

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NOS. 7443-7447 OF 2026
(Arising out of SLP (C) Nos. 21025-21029 of 2025)

THE STATE OF ASSAM

APPELLANT(S)

VERSUS

SHALINI KHAN & ORS. ETC.

RESPONDENT(S)

ORDER

- 1) Leave granted.
- 2) The present appeals arises out of the order dated 11.12.2024 passed by the Gauhati High Court (*hereinafter referred to as, 'The High Court'*) in Writ Appeal Nos. 361, 363, 364, 371, and 373 of 2023. The core grievance of the appellant-State in this matter is that the High Court allowed the appeals preferred by the private respondents, directing the Assam Public Service Commission (*hereinafter referred to as, 'The APSC'*) to declare their results, and further directed the appellant-State to accord them appointments.
- 3) The appellant contends that these directions were in

complete non-observance of Rule 11 of the Assam Public Services (Combined Competitive Examination) Rules, 1989 (*hereinafter referred to as 'the 1989 Rules'*).

4) It is not in dispute that the private respondents namely Shalini Khan, Saswati Das, Manish Baruah, Girbani Deka and Vidisha Bodo who were unsuccessful in clearing the Preliminary Examination of the Combined Competitive Examination; pursuant to an interim order dated 30.07.2019 passed by a Learned Single Judge of the High Court in Writ Petition (Civil) No. 3328/2019 and other connected petitions, were permitted to participate in the Main Examination. Subsequently, the private respondents successfully cleared the Main Exam and the interview stage also. The present appeals have been preferred, *inter alia*, seeking to draw this Court's attention to the true statutory intent of Rule 11 of the 1989 Rules and to seek interference with respect to the judgment under challenge.

5) Shorn of unnecessary details, the facts as involved in these present appeals are that, the APSC issued Advertisement No. 9/2018 on 17.05.2018, inviting applications to fill 165 posts across different services. Pursuant to Rule 11, a preliminary examination as required was held on 30.12.2018. On

13.03.2019, the APSC published the results, declaring 3,361 candidates as qualified for further participation in Main Examination. Later, on 20.03.2019, the answer keys for the Preliminary Examination were uploaded on the APSC website. Following the objections by several unsuccessful candidates, the APSC, *suo motu*, revisited the results and declared 406 additional candidates, along with two of the PWD (OH) category, as qualified. This was notified by the APSC *via* a press release dated 20.05.2019, specifying that despite due caution, certain discrepancies had crept into the answer keys. Consequently, the APSC revised the erroneous answer keys with the assistance of domain experts and uploaded the revised answer key on the APSC website on 09.05.2019. The short-listed candidates across both the lists i.e., original list and list of additional qualified candidates after revision of the answer keys, were required to fulfill the requisite formalities to appear for the Main examination.

6) In the meantime, Respondent No. 1, an unsuccessful candidate filed Writ Petition No. 3341/2019 before the Gauhati High Court raising a grievance that she was not awarded full marks for certain answers, therefore, deprived the opportunity to

secure the prescribed cut-off marks, henceforth, directions were sought. Apart from that, 20 other writ petitions were also filed raising the grievance about the correctness of the answer key subsequently published by the APSC. It is not out of place to mention, *vide* order dated 30.07.2019 in WP(C) NO. 3328/2019 and other connected petitions, the High Court permitted the private respondents to participate in Main Examination while restraining APSC from declaring the final result, which would be subject to outcome of the writ petitions. By an order dated 23.10.2019, the Single Judge of the High Court had directed the APSC to clarify, by filing an affidavit, that amongst the 3361 candidates who were initially declared successful by the APSC on 13.03.2019 to appear in Main Examination, and in view of revised answer key how many candidates had actually not qualified for the Main Examination. In the affidavit filed by the APSC before the High Court, it was said that out of 3361 candidates who were declared successful prior to revision of the answer keys, 98 could not secure the cut off marks post revision. Nonetheless, it is also an undisputed fact that, those 98 candidates were permitted by APSC to appear in the Main Examination, out of which 68 actually appeared in the Main

Examination, including all the respondents except Ms. Shalini Khan and Mrs. Girbani Deka.

7) The result of the Main Examination was declared on 08.09.2020 wherein the respondents qualified and were placed in the list of the candidates called for interview. Upon declaration of the final result, the respondents found place in the merit list for the respective posts. It is also a fact that during the pendency of this litigation, 6 posts were kept vacant pursuant to the orders of the High Court, therefore, those posts are still lying vacant.

8) Learned Single Judge finally dismissed the Writ Petitions *vide* order dated 21.08.2023. Subsequently, a batch of Writ Appeals were filed by the private respondents, which were allowed *vide* the impugned judgment, relying on the affidavit of the APSC filed before the Single Judge in compliance to the order dated 23.10.2019. The High Court in para 20 to 23 of the impugned order reproduced the entire affidavit, which refers to the minutes of the meeting of the APSC as thus:

“20. Having considered the rival arguments of the counsel for the parties, the learned Single Judge has dismissed the writ petitions filed on behalf of the appellants Shalini Khan and Girbani Deka and has also refused to grant any reliefs to the above-referred 4 candidates, who are also appellants before this Court, mainly on the ground that the condition of passing the

Preliminary Examination is mandatory and in the absence of any provision for relaxation of any conditions in the Assam Public Services (Combined Competitive Examination) Rules, 1989 (hereinafter to be referred as "Rules of 1989") read with Assam Public Service Commission (Procedure and Conduct of Business) Rules, 2010, the APSC has no jurisdiction to relax such condition and, therefore, no relief can be granted to the them. At the same time, the learned Single Judge has also observed that the action of the APSC allowing the 98 ineligible candidates to take part in the Main Examination is found to be in clear violation of the Rules of 1989 which are statutory in nature and promulgated under Article 309 of the Constitution of India. The learned Single Judge has further opined that the said action of the APSC exhibiting favour to those 98 candidates is arbitrary, bias, illegal and unfair.

