the judgments of the Supreme Court and High Courts nor can they be elevated to the level of the precedents, as understood in the judicial world. (What is the position in the case of orders passed by authorities in exercise of their quasi-judicial power, we express no opinion. That can be dealt with when a proper case arises.)"

37.7 We are also of the opinion that even otherwise, the evaluation of the claim of the applicant associations for the purposes of the constitution of the 15th term of the Council was to be made on the basis of the requirement as per Rule 4 of the Rules, 2021 (which at the time of formation of the 14th term of the Council was not in force) and also on the basis of requirement as set out in the notice dated 09.06.2024. We also note that no challenge to the Rules, 2021 has been made by the petitioner in the instant writ petition and any challenge to the notice dated 09.06.2024 is not available to the petitioner at this stage keeping in view that the petitioner had made its application pursuant to the said notice without any protest or demur.

37.8 In this regard, though the judgment cited by Mr. Vikramjit Banerjee, learned ASG representing respondent no.1 – Council in the case of ***Tarun Kataria (supra)*** and ***Union of India and Others v. Mahendra Singh, 2022 SCC OnLine SC 909*** relate to recruitment in public employment, however,



the principle laid down therein can be borrowed and applied in the instant case as well.

37.9 So far as the submission of the learned senior counsel for the petitioner that the Scrutiny Committee has taken an excessive technical view of the requirements of the Rules, 2021 and the notice dated 09.06.2024 and that it has gone more on form and not on essence, is concerned, we may note that the objections raised by the Scrutiny Committee in respect of the deficiencies in the document submitted by the petitioner along with its claim do not merely reflect deficiency in form, rather the deficiencies are in essence.

37.10 As to whether the deficiency is in form or in essence depends on the facts of a particular case which may differ from case to case. We may note that in the representation dated 16.10.2024 the petitioner itself has admitted that the documents submitted along with its claim for nomination as an eligible “association of persons” were not as per the requirements of the Rules, 2021 and the notice dated 09.06.2024. In the wake of this admission, the certificate obtained from the competent authority under the Act, 1860 on 27.02.2025 which is in the format appended with the notice dated 09.06.2024 is of no avail to the petitioner. As a matter of fact, whatever information and documents were available before the Scrutiny Committee, evaluation of all applications was to be based on the basis of the said documents and not on the basis of any documents furnished subsequently. For example, if the certificate issued by the competent authority under the Act, 1860 did not certify that the petitioner had been continuing its business ever since its registration as per the format of certificate set out in the notice dated 09.06.2024, there was no means available to the Scrutiny Committee



to have arrived at the conclusion that the petitioner had been transacting its business for the past six years before the last date of submission of its claim.

37.11 In this regard, we may also note that the Scrutiny Committee was bound to evaluate the claims submitted by the “associations of persons”, including the petitioner, only on the basis of documents furnished by such associations which were available at the time of scrutiny and no further time ought to have been allowed for making the deficiencies in the documents good for the reason that the process involved herein relates to constitution of a statutory body, namely, the Press Council of India.

37.12 Though, constitution of the Council is not through election and rather it is by way of nomination, however, permitting the deficient “associations of persons” to make good the deficiencies, would delay the process of constitution of the Council which is not warranted as the term of the Council was to come to an end on 05.10.2024 and as per the Act, 1978 continued existence of the Council is essential.

37.13 Further, neither Rules, 2021 nor the notification dated 09.06.2024 contain any provision providing for the Scrutiny Committee or even the Council to adopt such a procedure of giving opportunity for removal of deficiencies in the documents submitted by the “associations of persons”. In absence of any such provision, in our opinion, it was not incumbent upon either for the Scrutiny Committee or the Council to have given any such opportunity to the petitioner to remove the deficiencies considering the nature of exercise undertaken by these bodies which was for constitution of the fresh term of the Council.

37.14 Regard in this respect may be had to certain observations made by Hon’ble Supreme Court in paragraph 15 of *Mahendra Singh (supra)*



wherein, the judgment in ***Chandra Kishore Jha v. Mahavir Prasad, (1999) 8 SCC 266***, has been quoted with approval and it has been observed that it is settled law that if a statute provides for a thing to be done in a particular manner then it has to be done in that manner and in no other manner. Thus, providing such opportunity would have amounted to a deviation from the procedure prescribed in the Rules, 2021 and the notice dated 09.06.2024 and therefore, the arguments based on such ground merit rejection which is hereby rejected.

