

IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

ITANAGAR PERMANENT BENCH

(NAHARLAGUN)

1. WP(C) 148 (AP)2015

Miss Dagme Kadu,
R/o Kadu Village,
P.O. Koyu, P.S. Nari,
Dist-East Siang.

.... *Petitioner*

-Versus-

1. *The State of Arunachal Pradesh, through the Chief Secretary, Government of Arunachal Pradesh, Itanagar*
2. *The Secretary, Department of Home, Government of Arunachal Pradesh, Itanagar.*
3. *The Director General of Police, Government of Arunachal Pradesh, Itanagar.*
4. *Miss Yuninlo Kri,
Police Training Centre (PTC), Banderdewa,
P.O./P.S.-Banderdewa,
Dist-Papumpare, Arunachal Pradesh.*
5. *Miss Anisha Bellai,
Police Training Centre (PTC), Banderdewa,
P.O./P.S.-Banderdewa,
Dist-Papumpare, Arunachal Pradesh.*
6. *Miss Jamchulu Chaitom,
Police Training Centre (PTC), Banderdewa,
P.O./P.S.-Banderdewa,
Dist-Papumpare, Arunachal Pradesh.*
7. *Miss Englu Singpho
Police Training Centre (PTC), Banderdewa
P.O/P.S:- Banderdewa
District:- Papumpare
Arunachal Pradesh.*
8. *Miss Padam Kimsing
Police Training Centre (PTC), Banderdewa
P.O/P.S:- Banderdewa
District:- Papumpare
Arunachal Pradesh.*
9. *Miss Jarako Siket*

*Police Training Centre (PTC), Banderdewa
P.O/P.S:- Banderdewa
District:- Papumpare
Arunachal Pradesh.*

10. *Miss Adam Tangha
Police Training Centre (PTC), Banderdewa
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11. *Miss Pompa Singpho
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12. *Miss Nembi Rongrong
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13. *Miss Kaitong Singpho
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14. *Miss Mailu Singpho
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15. *Miss Nuham Jangoi
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16. *Miss Suri Yalla
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17. *Miss Pungri Rimo
Police Training Centre (PTC), Banderdewa
P.O/P.S:- Banderdewa
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Arunachal Pradesh.*

18. *Miss Meena Tayam*
Police Training Centre (PTC), Banderdewa
P.O/P.S:- Banderdewa
District:- Papumpare
Arunachal Pradesh.
19. *Miss Anita Miji*
Police Training Centre (PTC), Banderdewa
P.O/P.S:- Banderdewa
District:- Papumpare
Arunachal Pradesh.
20. *Miss Mepung Yangfo*
Police Training Centre (PTC), Banderdewa
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Arunachal Pradesh.
21. *Miss Mery Tajo*
Police Training Centre (PTC), Banderdewa
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22. *Miss Apom Taba*
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23. *Miss Sapni Keyang*
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24. *Miss Menya Sonam Taffo*
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25. *Miss Kiran Yamdo*
Police Training Centre (PTC), Banderdewa
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Arunachal Pradesh.
26. *Miss Rita Bagang*
Police Training Centre (PTC), Banderdewa
P.O/P.S:- Banderdewa

*District:- Papumpare
Arunachal Pradesh.*

27. *Miss Lidom Minu
Police Training Centre (PTC), Banderdewa
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Arunachal Pradesh.*
28. *Miss Rechi Yano
Police Training Centre (PTC), Banderdewa
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29. *Miss Biri Yaluk
Police Training Centre (PTC), Banderdewa
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30. *Miss Kipa Kayu
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31. *Miss Osi Taksing
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32. *Miss Bamang Ana
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33. *Miss Bamang Kaku
Police Training Centre (PTC), Banderdewa
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Arunachal Pradesh.*
34. *Miss Nang Monika Chirang
Police Training Centre (PTC), Banderdewa
P.O/P.S:- Banderdewa
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Arunachal Pradesh.*
35. *Miss Nang Propha Namchoom*

*Police Training Centre (PTC), Banderdewa
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Arunachal Pradesh.*