21. Before proceeding further, it would be appropriate to take into consideration the stand of the APSC taken before the learned Single Judge during the course of hearing of the writ petitions as well as the minutes of the W.A. No.363/2023 & Ors. Page 21 meeting of the APSC, wherein certain decisions have been taken in respect of the controversy involved. The above minutes of the meeting of the APSC are reproduced hereunder:-

"Minutes of the Meeting of the Commission held on 30.4.2019 at 1.00 PM

Present : (i) Shri Dipak Kumar Sarma, IAS (Retd.), Chairman (i/c), APSC.

(ii) Shri Mukti Gogoi, IAS (Retd.), Member, APSC.

(iii) Shri P.K. Hazoari, ACS (Retd.), Member, APSC.

(iv) Shri S. Das Laskar, Ho'ble Member.

(v) Dr. Ajanta Nath, Hon'ble Member.

Shri Prakash R. Gharphalla, ACS, Secretary and Smti Pubali Gohain, ACS, Principal Controller of Examinations of the Commission were also present.

Item no.1: Re-verification of the answer keys in the subjects relating to the Combined Competitive (Prel.) Examination, 2018 and finalization of results thereof:

The PCE, APSC apprised that the Commission had uploaded the answer keys of the subjects and also the OMR sheets of each and every candidate of the Combined Competitive (Prel.) Examination, 2018. Although utmost care was taken for ensuring accuracy, some genuine and inadvertent discrepancies in the answer keys were detected. The answer keys were therefore once again re-verified in consultation with the domain experts and accordingly the corrected answer keys were entered into the system which resulted in some more

candidates being found to have qualified to appear in the Combined Competitive (Main) Examination, 2018. The subject-wise numbers of challenged questions and actual number of answers found wrong were as follows:-

Sl. No.	Subjects	Number of questions challenged	Actual numbers of questions found wrong
1	General Studies	34	3
2	Agriculture	5	3
3	Anthropology	5	3
4	AH & Vety Science	7	3
5	Botany	3	1
6	Civil Engineering	3	2
7	Commerce	2	2
8	Economics	4	No correction
9	Education	19	6
10	Electrical Engineering	15	6
11	Electronics	3	1
12	Geography	2	1
13	Geology	9	7
14	Indian History	42	11
15	Law	1	1
16	Mathematics	2	2
17	Mechanical Engineering	12	8
18	Philosophy	6	2
19	Physics	14	5
20	Political Science	25	14
21	Sociology	13	9
22	Zoology	2	2

The Commission took suo-moto cognizance of the matter of anomalies/mistakes in the answer keys of the C.C. (Prel) examination, 2018 on receipt of information/complaints. After detailed deliberation on the issue, the Commission found that there were actually a few genuine inadvertences in the answer keys of some of the subjects. The Commission was of the view that the errors must be corrected and no genuine candidate should be deprived for no fault of his/hers. Hence, after due deliberation, and, in order to do justice to the concerned candidates, the Commission decided that:

1. There will not be any upward revision of the cut off marks for the preliminary examination.

2. Since, after feeding the correct answer keys into the system, it was found that 406 more candidates would qualify for the CCE (Mains), 2018 on the basis of the earlier cut off marks, it was decided to declare these 406 candidates as qualified for appearing in the CCE (Mains), 2018. 3. There will not be any prejudice towards the results declared on 13th March. Therefore, the 98 candidates out of 3361 candidates declared qualified to appear the CC (Mains) Examination whose marks came below the cut off marks due to revision of answer keys, were not to be discarded and allowed to appear for CCE (Mains), 2018. In other words, the list of 3361 candidates earlier to have qualified to appear in the CCE (Mains) Examination vide notification no.49PSC/CONE-24/2018-19 dated Guwahati the 13th March, 2019 will remain intact.

In deciding so, the Commission opened that these 98 candidates have already been declared to have qualified for the Mains and removal of these candidates and inclusion of 406 fresh candidates in one go will entail complete cancellation of the notification and require issue of a fresh notification containing the new results. Since there are two more stages to assess the merit and suitability of candidates, the Commission decided to allow these 98 candidates to be given a chance.

4. The Commission further decided to address a Press Conference for greater public awareness and transparency regarding the decision taken.

The PCE further informed that Roll numbers 1009053 and 2301880 under OH category were not included in the earlier results due to technical error. The Commission decided to declare them to have qualified to appear in the C.C. (Man) Examination, 2018.

The Commission also decided to upload the marks of all the candidates after re-verification of answer keys.

.....”

“MINUTES OF THE MEETING OF THE COMMISSION
HELD ON 25.1.2021 AT 12.00 PM

Present:

- (i) Dr. Ajanta Nath, Chairman (i/c)
- (ii) Dr. Niranjan Kalita, Member, APSC
- (iii) Shri S.K. Gohain Boruah, IAS (Retd.), Member, APSC
- (iv) Shri Debeswar Malakar, IAS (Retd.), Member, APSC

Smti Indira R. Kalita, ACS, Secretary, Smti Pubali Gohain, ACS, PCE & and Smti Nayana Borah, ACS, Joint Secretary, APSC were also present in the meeting.

Item no.1: WP(C) no.3341/2019 (Shalini Khan Vs. State of Assam & others) and batch of cases

It was pointed out that the Hon'ble Gauhati High Court vide order dated 22.12.2020 passed in IA (Civil) no.2220/2020 in WP(C) no.3341/2019 was pleased to direct the Commission to declare the final results of the CCE, 2018 and withheld results of 6(six) candidates.

Further, the Hon'ble High Court vide order dated 18.01.2021 passed in WP(C) no.3341/2019 directed the Commission to clarify its stand with regard to the aforesaid 6(six) candidates by filing fresh affidavits in this regard on or before 28.01.2021.

The Commission discussed the matter and observed that out of 98 candidates, 68 appeared in the C.C. (Mains) Exam and out of these 68 candidates, 4- candidates viz Saswati Das (R.N.-1022654), Vidisha Boro (R.N.-1100550), Manish Baruah (R.N.-1018525) and Anupam Deka (R.N.-1020895) could make it to the final select list and in pursuance of the order dated 22.12.2020 of the Hon'ble High Court withheld their recommendation to the Govt. The Commission is now of considerate opinion that CC (Prel) Exam is a screening test and they could not clear it by a whisker and these 4 candidates by virtue of their own merit could successfully clear C.C. (Main) Exam & viva-voce both of whose marks are taken into consideration in the final selection, hence the Commission fully stood by their recommendation as justified.

