2026:AHC-LKO:77650-DB

Reserved On : - August 20, 2026
Delivered On : - October 28, 2026

HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW

SPECIAL APPEAL No. - 20 of 2026

Ashok Kumar

.....Appellant(s)

Versus

State Of U.P. Thru. Addl. Chief Secy. Deptt. Of Housing And Urban Planing Lko. And 3 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Abhineet Jaiswal, Harsh Vardhan Mehrotra
Counsel for Respondent(s)	:	C.S.C., , Aditya Kumar Tiwari, Akriti Agarwal, Anoop Kumar, Apoorva Tewari, Sangini Jha, Shobhit Mohan Shukla, Vijai Kumar Shukla

Court No. - 3

HON'BLE SHEKHAR B. SARAF, J.
HON'BLE ABDHESH KUMAR CHAUDHARY, J.

Abdhesh Kumar Chaudhary, J.: Heard Shri Gaurav Mehrotra, learned Senior Advocate, assisted by Shri Abhineet Jaiswal and Shri Saurabh Pandey, appearing for and on behalf of the petitioner, Shri Sudip Kumar, learned Additional Advocate General, assisted by Shri Anand Singh, learned Standing Counsel, appearing for and on behalf of respondent nos. 1 to 3-State Authorities as well as Shri J.N. Mathur, learned Senior Advocate, assisted by Shri Apoorva Tewari, Shri Shobhit Mohan Shukla and Ms.

Akriti Agarwal, appearing for and on behalf of respondent no. 4.

2. The present Special Appeal has been preferred by the appellant under Chapter VIII, Rule 5 of the Allahabad High Court Rules, 1952 interdicting the order dated 09.12.2025, passed by the Hon'ble Single Judge of this Court in *Writ-A No. 13845 of 2025 (Ashok Kumar Vs State of U.P. and Others)*.

3. The factual matrix of the present Appeal lies in a narrow compass. It emerges from records that the appellant, Ashok Kumar, was initially appointed on the post of 'Assistant Engineer' in the Department of Town and Country Planning, Government of Uttar Pradesh, vide letter dated 01.02.1992.

4. Subsequently, vide order dated 11.06.2001 issued by the Additional Chief Secretary/Principal Secretary, Department of Housing and Urban Planning, Government of Uttar Pradesh, (hereinafter referred to as "respondent no.2"), the appellant was promoted to the post of 'Executive Engineer'. However, the said promotion was subject to the outcome of *Writ Petition No. 831 (S/B) of 2001 (Rajiv Sharma v. State of U.P. and Others)*. Apparently, the said writ petition was allowed by this Court vide judgment and order dated 28.08.2010, whereby the promotion order dated 11.06.2001 was quashed. Consequently, by Office Memorandum dated 01.06.2011 issued by the Secretary, Department of Housing and Urban Planning, Government of Uttar

Pradesh, (hereinafter referred to as "respondent no.3"), the appellant was reverted to the post of Assistant Engineer.

5. Thereafter, the appellant was again considered for promotion to the post of 'Executive Engineer' in the normal course (without any claim of reservation benefit) and was promoted to the said post vide order dated 18.12.2012 issued by the respondent no.2 in which the appellant continued to discharge his duties. By Office Order dated 23.04.2025, the appellant was attached/posted in the Lucknow Development Authority, while remaining an officer of the parent Department of Town and Country Planning. Prior thereto, the appellant had also held charge of Associate Planner at Agra (vide Office Memorandum dated 06.08.2020) with additional charge of Associate Planner at Jhansi (vide Office Memorandum dated 05.12.2023).

6. The present controversy stems out for promotion on the post of Chief Town and Country Planner. It is pertinent to mention herein that the posts in the Department of Town and Country Planning are governed by the Uttar Pradesh Town and Country Planning Service Rules, 1987 (hereinafter referred to as "the 1987 Rules"). Rule 5 of the 1987 Rules provides the source of recruitment.

7. The post of Chief Town and Country Planner (C.T.C.P.) is to be filled by promotion from amongst Senior Planners who have put in at least five years of

service as such. In turn, the post of Senior Planner is to be filled by promotion from amongst permanent Town Planners, Associate Planners, Senior Architects and Executive Engineers (holding a degree in Civil Engineering), who possess the qualifications prescribed in Appendix 'B' for the post of Senior Planner and who have put in at least seven years of service on a gazetted post in the Uttar Pradesh Town and Country Planning Department.