*36. Miss Nang Purbani Moungkang
Police Training Centre (PTC), Banderdewa
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*37. Miss Nang Ausha Namchoom
Police Training Centre (PTC), Banderdewa
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*38. Miss Nang Yana Chawlu
Police Training Centre (PTC), Banderdewa
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*39. Miss Nang Upawana Lohan
Police Training Centre (PTC), Banderdewa
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*40. Miss Bhumechali Mantaw
Police Training Centre (PTC), Banderdewa
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*41. Miss Toimei Bohham
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*42. Miss Minu Wangpan
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*43. Miss Pehshuk Loham
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44. *Miss Ngambong Wangsu*
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45. *Miss Nyeman Wangpan*
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46. *Miss Monglih Bohham*
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47. *Miss Jingam Wangsa*
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48. *Miss Banchu Wangsu*
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49. *Miss Rinya Wangsu*
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50. *Miss Phengam Wangpan*
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51. *Miss Elima Mobi*
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52. *Miss Igu Perying*
Police Training Centre (PTC), Banderdewa
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53. *Miss Silek Passing*
Police Training Centre (PTC), Banderdewa
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54. *Miss Kempri Bini*
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55. *Miss Joram Manju*
Police Training Centre (PTC), Banderdewa
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56. *Miss Koj Yager*
Police Training Centre (PTC), Banderdewa
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57. *Miss Koj Yakang*
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58. *Miss Hage Kampi*
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59. *Miss Tailang Dumii*
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60. *MissTap Sangeeta*
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61. *Miss Suman Ngoba*
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62. *Miss Yura Anita
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63. *Miss Honi Rupa
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64. *Miss Hura Mariyam
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65. *Miss Heri Sonu
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66. *Miss Dolang Oni
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67. *Miss Yana Nabam
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68. *Miss Techhi Mekap
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69. *Miss Manisha Kro
Police Training Centre (PTC), Banderdewa
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70. *Miss Nabum Ninu
Police Training Centre (PTC), Banderdewa*

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- 71. Miss Tassar Yania
Police Training Centre (PTC), Banderdewa
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- 72. Miss Nabam Riju
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- 73. Miss Dawa Langmu
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- 74. Miss Tashi Lhamu
Police Training Centre (PTC), Banderdewa
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- 75. Miss Tashi Pema
Police Training Centre (PTC), Banderdewa
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- 76. Miss Lham Drema
Police Training Centre (PTC), Banderdewa
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- 77. Miss Joncha Lowang
Police Training Centre (PTC), Banderdewa
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Arunachal Pradesh.*
- 78. Miss Chake Lowang Medam
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79. *Miss Neecha Shin*
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80. *Miss Negan Tesia*
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81. *Miss Khomcha Pungjung*
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82. *Miss Namna Wangsa*
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83. *Miss Lamo Dolma*
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84. *Miss Apak Paron*
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85. *Miss Daty Paron*
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86. *Miss Osam Yompang*
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87. *Miss Aya Haro*
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88. *Miss Yajum Mara*
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89. *Miss Pinky Taring*
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90. *Miss Yamak Rai*
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91. *Miss Sita Nacho*
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92. *Miss Yashma Dignium*
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95. *Miss Tanzing Droma*
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96. *Miss Namgey Etron*
Police Training Centre (PTC), Banderdewa

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- 97. Miss Tenzin Chom Thungon
Police Training Centre (PTC), Banderdewa
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- 98. Miss Pempa Drema
Police Training Centre (PTC), Banderdewa
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- 99. Miss Sange Droma
Police Training Centre (PTC), Banderdewa
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- 100. Miss Tsering Droma Totpa
Police Training Centre (PTC), Banderdewa
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- 101. Miss Nawang Lamu Dungen
Police Training Centre (PTC), Banderdewa
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- 102. Miss Yarit Yordung
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- 103. Miss Yanya Yapik
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- 104. Miss Gebom Taipodia
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105. *Miss Damem Ingo*
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106. *Miss Sonam Uren Naksang*
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107. *Miss Yason Diru*
Police Training Centre (PTC), Banderdewa
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108. *Miss Yobom Yomgam*
Police Training Centre (PTC), Banderdewa
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109. *Miss Libi Karbak*
Police Training Centre (PTC), Banderdewa
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110. *Miss Magam Bam*
Police Training Centre (PTC), Banderdewa
P.O/P.S:- Banderdewa
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Arunachal Pradesh.

..... *Respondents*

2. WP (C) 49 (AP)2017

1. *Miss Inya Gadi*
Village- Tirbin, P.O/PS: Tirbin
West Siang District, Arunachal Pradesh.
2. *Miss Pekter Nyorak,*
Village-Nyorak, PS/P.S -Aalo: West Siang District,
Arunachal Pradesh.
3. *Miss Genu Ingo,*
Village-Logum Jini, P.O/P.S-Aalo, West Siang District,
Arunachal Pradesh.

4. *Miss Dubi Lollen,
Village Kombo Papak, P.O/P.S-Aalo, West Siang District,
Arunachal Pradesh.*
5. *Miss Ripi Lollen,
Village Kombo Pomte, P.O/P.S- Aalo, West Siang District,
Arunachal Pradesh.*

.....Petitioners.