With regard to the petitioner in W.P(C) No.3341/2019 (Shalini Khan Vs SoA & Ors.) and the petitioner in W.P.(C) No.3344/2019G (Girbani Deka Vs. SOA & Ors.), the Commission opined that the Hon'ble High Court in the interim allowed both the petitioners (W.P(C) No.3341/2019 & W.P(C) No.3344/2019) to appear in the CCME, 2018 and they cleared both the CCME and viva-voce by securing positions in the final select list by virtue of their own merit.

As such, the Commission in respect of these two petitioners leave the matter to be decided by the Hon'ble High Court and hence the Commission have nothing to object to any decision taken by the Hon'ble High Court by considering the fact that both the writ petitioners have qualified for recommendation by the Commission on assessment of their respective merit in CCEM, 2018 and interview.”

“MINUTES OF THE MEETING OF THE COMMISSION HELD ON 18.3.2021 AT 11.30 AM

Present:

- (i) Shri Rajiv Kumar Bora, IAS (Retd.), Chairman
- (ii) Dr. Ajanta Nath, Member, APSC
- (iii) Dr. Niranjana Kalita, Member, APSC
- (iv) Shri S.K. Gohain Boruah, IAS (Retd.), Member, APSC
- (v) Shri Debeswar Malakar, IAS (Retd.), Member, APSC Smti

Indira R. Kalita, ACS, Secretary & PCE (i/c) was also present in the meeting.

Item no.1: Order dated 12.3.2021 passed by the Hon'ble Gauhati High Court in WP(C) no.3341/2019 (Salini Khan Vs State of Assam & others and a bunch of writ petitions in connection with CCE, 2018.

The Commission convened this urgent meeting today to discuss regarding filing of an additional affidavit to clarify its stand allowing 98 candidates to appear in the CCE (Main), 2018 vide Minutes of Meeting dated 30/4/2019.

1.1 The APSC had declared the results of the CCE (Prel.). 2018 on 13-03-2019 wherein 3361 candidates were declared to be eligible to appear in CCE (Main), 2018. APSC thereafter uploaded answer keys of CCPE 2018 and OMR Sheets of each and every candidate of the CCE (Prel), 2018 in its website. However, on detection of some genuine and inadvertent discrepancies in the official answer keys, the Commission decided suo-moto to re-verify the answer keys with the help of domain experts and found that there were genuine & inadvertent mistakes in some of the answer keys of CCPE 2018. Accordingly, corrected answer keys were entered into the system and as such some 406 candidates were found to have qualified to appear in the CCME 2018. However 98 candidates out of 3361 candidates declared to have cleared CCPE 2018 on 13-03-2019 were found to have secured lower than the cut off marks due to the revision of answer keys. The Commission had therefore decided to correct the said genuine and inadvertent errors and was of the view that no genuine candidate should be deprived for no fault on his/her parts. Hence, the Commission, in its meeting dated 30/4/2019 had decided that:-

(i) There will not be any upward revision of the cut off marks for preliminary examination.

(ii) Since after feeding the correct answer keys into the system, it was found that 406 more candidates would qualify for the CCE (Main), 2018 on the basis of the earlier cut off marks, it was decided to declare these 406 candidates as qualified for appearing in the CCE (Main), 2018.

(iii) There will not be any prejudice towards the results declared on 13th March. Therefore, the 98 candidates out of 3361 candidates declared qualified to appear the CC (Main) Examination whose marks came below the cut off marks due to revision of answer keys, were not to be discarded and allowed to appear for CC (Main) Exam, 2018. In other words, the list of 3361 candidates earlier declared to have qualified to appear in the CC (Main) Examination vide notification No.49PSC/CONE-24/2018-19 dated Guwahati the 13th

March, 2019 will remain intact.

In deciding so, the Commission opined that these 98 candidates have already been declared to have qualified for the Mains and removal of these candidates and inclusion of 406 fresh candidates in one go will entail complete cancellation of the notification and require issue of a fresh notification containing the new results. Since there are two more stages to assess the merit and suitability of candidates, the Commission decided to allow these 98 candidates to be given a chance.

1.2 Accordingly Commission allowed those 98 candidates who secured lower marks than the cutoff marks due to revision of answer keys and had already been declared to have qualified, to appear in the Combined Competitive Examination (Main), 2018 considering that it being the preliminary stage and there being subsequent stages to assess the merit and suitability of the candidates.

1.3 The matter was again discussed by the Commission in its Meeting dated 25/1/2021 in pursuance of the Order of the Hon'ble Gauhati High Court passed in W.P.(C) No.3341/2019 (Shalini Khan vs SOA & ors) to clarify its stand in respect of 6 (six) selected candidates i.e. Saswati Deka (Roll No.1022654), Vidistha Bodo (Roll No.1100550), Manish Baruah (Roll No.1018525), Anupam Deka (Roll No.1020895), Salini Khan (Roll No.1013210 - Writ Petitioner in W.P.(C) 3341/2019) and Girbani Deka (Roll No.1010716-Writ Petitioner in W.P.(C) 3344/2019). The Commission after discussion on the matter had observed that

'The Commission discussed the matter and observed that out of 98 candidates, 68 appeared in the C.C. (Mains) Exam and out of these 68 candidates, 4-candidates viz Saswati Das (R.N.-1022654) Vidisha Boro (R.N.- 1100550), Manish Baruah (R.N.-1018525).and Anupam Deka (R.N.-1020895) could make it to the final select list and in pursuance of the order dated 22.12.2020 of the Hon'ble High Court withheld their recommendation to the Govt. The Commission is now of considerate opinion that as CC(Prel) Exam is a screening test and they could not clear it by whisker and these 4 candidates by virtue of their own merit could successfully clear C.C. (Main) Exam & viva-voce both of whose marks are taken into consideration in the final selection, hence the Commission fully stood by their recommendation as justified.

