



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.14928 of 2026

Amrita Das and another **Petitioner**
Budhadev
Routray, Senior
Advocate along
with
Mr. Milan
Kanungo,
Senior Advocate

-versus-

State of Odisha and others **Opp. Party**
Mr. Pitambar
Acharya,
Advocate
General for O.P.
No.1
Mr. Gautam
Mishra, Senior
Advocate for
O.P. No.3 along
with others

CORAM:

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

&

HON'BLE MR. JUSTICE SIBO SANKAR MISHRA

ORDER

27.05.2026

I.A No 8984 of 2026

Order
No.

3. 1. Heard Mr. Budhadev Routray and Mr. Milan Kanungo, learned Senior Advocates along with others for the petitioners and Mr. Pitambar Acharya, learned Advocate General for the opposite party No.1, Mr. Gautam Mishra, learned



Senior Advocate for the opposite party No.3.

2. The Petitioners have invoked the Writ Jurisdiction of this Court to explore the following reliefs:

i) The petitioners, inter alia, seek declaration that the amended Rule 18(1)(a) of the Odisha Superior Judicial Service and Odisha Judicial Service Rules, 2007, to the extent it prescribes reckoning of the minimum practice requirement as on 1st April of the recruitment year, is ultra vires and consequently seeks quashing of the advertisement dated 30.04.2026 to the said extent.

ii) The petitioners further seeks issuance of appropriate writ(s)/ direction(s) directing the Opposite Parties to permit the petitioners to participate in the selection process for recruitment to the Odisha Judicial Service, 2025 by reckoning the requisite three years' practice as on the date of submission of the application.

iii) The petitioners also pray for such



other order(s)/direction(s) as this Court may deem fit and proper in the facts and circumstances of the case.

3. The prayer relating to the challenge to the vires of Rule, 2007 in the writ petition requires consideration and adjudication by this Hon'ble Court, which is likely to take time, but the last date for submission of application pursuant to the advertisement dated 30.04.2026 is imminent, therefore, the petitioners have filed the present I.A. No.8984 of 2026 in W.P.(C). No.14928 of 2026 seeking interim relief, as under :

i) during pendency of the writ petition, this Hon'ble Court may be pleased to direct the Opposite Party No.2 to provisionally permit the petitioners to participate in the Odisha Judicial Service Examination pursuant to the advertisement dated 30.04.2026 under Annexure-5, subject to the result of the writ petition and on such terms and conditions as this Court may deem fit and proper in the interest of justice.

4. Learned counsels appearing for the petitioner conjointly submit that fixation of a cut-off date in the Rule which is under challenge is apparently arbitrary in nature and without any rationale. In so far as the appointment of the District Judges/ Additional District Judges are concerned, the Recruitment Rules provide no such cut-off date for



calculating seven years of practice. It is well known principle in the in Service Jurisprudence that the eligibility criteria is always relatable either to the date of advertisement or to the date of application. However, arbitrary fixation of a cut-off date is seriously prejudice to the eligible candidates like the present petitioners.

5. Mr. Pitambar Acharya, learned Advocate General appearing for the State also echoed the similar view. He submitted that pursuant to the judgment of the Hon'ble Supreme Court in **Rajnish K.V. vs. K. Deepak**, reported in **2025 SCC OnLine SC 2196**. The rules were framed in regard to the appointment of the District Judges/ Additional District Judges wherein seven years of qualifying eligibility for a lawyer is prescribed under the rule to be calculated from the date of enrolment to the "date of application". However, the present Rule in question prescribes a cut-off date of 1st April, which is not reasonable and without any rationale. He further submits that many other States although have framed the rules in this regard pursuant to the judgment of the Hon'ble Supreme Court in the matter of All India Judges Association vs. Union of India case, but such cut-off date is not prescribed under those Rule. It is only in the States like Orissa, Kerala



and Chhatishgarh, etc. such cut-off date has been fixed in the Rule prescribed by the High Courts.

6. Mr. Gautam Misra, learned Senior Advocate appearing for the opposite party no.2- the High Court of Orissa submitted that the stand taken by the learned Advocate General could eventually be tested while the matter is being finally heard. He further submits that pursuant to the direction of the Hon'ble Supreme Court in All India Judges (supra), the High Court has framed/ amended the Rule and the State Government, after the Cabinet approval, has notified the Rule. Under Article- 234 of the Constitution of India, Rules pertaining to the recruitment of Judicial Officers other than the District Judges are being framed by the State Government under the consultation of the High Court. Therefore, he submits that prescription of the cut-off date which is under challenge has been essentially framed by the State in consultation with High Court. Hence, the State ought not to have taken a contrary stand opposing the High Court's view in the present matter. Learned Senior Counsel Mr. Gautam Mishra appearing for the High Court of Orissa – O.P. No.2 submitted that pursuant to the direction of the Hon'ble Supreme Court in All India Judges' Association Case (supra), the High Court has framed the Rules and



recorded amendments made by the State Government after due deliberation and it was accordingly amended after the Cabinet approved the same and the Cabinet notified the Rules as per the provision under Article 234 of the Constitution of India, the rules pertaining to Recruitment of Judicial Officers other than District Judges. As such, Mr. Mishra, learned Senior Counsel appearing for the High Court of Orissa - Opposite Party No.2 submitted that the submission of the learned Advocate General may be his personal, but not in terms of the stand of the High Court of Orissa.

