

2026:PHHC:007942-DB



CWP-PIL-141-2025

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-PIL-141-2025**Reserved on : 10.12.2025****Pronounced on : 21.01.2026****Uploaded on: 21.01.2026**

**Whether only operative part of the judgment is
pronounced or the full judgment is pronounced:**

full judgment

Pradeep Singh Advocate

.....Petitioner

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJIV BERRY**

Present: Mr. Jagmohan Singh Bhatti, Advocate,
for the petitioner.

Mr. Ankur Mittal, Senior Advocate (Arguing Counsel)
With Mr. Sourav Mago, Deputy A.G., Haryana,
Mr. Gaurav Bansal, Deputy A.G., Haryana, and
Ms. Kushaldeep Kaur, Advocate,
for the State of Haryana.

SHEEL NAGU, CHIEF JUSTICE

1. The powers under Article 226 read with Article 227 of Constitution of India are invoked, seeking a writ of Quo Warranto against respondent No.2 – Shri Pravindra Singh Chauhan, Advocate General, State of Haryana, alleging that his appointment is in disregard of the constitutional provisions, memorandum of procedure for Appointment of High Court Judges and is violative of Article 165 (1) of the Constitution.

1.1 Learned counsel for the petitioner has relied upon decisions of Apex Court in **B.K. Kapur Vs. State of Tamil Nadu and another, (2001) 7**



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SCC 231; Hari Bansh Lal Vs. Sahodar Prasad Mahato and others, (2010) 9 SCC 655; M. Manohar Reddy and another Vs. Union of India and others, (2013) SCC 99; Rajesh Awasthi Vs. Nand Lal Jaiswal and others, (2013) 1 SCC 501; Central Electricity Supply Utility of Odisha Vs. Dhobei Sahoo and others, (2014) 1 SCC 161; M. Pentiah Vs. Muddala Veeramallappa, AIR 1961 SC 1107; S.P. Jain Vs. Krishan Mohan Gupta, (1987) 1 SCC 191; RBI Vs. Peerless General Finance and Investment Co. Ltd., 1987 (1) SCC 424; Tinsukhia Electric Supply Co. Ltd. Vs. State of Assam, (1989) 3 SCC 709; UCO Bank and another Vs. Rajinder Lal Capoor, (2008) 5 SCC 257; Grid Corporation of Orissa Ltd. Vs. Eastern Metals and Ferro Alloys, (2011) 11 SCC 334; Gambhirdan K. Gadhvi Vs. State of Gujarat and others, (2022) 5 SCC 179; Dr. Premachandran Keezhoth and another Vs. Chancellor Kannaur University and others, AIR 2024 SC 135; Dr. Bool Chand Vs. The Chancellor, Kurukshetra University, AIR 1968 SC 292; State of Travancore – Cochin and others Vs. The Bombay Co. Ltd. State of Travancore – Cochin and another, AIR 1952 Trav. Cochin 66; G.D. Karkare Vs. T.L. Shevde, AIR 1952 Nag. 330; The University of Mysore and another Vs. C.D. Govinda Rao and another, AIR 1965 SC 491; Suo moto Contempt Petition (Crl.) No.10 of 2021 (Re : Arundhati Roy), reported in AIR 2002 SC 1375; Southern Power Distribution Power Co. Ltd. Vs. Hinduja National Power Corporation Ltd., (2022) 5 SCC 484; P.V. George and others Vs. State of Kerala and others, (2007) 3 SCC 557; Employees' State Insurance Corpn. Vs. Jardine Henderson Staff Association, (2006) 6 SCC 581; E.P. Royappa Vs. State of Tamil Nadu and another, AIR 1974 SC 555; Maneka Gandhi Vs. Union of India, AIR 1978 SC 597; R.D. Shetty Vs. International Airport Authority of India and others, AIR 1979 SC 1628; Inderpreet Singh Kahlon and others



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Vs. State of Punjab and others, AIR 2006 SC 2571; Manoj Narula Vs. Union of India, (2014) 9 SCC 609; and K. Karunakaran Vs. T.V. Eachara Warriar, (1978) 1 SCC 18.

