



2026:AHC:128845-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

SPECIAL APPEAL No. - 763 of 2026

Pankaj Verma And 2 OthersAppellant(s)
Versus
State of U.P. and AnotherRespondent(s)

Counsel for Appellant(s)	: Anurag Tripathi
Counsel for Respondent(s)	: C.S.C., Mahendra Narain Singh

Court No. - 64

HON'BLE J.J. MUNIR, J.
HON'BLE ARUN KUMAR, J.

(Delivered by Hon'ble Arun Kumar, J.)

1. Heard Mr. Anurag Tripathi, learned Counsel for the petitioner-appellants, Mr. Anoop Trivedi, learned Senior Advocate assisted by Mr. Avaneesh Tripathi, learned Counsel appearing on behalf of the U.P. Public Service Commission and Mr. Sharad Chandra Upadhyay, learned Standing Counsel appearing on behalf of the State.

2. This intra-court appeal under Chapter VIII Rule 5 of the Rules of the Court is directed against the order dated 18.06.2026 passed by the learned Single Judge in Writ-A No. 9155 of 2026, whereby time was granted to the respondents to file counter affidavits within three weeks and the application seeking interim relief was directed to be considered after exchange of pleadings.

3. The petitioner-appellants instituted Writ-A No. 9155 of 2026 challenging the Office Memorandum dated 09.01.2020 issued by the

Uttar Pradesh Public Service Commission (hereinafter referred to as “the Commission”) and the result of the Assistant Prosecution Officer (APO) Preliminary Examination–2025 declared on 30.04.2026.

4. In the writ petition, the appellants sought a writ of mandamus commanding the Commission to re-declare the result of the Preliminary Examination by first migrating such reserved category candidates who had secured marks above the unreserved cut-off to the unreserved category and thereafter re-determining the list of candidates qualifying for the Main Examination under the reserved categories.

5. The challenge is founded upon sub-section (6) of Section 3 of the Uttar Pradesh Public Services (Reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes) Act, 1994 (the ‘Act of 1994’, for short). According to the appellants, the Commission has illegally screened candidates category-wise without extending the benefit of migration to meritorious reserved category candidates to open category, contrary to settled principles governing reservation in public employment.

6. Learned counsel for the appellants submitted that although the order under challenge appears to be procedural, it possesses the trappings of finality and therefore constitutes a “judgment” within the meaning of Chapter VIII Rule 5 of the Rules of the Court.

7. It was urged that the APO Main Examination is scheduled to be conducted from 28.06.2026 to 30.06.2026. Since the learned Single Judge deferred consideration of the interim relief application until completion of pleadings, the appellants would be deprived of the opportunity to participate in the Main Examination. It was contended that such deferment effectively results in denial of relief and renders the writ petition infructuous.

8. Reliance was placed upon the Full Bench decision in Ashutosh Shrotriya and Others v. Vice-Chancellor, Dr. B.R. Ambedkar University and Others [2015 (6) ALJ 383], as well as the decisions in Haribansh Upadhyay v. State of U.P. (Special Appeal No. 232 of 2016, decided on 18.03.2016) and Kesar Singh v. State of U.P. (Special Appeal Defective No. 456 of 2025, decided on 01.08.2025), to contend that an intermediate order affecting valuable rights may be subjected to appellate scrutiny.

9. On merits, learned counsel relied upon the decisions of the Supreme Court in Saurav Yadav v. State of Uttar Pradesh [(2021) 4 SCC 542] and Deependra Yadav v. State of Madhya Pradesh [2024 SCC OnLine SC 724] to submit that meritorious reserved category candidates cannot be counted against reserved vacancies when their merit entitles them to consideration in the open category.

10. Learned Senior Counsel appearing for the Commission raised a preliminary objection regarding maintainability of the appeal. It was submitted that the impugned order neither adjudicates any substantive right nor decides any matter of moment. The order merely facilitates completion of pleadings so that the controversy may be considered on a proper factual foundation.

