

HIGH COURT OF SIKKIM

Record of proceedings

FOR MENTIONING

VIDE MENTION MEMO NO.84/2025 IN W.P. (C) NO.73 OF 2025

RUCHITA BHUJEL

..... PETITIONER

VERSUS

STATE OF SIKKIM & ORS.

..... RESPONDENTS

Date: 18.11.2025

CORAM :

HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, JUDGE

For Petitioner : Ms. Neha Gupta, Advocate
For Respondent : Mr. Thinlay Dorjee Bhutia, Government
No.1, 3, 4 & 5. Advocate.
Mr. Sujan Sunwar, Assistant Government
Advocate.
For Respondent : Mr. Bhusan Nepal, Advocate.
No.2.

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1. The present writ petition is taken up by this Bench for hearing on being directed by the Hon'ble the Chief Justice vide note dated 18.11.2025.

2. Heard the learned counsel for the petitioner, the learned Government Advocate for the State respondent nos. 1, 3, 4 and 5 and the learned counsel for the SPSC-respondent no.2.

3. The petitioner is aggrieved by a notice dated 13.11.2025 issued by the Sikkim Public Service Commission (SPSC) not calling her for the viva voce scheduled to be held on 18.11.2025, 19.11.2025 and 20.11.2025.

4. It is the case of the petitioner that she has cleared the written examination as evident from the notice dated 03.11.2025 inviting the petitioner (bearing Roll No.46) for scrutiny of documents on 12.11.2025.

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5. According to the petitioner she has the requisite qualification of a Bachelor's Degree in Veterinary Science and Animal Husbandry which she has obtained in the year 2019 as reflected in the certificate annexed to the writ petition as annexure P-8.

6. In the writ petition she seeks a declaration to declare that the action of SPSC of not including the name of the petitioner in the list of shortlisted candidates for viva voce/interview is violative of fundamental rights and a further direction to permit her to sit for the viva voce and interim order to that effect.

7. The learned Government Advocate representing respondent nos. 1, 3, 4 and 5 points out that for the purpose of employment Certificate of Identification (COI) is a pre-requisite and if she admittedly did not have it she would not be qualified for the same. It is also submitted by the learned Government Advocate that although the petitioner states that she had applied for COI in the year 2019 and it has not yet been granted, she has not taken any steps thereafter to procure it. The learned Government Advocate submits that the cause of action for procuring the COI is separate and she has failed to procure it with due diligence. As such the petitioner cannot seek the cover of non grant of COI in this writ petition.

8. The learned counsel for the SPSC submits that on a perusal of the online application made by the petitioner it is seen that she had made a false declaration that she had the COI. The learned counsel produces the online application purportedly filed by the petitioner to establish the falsehood for perusal by this Court. The learned counsel for the SPSC also prays that the SPSC may be

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allowed to scrutinise the documents under Rule 41(2) of the SPSC 2018 manual which contains “Rule of Procedure and Conduct of Business of the Sikkim Public Service Commission” (in short “the manual”) although prima facie, the online application form did not require submission of any documents at the stage of submitting online application.

9. The advertisement issued by the SPSC provides the eligibility conditions. The eligibility conditions prescribed in clause 3 (A) therein is minimum educational qualification i.e. a Bachelor’s Degree in Veterinary Science & Animal Husbandry from a recognized University. The petitioner has obtained the required qualification in the year 2019. Clause 3 (C) of the advertisement requires certain documents under the head “required documents”. Clause 3 (C) (a) mandates that candidates must be in possession of either Sikkim Subject Certificate or Certificate of Identification issued by the competent authority under relevant orders of the State Government.

10. The learned counsel for the SPSC submits that instead of the physical mode of application contemplated by the manual the SPSC has adopted online method of online application. Even from the purported copy of the online application produced by the learned counsel for the SPSC he has not been able to satisfy this Court that the online application required the filing of the required documents under clause 3 (C) (a) of the advertisement or that it facilitated the filing of the required documents.

11. As per the Rule 22 of the manual read with Annexure-IA (the form of application prescribed) the applicant is required to submit

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attested copies of certain essential documents i.e. (i) valid local employment card, (ii) attested copy of the Sikkim Subject Certificate/Certificate of Identification, (iii) attested copy of category or caste certificate of applicant along with other documents including attested copies of all the required certificates to be submitted as per the application form. If online application form did not permit the applicant to submit these documents, prima facie, the scrutiny of application as mandated by Rule 22 of the manual cannot be fulfilled or could not have been fulfilled. There is a difference between the scrutiny of applications as required under Rule 22 of the manual and the verification from the original under Rule 41(2) of the manual. The prayer of the learned Counsel for the SPSC is to permit them to scrutinise the petitioner's documents at this stage is to permit them to do what they ought to have done at the initial stage i.e. after the filing of the application and before inviting the eligible candidates to sit for the written examination. The process followed by the SPSC in the present case as would be prima facie evident from the documents filed along with the writ petition is against their own manual.

12. Although the purported online application form of the petitioner as shown by the learned counsel for the SPSC does reflect that she has made a false declaration of having COI the effect of the falsehood, if found true, must be examined after the counter affidavits have been filed by the respondents. The present writ petition therefore, requires a deeper examination.

13. For the above reasons, this Court is of the view that counter affidavits by the respondents are necessary. The observations

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made in this order is made solely for the purpose of a preliminary examination for the purpose of passing the present order which is subject to the final outcome based on the rival pleadings.

14. Issue notice upon the respondents. Mr. Thinlay Dorjee Bhutia, learned Government Advocate appears on behalf of State respondent nos. 1, 3, 4 and 5 and Mr. Bhusan Nepal, learned counsel appears for respondent no.2, accepts notice and waives formal notice thereof.

15. Admit. Counter affidavits may be filed within four weeks. Two weeks thereafter to the petitioner, to file rejoinder, if any.

16. List on 23.03.2026 before the appropriate Bench.

I.A. No.01/2025

In the meanwhile, in the interest of justice, the SPSC shall permit the petitioner to appear for the viva voce which are scheduled to take place on 18.11.2025, 19.11.2025 and 20.11.2025 subject to the final outcome of the writ petition. It is made clear that permission to the petitioner to appear in the viva voce is for the sole purpose of ensuring that no prejudice is caused to her while this Court examines her writ petition. The petitioner is precluded from taking any advantage of this interim order at the time of final determination of the writ petition.

Judge