

Section:X

NDOH: 23.09.2025

IN THE SUPREME COURT OF INDIA

(CIVIL/APPELLATE JURISDICTION)

WRIT PETITION (C) No. 606 OF 2025

IN THE MATTER OF:

NISHCHAY SONBIRSE & ORS.

...PETITIONER(S)

VERSUS

THE STATE OF M.P. & ORS.

...RESPONDENT (S)

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Copy to:

Filed by:-



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Filed on: 27.08.2025

IN THE SUPREME COURT OF INDIA**WRIT PETITION (C) No. 606 OF 2025****IN THE MATTER OF:**

NISHCHAY SONBIRSE & ORS

...PETITIONER

Versus

THE STATE OF MADHYA PRADESH AND ORS.

...RESPONDENT(S)

APPLICATION FOR WITHDRAWAL OF COUNTER**AFFIDAVIT FILED ON 19.08.2025 VIDE DIARY NUMBER 200483****OF 2025**

To,
The Hon'ble Chief Justice of India
And his companion justices of the
Hon'ble Supreme Court of India

The humble petition of the petitioner
above named.

MOST RESPECTFULLY SHOWETH

1. That the application has been filing by present applicant seeking permission to withdraw of the counter Affidavit filed on behalf of Respondent No. 4 on 19.08.2025 vide Diary Number 200483/2025. Most respectfully submitted that present applicant has been necessitated in view of certain discrepancy in counter affidavit for which present

applicant tenders unconditional apology in the indulgence of this Hon'ble Court.

2. That present applicant respectfully submitted that certain error with respect to formal paragraph has inadvertently crept in the counter affidavit filed on 19.08.2025 which require correction. In view there of present applicant seeks leave of this Hon'ble Court to file counter affidavit which has been annexed with present application after making the requisite correction. The Copy of Counter Affidavit is annexed herewith as Annexure A1 at Page 6 to 13.

3. That the answering Respondent tenders unconditional apology for the error committed while filing the counter affidavit dated 19.08.2025.

4. That the present application is being filed bona fide and in the interest of justice.

PRAYER

It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to:

- a. Please to permit respondent to withdraw the counter affidavit filed on 19.08.2025 vide Diary Number 200483/2025 and
- b. take on record the Counter Affidavit filed as Annexure A1 with this application.

- c. Pass any such other and further decrees as this Hon'ble Court may deem fit and proper, in the facts and circumstances of the case and in the interest of justice.

AND FOR THIS ACT OF KINDNESS THE PETITIONER AS DUTY BOND SHALL EVER PRAY.

Date : 27.08.2025

DRAWN AND FILED BY:

Place: New Delhi



(ANURADHA MISHRA)

ADVOCATE FOR THE RESPONDENT NO.4

IN THE SUPREME COURT OF INDIA

WRIT PETITION (C) No. 606 OF 2025

IN THE MATTER OF:

NISHCHAY SONBIRSE & ORS

...PETITIONER

Versus

THE STATE OF MADHYA PRADESH AND ORS.

...RESPONDENT(S)

AFFIDAVIT

I, Sushant Punekar, S/o: Sh. Late Dr. L. K. Punekar aged about 53 years, working as Deputy Examination Controller in Madhya Pradesh Public Service Commission presently at Indore, do hereby solemnly affirm and declare as follows:

1. That I am the authorized on behalf of the Respondent 4 in the above mentioned matter and well conversant with the facts and circumstances of the case and competent to sign the present affidavit.
2. That I have been read and understood the contains of the I.A. contained in Para 1 to 4 from Page 1 to 3, and I say that what is stated therein is true and correct to the best of my knowledge and belief.

ATTESTED
 SHANSHAM R. GUPTA
 ADVOCATE & NOTARY
 GOVERNMENT OF INDIA
 INDORE (M.P.)



3. The annexures filed along with the I.A. are true and correct to the best of my knowledge on the basis of record of the case.

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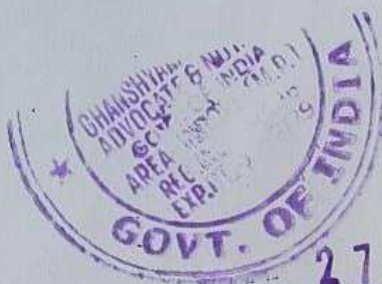
DEPONENT
Dr. Sushant Puneekar
Deputy Examination Controller
M.P. Public Service Commission
INDORE (M.P.)