-VERSUS-

1. *The State of Arunachal Pradesh
Represented through the chief secretary, Government of
Arunachal Pradesh, Itanagar.*
2. *The secretary ,Department of Home
Government of Arunachal Pradesh, Itanagar.*
3. *The Director General of Police ,
Government of Arunachal Pradesh, PHQ, Itanagar.*
4. *Assistant Inspector General of Police (E),
Government of Arunachal Pradesh, PHQ, Itanagar.*
5. *Miss Biri Yaluk
C/O Assistant Inspector General of Police (E), Government of
Arunachal Pradesh, PHQ, Itanagar.*
6. *Miss Toimei Bohham,
C/O Assistant Inspector General of Police (E), Government of
Arunachal Pradesh, PHQ, Itanagar.*
7. *Miss Ngambong Wangsu
C/O Assistant Inspector General of Police (E), Government of
Arunachal Pradesh, PHQ, Itanagar.*
8. *Miss Adam Tangha,
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18. Miss Bamang Kaku
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Arunachal Pradesh, PHQ, Itanagar.
19. Miss Banchu wangsui
C/O Assistant Inspector General of Police (E), Government of
Arunachal Pradesh, PHQ, Itanagar.
20. Miss Pompa Singpho
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Arunachal Pradesh, PHQ, Itanagar
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(E), Government of Arunachal Pradesh,
PHQ, Itanagar.
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40. *Miss Aya Haro,
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43. *Miss Tsering Drema Tetpa,
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C/O Assistant Inspector General of Police (E), Government of
Arunachal Pradesh, PHQ, Itanagar.*
50. *Miss Pinky Taring,
C/O Assistant Inspector General of Police (E), Government of
Arunachal Pradesh, PHQ, Itanagar.*
51. *Miss Manisha Kro,
C/O Assistant Inspector General of Police (E), Government of
Arunachal Pradesh, PHQ, Itanagar.*
52. *Miss Nang Ansha Namboom,
C/O Assistant Inspector General of Police (E), Government of
Arunachal Pradesh, PHQ, Itanagar.*
53. *Miss Nawang Lamu Dungen,
C/O Assistant Inspector General of Police (E), Government of
Arunachal Pradesh, PHQ, Itanagar.*
54. *Miss Nangrey Etron,
C/O Assistant Inspector General of Police (E), Government of
Arunachal Pradesh, PHQ, Itanagar.*
55. *Miss Yura Anita,
C/O Assistant Inspector General of Police (E), Government of
Arunachal Pradesh, PHQ, Itanagar.*

56. Miss Dollong Oni,
C/O Assistant Inspector General of Police (E), Government of
Arunachal Pradesh, PHQ, Itanagar.

57. Miss Nang Purbani Moongkang,
C/O Assistant Inspector General of Police (E), Government of
Arunachal Pradesh, PHQ, Itanagar.

.....respondents.

:::BEFORE:::
HON'BLE MR. JUSTICE NELSON SAILO

By Advocates:

For the petitioners: Muk Pertin, Sr. counsel for petitioner in WP (C) 148 (AP) 2015
Lissing Perme,
Dugmar Kamduk, learned counsel for petitioners in WP (C)
49 (AP) 2017

For the respondents: Mr. R. H. Nabam, learned Addl. A.G.
Arunachal Pradesh.

Date of hearing : **22.11.2018**
Date of Judgment : **27.11.2018**

JUDGMENT & ORDER (CAV)

This order will dispose of the 2 (two) writ petitions since issues involved are similar and identical.

2. Heard Mr. M. Pertin, the learned Sr. Counsel assisted by Mr. L. Perme, the learned counsel for the petitioner in WP (C) No. 148 (AP) 2015. Also heard Mr. D. Kamduk, the learned counsel appearing for the petitioners in WP (C) No. 49 (AP) 2017 and Mr. R. H. Nabam, the learned Addl. Advocate General, Arunachal Pradesh appearing for the State respondents.

3. None appears for the private respondents despite notice.

4. The case of the petitioners is that the respondents through an advertisement, dated 30.05.2013, (Annexure-1) which was issued by the Director General of Police, Arunachal Pradesh, invited eligible female candidates for 180 posts of lady Constable and 20 posts of lady Sub-Inspector. These 2 (two) writ petitions pertain to the posts of lady Constables only.