8. As far as the Appellant is concerned, he claims to have completed the Associateship Examination conducted by the Town Planning Examination Board of the Institute of Town Planners, India, and was certified on 26.05.2007. Further, vide certificate dated 25.10.2008 issued by the Institute of Town Planners, India, the appellant was elected as Associate Member of the said Institute. The Appellant also relies on the fact that on 05.11.2008, the Under Secretary, Department of Housing and Urban Planning, Government of Uttar Pradesh, had sought clarification from the All-India Council for Technical Education (AICTE) as to whether the Associateship Examination conducted by the Institute of Town Planners, India, was equivalent to a Master's Degree in Planning. By letter dated 06.11.2008, the AICTE clarified that the Associateship Examination conducted by the Institute of Town Planners, India, is equivalent to a Master's Degree in Planning. Further, a list of technical and professional qualifications recognised by the Government of India (Ministry of Education and Social Welfare, in the year 1978) also records the Associateship Examination of the

Institute of Town Planners, India, as recognised qualification for recruitment to superior posts and services under the Central Government in the field of Town Planning. Also, an Office Memorandum of the Government of India, Ministry of Scientific Research and Cultural Affairs dated 04.04.1963, similarly recognises the said examination for recruitment to superior posts under the Central Government in the field of Town Planning.

9. Be that as it may, it emerges from the records that in the combined seniority list dated 29.05.2020 prepared for the purpose of promotion to the post of Senior Planner, the name of the appellant appeared at Serial No. 3. The officers at Serial Nos. 1 and 2 have since superannuated, and the name of one Mr. Krishna Mohan (hereinafter referred to as "respondent no.4"), appeared at Serial No. 10 of the said list.

10. Subsequently, a Departmental Promotion Committee (DPC) was convened on 31.12.2008 for considering eligible candidates for promotion to the post of Senior Planner (earmarked for a reserved category candidate). Apparently, the appellant's candidature was not recommended on the ground that he did not possess the academic qualification prescribed under the 1987 Rules. The appellant represented against the same vide application dated 01.01.2009. On objections being raised, a revised DPC was constituted on 14.07.2009. However, no formal order rejecting the appellant's candidature pursuant to the DPC of 31.12.2008 was ever

communicated. In any case, the said recommendation or any consequential order was never challenged by the appellant.

11. In the meantime, a *Writ Petition No. 64 (S/B) of 2009 (Ajay Kumar Mishra & Others v. State of U.P. and Others)* came to be filed, in which the appellant was arrayed as a respondent, wherein the State filed a detailed counter-affidavit asserting (in paragraphs 11, 29 and 31) that the appellant possessed the necessary qualifications mandated by the 1987 Rules for promotion to the post of Senior Planner. However, the said writ petition was ultimately dismissed as not pressed. As contended by the appellant, one Smt. Yashodhara Jain, who possessed the same qualification of Associateship Examination conducted by the Town Planning Examination Board and Associate Membership of the Institute of Town Planners, India, was granted substantive appointment/promotion to the post of Senior Planner vide orders dated 08.06.2001 and 18.12.2012 and one Dr. R.K. Udayan, similarly qualified, was also promoted to the post of Associate Planner vide order dated 10.01.2018.

12. Subsequently, a Government Order dated 27.09.2019 issued by the Chief Secretary, Government of Uttar Pradesh, clarified the procedure for filling posts where the criterion was earmarked as 'merit', *inter alia* providing that a benchmark of 80 marks shall be fixed and, amongst those crossing the benchmark, seniority shall be the determining factor for promotion. There is

admittedly no substantive appointment presently existing on the post of Senior Planner. Consequently, recruitment to the post of Chief Town and Country Planner is required to be considered from amongst the eligible officers in the feeding cadres, including Executive Engineers and Architect Planners, who fulfill the qualifications prescribed in Appendix 'B'.

13. By order dated 04.11.2025 issued by the Special Secretary, Department of Housing and Urban Planning, Government of Uttar Pradesh, officiating charge of the post of Chief Town and Country Planner was entrusted to respondent No. 4 (who is substantively holding the post of Architect Planner). Apparently, the Respondent No. 4 holds a Master's Degree in Urban Development Planning. The appellant asserts that the said degree is not the degree or post-graduate diploma in Town and Country Planning prescribed in Appendix 'B' of the 1987 Rules, and further that the initial appointment of respondent No. 4 was on the post of Assistant Architect Planner, which is not a feeding cadre post for promotion to the post of Senior Planner or Chief Town and Country Planner under the 1987 Rules.

