



CWP-12045 of 2021

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Anu Chohla

....Petitioner

versus

J.C. Bose University of Science & Technology and another

....Respondents

Sr. No.	Particulars	Details
1.	The date when the judgment is reserved	24.04.2026
2.	The date when the judgment is pronounced	27.05.2026
3.	The date when the judgment is uploaded on the website	27.05.2026
4.	Whether only operative part of the judgment is pronounced or full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by: Mr. R.K. Malik, Sr. Advocate,
with Mr. Sandeep Dhull, Advocate,
for the petitioner.

Mr. Dhruv Singh, Advocate (through V.C.),
for the respondents.

NAMIT KUMAR, J.

1. The petitioner has invoked the writ jurisdiction of this Court by filing the instant petition under Article 226 of the Constitution of India, seeking issuance of a writ of *certiorari* for quashing the action of the selection committee for the post of Assistant Professor, Mathematics, in not recommending the name of the petitioner despite



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the fact that the petitioner was fulfilling minimum marks prescribed under the criteria and had obtained highest marks amongst the three candidates who had appeared before the selection committee and further direction has been sought to consider the claim of the petitioner for selection and appointment as Assistant Professor, Mathematics, against one post reserved for SC category, with all consequential benefits from the date the other candidates were selected and appointed.

2. Briefly stated, the facts of the case, as have been pleaded in the petition, are that J.C. Bose University of Science and Technology, Faridabad (hereinafter referred to as 'the University'), vide advertisement No.4/2020 (Annexure P-1), advertised various posts, including three posts of Assistant Professor, Mathematics, out of which one post was meant for general category; one for SC category and one for BC-A category. The petitioner, who was fully eligible and belonged to SC category, had submitted her application for the post of Assistant Professor, Mathematics under the SC category. As per the criteria of shortlisting given in Annexure-I of the advertisement, three candidates belonging to SC category, who qualified for the said post, were shortlisted. Thereafter, the shortlisted candidates were called for written examination and subsequently for interview/presentation on 20.03.2021 and final result was declared on 31.03.2021 (Annexure P-3). Though there were three posts of Assistant Professor, Mathematics, out of which one post was reserved for general category, one for BC-A and one for



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SC category, but in the final result, one Pooja Gupta was selected as Assistant Professor, Mathematics in general category and one Manu Rohilla was selected as Assistant Professor, Mathematics, in BC-A category, but no candidate was selected against the post of Assistant Professor, Mathematics, under SC category. The petitioner, on 20.04.2021 (Annexure P-4), submitted an application seeking information under the RTI Act, which was supplied vide letter dated 12.05.2021 (Annexure P-5) and thereafter, the petitioner served a justice demand notice dated 01.06.2021 (Annexure P-6) requesting the respondents to consider her claim for appointment. Since no action was taken by the respondents on the said justice demand notice, hence the present writ petition.

3. Written statement on behalf of the respondents-University has been filed, wherein it has been stated as under: -

“1. That the instant petition has been filed inter alia for quashing the action of the Selection Committee in not recommending the petitioner for appointment as Assistant Professor Mathematics despite obtaining highest marks amongst the three candidates who appeared before the Committee. The writ petition has been filed by misconstruing the short-listing criteria and provisions of the advertisement, and is liable to be dismissed in view of the following facts and provisions of law:

i) The answering respondent University is an autonomous statutory body established under the State Act No. 21 of the 2009 - J.C. Bose University of



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Science & Technology, YMCA, Faridabad Act, 2009. Selection of teachers in the University is governed by the Statutes framed under the University Act. The relevant Statutes No.22 & 23 in this regard are reproduced hereunder for convenience of reference:

22. (1) All appointments to teaching posts shall be made by the Executive Council on the recommendations of the Selection Committees.

(2) Appointments to non-teaching posts carrying an initial pay of Rs.8000/- per mensem or more shall be made by the Executive Council, on the recommendation of the Establishment Committee.

(3) For posts carrying an initial salary not exceeding Rs.7999/- per mensem, appointments shall be made by the Vice-Chancellor.

(4) Notwithstanding anything contained in clauses (1), (2) and (3) above, the Vice-Chancellor may, where he considers necessary, make an adhoc or temporary appointment for a period not exceeding six months, if it is not possible or desirable to make regular appointment.

23. (1) A Selection Committee for the appointment of any Professor, Reader of Lecturer shall consist of:

(i) the Vice-Chancellor;

(ii) Dean of Institutions;

(iii) Dean of Faculty;



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(iv) the Chairperson of the Department concerned, if he is professor;

(v) the senior-most professor in the Department except where otherwise decided by the Vice-Chancellor;

(vi) three persons in the case of professor and two persons in the case of reader and lecturer, not connected with the University, nominated by the Vice-Chancellor from a panel of names, drawn up by the Academic Council, on the basis of their special knowledge of, or interest in the subject with which the professor, reader or lecturer shall be concerned;

Provided that the Vice-Chancellor may add more names to the panel in special circumstances and report these to the Academic Council as its next meeting.