5. As per the advertisement, the selection procedure is to comprise of physical endurance/efficiency test, a written examination with a total of 300 marks and thereafter, an interview for those securing the minimum pass marks in the written examination. Accordingly, the petitioners responded to the advertisement for the post of lady Constable and participated in the selection process. After the written test and the viva-voce was conducted, the respondent authorities published an overall list of the selected candidates and the petitioner in WP (C) 148 (AP) 2015 found herself to be at Serial No. 74 in the list scoring 187.17 marks. The petitioners in WP (C) 49 (AP) 2017 found themselves at Serial Nos. 138, 109, 140, 136 & 120 respectively and they scored 176.33, 181.67, 176, 177 & 180 marks respectively. Thereafter, to the utter surprise of the petitioners, the respondent authorities concerned vide a result notification, dated 31.12.2013, published the Roll numbers of the provisional selected candidates district wise and the petitioners did not find their Roll numbers in the said notification. Subsequently, vide an offer of appointment letter, dated 04.03.2014 the selected candidates were given appointment and the petitioners did not find themselves included in the list as well. Being highly aggrieved, the petitioners have approached this Court.

6. Mr. M. Pertin, the learned Sr. Counsel submits that as many as 107 candidates who secured marks below the petitioners were appointed. As per the overall merit list, the petitioner having secured a total 187.17 marks should have been placed at the 69th position. By referring to Clause-4 of the advertisement, dated 30.05.2013, the learned Sr. Counsel submits that it was clearly provided that the recruitment for both the posts of lady Sub-Inspector and lady Constable were to be conducted centrally at Itanagar by separate

boards on separate dates. However, the respondent authorities instead, selected and recruited lady constables district wise while selection and appointment to the post of lady Sub-Inspector was done centrally. District wise selection and appointment having not been contemplated in the advertisement, dated 30.05.2013, the respondent authorities have clearly changed the rule of the game for the posts of lady Constables which is impermissible in law and therefore, the Fundamental Rights of the petitioners have clearly been violated. He, further, submits that by making recruitment to the posts of lady Sub-Inspector centrally while in case of lady constable district wise though under the same advertisement, the respondent authorities have clearly committed partiality and injustice upon the petitioners. As such, suitable interference of this Court is warranted.

7. Adopting the argument of the learned Sr. Counsel, Mr. D. Kamduk, the learned counsel appearing for the petitioners in WP (C) 49 (AP) 2017 submits that the respondent authorities by making the selection and recruitment district wise which otherwise was not provided for in the advertisement, dated 30.05.2013, have clearly committed illegality and resultantly, as many as, 53 candidates who secured marks below the petitioners were appointed to the said post. The petitioners were never informed that selection and recruitment will be made district wise. Therefore, in adopting the said procedure, the respondent authorities have clearly changed the rule of the game and as such, suitable interference of this Court is called for.

8. In support of their submissions, the learned counsels for the petitioners have relied upon the following authorities:-

(1) ***Kailash Chand Sharma-vs-State of Rajasthan and Ors., reported in (2002) 6 SCC 562;***

(2) ***Rajesh Kumar Gupta and Ors.,-vs-State of U.P. and Ors., reported in (2005) 5 SCC 172;***

(3) ***Hemani Malhotra-vs-High Court of Delhi, reported in (2008) 7 SCC 11;***

(4) K. Manjusree-vs-State of Andhra Pradesh and Anr., reported in (2008) 3 SCC 512;

(5) Mohd. Sohrab Khan-vs-Aligarh Muslim University and Ors., reported in (2009) 4 SCC 555;

(6) Tumnyak Ete-vs-State of Arunachal Pradesh & Ors., reported in 2002 (3) GLT 115.

9. Mr. R. H. Nabam, the learned Additional Advocate General, Arunachal Pradesh submits the pursuant to the advertisement, a proposal was sent by the Police Head Quarter on 02.07.2013 for making the recruitment to the post of lady Constable district wise and the said proposal was approved by the State Government on 30.08.2013. It was only thereafter that the selection to the post was initiated through a written test which was held on 08.09.2013. Mr. Nabam further submits that the State respondents have not committed any error in making the recruitment and selection district wise. He submits that all that was intended as per the advertisement, dated 30.05.2013, was that recruitment for the post of Constables and Sub-Inspector (female) be conducted centrally as conducting the recruitment district wise will be an expensive affair. He, therefore, submits that there is no impediment in making the ultimate selection district wise. Mr. Nabam, further, submits that the process of recruitment on one hand and the process of selection and appointment on the other hand not being same, the State respondents have not changed the rules of the game. The learned Addl. Advocate General further submits that pursuant to the advertisement, physical test for the post of lady Constables was conducted between 16.08.2013 to 01.09.2013. The actual selection was initiated on 08.09.2013 when the candidates underwent a written test. Thereafter, on 7th & 8th October, 2013, those candidates who passed the written test again faced the viva-voice test. Consequently, the result was declared on 31.12.2013 and a provisional offer of appointment was issued to the selected candidates on 04.03.2014. Therefore, there is no change in the rule of the game since the selection process only started on 08.09.2013 and the same criteria and

yardstick was applied to all the candidates who applied for the post. There being no discrimination, none of the rights of the petitioners have been affected.