14. Aggrieved by the order dated 04.11.2025, the appellant preferred *Writ-A No. 13845 of 2025* before this Court, seeking quashing of the said order, along with a direction to consider the appellant for officiating charge of the post of Chief Town and Country Planner strictly on the basis of merit and seniority. An ancillary direction to constitute a Departmental Promotion Committee for

substantive recruitment to the post of Senior Planner was also sought in the said writ petition.

15. The aforesaid writ petition was heard by a Hon'ble Single Judge of this Court and on 09.12.2025, after considering the rival submissions, the said Single Judge held that the essential academic qualification prescribed in Appendix 'B' for the post of 'Senior Planner' is a degree or post-graduate diploma in Town and Country Planning from a recognised institution and that the Rules do not prescribe any equivalence for the said post (unlike the post of Assistant Planner) and that the Court cannot read into the Rules an equivalence not provided by the Rule-making authority, and that the AICTE clarification and Central Government recognitions pertain to Central Government services and cannot be imported into the State Rules. The Hon'ble Single Judge further held that there can be no estoppel against the Statute and that earlier promotions granted to officers possessing similar qualifications (including Smt. Yashodhara Jain) or the stand taken by the State in the counter-affidavit in *Writ Petition No. 64 (S/B) of 2009* would not bind the State. It was also held that the essential qualifications required for substantive appointment would equally apply to the grant of officiating charge.

16. Accordingly, the Hon'ble Single Judge *dismissed* the writ petition with respect to prayer Nos. 1 and 2 (challenging the order dated 04.11.2025 and seeking consideration of the appellant for officiating charge), while *partly allowing* the petition in respect of prayer No.

3 by directing the opposite parties to constitute a Departmental Promotion Committee for substantive recruitment to the post of Senior Planner and to complete the exercise within six months.

17. Aggrieved by the judgment and order dated 09.12.2025, the appellant has preferred the present Special Appeal contending that the Hon'ble Single Judge proceeded to decide the matter *in limine* without calling for a counter-affidavit, as well as alleging that the finding that respondent No. 4 possesses the requisite qualification under Appendix 'B' is factually incorrect and based on an unverified oral submission of the learned Additional Advocate General appearing for the Respondent-State. According to the Appellant, both the respondent No. 4 and appellant, merely possess equivalent qualifications and not the qualification prescribed *stricto sensu* as per "Appendix-B" and such the State cannot approbate and reprobate in view of its earlier stand and past promotions granted to similarly qualified officers. It also contended that the AICTE clarification obtained by the State itself cannot be disregarded, and that the grant of officiating charge to respondent No. 4 by bypassing the senior-most eligible officer is arbitrary and in violation of Article 14 of the Constitution of India.

18. Learned Senior Counsel for the appellant reiterated the grounds set out in the memorandum of appeal and submitted in substance, that the Hon'ble Single Judge decided the writ petition *in limine*, without calling for a

counter-affidavit from the respondents, notwithstanding that the writ petition turned on disputed questions of fact. According to Mr. Mehrotra, the entire edifice of the impugned judgment, insofar as it upholds the grant of officiating charge of the post of Chief Town and Country Planner to respondent no. 4, rests on a single factual premise, that respondent no. 4 possesses the academic qualification prescribed in Appendix 'B' of the 1987 Rules. He has vehemently submitted that the said findings of the Hon'ble Single Judge was never tested against any document as it is apparent from a plain reading of the impugned judgment that the same was accepted by the Hon'ble Single Judge solely on a submission made across the Bar by counsel for the Respondent-State, without any affidavit, certificate, or degree being placed on the record and without the appellant being afforded any opportunity to inspect or controvert it.

