2025:AHC:202723

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Reserved :- **Nov. 6, 2025**
Delivered :- **Nov. 14, 2025**

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT – A No. - 24393 of 2016

Dr. Ankit Saran .....Petitioners(s)

Versus

Union of India and 3 others .....Respondents(s)

Counsel for Petitioners(s) : Jitendra Sarin
Counsel for Respondent(s) : Hem Pratap Singh, A.S.G.I., Ajeet Kumar Singh, Anant Kumar Tiwari

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Connected Cases
WRIT-A Nos. 19506/2016, 17188/2016, 43807/2017

Court No. - 32

HON'BLE SAURABH SHYAM SHAMSHERY, J.

1. Petitioners in present bunch of matters have applied on different posts in pursuance of a recruitment process initiated on basis of Adv. No. 2/2013-14 issued by respondent-University.

2. Petitioners have claimed that after going through process of shortlisting, objective and subjective written examination, they were qualified and called for interview and Selection Committee conducted interview of petitioners also.

3. It is further case of petitioners that recruitment process was stalled on the basis of a communication between the

State and University and a decision was taken not to continue with recruitment process.

4. In aforesaid circumstances, petitioners have filed present bunch of writ petitions with a prayer that their results be declared.

5. An interim order was passed by this Court whereby it was directed that fresh procedure can continue but it will remain subject to outcome of present bunch of writ petition and in one writ petition, a post was also reserved.

6. During exchange of pleadings, inquiry report dated 30.12.2015 is placed on record and a decision thereof taken by Executive Council on 10.02.2016 is also placed on record wherein it was resolved that envelope containing recommendations of Selection Committee held between 17.02.2014 and 15.06.2014 for direct recruitment on vacant teaching, non-teaching and school teaching positions be not opened and the post be advertised afresh.

7. S/Sri Seemant Singh, Jitendra Sarin, Rajesh Kumar Singh and Man Mohan Singh, learned Advocates for petitioners in bunch of petitions have submitted that Executive Council was not empowered to recommend not to open an envelope containing recommendations of Selection Committee.

8. Learned Advocates have also referred paragraph 27(3) of Chapter II (The Schedule) of Statute of the University (BHU) that "In case they (Executive Council) were unable to accept any recommendation made by Selection Committee, it shall record its reasons and forward case to Visitor for orders".

9. In support of their submissions, learned advocates for petitioners have placed reliance upon a judgment of this Court

in **Pramod Pathak vs. Vice Chancellor, BHU, Varanasi and others, 1985 SCC Online All 389.**

10. Per contra, Sri Ajit Kumar Singh, learned Senior Advocate assisted by Sri H.P. Singh, learned counsel for B.H.U. and Sri Anant Kumar Tiwari, learned counsel for Union of India have opposed above submissions and have submitted that for appointment of Professor, Associate Professor, Assistant Professor and Teaching posts as well as Registrar, Controller of Examination and Librarian, details of Selection Committee are provided and for reference, table is quoted below :-

> "27.(1) ……..
>
> *(b)* Every Selection Committee shall consists of the Vice-Chancellor who shall be the Chairman thereof and a person nominated by the Visitor, and, in addition, the Selection Committee for making recommendations for appointment to a post specified in column (1) of the Table below shall have as its members the persons specified in the corresponding entry in column (2) of the said Table.

Table

(1)	(2)
Professor[62]	(1) The Dean of the Faculty concerned, provided he is a Professor, except in cases where they are applicants or when the post held by them is being filled up. (2) The Head of the Deptt. Concerned, provided he is a Professor, except in cases where they are applicants or when the post held by them is being filled up. (3) Not less than three persons not being in the service of the University or member of the Ex. Council who have special knowledge of the subject with which the person to be appointed will be concerned, to be nominated by the Executive Council.
Associate	(1) The Dean of the Faculty

Professor/ Assistant Professor[63] and Teaching post	concerned; (2) The Head of the department concerned post (3) Not less than two persons not being in the service of the University or members of the Ex. Council who have special knowledge of the subject with which the person to be appointed will be concerned, to be nominated by the Executive Council.
Registrar/ Controller of Examinations	Three members of the Executive Council nominated by it.
Librarian	Not less than three persons not being in the service of the University or members of the Executive Council who have special knowledge of the subject of Library Science to be nominated by the Executive Council.