With regard to the petitioner in WP(C) No.3341/2019 (Shalini Khan Vs SoA & Ors.) and the petitioner in W.P.(C) No.3344/2019 (Girbani Deka Vs. SOA & Ors.) the Commission opined that the Hon'ble High Court in the interim allowed both the petitioners (W.P.(C) No.3341/2019 & W.P.(C) No.3344/2019) to appear in the CCME 2018 and they cleared both the CCME and viva-voce by securing positions in the final select list by virtue of their own merit.

As such, the Commission in respect of these two petitioners leave the matter to be decided by the Hon'ble High Court and hence the Commission have nothing to object to any decision taken by the Hon'ble High Court by considering the fact that both the writ petitioners have qualified for recommendation by the Commission on assessment of their respective merit in CCEM, 2018 and interview.'

1.4 In view of the order of the Hon'ble Gauhati High Court dated 12/3/2021 passed in WP(C) No.3341/2019 (Salini Khan Vs State of Assam & others and a bunch of writ petitions, the Commission had a threadbare discussion on the probable consequence/impact of the decision vide Minutes of the Meeting dated 30/4/2019 on its subsequent functioning in fair and transparent manner. The Commission after threadbare discussion unanimously came to a conclusion that the Commission took the decision in its minutes dated 30.4.2019 allowing 98 candidates to appear in the CCE (M), 2018 by taking the same as one off special case considering that there was no fault on the part of those 98 candidates who were declared to have qualified under the pre-revised answer keys.

1.5 The Commission however, in order to maintain its integrity, fairness and impartiality in the matter of selection of candidates, has further unanimously resolved that the decision dated 30.4.2019 was, keeping in view the unprecedented and unusual circumstances, a one-time decision, which shall not, in any way, be treated as a precedent in any of the examinations including the CCE in future.

1.6 The Commission further opined that the Commission depends entirely on the domain experts for matters related to question setting, moderation, and answer keys of any examination. While the Commission does not absolve itself in any way from its overall responsibility, it is to be noted that the internal mechanism hardly allows any scope to the Commission to directly interfere in the process of setting of question papers and preparation of answer keys as these are set and moderated by designated domain experts drawn from the academia.

1.7 The Commission decided to forward the resolution taken today to the Sr. Standing Counsel, APSC for placing the same before the Hon'ble Court by way of additional affidavit clarifying the stand of the Commission as directed by the Hon'ble Court.

The Secretary/PCE shall take necessary steps accordingly."

22. In Writ Appeal No.361/2023 and Writ Appeal No.364/2023, this Court, while issuing notices to the respondents, including

the State and the APSC, considering the submissions made on behalf of the counsel for the appellants that the APSC has allowed the 98 other candidates who were shown to be selected in the first answer key but ousted in the revised answer key suo moto issued by the respondent APSC to appear in Written Examination and, looking to this fact, the appellants are also entitled to equitable relief, this Court had directed the APSC to take instructions on the said submissions advanced by the appellants' counsel and in response to the same, the APSC has filed an affidavit on 03.11.2023 and along with the said affidavit has produced the minutes of the meeting of the APSC held on 19.10.2023. The said minutes of the meeting are reproduced hereunder:-

“MINUTES OF THE MEETING OF THE COMMISSION HELD
ON 19.10.2023 AT 1.00 PM IN THE MATTER OF WA
NO.361/2023 (SHALINI KHAN -VS- SOA) AND 364/2023
(GIRBANI DEKA -VS- SOA)

Present:

- i) Shri Bharat Bhushan Dev Choudhury, IAS (Retd.), Chairman
- ii) Dr. Ajanta Nath, Member
- ii) Shri Ghana Kanta Pegu, ACS (Retd.), Member iv) Dr. Padma Sharma, Member
- v) Smti Nazreen Ahmed, ACs (Retd.), Member

It was apprised in the meeting that vide WA No.361/2023 (Shalini Khan -Vs- SoA) and 364/2023 (Girbani Deka), 2(two) candidates of CCE-2018 challenged the order dated 21.08.2023 passed in WP(C) No.3341/2019 (Shalini Khan vs SOA & ors) & W.P.(C) 3344/2019 (Girbani Deka vs SOA & ors) by the Hon'ble High Court relating to CCE-2018 wherein the Hon'ble Court dismissed the respective Writ Petitions of both the appellants/Writ Petitioners holding that they did not qualify the Preliminary Examination of the CCE-2018 held on 30/12/2018 on the basis of the correct answer key published by the APSC. Accordingly, the claim of the other candidates who got themselves impleaded as Respondent No.5 (Saswati Deka), 6 (Vidisha Bodo), 7 (Manish Baruah) & 8 (Anupam Deka) of W.P.(C) 3341/2019 was also dismissed who secured the posts ACS (Jr. Grade) and ALRS respectively.

It was apprised that these two candidates namely Shalini Khan and Girbani Deka cum appellants although unsuccessful in CC (P) E-2018 were allowed by the Hon'ble High Court vide order passed in WP(C) No.3341/2019 & W.P. (C) 3344/2019 respectively provisionally to appear in CC (M) E-2018 which were preferred challenging the official answer keys of the CC (P) E-2018. Ultimately they secured ACS (Jr. Grade) and ALRS respectively.

It was also apprised in the meeting that Counsel representing these two appellants cum candidates during hearing in WA No.361/2023 (Shalini Khan -VsSoA) and 364/2023 (Girbani Deka) made following submission during hearing of the appeals:-

'The writ petitions were filed on behalf of the appellants in the year 2019 questioning the validity of the answer key and the revised answer key issued by the APSC. The petitioners were granted interim protection and conditional permission to appear in the final examination. The appellants have cleared the final examination as well as viva-voce and thus, they are now entitled to be appointed against the posts for which they sought selection. The writ petitions were heard finally on 04/09/2021 and came to be rejected by judgment dated 21.08.2023, i.e. after a gap of nearly two years. The appellant in WA 364/2023 would face the risk of crossing the upper age limit for selection. It is further submitted that 98 other candidates who were shown to be selected in the first answer key, were ousted in the revised answer key Suo Moto issued by the APSC, but they have been allowed to appear in the final examination by the APSC on its own. It is thus submitted that the appellants are also entitled to equitable relief.'