VERIFICATION

I the deponent above named, do hereby verify that the contents of Para 1 to 3 of my above affidavit are true to my knowledge and belief, no part of it is false and nothing material has been concealed therefrom.

Verified at _____ on _____ 2025

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27 AUG 2025

समस्त पाठ्य पुस्तक
गता, गति श्री
नेने अविनाश
पहचान
कले ह म प्रपश
स्वीकार किया है
केरा है

Dr. Sushant Puneekar



DEPONENT

Dr. Sushant Puneekar
Deputy Examination Controller
M.P. Public Service Commission
INDORE (M.P.)

ATTESTED
SHANGHYAM GUPTA
ADVOCATE & NOTARY
GOVERNMENT OF INDIA
INDORE (M.P.)

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ANNEXURE A-1**IN THE SUPREME COURT OF INDIA****WRIT PETITION (C) No. 606/2025**

IN THE MATTER OF:

NISHCHAY SONBIRSE & ORS

...PETITION

Versus

THE STATE OF MADHYA PRADESH AND ORS.

...RESPONDENT(S)

COUNTER AFFIDAVIT ON BEHALF OF RESPONDENT NO 4**(MADHYA PRADESH PUBLIC SERVICE COMMISSION) IN****THE ABovesaid PETITION**

MOST RESPECTFULLY SUBMITTED:

I. Sushant Puneekar, S/o: Sh. Late Dr. L. K. Puneekar aged about 50 years, working as Deputy Examination Controller in Madhya Pradesh Public Service Commission presently at Indore, do hereby solemnly affirm and declare as follows:

1. That the present additional counter affidavit is filed on behalf of Respondent no. 4, i.e. Madhya Pradesh Public Service Commission (hereinafter referred to as "answering respondent") in the present Writ Petition.

2. That the averments and contentions made in synopsis,

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TESTED
 ANSHU K. GUPTA
 ADVOCATE & NOTARY
 GOVT. OF INDIA
 AREA - INDORE (M.P.)
 REG. No. 14496
 EXD.T. 12/9/29



list of dates and grounds of the writ Petition are denied in their entirety, save and except to the extent that they may be specifically admitted hereinafter.

3. That the present petition has been filed seeking 27% reservation for the OBC category of candidate in the various recruitment exam conducted by the answering Respondent. That on the basis of Notification no 7-46/2021/AA.Pr./1 dated 29.09.2022 direction was issued that the result of the State Service and various other recruitment examinations be declared in two part, one main for 87% post and other provisional for examination result for 13% post - for which name of 13% of OBC and 13% of unreserved category of candidate shall be declared.
4. That the notification no 7-46/2021/AA.Pr./1 dated 29.09.2022 was issued considering the interim order dated 13.07.2021 passed by Hon'ble High Court in W.P. 5901 of 2019 and other related matter.
5. That the issue raised in the present writ petition is pending for consideration before the Hon'ble Court.



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PRELIMINARY OBJECTION

6. It is humbly submitted that the Answering Respondent No.4 is merely recruiting agency which selects candidates as per the conditions laid down by the Employer/State of M.P. in the requisition letter and recommends the name of the selected candidates to the to the Department of the State of M.P.
7. That Hon'ble High Court vide interim order dated 13.07.2021 in Writ Petition No. 5901 (connected matter), directed the answering respondent to proceed with the process of the selection and publish the list of all categories including the OBC seats upto 14%, where, in paragraph 6 it was states as under-

"Para 6- Having regard to the submissions made and considering that the hearing and final disposal of the writ petitions may take time, we are inclined, for the time being, to modify the order dated 31.1.2020 passed in WP No.5901/2019, allowing the State Government as well as Public Service Commission to go ahead with the process of selection and publish the list of all the categories including reservation to the extent of only 14% to the candidates of OBC and proceed accordingly to issue appointment on the posts of Medical Officers. It is further directed that a stipulation may be made in the appointment order of the candidates appointed against the posts reserved



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for EWS Category that their appointment shall be provisional, subject to final outcome of the writ petitions."