11. Learned Senior Advocate appearing for respondent-University has also submitted that details of inquiry report that Selection Committee was not constituted in terms of above referred details and relevant part thereof is quoted below :-

> On detailed examination of the individual cases of selection the following were found deficient in complying with the due provisions of the rules:

Sl. No.	Details of the Posts	Date of SCM	Remarks, if any
1.	Veterinary & Animal Sciences, RGSC Direct Posts a) Professor (Animal Phy.) – 01 (General) b) Assistant Professor (Vet. Anatomy) -01 (OBC) c) Assistant Professor	14.06.2014	1. Visitor's approval for creation of Faculty of Veterinary and Animal Sciences in the Institute of Agricultural Sciences of the University was not received. Yet recruitments in the proposed

	(Pharmacology & Toxicology)-01 (General) d) Assistant Professor (Vet. Pathology)-01 (SC) e) Assistant Professor (Vet. Parasitology)-01 (General) f) Assistant Professor (Vet. Gen. & Breeding) -01 (General) g) Assistant Professor (Livestock Production Mgt.) -01 (OBC)		Faculty of Veterinary and Animal Sciences were made. 2. No Visitor's Nominee for the Faculty was thus nominated and Visitor's Nominee for Faculty of Agriculture was associated in the selection committees for the posts earmarked for the proposed Faculty of Veterinary and Animal Sciences. He did not participate in the meetings but had given his consent. If the posts were taken as belonging to Institute of Agricultural Sciences then the Dean, Faculty of Agriculture should have been associated in the Selection Committee which was not done.
2.	RGSC Direct Post Director (Tenure appointment) 01 (General) Advt.No.3/2013 -14	15.06.2014	1.Post of Director, RGSC was advertised in the scale of Professor and with the Qualification for the post of Professor. The Selection Committee was chaired by Dean, Faculty

			of Science and Director, Institute of Agricultural Sciences along with three Experts as members. There was no Visitor's Nominee in the selection committee whereas every selection committee for appointment of teachers must have a Visitor's nominee. Moreover the selection committee was not chaired by the Vice-Chancellor who is the Chairman of all selection committee for teaching and Group 'A' non-teaching post. 2. Appointment of Directors of Institutes of the university is made by the Executive Council on the recommendation of the Vice-Chancellor from amongst the professors of the respective Institutes. RGSC is not an Institute of the University.
3.	SS Hospital Direct Post a) Medical Officer (PSM) 01	28.05.2014	1. Though the Director, IMS and Registrar are members of the selection committee, for

	(General) a) Medical Officer (PSM)-01 (General) b) Medical Officer (Obst. & Gynae.) - 01 (General) c) Dy. Medical Superintendent (MM)-01 (Gen) d) Medical Officer (MM)-01 (SC) e) Medical Officer (Anaesthesiology)-01 (Gen) & 01 (SC) g) Nursing Superintendent - 01 (General) RTRM, Faculty of Medicine Direct Post Radiological Safety Officer 01 (General) Prasuti Tantra Faculty of Ayurveda Direct Post Medical Officer (Prasuti		the posts of Medical Officer, Deputy Medical Superintendent, Nursing Superintendent, and Radiological Safety Officer but they were not present in the Selection Committee meetings.
	Tantra)-01(SC)		
	Administrative Sector Direct Post Assistant Registrar -01(Gen.) & 02 (OBC)		2. The Registrar was not present in the Selection Committee meeting for the post of