11. It was further submitted that the Preliminary Examination is merely a screening exercise intended to shortlist candidates up to fifteen times the number of advertised vacancies. Since the marks obtained in the Preliminary Examination do not contribute towards final selection, Section 3(6) of the Act of 1994 has no application at this stage.

12. Learned Senior Counsel also contended that the governing advertisement specifically stipulates that reservation benefits and migration shall be applied at the stage of final selection, subject to fulfillment of prescribed conditions. Having participated in the process

under those conditions, the appellants cannot be permitted to challenge the methodology after declaration of the result.

13. Lastly, it was argued that any re-determination of the result would necessarily affect candidates who have already qualified for the Main Examination, yet none of such candidates has been impleaded in the writ proceedings.

14. We have considered the rival submissions advanced on behalf of the parties and have perused the material brought on record.

15. The jurisdiction under Chapter VIII Rule 5 of the Rules of the Court is attracted only where the order under challenge answers the description of a "judgment". The principles governing the expression stand authoritatively explained by the Full Bench in Ashutosh Shrotriya (supra). The Full Bench has held that a direction for exchange of pleadings, without more, does not constitute an implied refusal of interim relief. Nor does such an order become appealable merely because the litigant apprehends adverse consequences during the pendency of proceedings. What is material is whether the order conclusively determines a substantive right or decides a matter of moment having irreversible consequences.

16. Tested on the aforesaid principles, the order dated 18.06.2026 is purely procedural. The learned Single Judge has neither adjudicated upon the legality of the impugned Office Memorandum nor expressed any opinion on the merits of the reservation issue raised by the appellants. The order merely grants opportunity to the respondents to place their stand on record and postpones consideration of interim relief until pleadings are complete. We are therefore unable to hold that the order possesses the trappings of finality so as to constitute a judgment within the meaning of Chapter VIII Rule 5.

17. We are equally unable to accept the submission that deferment of consideration of the interim relief application, by itself, results in such irretrievable prejudice as would justify appellate interference. The appellants have not placed any material on record demonstrating that even if their interpretation of Section 3(6) of the Act of 1994 were accepted, they would necessarily secure inclusion in the list of candidates eligible to appear in the Main Examination. The plea of irreparable injury thus rests upon an assumption unsupported by any factual foundation.

18. Besides, the interim relief sought by the appellants substantially overlaps with the final relief claimed in the writ petition. Granting permission to participate in the Main Examination on the basis of a re-worked result would, in substance, amount to granting the principal relief itself. It is a settled principle that final relief ought not ordinarily to be granted at an interlocutory stage except in exceptional circumstances, none of which are shown to exist in the present case.

19. Even otherwise, and without expressing any concluded opinion on the merits of the controversy pending before the learned Single Judge, we find that the submission advanced on behalf of the Commission cannot be said to be devoid of substance. Section 3(6) of the Act of 1994 employs the expression "selected on the basis of merit". Prima facie, the provision appears to operate at the stage of final selection rather than at an intermediate screening stage intended merely to shortlist candidates for the next phase of the recruitment process.

20. Similarly, the decision in *Saurav Yadav (supra)* dealt with application of reservation principles in the context of final selection, whereas the decision in *Deependra Yadav (supra)* turned upon specific statutory provisions governing recruitment in the State of Madhya Pradesh which expressly contemplated migration at the preliminary stage. No analogous provision has been brought to our notice under the applicable recruitment framework governing the present selection.

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21. We also find substance in the objection that candidates who may be adversely affected by any re-determination of the result have not been impleaded in the proceedings. Since the appeal is liable to fail on the ground of maintainability itself, we leave that issue open for consideration by the learned Single Judge at the appropriate stage.

22. For the reasons recorded above, we are of the considered opinion that the order dated 18.06.2026 is purely interlocutory and procedural in nature. It neither adjudicates any substantive right nor possesses the attributes of a judgment amenable to appellate scrutiny under Chapter VIII Rule 5 of the Rules of the Court.

23. The Special Appeal is accordingly dismissed.

(Arun Kumar,J.)

(J.J. Munir,J.)

June 24, 2026

Ranjeet Sahu