Mr. Gautam Mishra, Learned Senior Counsel further submits that when the *vires* of a particular statutory provision, namely Rule 18(1)(a) of the Odisha Superior Judicial Service and Odisha Judicial Service Rules, 2007, is under challenge, this Court ought to exercise restraint in granting any interim relief. It is further contended that permitting the petitioners to participate in the selection process by way of an interim order would virtually amount to granting the final relief at the interlocutory stage itself, thereby rendering the writ petition and the issues involved therein redundant and infructuous. In support of such contention, reliance has been placed on the



decision of the Hon'ble Supreme Court in **Sec., U.P.S.C. & Anr vs S. Krishna Chaitanya**¹ wherein, in a similar matter relating to participation in a recruitment process, it has been held as follows:

“30. We may add here that this Court has observed time and again that an interim order should not be of such a nature that by virtue of which a petition or an application, as the case may be, is finally allowed or granted even at an interim stage. We reiterate that normally at an interlocutory stage no such relief should be granted that by virtue of which the final relief, which is asked for and is available at the disposal of the matter is granted. We, however, find that very often courts are becoming more sympathetic to the students and by interim orders the authorities are directed to permit the students to take an examination without ascertaining whether the candidate concerned had a right to take the examination. For any special reason in an exceptional case, if such a direction is given, the court must dispose of the case finally on merits before declaration of the result. In the instant case, we have found that the respondent not only took the preliminary examination but also took the main examination and also appeared for the interview by virtue of interim orders though he had no right to take any of the examinations. In our opinion, grant of such interim orders should be avoided as they not only increase the work of the institution which conducts the examination but also give a false hope to the candidates approaching the court.”

Further, drawing the attention of this Court to various judgments, Mr. Misra, learned Senior Advocate submits that once the rule is under

¹ 2011 (14) SCC 227



challenge, that has to be tested by this Court, the prayer of interim relief sought by the petitioners should not be allowed at this stage, which would tantamount to allowing the writ petition. Highlighting the judgment of the Hon'ble Supreme Court in the case of **Guru Nanak Dev University vs. Parminder Kr. Bansal and others**, reported in (1993) 4 SCC 401 and similarly **Secretary, Union Public Service Commission and another vs. S. Krishna Chaitanya**, reported in (2011) 14 SCC 227, submits that the Courts should be loath in passing interim orders allowing the candidates to participate in the examination ignoring the cut-off date provided in the existing rules which holds the field as on today, although the same are under challenge. He draws the attention to paragraph-7 of **Guru Nayak Dev** (supra), which reads as under:

“7. Shri Gambhir is right in his submission. We are afraid that this kind of administration of interlocutory remedies, more guided by sympathy quite often wholly misplaced, does not service to anyone. From the series of orders that keep coming before us in academic matters, we find that loose, ill-conceived sympathy masquerades as interlocutory justice exposing judicial discretion to the criticism of degenerating into private benevolence. This is subversive of academic discipline, or whatever is left of it, leading to serious impasse in academic life. Admissions cannot be ordered without regard to the eligibility of the candidates. Decisions on matters relevant to be taken into account at the interlocutory stage cannot be deferred or decided later when serious complications might ensue from the interim order itself. In the present case, the High Court was apparently moved by sympathy for the candidates than by an accurate assessment of even



the prima facie legal position. Such orders cannot be allowed to stand. The courts should not embarrass academic authorities by themselves taking over their functions.”

Similarly Mr. Misra has also relied on paragraph-30 of **Secretary, Odisha Public Service Commission** (supra) which has already been reproduced in the preceding paragraph. Accordingly, it is submitted that this Court may not give indulgence to the petitioners by granting any kind of interim relief.

7. Mr. P.K. Mohanty, learned Senior Advocate appearing for O.P. No.2 (OPSC) the examination/recruitment conducting body submitted that the stipulation requiring candidates to possess three years’ enrolment/practice as on 1st April, 2025 has been incorporated in the advertisement strictly on the basis of the requisition furnished by O.P. No.1 – the State of Orissa through its Law Department, in conformity with the amended provisions contained in Rule 18(1)(a)/(b) of the Odisha Judicial Service Rules, 2007. It is further contended that the Commission has no independent role in prescribing or determining the cut-off date of 1st April, 2025 for adjudging the eligibility of the candidates and has merely acted in accordance with the requisition and the statutory Rules governing the recruitment process.