			Assistant Registrar though he is a member of the Selection Committee.
04.	SS Hospital Ward Sahayak/ Shayika 05 (Gen); 04 (SC); 02 (ST) & 11 (OBC)	11.06.2014 & 12.06.2014	For 65 Group 'C' & 'D' posts in SSH, 944 candidates were called appeared for interview and the selection process was completed in four days. This means around 236 candidates on an average were interviewed per day. This is neither practically possible nor is justifiable in any sincere assessment of the competence and suitability of persons to be recruited and gives rise to the to believe that reason proper attempt was made for conscious and serious assessment of the candidates for their competence and suitability for appointment to these posts.
	Sterilization Assistant 01 (General)	12.06.2014	
	Stretcher Bearer- 01(Gen); 01(SC) & 01(ST)	12.06.2014	
	Jr. Assistant (Medical Record)- 01 (General)	12.06.2014	
	Technical Assistant (MRI)- 01 (Gen.)	12.06.2014	
	Lift Operator- 01 (General)	12.06.2014	
	Care Taker Gr. I- 01 (OBC)	12.06.2014	
	Staff Nurse-31 (Gen); 02 (SC), & 02 (OBC)	13.06.2014 & 14.06.2014	

12. Learned Senior Advocate has also referred recommendations of Committee which are quoted below :-

> "The committee finds that though the persons who may have been selected for the above posts of direct recruitment, as per the recommendations of the selection committees, do not have any right to be appointed to the

said posts. Nevertheless, University cannot refuse to consider the eligible candidates. Thus, the field of competition grows every year thereby making the inter se competition amongst the eligible candidates tougher and at the same time broadens the sphere of choice of brighter candidates for selection and recruitment to this premier institution of national importance. In such situation it is in the interest of this institution as well as in larger public Interest that the recommendations of the above selection committees, which have now become stale after lapse of more than one and a half years, should not be considered on the merits of the recommendations/selections but all the above posts be re advertised as quickly as possible. If the university adopts this suggested course no one would be the loser for the candidates who were applicants for the said posts can again apply to be considered pursuant to the fresh advertisement and thus compete with the newer batch of applicants. Only, care has to taken in the fresh advertisement that such candidates do not suffer on account of age bar or other eligibility condition.

In the light of the aforesaid the committee is of considered opinion that the recommendations of selection committees referred to above are not actable.

Recommendation:

Based on aforesaid observation the Committee arrived at the following conclusion:

(i) There is a general convention in the institutions of Government of India that Head of the Institutions do not make recruitments during the last 3 months of their tenure. The DOPT, Govt. of India has notified it many times to the Head of the Institutions to refrain from making recruitment during the last 3 months of their tenure. This convention has been followed in the Banaras Hindu University also in the past. However, despite the directions of the MHRD to the contrary the then Vice-Chancellor continued to make recruitment during the last 3 months of his tenure. The MHRD then had to direct the Registrar, BHU not to place the recommendations before the Executive Council for their approval.

(ii) Discrepancies in the due process of selection as noted above have been found in the selections made during the period. These relate to direct selections and constitute part of terms of reference of Fact Finding Committee also.

(III) As per provisions of the rules panel of names recommended by the selection committees remain valid for a period of one year on their approval by the Executive Council. The recruitments under reference were made during the period from 17.02.2014 to 15.06.2014 i.e., more than 1% years have passed since then. Taking the same analogy it can reasonably be concluded that these recommendations have since outlived their period of validity and have become stale. Moreover many new candidates may have become eligible for appointment to these posts during this period.

The recommendations of the selection committees are not actable and thus in the fitness of the things and keeping in view the larger interest of the institution and larger public interest it is advisable not to open the envelopes containing recommendations of the selection committees for direct recruitment. The vacancies be advertised afresh quickly and the current applicants be also considered along with the new ones who apply. They need not apply again however, they may update their biodata. Such current applicants may be provided relaxation in age and other eligibility requirement if passage of time had rendered them ineligible for the post and no fee be charged from such applicants.

(iv) The selections under reference include the promotions of teachers to next higher grade under Career Advancement Scheme in which the candidates in question is promoted by upgrading his/her own post without the requirement of vacancy and on the recommendation of selection committee i.e., there is no open competition in this scheme and promotions are made on personal basis and are effected from the due date of eligibility, invariably retrospectively. The same person will be assessed by selection committee even if the promotions are made afresh. So there is no staleness in these recommendations of selection committee for promotion of teachers under CAS nor there would be any new candidate

who has become eligible to compete with by the passage of time. Hence the recommendations of the selection committee for promotion of teachers under CAS may be opened if the due processes of selection have been followed."