On the basis of the submission made by the Counsel representing these two appellants cum candidates during hearing in WA No.361/2023 (Shalini Khan -Vs- SoA) and 364/2023 (Girbani Deka), Hon'ble Gauhati High Court vide order dated 22/9/2023 required the Standing Counsel of APSC to take instruction on the submissions made by the appellants' counsel.

It was further apprised in the meeting that subsequent to the order dated 22/9/2023 passed in WA No.361/2023 (Shalini Khan -Vs- SOA) and 364/2023 (Girbani Deka), the Respondent No.5 to 8 of W.P.(C) 3341/2019 also filed separate Writ Appeals being No. W.A. No.363/2023 (Saswati Das vs SoA & ors), W.A. 371/2023 (Vidisha Bodo & Anupam Deka), and W.A. No.373/2023 (Manish Baruah).

It was apprised in the meeting that the APSC had declared the results of the CCE (Prel.), 2018 on 13- 03-2019 wherein 3361 candidates were declared to be eligible to appear in CCE (Main), 2018. APSC thereafter uploaded answer keys of CCPE 2018 and OMR Sheets of each and every candidate of the CCE (Prel), 2018 in its website. However, on detection of some genuine and inadvertent discrepancies in the official answer keys, the Commission decided suo-moto to re-verify the answer keys with the help of domain experts and found that there were genuine & inadvertent mistakes in some of the answer keys of CCPE 2018. Accordingly, corrected answer keys were entered into the system and as such some 406 candidates were found to have qualified to appear in the CCME 2018.

However 98 candidates out of 3361 candidates declared to have cleared CCPE 2018 on 13-03-2019 were found to have secured lower than the cutoff marks due to the revision of answer keys. The Commission had therefore decided to correct the said genuine and inadvertent errors and was of the view that no genuine candidate should be deprived for no fault on his/her parts. Hence, the Commission, in its meeting dated 30/4/2019 had decided that:-

1. There will not be any upward revision of the cut off marks for preliminary examination.
2. Since after feeding the correct answer keys into the system, it was found that 406 more candidates would qualify for the CCE (Main), 2018 on the basis of the earlier cut off marks, it was decided to declare these 406 candidates as qualified for appearing in the CCE (Main), 2018.
3. There will not be any prejudice towards the results declared on 13th March. Therefore, the 98 candidates out of 3361 candidates declared qualified to appear the CC (Main) Examination whose marks came below the cut off marks due to revision of answer keys, were not to be discarded and allowed to appear for CC (Main) Exam, 2018. In other words, the list of 3361 candidates earlier declared to have qualified to appear in the CC (Main) Examination vide notification No.49PSC/CONE-24/2018-19 dated Guwahati the 13th March, 2019 will remain intact.

In deciding so, the Commission opined that these 98 candidates have already been declared to have qualified for the Mains and removal of these candidates and inclusion of 406 fresh candidates in one go will entail complete cancellation of the notification and require issue of a fresh notification containing the new results. Since there are two more stages to assess the merit and suitability of candidates, the Commission decided to allow these 98 candidates to be given a chance.

Accordingly Commission allowed those 98 candidates who secured lower marks than the cutoff marks due to revision of answer keys and had already been declared to have qualified, to appear in the Combined Competitive Examination (Main), 2018 considering that it being the preliminary stage and there being subsequent stages to assess the merit and suitability of the candidates.

It was apprised in the meeting that out of those 98 candidates, 4 candidates i.e. Respondent No.5, 6, 7 & 8 of W.P. (C) 3341/2019 obtained 2(two) posts of ACS (Jr. Grade), 1(one) post of Inspector of Labour and 1(one) post of Inspector of Taxes out of 98 candidates of CC (P) E-2018 who were allowed to appear in CC (M) E-2018 vide minutes of the Commission dated 30.04.2019. These 98 candidates including aforesaid 4 respondents of writ appeals were initially declared to have passed in results of CC (P) E-2018. But after suo-moto re

verification of answer key of CC (P) E-2018 undertaken by the Commission, they were found to be short of cutoff marks.

It was also apprised in the meeting that during pendency of the WP(C) No.3341/2019 (& batch of case), the Commission vide additional affidavit dated 01/02/2021 wherein it was contended that two writ petitioners though secured their position in the final select list of CCE 2018 (Main) after Written Examination and interview test, but the Commission is of the view that since preliminary examination is meant to serve as a screening test only and the merit and suitability of the candidates are assessed only on the basis of the performance of the candidates in the CCE [Main (Written and Interview Test)], therefore the APSC left it to the decision of the Court stating that the Commission will not have any objection to any decision taken by the Court treating the two Writ Petitioners i.e. appellants of WA No.361/2023 and WA No.364/2023 in similar matter like the other private respondent Nos.5 to 8.

It was apprised in the meeting that the Commission, held its meeting dated 18/3/2021 to clarify its stand with regard to the queries made the Hon'ble Court in pursuance of the order of the Hon'ble Court dated 12/3/2021. The decision of the meeting dated 18/3/2021 was duly informed vide Additional affidavit dated 23/03/2021 filed in the Hon'ble High Court whereby it was clarified its stand before the Hon'ble Court that:-

'(i) The Commission, vide its meeting dated 30.04.2019 on point that these 98 candidates have already been declared to have qualified for the Combined Competitive(Main) Examination, 2018 and removal of these candidates and inclusion of 406 fresh candidates in one go will entail complete cancellation of the notification of result dated 13.03.2019, and require issuing of a fresh notification containing the new results. Since there are two more stages to assess the merit of suitability of candidates, the Commission decided to allow these 98 candidates to be given a chance.