19. He has further urged this Court to examine the certificate issued to the Respondent No.4, filed for the first time in the present Special Appeal relating to his 'Master's Degree in Urban Development Planning' from Barkuttalah University and has vehemently submitted that the said qualification is not the same as the degree or post-graduate diploma in Town and Country Planning, as is prescribed in Appendix-B of 1987 Rules. *Arguendo,* according to the learned counsel, the reliance of the State Government on the letter dated 10.05.2022 (filed as annexure-CA-1 to the counter) issued by the School of Planning and Architecture, New Delhi also does not support the case/qualification of the Respondent No.4, in

as much as the certificate does not in any manner hold that the earlier post-graduate diploma in Town and Country Planning is equivalent or synonymous to the five specialized masters degree in planning, being now provided by the said school under the nomenclature as provided in the said letter. According to his submission, even this certificate issued by the School and Planning, New Delhi does not mention anything about the post graduate degree, namely 'Master's Degree in Urban Development Planning', obtained by the Respondent No.4. Thus, it has been sought to be argued by the learned Senior counsel, that the post graduate degree obtained by the said contesting respondent No.4 is not as per the prescribed Appendix-B of the 1987 Rules and as far as the qualification required for promotion to the post of Chief Town and Country Planner, both the Appellant and the Respondent No.4 sail in the same boat.

20. It has been further submitted that the question whether the Associateship Examination of the Institute of Town Planners, India, read with the clarification of the AICTE dated 06.11.2008 and the recognitions of the Government of India dated 04.04.1963, can be treated as equivalent to the qualification prescribed in Appendix 'B' — and whether such equivalence, even if not expressly provided for the post of Senior Planner, has nonetheless been recognised and acted upon by the State in the case of similarly placed officers (Smt. Yashodhara Jain and Dr. R.K. Udayan) and in its own counter-affidavit in *Writ Petition No. 64 (S/B) of 2009*, required examination on affidavit and could not properly have been foreclosed

without calling upon the respondents to explain their stand and without providing an adequate opportunity. According to the learned Senior counsel, the plea of the State being precluded, on facts, from taking a position inconsistent with its earlier conduct and representations (as distinct from an estoppel against the Statute, which is not what was urged) was not addressed on its own terms.

21. Lastly, it has been argued that it has been the consistent stand of the Respondent-State that the educational qualification prescribed in the service rules 1987 for the post of Chief Town and Country Planner does not mention of equivalence of any other qualification. Thus, according to him, when the respondent No.4 does not meet the requisite prescribed qualification as provided under the Rules and has been promoted on the basis of equivalence in educational qualification, as to why the Respondent-State has been discriminatory in providing an equal opportunity to the Appellant. It has also been submitted that his said contention is fortified by the admission made by the Respondent-State in their supplementary affidavit at paragraph No.10, wherein *inter-alia* they have disclosed that the department of personnel, keeping in view of the service Rules of 1987 has advised the administrative department first to determine the corresponding similar qualification by a reasoned exercise and suitably amend the Rules of 1987 and only thereafter, proceed for the selection. Thus, it has been submitted that since equivalence to a qualification cannot be read into the service Rules of

1987 and keeping in view that there is no available candidates for promotion to the said post, keeping in view the judgment of ***Premlata Joshi Vs Chief Secretary, State of Jharkhand,*** reported in ***(2013) 16 SCC 482,*** where there are two incumbents under consideration for officiating charge of head of department and equal in merits, then seniority should prevail. He has also relied on the judgment of this Court in ***Soney Lal V/s State of Uttar Pradesh*** *(Writ petition No. 1090 (S/B) of 2013 vide order dated 09.07.2013)* to buttress his argument that even while granting officiating charge, the Respondent-State is bound to adhere to order of seniority.

22. *Per contra,* the learned Additional Advocate General appearing for the Respondent-State has tried to justify the orders passed by the Hon'ble Single Judge by filing a counter-affidavit and a supplementary counter-affidavit. The learned A.A.G. has submitted that the U.P. Town and Country Planning Service Rules, 1987 does not mention equivalence in respect of the educational qualification prescribed for promotion to the post of Senior Planner. He has stoutly relied on the letter dated 10.05.2022 sent by the School of Planning and Architecture, New Delhi to the Chief Town and Country Planner, U.P., relating to the clarification issued by them relating to the conducting of course of "Post graduate diploma in Town and Country Planning" prior to the year 1978 and post 1978, conducting the Master degree course in *(i)* Master of Planning (Urban Planning), *(ii)* Master of Planning (Regional Planning), *(iii)* Master of Planning (Transport

Planning), *(iv)* Master of Planning (Housing) and *(v)* Master of Planning (Environment Planning). He has also relied on the letter dated 09.05.2022 of the Secretary General, Institute of Town Planner, India to argue that the Respondent No.4 is a 'Master of Urban Development Planning' from Barkatullah University and is also an Associate Member of I.T.P.I., New Delhi since 1999 to justify the selection made by the Respondent-State of the Respondent No.4 as officiating Head of the Country and Town Planning Department. According to the learned A.A.G., the appellant does not possess the educational qualifications prescribed for the post of senior planner under the 1987 service Rules and as such was rightly not considered for promotion to the post of officiating head of the department.