38. As regards the merit of the objections on the basis of which the petitioner's application was rejected, we may note that the first objection related to non-authentication of registration certificate, MoA, Constitution, list of members and Minutes by a Notary Public.

39. The stand taken by the petitioner in this regard is the notarised documents were submitted *vide* representation dated 16.10.2024, thus, the petitioner admits that the documents which were submitted along with the application for claim were not notarised. Any notarisation of document subsequent to the date of consideration of the applications by the Scrutiny Committee, in our opinion, will not be legally permissible considering that the said exercise was conducted by the Scrutiny Committee in the process of constitution of a body corporate whose continuance is essential.

40. The second objection taken by the Scrutiny Committee is that the petitioner had not submitted any proof of submission of Minutes to the competent authority. In this regard it has been argued by learned senior counsel for the petitioner that there is no requirement to submit any proof of furnishing the Minutes in Rule 4 of the Rules, 2021 and further that the certificate by the competent authority was obtained on the basis of all



relevant disclosures made before it i.e. before the SDM, who is the authority competent to issue the certificate under the Act, 1860. Such explanation cannot be accepted for the reason that the notice dated 09.06.2024 required that Minutes of the general body meeting for last six years preceding the issuance of advertisement, which would have been filed before the appropriate authority, should be accompanied as supportive documents to the application for claim, duly authenticated by Notary Public. Undeniably, such Minutes were not authenticated by the Notary Public and therefore, the explanation is not worth being accepted in this regard as well.

41. The third objection taken by the Scrutiny Committee is that the certificate of the competent authority does not mention conducting of business continuously for six years. In this regard, an explanation has been sought to be given by the petitioner that the certificate issued by the competent authority i.e. the SDM, was based on certain documents furnished by the petitioner to the SDM, namely, the Minutes of the Annual General Meeting of the last six year, audited financial reports and bank statements and SDM being satisfied on the basis of the said documents, had issued the certificate. However, what we notice is that the certificate issued by the SDM which was furnished by the petitioner along with its application for claim did not mention that the petitioner had been conducting its business continuously after its registration which forms part of the format of the certificate as set out in the notice dated 09.06.2024. The continuous conduct of business for six years is one of the eligibility conditions in Rule 4 of the Rules, 2021 which ought to have been reflected by supportive documents, namely, the certificate issued by the competent authority as per the format of the said certificate set out in the notice dated 09.06.2024. Continuous



conduct of business for past six years, in our opinion, is an essential pre-requisite for ascertaining the eligibility of any applicant association, thus, absence of a mention in the certificate issued by the competent authority, i.e. the SDM in its certificate to the effect that the petitioner had been conducting its business continuously for six years, cannot be said to be a deficiency only in form. Rather, it is a deficiency in essence considering the purpose for which such a certificate was required and the purpose was to determine the eligibility on the basis of continuous conduct of business by an applicant association. In this view, the explanation sought to be offered by the petitioner cannot be accepted.

42. The fourth and the last objection, on the basis of which the application of the petitioner has been rejected, is that the petitioner along with its application for claim did not submit the declaration establishing that its claim is valid and free from all encumbrances/dispute/litigation. The declaration submitted by the petitioner is available on Page 121 of the paper book, which does not contain any declaration to the effect that the claim of the petitioner was valid and was free from all encumbrances/ disputes/ litigation. The petitioner has subsequently submitted such a declaration along with its representation dated 16.10.2024 which could not have been taken into account for the reason that such a declaration was submitted by the petitioner not along with his application but subsequently and therefore, such a declaration was not available before the Scrutiny Committee at the time such applications were scrutinised i.e. on 10.09.2024. Submission of any such declaration subsequent to the consideration of the applications by the Scrutiny Committee, in our opinion, does not overcome such *lacunae* in the application made by the petitioner.



43. Thus, even on merits the petitioner has completely failed to satisfy the Court that its application was in order, that is to say, it was as per the requirements set out in Rule 4 of the Rules, 2021 and the notice dated 09.06.2024.

44. For the reasons aforesaid, we do not find any good ground to interfere in the report/recommendation of the Scrutiny Committee dated 10.09.2024, as also the notification dated 28.10.2024 issued by the Council so far as the same relate to the petitioner.

45. The writ petition along with pending application(s), if any, being devoid of merit, is hereby dismissed, however, there will be no order as to costs.

**(DEVENDRA KUMAR UPADHYAYA)
CHIEF JUSTICE**

**(TUSHAR RAO GEDELA)
JUDGE**

JANUARY 16, 2026/MJ

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