(i) Thereafter, in terms of order dated 18.01.2021 passed in WP(C) No.3341/2019 by the Court, the Commission had discussed the matter again in its meeting dated 25.01.2021 and the Commission, in respect of the 4 out of 98 candidates, is of the considered opinion that as the Combined Competitive (Preliminary) Examination is a Screening test and they could not score above the cut-off marks by a small margin and that these 4 candidates by virtue of their merit could successfully clear Combined Competitive (Main) Examination and Interview, both of whose marks are taken into consideration in the final selection, hence the Commission fully stood by their recommendation vide resolution dated 30. 04.2019 as justified. Whereas in respect of the two petitioners, Shalini Khan [WP(C)

No.3341/2019] and Girbani Deka [WP(C) No.3344/2019], the Commission has decided to leave the matter to the discretion of the Court.

(iii) The Commission however, in order to maintain its integrity, fairness and impartiality in the matter of selection of candidates, again discussed the matter in an urgently convened meeting on 18.03.2021 at 11:30 AM to clarify the stand of allowing the 98 candidates to appear in the Combined Competitive (Main) Examination, 2018. Accordingly vide resolution dated 18.03.2021, the Commission further resolved that the decision of allowing those 98 candidates vide resolution dated 30. 04.2019 be a one-time decision which shall not be treated as a precedent in any of the examinations including the Combined Competitive Examination in future.'

It was thus resolved in the meeting that the Commission shall go by its earlier stand as per the additional affidavit dated 01/02/2021 as well as 23/03/2021 filed by the Commission in WP(C) No.3341/2019 (& batch of case) the Commission left the matter to be decided by the Hon'ble Court in respect of entitlement of the Writ Appellant as well as respondents No.5-8. The Commission shall, however, clarified that the Writ Appellants i.e. Shalini Khan and Girbani Deka W.A. No.363/2023 & Ors. Page 35 are not entitled to any more additional marks as claimed."

23. The APSC has also took a stand before the learned Single Judge that the provisions of the Rules of 1989 gives a certain degree of discretion on the APSC regarding admitting of candidates in Combined Competitive (Mains) Examination. It was also contended that Rule 77 of the Assam Public Service Commission (Procedure and Conduct of Business) Rules, 2010 empowers the APSC to deal with any matter which is not specifically provided in the said Rules in the manner as they deem fit.

24. From the above, it is clear that the APSC has justified its action before the learned Single Judge of allowing the 98 candidates, who had actually not cleared the Preliminary Examination, to appear in the Main Examination by contending that there is no fault on the part of those candidates, who were initially declared eligible to appear in the Written Examination but on revision of the answer keys, were found that they have not cleared the Preliminary Examination, which is a mandatory condition for appearing in the Written Examination.

The another reason, which compelled the APSC to allow those 98 candidates to appear in the Main Examination though they have not cleared the Preliminary Examination, was that during the course of revision of the answer keys, 406 other

candidates, who were initially declared to have not obtained the requisite cut off marks in the Preliminary Examination, had actually obtained the requisite cut off marks and if those 98 candidates are removed from the list of eligible candidates and if another 40 fresh candidates are included than this may lead to complete cancellation of the results requiring issuance of a fresh Notification containing new results which may take more time.

The APSC was of the opinion that the Preliminary Examination are conducted only for the purpose of shortlisting of candidates and as the marks obtained by a candidate in the Preliminary Examination are not counted in the final result, those ineligible 98 candidates can be allowed to appear in the Main Examination because the merit and suitability of the candidates is to be decided in the subsequent stages of examination.

25. The APSC has also admitted its fault, although not in so many words, that it has failed to discharge the overall responsibility but has also tried to shift the responsibility on the domain experts, while contending that in the process of setting up of question papers and preparation of answer keys, the APSC is dependent on the designated domain experts only and has hardly any scope to interfere.

The APSC has also emphasized that allowing those 98 ineligible candidates to appear in the Written Examination is only a one time decision in view of unprecedented and unusual circumstance which shall not be, in any way, treated as a precedent in any examination in future.

The APSC has also contended that the 4(four) appellants, namely, Saswati Das; Vidisha Bodo; Anupam Deka and Manish Baruah, have missed their Preliminary Examination by a whisker but have performed well in the subsequent stages and find their place in the final merit list and, therefore, their names deserve to find place in the final list.

In respect of the 2(two) appellants, namely, Shalini Khan and Girbani Deka, the stand of the APSC is more or less similar as the stand taken in the cases of the other 4(four) appellants and it is reiterated by the APSC that whatever decision the Court would take in respect of those appellants, they will abide by it.”

9) In this view, the High Court found that the stand as taken by the APSC is justified. However, while applying Rule 11 of the 1989 Rules in the facts of the case, the High Court made certain observations. Prior to referring to those observations, we deem it

necessary to reproduce Rule 11 as thus:

“11. *Candidates who obtain such minimum qualifying marks in the Preliminary Examination as may be fixed by the Commission at their discretion shall be admitted to the Main Examination, and candidates who obtain such minimum marks in the Main (Written) Examination as may be fixed by the Commission at their discretion shall be summoned by them for an interview for personality and other tests :*

Provided that the selected candidate belonging to S.C./S.T. may be summoned for an interview for a Test stated above by the Commission by applying relaxed standard of less marks upto 10% if it is found by the Commission that sufficient number of candidates from these communities are not likely to be summoned for interview on the basis of general standard in order to fill up vacancies reserved for them.

It is further provided that if inspite of relaxed standard sufficient number of candidates of S.C. & S.T. Communities is not available the Commission may decide to raise the percentage of relaxation even higher to the extent considered fair by the Commission if the cut off mark of general standard is 55% or above.

It is further provided that the candidates applying for the Assam Police Service and called to the interview may be required to undergo the physical standard test as may be prescribed by the Government.”

10) At this juncture, it is required to be noted that the High Court in para 30 - 35 of the impugned judgement held as under:

“30. The plan of Combined Competitive Examination is detailed Out in Section 1 of Appendix-I of the Rules of 1989, which is reproduced hereunder:-

“PLAN OF EXAMINATION

1. The Combined Competitive Examination comprises two successive stages.

(i) Preliminary Examination for the selection of candidates for the Main Examination; and

(ii) The Main Examination (Written and Interview) for the selection of candidates for various services and posts.