23. As far as the Respondent No.4 is concerned, the learned Senior Counsel has vehemently argued that DPC in its meeting dated 31.12.2008, had duly considered the appellant for promotion to the post of Senior Planner and as such had also examined the educational qualification, including qualifying the Associateship Examiantion conducted by the Institute of Town Planners, the letter dated 06.11.2008 of the AICTE, wherein it was informed to the Respondent-State that the Associateship Examination was equivalent to the Master degree of planning. However, the DPC keeping in view the Service Rules 1987, found that the said Rules do not contemplate any equivalence to the prescribed qualification of a Master degree in Town Planning and as such the candidature of the appellant was rejected. According to

the learned Senior Counsel, the Appellant never challenged the said decision of the DPC dated 31.12.2008, which for all purposes attained finality and as such the issue of lack of educational qualification of the appellant for the post of senior planner or next higher posts, stands concluded for all intents and purposes as on 31.12.2008. It has been further submitted that the entire case of the appellant is based on negative parity by giving illustration of past illegality of the department in making promotion, which according to the learned Senior counsel cannot act as an estoppel against the Statute and is in violation of the Rules of 1987.

24. It has been next argued that Rule 5(1) of the Rule of 1987 does not contemplate preparation of any joint seniority list. According to the learned Senior counsel, a seniority list is prepared for employee who belonged to a common cadre and in the present case the posts of Executive Engineer, Town Planner, Senior Architect and Architect Planner do not constitute a single cadre and as such there cannot be single joint seniority list. He has further submitted that besides the fact that the claim of the appellant is purely based on equivalence of degree, which admittedly cannot be read into the Rule of 1987 as far as educational qualification of a senior planner is concerned, according to him, even the claim of the appellant that the appellant is senior to the respondent No.4 is also not tenable as they are not members of the same cadre of service.

25. The learned Senior counsel has also relied on the judgment of ***Laxmikant Sharma v. State of Madhya Pradesh,*** reported in ***2025 SCC OnLine SC 2712,*** to submit that the Respondent No.4 was not seeking equivalence with a different degree, but actually was fulfilling the prescribed essential qualification when read contextually and purposively.

26. We have heard learned counsel for the parties and perused the material on record.

27. At the very outset, the issue is no longer *res integra* that that a writ petition may, in an appropriate case, be decided without calling for a counter-affidavit where the questions involved are purely legal and the facts necessary for their determination are either admitted or apparent from the record. However, where the resolution of the controversy turns upon disputed or unverified facts, particularly facts going to the eligibility of a third party whose interest is directly affected by the decision, the Court ought ordinarily to have the benefit of a counter-affidavit before recording a finding of fact adverse to a party who has had no opportunity to place his version on record.

28. In the present case, the entitlement of Respondent No. 4 to hold officiating charge of the post of Chief Town and Country Planner was made to turn, in the impugned judgment, upon a finding that he possesses the qualification prescribed in Appendix 'B' of the 1987 Rules. This finding, on the face of the impugned order itself,

appears to have been recorded on the basis of a submission made across the Bar and not upon any affidavit or document placed on record. The Hon'ble Single Judge at para 10 of the impugned order *inter-alia* recorded the said submission of the learned Additional Advocate General, which is being delineated herein below:

> ***"9.*** *Mr. Sandeep Kumar, learned Additional Advocate General has refuted submissions advanced by learned counsel for petitioner with the submissions that Rule-5 of the aforesaid Rules clearly indicates the aspect that the post of Chief Town and Country Planner(CTCP) is required to be filled up buy the promotion from amongst Senior Planners who have put in atleast 5 years as such and the post of Senior Planners requires promotion from amongst permanent Town Planners, Associate Planners, Architect Planners, Senior Architect and Executive Engineers holding a degree in Civil Engineering who possess qualification prescribed in Appendix -B. He has thereafter referred to Appendix -B of the aforesaid ruled to submit that degree or post graduate diploma in Town and Country Planning from a recognized institution is an essential qualification for recruitment on the Post of Senior Planner. It is submitted that since admittedly petitioner does not possess the aforesaid degree or post- graduated diploma, there was no question of providing him with officiating charge of the post of Chief Town and Country Planner (CTCP) while opposite party No.4 fulfilling aforesaid essential qualifications has been provided officiating charge of the said post. It is further submitted that once the essential qualifications as indicated in Appendix-B of the aforesaid rules do not prescribe for any equivalence, the same cannot be considered."*