1.2 Learned counsel for the petitioner has also relied upon decision of Himachal Pradesh High Court in **Dr. Het Ram Kalia Vs. Himachal Pradesh University, AIR 1977 NOC 246,** decision of Calcutta High Court in **Ashgar Ally Vs. Dr. Birendra Nath Dey, AIR 1945 Cal. 249;** and a decision rendered by United Kingdom House of Lords in **R. Vs. Horseferry Road Magistrate's Court Ex. P. Bennett** reported in (1994) 1 AC 42.

2. The decisions of the Hon'ble Supreme Court as well as various High Courts have been relied upon by the petitioner essentially to canvass the following propositions: the scope of a writ of *quo warranto*; the higher standard required to be demonstrated by holders of constitutional offices; mandatory compliance with statutory and constitutional procedures in appointments to high offices, the principle that subsequent events cannot cure initial illegality and the concept of moulding of relief in exercise of judicial review.

3. The entire argument of the petitioner centres around a comparison of the eligibility, propriety and desirability of holding the office of a Judge of a High Court with that of holding the office of Advocate General of a State.

3.1 The petitioner essentially raises the following grounds:-

- (i) That respondent No.2 does not satisfy the eligibility and propriety required for holding the office of a Judge of a High Court and, therefore, cannot be permitted to hold the office of Advocate General of the State of Haryana.



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- (ii) That various complaints alleging impropriety and misdemeanour against respondent No.2 in the past disentitle him from holding the post of Advocate General.

3.2 The petitioner has referred to the Memorandum of Procedure governing the appointment of Judges of the High Court and has relied upon Article 217 of the Constitution of India, which prescribes the eligibility and procedure for appointment of a High Court Judge.

4. While seeking a writ of quo warranto, it is incumbent upon the petitioner to establish that the holder of the office, whether statutory or constitutional, suffers lack of eligibility to hold the office.

4.1 Article 165 of the Constitution, which pertains to the Advocate General for the State, is reproduced below for ready reference:-

Article-165 Advocate-General for the State

- (1) *The Governor of each State shall appoint a person who is qualified to be appointed a Judge of a High Court to be Advocate General for the State*
- (2) *it shall be the duty of the Advocate General to give advice to the Government of the State upon such legal matters, and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the Governor, and to discharge the functions conferred on him by or under this Constitution or any other law for the time being in force.*
- (3) *The Advocate-General shall hold office during the pleasure of the Governor, and shall receive such remuneration as the Governor may determine.*

4.2 Since the petitioner has sought to compare the eligibility for appointment as a High Court Judge with that of an Advocate General, it would



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be appropriate to refer to Article 217 of the Constitution, which governs the appointment and conditions of office of Judges of the High Court.

Article 217-Appointment and conditions of the Office of a Judge of a High Court

(1) Every Judge of a High Court shall be appointed by the President by warrant under his hand and seal [on the recommendation of the National Judicial Appointments Commission referred to in article 124-A], and [shall hold office, in the case of an additional or acting Judge, as provided in article 224 and in any other case, until he attains the age of [sixty-two years]]:

Provided that-

- (a) a Judge may, by writing under his hand addressed to the President, resign his office;*
- (b) a Judge may be removed from his office by the President in the manner provided in clause (4) of article 124 for the removal of a Judge of the Supreme Court;*
- (c) the office of a Judge shall be vacated by his being appointed by the President to be a Judge of the Supreme Court or by his being transferred by the President to any other High Court within the territory of India.*

(2) A person shall not be qualified for appointment as a Judge of a High Court unless he is a citizen of India and—

- (a) has for at least ten years held a judicial office in the territory of India; or*
- (b) has for at least ten years been an advocate of a High Court or of two or more such Courts in succession;*