13. I have considered above submissions and perused the records.

14. Before adverting to rival submissions, this Court takes note of a recent judgment of Supreme Court passed in **State of Assam and others vs. Arabinda Rabha and others, 2025 INSC 334, (2025) 7 SCC 705** wherein Supreme Court has made following observations :-

"**22.** It would be profitable to note the precedents in the field having a bearing on the questions arising for decision in the appeal, before we venture to answer the questions formulated above. In our view, these could provide valuable guidance to steer us towards the right direction.

23. In *State of Haryana* v. *Subash Chander Marwaha* [*State of Haryana* v. *Subash Chander Marwaha*, (1974) 3 SCC 220 : 1973 SCC (L&S) 488] , this Court held that the mere fact of certain candidates being selected for appointment to vacancies pursuant to an advertisement did not confer any right to be appointed on the post in question and thereby, entitle the selectees to a writ of mandamus or any other writ compelling the authority to make the appointment.

24. The Constitution Bench in *Shankarsan Dash* [*Shankarsan Dash* v. *Union of India*, (1991) 3 SCC 47 : 1991 SCC (L&S) 800] considered the aforesaid decision and, taking cue from it, held that : (SCC pp. 50-51, para 7)

"7. It is not correct to say that if a number of vacancies are notified for appointment and adequate number of candidates are found fit, the successful candidates acquire an indefeasible right to be appointed which cannot be legitimately denied. Ordinarily the notification merely amounts to an invitation to qualified candidates to apply for recruitment and on their selection they do not

acquire any right to the post. Unless the relevant recruitment rules so indicate, the State is under no legal duty to fill up all or any of the vacancies. However, it does not mean that the State has the licence of acting in an arbitrary manner. The decision not to fill up the vacancies has to be taken bona fide for appropriate reasons. And if the vacancies or any of them are filled up, the State is bound to respect the comparative merit of the candidates, as reflected at the recruitment test, and no discrimination can be permitted."

25. Close on the heels of the above decision, a three-Judge Bench in *Jai Singh Dalal* v. *State of Haryana* [*Jai Singh Dalal* v. *State of Haryana*, 1993 Supp (2) SCC 600 : 1993 SCC (L&S) 846] had the occasion to observe : (SCC p. 606, para 7)

"7. … It will thus be seen that at the time when the writ petition which has given rise to the present proceedings was filed, the State Government had withdrawn the aforesaid two notifications by the Notification dated 30-12-1991. The stage at which the last-mentioned notification came to be issued was the stage when the HPSC was still in the process of selecting candidates for appointment by special recruitment. During the pendency of the present proceedings the State Government finalised the criteria for special recruitment by the Notification of 9-3-1992. Thus, the HPSC was still in the process of selecting candidates and had yet not completed and finalised the select list nor had it forwarded the same to the State Government for implementation. The candidates, therefore, did not have any right to appointment. There was, therefore, no question of the High Court granting a mandamus or any other writ of the type sought by the appellants. The law in this behalf appears to be well settled."

26. Having noticed the decisions on the point as to the rights that aspiring candidates have, we move on to notice a decision which is not only on the point of right of a selected candidate to seek appointment through writ remedy but also dwells with the decisions of subsequent Governments upsetting the decisions of earlier Governments.

27. One finds an extensive discussion on the tests required to be satisfied to invalidate a decision of a subsequent Government, nullifying a previous government decision, in *Jitendra Kumar* v. *State of Haryana* [*Jitendra Kumar* v. *State of Haryana*, (2008) 2 SCC 161 : (2008) 1 SCC (L&S) 428] . The case involved suspension of the process of selection by the Government because, inter alia, the cadre strength was found to be unjustly inflated by the previous Government. The appellants before this Court indisputably were the selected candidates and the principal question arising for decision, in the given facts and circumstances, was whether they had a legal right to be appointed. This Court held : (SCC p. 178, para 42)

"***42. The legal principle obtaining herein is not in dispute that the selectees do not have any legal right of appointment subject, inter alia, to bona fide action on the part of the State.***"

(emphasis supplied)