29. Apparently, the issue turns on the fact that the Respondent No.4 had the requisite educational qualification as prescribed under Appendix-B of the Rule of 1987, whereas the Appellant did not possess the said qualification. However, it is now brought to our notice and not seriously disputed by the State, that this very premise stands falsified, in as much as the qualification actually held by Respondent no. 4, is a Master's Degree in Urban Development Planning, and on its face, is not the "degree or post-graduate Diploma in Town and Country Planning" contemplated by Appendix 'B' under the service Rules of 1987.

30. We need not mention the long list of precedents, wherein it is a settled proposition that a judicial finding cannot be permitted to stand once the factual foundation on which it rests is shown to be incorrect, particularly where that foundation was never independently verified in the first place. The Hon’ble Supreme Court has consistently held that an adjudication induced by an incorrect or unverified representation cannot be equated with one rendered on tested material, and that the sanctity of judicial findings depends upon their being anchored to the record rather than to assertions taken on trust. In the aforesaid compelling facts, we are of the considered view, that a finding resting on a foundation now shown to be erroneous cannot be allowed to conclude the rights of the parties, and the least that fairness demands is that the matter be re-examined on verified material.

31. Further, we find that in the aforesaid background, the Hon'ble Single Judge refuting the claim of possessing equivalence by the Appellant vide paragraph 21 of the impugned order in the following words:

> ***"21.*** *In the Considered opinion of this court when the service rules do not prescribe any equivalence with regard to essential academic qualifications, it is not for this court to interpret the same in a manner which would obviate the very purpose of essential academic qualifications. In case equivalence is held to be read for recruitment on the Post of senior Planner, it will amount to incorporation of a condition which has been specifically omitted by the rule making authority in its wisdom. It is settled law that such an incorporation can be made only in case the provisions are ambiguous. In the present case, there being no ambiguity this court does not find it appropriate to incorporate words in the rules which have been specifically omitted as has been held in the case of All Kerala Parents Association vs State of Kerala [(2018) 2 SCC 410].***"**

32. No doubt, we prima-facie hold the view taken by the Hon'ble Single Judge correct, however, after hearing the learned counsel for the parties and perusing the material on records, we find that no doubt the argument of the Appellant claiming for equivalence was stoutly rejected by the Hon'ble Single Judge, however, it had no occasion to examine the educational qualification of the Respondent No.4 as the window for any examination was immediately shut on the submission of the learned Additional Advocate General, which does not appear to be prima-facie correct, in view of the documents filed on record in

the present Special Appeal. Apparently, the aspect pertaining to the ineligibility of the Respondent No.4 on the same parameters on which the appellant was found to be ineligible was neither argued nor the same was considered by the Hon’ble Single judge in the peculiar facts of the case, wherein neither any counter was called for nor an opportunity was granted to the appellant to repel the said submission of the learned A.A.G. This according to our view, offends the elementary requirement that no person (nor a party's substantive case) should be condemned or defeated on a factual finding without being heard on the material said to support it. In the aforesaid circumstances, where such a breach has occasioned real prejudice, as it manifestly has here, given that the very fact finding is now shown to be wrong, the resultant order cannot be sustained and the matter must be sent back for the material to be properly placed, tested and adjudicated in accordance with law (Please see: *State of U.P. v. Sudhir Kumar Singh, (2021) 19 SCC 706)*.

33. It also seems that the appellant's specific case that the Master's Degree in Urban Development Planning held by Respondent No. 4 is not the "degree or post-graduate Diploma in Town and Country Planning" contemplated by Appendix 'B', and that his initial appointment was to a post which does not fall within the feeding cadre under the 1987 Rules — has, therefore, not been tested against any material furnished by the respondents. Equally, the question of equivalence sought to be pressed by the appellant (the AICTE clarification, the 1978 and 1963

recognitions of the Government of India, and the instances of Smt. Yashodhara Jain and Dr. R.K. Udayan, as also the stand of the State in its counter-affidavit in *Writ Petition No. 64 (S/B) of 2009)* is a matter which the State-respondents ought to have had the opportunity to explain, distinguish, or controvert on affidavit, particularly where the appellant's grievance is that the State cannot disregard a clarification obtained at its own instance or depart from a consistent past practice without explanation. Whether such reliance is ultimately tenable in the face of the express language of Appendix 'B' and the principle that there can be no estoppel against a Statute is a matter for final adjudication; but that adjudication is better made after the respondents have had an opportunity to place their stand on record, rather than at the threshold.