It is further submitted by Mr. Mohanty, learned Senior Advocate appearing for the Opp. Party No.2 – Commission (OPSC) that pursuant to the advertisement dated 30th April, 2026, applications have been invited through online mode from the intending candidates. It is contended that since the eligibility criterion relating to possession of three years' enrolment/practice as on 1st April, 2025 has already been embedded in the online application system, it may not be technically and logistically feasible to accept the applications of the petitioners through the online portal in the event this Court, by way of interim measure, permits them to apply. It is also submitted that on the strength of the interim order, all fence sitter would also apply leading to the opening up a floodgate, which has all potential to create a chaotic situation and may compromise smooth conduct of the examination. Accordingly, it is prayed that in such an eventuality, this Hon'ble Court may be pleased to pass appropriate directions with regard to the modality and manner in which the applications of the petitioners are to be received and considered.

8. Upon hearing the learned counsel for the respective parties and upon careful consideration



of the pleadings, documents on record, and the submissions advanced at the Bar, this Court finds that certain prima facie factual and legal aspects emerge for consideration while adjudicating the prayer for interim relief. At this stage, the Court is also required to keep in view the settled principles governing interference in an ongoing recruitment process conducted under the existing statutory Rules. In such backdrop, the following aspects assume significance:

- i) The recruitment process under challenge is being conducted strictly in adherence to the existing Rules as enacted and presently in force.
- ii) The vacancies in question pertain to the recruitment year 2024-25 and, in any event, under the Rules currently holding the field, the petitioners would not have been eligible to apply for the said post.
- iii) It is trite law that once the game has started, the rules of the game cannot be changed midstream.
- iv) Acceptance of the stand taken by the petitioners may give rise to two cut-off dates for determining different eligibility criteria



vis-à-vis the same recruitment process, namely, (i) date for determination of age eligibility and another for (ii) determination of the period of practice.

v) There also appears to be considerable ambiguity regarding the fate of the fence-sitters, who may subsequently seek to claim similar benefits in the event any interim relief is granted in favour of the petitioners.

vi) As clarified by the Opp. Party No.2 – the OPSC, the entire recruitment process is being undertaken through online mode and any interim deviation or alteration at this stage may result in a chaotic and hotchpotch situation in so far as the technological and logistical arrangements pertaining to the recruitment process are concerned.

vii) The petitioners are young advocates and have more than almost twenty years of remaining eligibility to appear in the future examination and, therefore, the present recruitment is not their last opportunity.

viii) It is also clear that the next recruitment process is likely to commence within approximately eight months and the



petitioners would be eligible to participate therein. Thus, at best, the inconvenience caused is temporary in nature and does not irreversibly prejudice the petitioners.

9. We have taken into consideration the submissions made by all the learned counsels carefully. Pursuant to the direction by the Hon'ble Supreme Court in the matter of All India Judges (supra), the High Court of Orissa framed/amended the Rules prescribing qualifying three years practice experience to be eligible for participating in the recruitment to the post of Civil Judge (Junior Division). Although the Hon'ble Supreme Court has clarified that such experience of three years shall be reckoned from the date of provisional enrolment/registration with the concerned State Bar Councils but no upper cut-off date was prescribed by the Hon'ble Supreme Court. Therefore, under the Rules, the cut-off date has been fixed to effectively calculate the period of three years which would apply uniformly for all the candidates. The cut-off date of 1st April has been incorporated in the Rules taking into consideration the recruitment year which commence from 1st April of the year to the ending of 31st of March of the succeeding year. Therefore, the submission of the learned Advocate General



that there is no rationale in fixing the cut-off date of 1st April is not justified. The cut-off date has been fixed only by taking into consideration first date of the starting of the recruitment year.

10. The vacancy for which the advertisement has been made pertains to the year 2024-25. The recruitment process for the OJS-2020-23 was only completed on 01.08.2025. So, in the administrative side of this Court, determined the vacancy for both the year 2024-25 calculating till 31st March, 2026. Therefore, the total vacancy of 78 has been put to the advertisement for recruitment. In any case, the petitioners have not challenged the “year of recruitment”. Since the vacancy pertains to the year 2024-25, the petitioners in any case are not qualified to participate in the same, as they do not possess three years of experience in the year 2024.

11. The fixation of cut-off date is an executive prerogative and deference which is coming under the Policy decision. Unless it is palpably arbitrary, capricious, unreasonable or *mala-fidely* motivated, judicial review for altering the same is restricted. It is established principle of law that while the recruiting authority has the power to set the criteria and the cut-off date at the beginning, they cannot change the eligibility rules or cut-off mid-



way through the selection process unless the original rule explicitly allow for it. Doing so would definitely violate Article-14 of the Constitution of India, as it unfairly premiumizes or disqualifies certain candidates after they have already invested time and efforts into the examination.

12. For all the reasons stated above and by taking into consideration the submissions made on behalf of all the parties, we are not inclined to pass any interim order at this stage. Hence the application is turned down.

13. List the writ petition for final hearing on 06.07.2026 along with W.P.(C) No.14110 of 2026, W.P.(C) No.14498 of 2026, W.P.(C) No.14521 of 2026, W.P.(C) No.14684 of 2026 and W.P.(C) No.16156 of 2026.

(Manash Ranjan Pathak)
Judge

(Sibo Sankar Mishra)
Judge