2. The Preliminary Examination will consist of papers of

objective type (Multiple choice) question .and carry maximum of 200 marks each of 2 hours duration as set out. in Section II. This Examination is meant to serve as a screening test only, the marks obtained in the preliminary Examination by the candidates who are declared qualified for admission to the Main Examination will not be counted for determining the final order of Merit. The number of candidates to be admitted to; fee Mam Examination: mill be 11 to ,12 times the number of vacancies to be filled in the various services and posts. Only those candidates who are declared by the 'Commission to have qualified in the Preliminary Examination will be eligible for admission to the Main Examination of that particular year, provided they are, otherwise, eligible for admission to the Main Examination.

3. The Main Examination will consist of written Examination and interview test. The written Examination will consist of 2 compulsory papers on General English and General Studies subjects and two question papers each on any two subjects from the list of optional subjects as set out in' the list in Section-II. The interview will carry marks as shown in Section-JI (with no qualifying marks). Marks thus obtained by the candidates in the Main Examination (Written part as well as interview), would determine their final ranking. Candidates will be allotted to the various services keeping in view their ranks in the Examination and (respective), preference expressed by them-for different posts."

From the above, it is clear that the Preliminary Examination is meant to serve a Screening Test only and the marks obtained in the Preliminary Examination by the candidates Cannot be counted for determining the final order of merit. However, only those candidates, who have qualified in the Preliminary Examination, will be eligible for admission to Written Examination and marks obtained by a candidate in the Written Examination and interview can only be counted for final marking.

31. The Hon'ble Supreme Court in Pankaj Sharma -Vs- State of Jammu & Kashmir & Ors., reported In (2008) 4 see 273 has explained the nature of the Combined Competitive Examination, while taking into consideration the provisions of the Kashmir Combined Competitive Examination Direct Recruitment Rules, 1995, wherein the provisions of Preliminary Examination and Main Examiantion are almost similar to the provisions of the Preliminary and Main Examinations contained in the Rules of 1989. The Hon'ble Supreme Court has observed that the purpose of clearing the Preliminary Examiantion is only for getting entry into the second examination, i.e. the Main Examination. It is also observed by the Hon'ble Supreme Court that the question of disability would arise only in case of participation at the stage of

selection where the merit of a candidate was to be adjudged but as the marks secured by a candidate in the Preliminary Examination are not to be counted for final selection and preparation of the merit list, the same cannot affect the final result. Relevant portion of the said judgment is reproduced hereunder:-

“40. The learned Single Judge observed that the question of disability could arise only in case of his participation at the stage of selection where the merit of a candidate was to be adjudged. In our view, the learned Single Judge was right. It is clarified by the Commission that the selection was not based on preliminary examination. It was relevant only for the purpose of qualifying and getting entry to the second examination i.e. main examination. In other words, it was in the nature of ‘screening test’ and ‘selection’ or ‘merit’ was not to be based on the result of preliminary examination.”

41. As already noted, preliminary examination was the first step was limited to the process of ‘shortlisting’ of candidates in the ratio of 1:13 and was not relevant for final selection of candidates and preparation of merit list/select list. The marks obtained at the preliminary examination were not to be counted for final selection and preparation of merit list. It was limited to getting entry in the main examination. It, therefore, cannot be said that by not granting benefit of additional marks to ‘selected’ candidates which were given to ‘unselected’ candidates, injustice had been done to ‘selected’ candidates.”

Hence, it is now settled that the Preliminary Examinations are conducted only for the purpose of shortlisting of candidates and question of disability would arise in case of participation of the, candidate at the stage of selection, where merit of a candidate was; to be adjudged.

32. In the present case, though the appellants have failed to clear the Preliminary Examination, which were of course conducted only for the purpose of shortlisting of candidates, but in the subsequent examination (written and interview), they found their place in the merit according to their performance.

33. It is to be noticed that the appellants Shalini Khan and Girbani Deka have approached the Writ Court raising a grievance about the correctness of the answer keys published by the APSC twice in respect of Preliminary Examination of CCE, 2018 and at no point of time, anybody had questioned the action of the APSC to allow the 98 persons, who have failed to clear the Preliminary Examination, to appear in the Written Examination.

It is not clear under what circumstances the Single Bench has directed the APSC to disclose as to actually how many candidates have passed the Preliminary Examination and how many candidates, who have not passed the Preliminary Examination but were allowed to appear in the Written Examination.

We have no doubt that while adjudicating a controversy raised, a Writ Court, while exercising extra ordinary jurisdiction and to do complete justice, can seek clarifications and explanations from the respective parties to understand the complexity of the issues raised or discovered during the course of adjudication but at the same time, it needs to be clarified that under what circumstances, the Court was compelled to venture into the areas and the issues which were not raised or pleaded in specific terms.

34. Another aspect which cannot be ignored is that the APSC, being the recruiting agency, is primarily responsible for conducting the Combined Competitive Examination in different stages in a fair and transparent manner. A complete mechanism is provided under the Rules of 1989 and the Rules of 2010 for conducting the Combined Competitive Examination at different stages. However, in the present case, we have no hesitation in saying that APSC has miserably failed to discharge its primary responsibility of conducting the CCE, 2018, particularly the Preliminary Examination in a fair and transparent manner.