34. There is another aspect of the matter, in as much as independent of any question of the oral submission of the learned A.A.G. that the Respondent No.4 had the requisite educational qualification and the Appellant was short of the said qualification, according to this Court, the Hon’ble Single Judge, having correctly held that Appendix 'B' admits of no equivalence clause for the post of Senior Planner, was bound, *a fortiori*, to examine with rigour whether Respondent No.4 held the exact qualification stipulated and could not have dispensed with that scrutiny by accepting an oral assurance in place of the certificate itself. It is well settled that eligibility for public appointment must be tested strictly against the qualification actually held and as prescribed by the Rules,

that Courts will not read in an equivalence not provided by the Rule-making authority, and that the prescribing/recruiting authority's Rules must be applied with scrupulous exactitude (Please see: *Zahoor Ahmad Rather v. Sheikh Imtiyaz Ahmad, (2019) 2 SCC 404; Bedanga Talukdar v. Saifudaullah Khan, (2011) 12 SCC 85).* In the considered view of this Court, it would be wholly incongruous for the very rigour applied to the appellant's qualification to be relaxed, in the same judgment, into an unverified oral acceptance where respondent no. 4's qualification was concerned.

35. We are conscious that the Hon'ble Single Judge has, by the impugned order, already directed constitution of a Departmental Promotion Committee for substantive recruitment to the post of Senior Planner within six months (prayer no.3), and no exception has been taken to that direction by either side. That part of the impugned order does not, therefore, call for interference. However, insofar as prayer nos. 1 and 2 are concerned, namely, the challenge to the order dated 04.11.2025 granting officiating charge to Respondent No.4, and the consequential prayer for consideration of the appellant for such charge, we are of the view that the matter requires fresh consideration by the Hon'ble Single Judge after calling for a counter-affidavit from the respondents and, if necessary, a rejoinder-affidavit from the appellant, so that the factual disputes noted above may be properly adjudicated upon complete material.

36. For all the reasons recorded above, the Special Appeal is ***allowed in part.*** The judgment and order dated 09.12.2025 passed in *Writ-A No. 13845 of 2025*, to the extent it dismisses prayer nos. 1 and 2 of the writ petition, is **set aside** and as such, *Writ-A No. 13845 of 2025* is **restored to its original number**, to the limited extent of prayer nos. 1 and 2, on the file of the Hon'ble Single Judge for fresh consideration, in accordance with law.

37. All the respondents shall file a counter-affidavit within a period of three weeks from today, and the appellant (writ petitioner) shall be at liberty to file a rejoinder-affidavit within one weeks thereafter. The Hon'ble Single Judge shall thereafter proceed to decide the said prayers afresh, uninfluenced by any observation made in the judgment and order dated 09.12.2025 or in this order on the merits of the rival contentions, all of which are kept open.

38. The direction contained in the impugned order for constitution of a Departmental Promotion Committee for substantive recruitment to the post of Senior Planner within six months (prayer no.3) shall remain **undisturbed** and shall be given effect to independently of the remand directed above.

39. Until the writ petition is freshly decided to the extent remanded, the arrangement of officiating charge presently in force shall continue, subject to the result of the writ petition or any interim order(s) passed by the

Hon’ble Single Judge, and it is clarified that any continuation thereof shall not confer any equity in favour of Respondent No.4 or prejudice the rights of the appellant.

40. All rights and contentions of the parties, including on the questions of qualification, equivalence, and the plea founded on the earlier conduct/stand of the State, are left open to be urged before the Hon’ble Single Judge.

41. The Hon’ble Single Judge is requested to decide the remanded proceedings expeditiously, preferably within a period of two months from today, keeping in view that the Appellant is slated to superannuate on 31.12.2026.

42. There shall be no order as to costs.

(Abdhesh Kumar Chaudhary, J.)

I agree

(Shekhar B. Saraf, J.)

October 28, 2026
Anuj Singh