10. The learned Addl. Advocate General submits that the decisions referred to by the learned counsels for the petitioners are clearly distinguishable. He submits that in case of ***Rajesh Kumar Gupta and Ors (Supra)***, a decision was taken at the very beginning to make the recruitment at the State level and therefore, it was for this reason that the Apex Court held that the authorities concerned cannot change the same subsequently by making the selection at the district level as it will be violative of Article 15 & 16 of the Constitution of India. In the present case since the decisions to make the recruitment and appointment district wise having been approved by the Government prior to the holding of certain test on 08.09.2013, the said decision will not apply to the case of the petitioners.

11. I have heard the submission advanced by the learned counsels for the rival parties and I have also perused the materials available on record.

12. The question to be decided is as to whether the recruitment and appointment of lady Constables could have been done district wise pursuant to the issuance of the advertisement, dated 30.05.2013. Clause-4 of the advertisement provides that the recruitment for both the posts of lady Sub-Inspector and lady Constables will be conducted centrally. Going by the submission of the learned Addl. Advocate General that the recruitment to the post in question is different from the selection of appointment to the posts and therefore, the respondent authorities cannot be faulted with the appointment and selection district wise, the same would mean that it was all along the intention of the Government to make the recruitment district wise. However, on perusal of the affidavit-in-opposition, filed by the respondent No. 3 on 18.04.2016, it is seen that an U.O. Note was received by the Police Department from the Minister, RWD and Tourism Department advising the conduct of recruitment by dividing the vacancies district wise so that equal

and proportionate representation of woman from all Districts in the State can be made. Accordingly, the proposal was submitted to the State Government by the Police Department seeking approval for district wise selection and recruitment on 02.07.2013. Approval of the State Government was given on 30.08.2013. The merit list of the candidates was prepared district wise and thereafter, the final result was declared on 31.12.2013 with the approval of the State Government. This will go to show that there was no intention of filling up of 180 posts of lady Constables district wise in the first place. Had it been so, there was no requirement for processing the proposal to get the approval of the State Government after the advertisement was issued on 30.05.2013. Furthermore, as may be already noticed, the recruitment to the post of lady Sub-Inspector which was also advertised alongwith the post of lady Constables has been done centrally and not district wise. Although, there is an attempt on the part of the State respondents to justify that the post of lady Sub-Inspector being an officer post, the most eligible and competent persons in the state are required to be recruited, this Court, however, does not find any force to this stand. The submission of the learned Addl. Advocate General that the actual recruitment only started from the stage of the written examination held on 08.09.2013 also cannot be accepted inasmuch as, it is a settled law that recruitment process for any post will begin from the stage of issuing of the advertisement, which in this case was on 30.05.2013.

13. In case of *Rajesh Kumar Gupta and Ors (Supra)*, the Apex Court held that the action of the State Government in resorting to the preparation of merit list from State level to district level on the ground of different districts having different dialects cannot be justified as there was no material to indicate the same. Therefore, the view already taken by the Division Bench of the High Court was concurred. The said decision in my considered view only applies to the present case as well. Under the circumstance, I do not find the requirement to dwell upon the other authorities relied upon by the petitioners. The petitioners in my considered view have succeeded in making out a case for interference by this Court. While taking such a view, Court is not unmindful of the fact that the selected candidates have since joined their

respective places of posting in the year 2015 after undergoing their basic training at Banderdewa. Therefore, it will not be proper to set aside the entire selection and appointment of lady Constables, at this stage. At the same time, with the respective marks obtained by the petitioners, they would have admittedly secured appointment if selection was made centrally as per the advertisement. In that view of the matter and under the facts and circumstances, without disturbing the appointment of the private respondents, I am of the considered view that ends of justice will be met if the respondent authorities are directed to appoint the petitioners as lady Constables against the available vacancies of lady Constable. In case there are no vacancies available presently, they shall be adjusted against the first available vacancies, which should be within the outer limit of 6 months from the date of receipt of a certified copy of this order.

14. It is ordered accordingly.

15. With the above observations and directions, the writ petition stands allowed. No cost.

JUDGE

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