Explanation-For the purposes of this clause-

[(a) in computing the period during which a person has held judicial office in the territory of India, there shall be included any period, after he has held any judicial office, during which the person has been advocate of a High Court or has held the office a member of a tribunal or any post, under the Union or a State, requiring special knowledge of law;]



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- [(aa)] In computing the period during which a person has been an advocate of a High Court, there shall be included any period during which the person [has held judicial office or the office or a member of a tribunal or any post, under the Union or a State, requiring special knowledge of law] after he became an advocate;*
- (b) In computing the period during which a person has held judicial office in the territory of India or been an advocate of High Court, there shall be included any period before the commencement of this Constitution during which he has held judicial office in any area which was comprised before the fifteenth day of August, 1947, within India as defined by the Government of India Act, 1935, or has been an advocate of any High Court in any such area, as the case may be*
- (3) If any question arises as to the age of a Judge of High Court, the question shall be decided by the President after consultation with the Chief Justice of India and the decision of the President shall be final.*

5. A bare perusal of Article 165 of the Constitution reveals that a person who is qualified to be appointed as a Judge of a High Court is eligible to be appointed as Advocate General of the State concerned.

5.1 Reverting to Article 217 of the Constitution, which lays down the procedure for appointment and the conditions of office of a Judge of a High Court, it is relevant to note that the qualifications prescribed for appointment as a Judge of the High Court are as follows:-

- (a) a citizen of India and-
- (b) has for at least 10 years held a judicial office in the territory of India; or
- (c) has for at least ten years been an advocate of a High Court or of two or more such Courts in succession;



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5.2 Since the remaining part of clause (2) of Article 217 of the Constitution is irrelevant to the issue involved in the present case, the same is not being adverted to or elaborated upon.

5.3 Thus, to be qualified to be appointed as a High Court Judge a person needs to be a citizen of India and having practiced at least 10 years as an Advocate in the High Court.

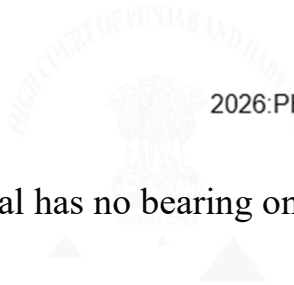
6. In the present case, respondent no.2, was being citizen of India and is practicing as an Advocate for more than 10 years prior to his appointment as an Advocate General, which fact is not disputed in the petition.

6.1 Thus, the requirement of Article 165 of the Constitution is satisfied.

6.2 The petitioner has neither alleged nor demonstrated that respondent No.2 has not completed ten years of practice in the legal profession before the High Court of Punjab and Haryana, nor has any material been placed on record to suggest that respondent No.2 is not a citizen of this country.

7. Thus, it is prima facie clear that respondent No.2 satisfies the constitutional pre-requisites for appointment as Advocate General of the State concerned under Article 165 of the Constitution.

8. As regards the allegations of impropriety or misdemeanour alleged against respondent No.2, the same cannot be examined while deciding the issue of issuance of a writ of *quo warranto*. The scope of such proceedings is confined strictly to the constitutional or statutory eligibility of the person holding a statutory or constitutional office. Alleged misdemeanour or impropriety in the discharge of professional functions prior to or subsequent to



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as Advocate General has no bearing on the maintainability or grant of a writ of *quo warranto*.

9. In view of the foregoing discussion and since the essential ingredients for issuance of a writ of *quo warranto* are not satisfied, this Court need not enter into the prolixity of discussion of various citations relied upon by the petitioner.

10. In view of the fact that the petitioner has not been able to establish his case for successfully issuing a writ of *quo warranto*, therefore this petition stands dismissed.

(SHEEL NAGU)
CHIEF JUSTICE

(SANJIV BERRY)
JUDGE

21.01.2026
Kamal Gandhi

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No