28. Noticing the decisions in *Subash Chander Marwaha* [*State of Haryana* v. *Subash Chander Marwaha*, (1974) 3 SCC 220 : 1973 SCC (L&S) 488] , *Shankarsan Dash* [*Shankarsan Dash* v. *Union of India*, (1991) 3 SCC 47 : 1991 SCC (L&S) 800] as well as other decisions on the point, this Court in *Jitendra Kumar* [*Jitendra Kumar* v. *State of Haryana*, (2008) 2 SCC 161 : (2008) 1 SCC (L&S) 428] further held that whereas the selectee as such has no legal right, the superior court in exercise of its judicial review would not ordinarily direct issuance of any writ in the absence of any pleading and proof of *mala fide* or arbitrariness on the part of the authority, and each case has to be considered on its own merit. Examining the point as to whether the impugned action of the respondent State lacked *bona fide*, this Court answered in the negative. Finally, this is what was observed : (*Jitendra Kumar case* [*Jitendra Kumar* v. *State of Haryana*, (2008) 2 SCC 161 : (2008) 1 SCC (L&S) 428] , SCC pp. 182-83, paras 55-57)

"*55*. We are not oblivious of the constitutional scheme that the decisions taken by one Government in public interest itself cannot be a ground for review thereof at the

hands of the successor Government. It is not the Government which is in the seat of the power, matters in this behalf, but what matters is the public interest.

56. Mr Dwivedi has drawn our attention to a decision of this Court in *State of Karnataka* v. *All India Manufacturers Organisation* [*State of Karnataka* v. *All India Manufacturers Organisation*, (2006) 4 SCC 683] wherein it was held : (SCC pp. 708-709, para 66)

'*66*. Taking an overall view of the matter, it appears that there could hardly be a dispute that the Project is a mega project which is in the larger public interest of the State of Karnataka and merely because there was a change in the Government, there was no necessity for reviewing all decisions taken by the previous Government, which is what appears to have happened. That such an action cannot be taken every time there is a change of Government has been clearly laid down in *State of U.P.* v. *Johri Mal* [*State of U.P.* v. *Johri Mal*, (2004) 4 SCC 714] and in *State of Haryana* v. *State of Punjab* [*State of Haryana* v. *State of Punjab*, (2002) 2 SCC 507] where this Court observed thus : (*State of Haryana case* [*State of Haryana* v. *State of Punjab*, (2002) 2 SCC 507] , SCC p. 538, para 16)

"*16*. … [I]n the matter of governance of a State or in the matter of execution of a decision taken by a previous Government, on the basis of a consensus arrived at, which does not involve any political philosophy, the succeeding Government must be held duty-bound to continue and carry on the unfinished job rather than putting a stop to the same." '

57. There cannot be any doubt in regard to the aforementioned proposition of law but the question herein is whether public interest would be subserved by asking the State to proceed to make appointments. Whereas, on the one hand, an action on the part of the State to interfere with the good work done by the previous Government solely on the basis of change in the regime must be deprecated, there cannot however be any doubt whatsoever that the successor Government cannot blink over the illegalities committed by the previous Government. If illegalities have been

committed, the same should be rectified. When there exists a reasonable apprehension in the mind of the State, having regard to the overall situation including the post-haste manner in which actions had been taken, to cause an inquiry to be made and suspend the process of making appointments till the result of such inquiry is obtained, such a decision on its part per se cannot be said to be an act of arbitrariness or unreasonableness."