(2) The panel of names drawn up by the Academic Council and the additions, if any, made thereto by the Vice-Chancellor, as provided in the Statutes, shall be subject to the approval of the Chancellor;

Provided that in case one of the experts fails to turn up at the Selection Committee after, accepting the invitation to attend the same, the proceedings of the meeting shall not be invalidated:



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Provided further that the proceedings of the meeting of a Selection Committee shall not be invalidated in case any of the ex-officio members of the Selection Committee fails to attend the meeting.

(3) The Vice-Chancellor shall preside over at the meeting of a Selection Committee and the Registrar shall act as its Secretary. The meeting of a Selection Committee and the Registrar shall act as its Secretary. The meeting of a Selection Committee shall be convened by, or under the directions of the Vice-Chancellor.

(4) The Selection Committee shall consider and submit to the Executive Council recommendations as to be appointment referred to it. If the Executive Council is unable to accept the recommendations made by the Committee, it shall record its reasons and submit the case to the Chancellor for final orders.

ii) The University issued advertisement No.4 of 2020 (P/1), among others, for three posts (01-UR, 01-SC, 01-BC-A) of Assistant Professors Mathematics. Eligibility conditions for the post, criteria for short-listing of candidate, and the criteria for selection also formed part of the advertisement. It was clearly prescribed therein that the selections shall be based on the composite score (by the Selection Committee) as follows:



<i>Domain knowledge (50)</i>	<i>Teaching Skill (30)</i>	<i>Interview (20)</i>	<i>Composite Score (100)</i>
<i>To be assessed through written test</i>	<i>To be assessed through ppt presentation.</i>		

No minimum score/marks were prescribed for selection, as it was for the Selection Committee, after assessing a candidate on the prescribed criteria, to decide whether he/she was fit to be recommended for appointment.

iii) The petitioner was an applicant for the post of Assistant Professor Mathematics under SC category. She went through the selection process consisting of written test, presentation and interview. She cleared the written test, for which qualifying score was 40% (38% for SC/ST), and was called for interview. The duly constituted Selection Committee examined her candidature on the basis of criteria for domain knowledge, teaching skill and interview, and found her not suitable for appointment to the post in a bona fide and fair manner.

iv) Merely because the petitioner scored the highest (45 marks) amongst the three SC candidates who were examined by the Selection Committee, is no ground to claim selection/appointment on the post. No minimum marks had been prescribed for a candidate to be recommended for appointment by the Selection Committee. Therefore, merely because she had the highest marks of the three candidates, does not entitle her to claim appointment, despite not having been recommended by the Selection



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Committee on her own merit, in a bona fide, fair and transparent manner.

v) As per the University Act and Statutes, only recommendation of the Selection Committee, consisting of subject and other experts, is considered by the Executive Council for approving and appointing a candidate on any post. Since the petitioner was not recommended by the Selection Committee, she could not be considered for appointment. And the post remained vacant.”

4. In nutshell, the stand taken by the respondents in the written statement is that though the petitioner was an applicant for the post of Assistant Professor, Mathematics, under the SC category and had undergone through the selection process consisting of written test, presentation and interview and had cleared the written test, for which qualifying score was 40% (38% for SC/ST) and was called for interview, however, it has specifically been stated that the duly constituted selection committee had examined her candidature on the basis of criteria relating to domain knowledge, teaching skills and interview performance, and, thereafter, found her unsuitable for appointment to the abovesaid post in a *bona fide* and fair manner and merely because the petitioner scored highest marks (45 marks) amongst the three SC category candidates, who were examined by the selection committee, would not confer any right to claim selection/appointment to the post, particularly when no minimum marks had been prescribed for



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a candidate to be recommended for appointment by the selection committee.

5. Learned Senior Counsel appearing on behalf of the petitioner contended that once in the advertisement itself, the minimum required score for selection has been prescribed as 40% marks (38% for SC category post) in para No.8 and the petitioner admittedly has secured 45% marks, so in this circumstance not selecting the petitioner on the ground that nobody has been found suitable for selection, is contrary to the provisions of the advertisement. He further contended that once the petitioner has secured the highest marks in the selection out of all the competing candidates and the same is more than the minimum marks fixed in the advertisement for qualifying the competition, the petitioner was entitled for being selected. In support of his contentions, learned Senior Counsel has placed reliance upon the judgments of this Court in ***CWP-4866 of 2015 – Jyoti Rani and others v. Bhagat Phool Singh Mahila Vishwa Vidyalyaya, Khanpur Kalan Sonapat and others, dated 02.03.2017; CWP-6335 of 2019 – Mahabir Singh v. Gurugram University and another, dated 17.01.2020; CWP-35554 of 2019 – Minati Baral v. National Institute of Technology (NIT) Kurukshetra and another, dated 07.12.2023 and CWP-789 of 2019 – Anil v. Maharishi Dayanand University, Rohtak and another, dated 23.01.2025.***