The initial result of the Preliminary Examination of CCE, 2018 was declared on 30.03.2019. However, the APSC itself had discovered that the answer key published by it is not correct and, therefore, on its own, the APSC had re-verified the answer key and came to the conclusion that some of answers in the answers key are not correct and, therefore, it had revisited the result and published a new answer key. As per the new answer key, 406 candidates, who had initially not qualified the Preliminary Examination for appearing in the Main examination, had also cleared the Preliminary Examination. At the same time, the APSC has also discovered that 98 persons, who had actually not cleared the Preliminary Examination, were declared as eligible for appearance in the Main Examination in the initial result published on 30.03.2019. If we add 406 persons in the list of eligible candidates, who appeared in the Preliminary Examination after excluding 98 persons, who have not cleared the Preliminary Examination but were declared as eligible for appearing in the Main Examination, then also there is a variation of around 10% in the actual number of persons, who have cleared the Preliminary Examination but have been declared as failed in the said Examination. Apart from that, in

response to the direction given by this Court on 29.05.2019, the APSC had filed a common affidavit in all the 21 writ petitions and has stated that on further verification of answer scripts of Preliminary Examination of 21 candidates/writ petitioners, in consultation with the paper setters/domain experts, it was found that after awarding grace marks to them on pro-rata basis, further 9 candidates out of those 21 writ petitioners, had qualified the Preliminary Examination. It is not clear from the said affidavit that how the APSC has awarded grace marks on pro-rata basis to the 9 candidates out of the 21 writ petitioners.

35. In this fact situation, the initial result of the Preliminary Examination declared by the APSC as well as the subsequent revised result declared by it of the Preliminary Examination of CCE, 2018 is shrouded in doubt and raises suspicion. If we examine the cases of the appellants Shalini Khan and Girbani Deka in the above noted facts and circumstances of the case, it cannot be concluded with certainty that the grievance raised by the said appellants that they were not awarded correct marks in the Preliminary Examination, has no merit.”

11) Learned senior counsel appearing on behalf of the appellant-State, in fact, seriously objected to the observations as made in regard to the application of Rule 11 of the 1989 Rules by the Division Bench. In our view also, there may be some substance in the argument of the learned counsel for the appellant. However, in the peculiar facts of the present case, even though the scores obtained by private respondents remained deficient in screening test i.e., preliminary examination, but as directed by High Court they later appeared along with various other candidates in the Main Examination as well as in the interview and it is only on basis of score obtained therein, the respondents secured respective positions in the final

merit list. Keeping in mind this circumstance along with the fact that six posts are lying vacant and that the APSC, before the High Court, admitted its fault in setting up the question papers and preparation of the correct answer keys, considerations of equity demand that the candidates may not be deprived of the relief as already granted by the High Court, since they were not at fault during the whole process at any point in time. In our opinion, the view taken by the High Court after referring to the circumstances as discussed hereinabove and directions issued to the APSC to declare the result of the Private Respondents and further directing the appellant to provide appointment to them on the vacant posts appears to be just and requires no interference. While affirming the final outcome of the impugned judgment, we make it clear that any observation made in the impugned order, whatsoever, in relation to interpretation of Rule 11 of the 1989 Rules, not be treated as correct view and is left open to be decided afresh in appropriate case.

12) In this view, the High Court has correctly applied the considerations of equity and proceeded on the premise that the candidates who were meritorious and secured position in Main Examination as well as interview should not be disadvantaged

on account of the fault of the APSC. In this light, we are of the opinion that the impugned judgment does not warrant interference in the peculiar facts of the present case, merely because of not obtaining minimum qualifying marks in the preliminary examination which in itself is relevant only for the purposes of admission to the Mains Examination under Rule 11 of the 1989 Rules and not for the final merit, and keeping in mind all the equitable considerations.

13) Having carefully considered the facts and circumstances of the present case and taking note of the equitable considerations that weighed with the High Court in passing the impugned judgment, we are of the considered opinion that interference with the same at this stage would be unwarranted. It is evident that the candidates in question had demonstrated their merit by securing qualifying positions in both the Main Examination and the interview, and it would be manifestly unjust to deprive them of the fruits of their performance and merit solely on account of a procedural impediment arising from the failure to obtain the minimum qualifying marks in the preliminary examination as prescribed under Rule 11 of the 1989 Rules. The High Court, having exercised its equitable

jurisdiction in favour of such meritorious candidates, and we being in agreement with the broad equitable basis thereof, do not find sufficient reasons to take a different view. We, however, make it expressly clear that this decision is confined to the peculiar facts and circumstances of the present case and shall not be treated as a precedent in any manner whatsoever. The true scope, ambit, and interpretation of Rule 11 of the 1989 Rules is left open to be determined in an appropriate case arising in the future, uninfluenced by the present decision.

14) Accordingly, the present appeals stand dismissed in wake of the observations made hereinabove. The order passed by the High Court be now implemented within one month and the private respondents would be entitled to the benefits as allowed by the High Court in terms of para 43 of the impugned judgement.

15) Pending application(s), if any, shall stand disposed of.

....., **J.**
[J.K. MAHESHWARI]

....., **J.**
[ATUL S. CHANDURKAR]

NEW DELHI;
MAY 12, 2026.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal Nos. 7443-7447/2026

THE STATE OF ASSAM

Appellant(s)

VERSUS

SHALINI KHAN & ORS. ETC.

Respondent(s)

[TO BE TAKEN UP ON PRIORITY]

(IA No. 160590/2025 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

Date : 12-05-2026 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE J.K. MAHESHWARI
HON'BLE MR. JUSTICE ATUL S. CHANDURKARFor Appellant(s) : Mr. Chinmoy Pradip Sharma, Sr. A.A.G.
Mr. Debojit Borkakati, AOR
Mr. Irfan Hasieb, Adv.
Mr. Vijay Deora, Adv.
Mr. Aditya Agarwal, Adv.For Respondent(s) : Mr. Manish Goswami, Sr. Adv.
Mr. Gaurav Shukla, Adv.
Mr. Brahmjeet Singh, Adv.
Mr. Rameshwar Prasad Goyal, AORMr. Parthiv Goswami, Sr. Adv.
Ms. Pracheta Kar, AOR
Ms. Atiga Singh, Adv.Mr. Chetan Garg, Adv.
Mr. Shaveer Ahmed, AORUPON hearing the counsel the Court made the following
O R D E R

- 1) Leave granted.
- 2) The present appeals stand dismissed in terms of the signed order. Pending application(s), if any, shall stand disposed of.

(NIDHI AHUJA)
DEPUTY REGISTRAR(NAND KISHOR)
ASSISTANT REGISTRAR

[Signed order is placed on the file.]