29. It has not escaped our notice that the decision in *Jitendra Kumar* [*Jitendra Kumar* v. *State of Haryana*, (2008) 2 SCC 161 : (2008) 1 SCC (L&S) 428] has been doubted in *All India Railway Recruitment Board* v. *K. Shyam Kumar* [*All India Railway Recruitment Board* v. *K. Shyam Kumar*, (2010) 6 SCC 614 : (2010) 2 SCC (L&S) 293] on the point as to whether *Wednesbury* [*Associated Provincial Picture Houses Ltd.* v. *Wednesbury Corpn.*, (1948) 1 KB 223 (CA)] unreasonableness has been replaced by the doctrine of proportionality. The facts in *K. Shyam Kumar* [*All India Railway Recruitment Board* v. *K. Shyam Kumar*, (2010) 6 SCC 614 : (2010) 2 SCC (L&S) 293] bear close resemblance to the facts of the present appeal and, thus, may be noticed. Therein, the Railway Recruitment Board (RRB) had called for applications for appointments on Group D posts in the South-Central Railway Zone, Secunderabad. Consequently, in excess of three lakh candidates appeared for the written examination. Of them, ten short of two thousand seven hundred candidates having achieved the minimum qualifying marks in the written examination, were called for a PET. Candidates who qualified in the PET were called for verification, during which certain malpractices were detected in the written examination. Additionally, there was a deluge of allegations of mass copying, question paper leakage, and impersonation committed during the written examination. A vigilance enquiry was conducted and the report *prima facie* revealed these abovementioned illegalities. Relying on the vigilance report, the RRB decided to conduct a re-test of the candidates who had obtained the minimum qualifying marks in the written examination. This decision was challenged by some candidates before the Central Administrative Tribunal, Hyderabad. The Tribunal did not find

> any irregularity or illegality with the decision of the RRB, due to which the candidates were constrained to move the High Court. Before the High Court, the candidates termed the decision of the RRB as arbitrary and unreasonable. The High Court agreed with the candidates and set aside the order directing the re-test as, in the High Court's opinion, the decision was unreasonable and violative of the *Wednesbury* [*Associated Provincial Picture Houses Ltd.* v. *Wednesbury Corpn.*, (1948) 1 KB 223 (CA)] principles. The RRB approached this Court in appeal."

15. Petitioners have argued that power to not to accept recommendation of Selection Committee was with Visitor and Executive Council has no power, however, Court is of the view that if composition of Selection Committee was itself faulty, the same goes to root of selection process that it got vitiated being de-hors of Rules. In such cases, there was no need to refer the matter to the Visitor.

16. Petitioners have failed to point out that Selection Committee were constituted in terms of Statute. Petitioners have also failed to point out that findings of fact in inquiry report so far as faulty composition of Selection Committee was perverse and, therefore, only on a ground that petitioners have participated and they have faced Selection Committee does not confirm an absolute right that selection procedure be concluded despite there were errors which go to the root of case i.e. composition of Selection Committee was not in terms of relevant provisions.

17. In aforesaid circumstances, without any dispute and without any much objection or any contrary argument, since composition of Selection Committee was not in terms of above referred Clauses of Statute, therefore, such defect goes to root of entire selection process, therefore, it becomes illegal.

18. It is well settled that selection ought to have been fair and be conducted in terms of relevant provisions, however, as referred above, in the present case, recruitment process remained defective, therefore, it was not a fair selection as well as that petitioners have no absolute right that such a defective recruitment process be concluded.

19. Court also takes note that while taking a decision not to continue with earlier recruitment process, an opportunity was granted to petitioners to participate in fresh selection process and age relaxation was also granted, however, it is not on record whether petitioners have participated or not, though a specific opportunity was granted.

20. In case petitioners have not participated in fresh selection process, they have acted contrary to their own interest and Court cannot come forward to help them in such scenario. There is no element of malafide in the action of the respondent rather it was a bonafide action on basis of material and inquiry.

21. The judgment relied upon by learned Advocates for petitioners would not be helpful to their case as it is distinguishable on facts whereas law discussed in **State of Assam vs. Arabinda Rabha (supra)** is squarely applicable being against the petitioners. Vice Chancellor has conducted the recruitment process where he was going to retire in 3 months was an additional reason for above decision.

22. In view of above, prayer sought in present bunch of writ petitions cannot be allowed, hence, they are rejected.

23. In overall circumstances, all writ petitions are **dismissed.**

24. Recruitment process was found faulty and fresh recruitment process was concluded, therefore, interim orders passed in all writ petitions are accordingly vacated.

Dt./- November 14, 2025
N. Sinha

[SAURABH SHYAM SHAMSHERY, J.]

Digitally signed by :-
NIRMAL SINHA
High Court of Judicature at Allahabad