COMPLIANCE OF THE DIRECTION GIVEN BY RESPONDENT NO.1 STATE OF MADHYA PRADESH

8. That in pursuant to the requisition letter dated 29.09.2022 from the office of Respondent No. 1, answering respondent has issued /declared the result only on the 87% of the post advertised and hold the result of 13% of seats come under the unreserved category. The result of unreserved 13% post will depend upon the final adjudication.

9. That the Hon'ble High Court by issuing the direction of appointment on the 87% post just to follow the doctrine of reasonable classification and Intelligible differentia. It is submitted that the instruction dated 29.09.2022 has been issued considering the interim order dated 13.07.2021 passed by Hon'ble High Court in Writ Petition No. 5901 (connected matter), whereby the Respondents were directed to proceed with the process of selection. There is no dispute with respect to advertisement pertaining to 87% of the post, the issue for consideration before Hon'ble High Court is with respect to



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reservation policy effecting 13% of post. There is no dispute with respect to appointment to 87% of vacant post thereby creating a different class. In the present case, candidate whose appointment can be proceeded without adversely effecting substantive right of other candidate can be proceeded should not be allowed to suffer.

10. That Hon'ble High Court has furthered the principal of justice, and Hon'ble High Court has followed the utilitarian principal. John Rawls in his "A Theory of Justice" advocated for theory of veil of ignorance. It encapsulates:

The principles of justice are chosen behind a veil of ignorance. This ensures that no one is advantaged or disadvantaged in the choice of principles by the outcome of natural chance or the contingency of social circumstances. Since all are similarly situated and no one is able to design principles to favor his particular condition, the principles of justice are the result of a fair agreement or bargain. For given the circumstances of the original position, the symmetry of everyone's relations to each other, this initial situation is fair between individuals as moral persons, that is, as rational beings with their own ends and capable, I shall assume, of a sense



Signature

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of justice. The original position is, one might say, the appropriate initial status quo, and thus the fundamental agreements reached in it are fair. This explains the propriety of the name "justice as fairness": it conveys the idea that the principles of justice are agreed to in an initial situation that is fair. The name does not mean that the concepts of justice and fairness are the same, any more than the phrase "poetry as metaphor" means that the concepts of poetry and metaphor are the same.

11. That the only objective of the Hon'ble Court to issue such direction to smooth integration of the students and to minimize the pendency heard-burning faced by hundreds of candidates who are only waiting to know their fate since last about 2/3 years, without any reason. At least 87% of the candidates has benefited by issuance of their appointment orders in the light of order dated 13.07.2021.

12. It is pertinent to mention here that the only 87% of advertised posts has filled up based on the reservation computed @ 16% for SC candidates, 20% for ST candidates and 14% for OBC candidates. The it was clearly mentioned in the impugned order and statement of the answering respondent that in respect to the remaining 13% vacancies

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two separate select lists shall be prepared; one being equal to 13% of vacancies comprising exclusively of OBC candidates and another of 13% comprising of only unreserved candidates.

13. That the respondent seeks leave of this Hon'ble Court to appraise the developments took place in due course.

14. That the answering respondents seek further liberty to file additional affidavit in case it is required in due course.

PRAYER

Therefore, keeping in view the facts and circumstances of the present case, the answering Respondent undertakes to follow any further guideline or direction issued by this Hon'ble Court as this Hon'ble Court may deem fit in the interest of justice.

AND FOR THIS ACT OF KINDNESS THE APPLICANT AS IN DUTY BOUND SHALL EVER PRAY.



Verification:

Verified at _____ on this ____ day of August 2025

that the contents the above Counter Affidavit from

DEPONENT

Dr. Sushant Punekar
Deputy Examination Controller
M.P. Public Service Commission
INDORE (M.P.)

27 AUG 2025

Paras 1 to 14 are true and correct to the best of my knowledge belief, no part of the foregoing Affidavit is false and nothing material has been concealed therefrom.

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DÉPONENT

Dr. Sushant Punekar
Deputy Examination Controller
M.P. Public Service Commission
INDORE (M.P.)



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महोदय को सूचित है कि
उपरोक्त प्रमाण पत्र
सत्य है।
प्रमाणित किया जाता है।
27 AUG 2025

ATTESTED
GHANSHYAM P. GUPTA
ADVOCATE & NOTARY
GOVERNMENT OF INDIA
INDORE (M.P.)

27 AUG 2025