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6. *Per contra*, learned counsel for the University submitted that mere participation in the selection process or qualifying the written examination does not confer any indefeasible right of appointment. He has further argued that the Selection Committee, comprising subject experts, assessed the overall suitability, competence, personality, academic aptitude and domain knowledge of the candidates during the interview process and found the petitioner unsuitable for appointment. In support of his contention, learned counsel for the respondents has placed reliance upon the Division Bench judgment of this Court in ***Baljit Singh v. State of Haryana, 1998(3) SCT 746.***

7. I have heard learned counsel for the parties and perused the record.

8. It is not in dispute that the petitioner was an applicant for the post of Assistant Professor, Mathematics, under the SC category and had undergone through the selection process consisting of written test, presentation and interview. The petitioner cleared written test by securing 45% marks, for which the qualifying score was 40% (38% for SC/ST), and was thereafter called for interview. The duly constituted selection committee examined her candidature on the basis of criteria relating to domain knowledge, teaching skills and interview performance, and found her not suitable for appointment to the said post.



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9. It is apt to mention here that the petitioner has not alleged any mala fides against any member of the Selection Committee. Neither has any violation of statutory rules governing the selection process been pointed out. The challenge essentially rests upon the grievance that despite qualifying the written examination, the petitioner ought to have been selected. The contention is wholly misconceived. It is a settled proposition of law that clearing a written examination merely entitles a candidate to be considered further in the selection process. However, it does not create any vested or indefeasible right to appointment. The ultimate assessment of suitability lies within the domain of the Selection Committee, particularly where the post in question is an academic post requiring evaluation of teaching aptitude, subject knowledge, communication skills, research orientation and overall personality.

10. The Selection Committee consists of experts in the field and is best suited to assess the comparative merit and suitability of candidates. Courts exercising power of judicial review do not possess the expertise to substitute their own opinion for that of an expert body. Interference is warranted only where the decision-making process is vitiated by mala fides, arbitrariness, patent illegality or violation of statutory provisions.

11. A Division Bench of this Court in ***Baljit Singh's case*** (supra) has held as under: -



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“4.....It is well-settled proposition of law that the eligibility of a candidate for appointment on a public post cannot be confused with his/her suitability. The selection committee is not under a statutory obligation to make recommendation for appointment against all the advertised posts. If in a given case, the selection committee finds that none of the candidates interviewed by it is suitable, the selection committee can decline to recommend even a single person and the candidates cannot, only on that ground, complain of arbitrariness or mala fides.

5. The non-inclusion of petitioner's name in the list of selected candidates who have been appointed vide order dated 18.11.1997 is clearly indicative of the fact that he has not been found suitable by the selection committee. He has not made any allegation of mala fide against the Chairman and the members of the selection committee. Therefore, it cannot be held that the recommendations made by the Selection Committee are vitiated due to arbitrariness or mala fides.

6. We are also of the opinion that none of the petitioner's legal or fundamental rights has been violated due to his non-selection and as such, no writ can be issued directing the respondents to appoint him as President, District Consumer Disputes Redressal Forum.

For the reasons mentioned above, the writ petition is dismissed.”

12. The Hon'ble Madhya Pradesh High Court in **WP-21231/2017 (Madhur v. State of M.P.)** considering its Full Bench



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judgment in **WP No.5865/2016 (Ashutosh Pawar v. State of MP)**

2018(2) MPLJ has held as under: -

*"The 'suitability' cannot be confused with eligibility". In the 'Major Law Laxicon' by P. Ramanatha Iyer about the word following view is expressed-"the word 'suitable' does not require a definition because any man of experience would know who is suitable. However, each case has to be viewed in the context in which the word "suitability" or "suitable" is used, the object of the enactment and the purpose sought to be achieved."A constitution Bench of Supreme Court in **State of J & K v. Trilokinath Khosa (1974) 1 SCC 19** and another Bench in **State of Orissa v. N.N. Swami (1977) 2 SCC 508** opined that eligibility must not be confused with the suitability of the candidate for appointment. These judgments were considered by Calcutta High Court in **2013 SCC Online 22909 (All b. Ed. Degree Holders Welfare Association v. State of West Bengal)**. In **(2009) 8 SCC 273 (Mahesh Chandra Gupta v. Union of India)** it was again held that suitability of a recommend and the consultation are not subject to judicial review but the issue of lack of eligibility or an effective consultation can be scrutinized.. The Supreme Court in **(2014) 11 SCC 547 (High Court of Madras v. R. Gandhi)** while dealing with appointment on a constitutional post opined that 'eligibility' is an objective factor. When 'eligibility' is put in question, it could fall within the scope of judicial review. The aspect of 'suitability' stands excluded from the purview of judicial review. At the cost of repetition, the Apex Court opined that 'eligibility' is a matter of fact whereas 'suitability' is a matter of opinion. In this view of the matter,*



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when Competent Authority has examined the suitability in the teeth of relevant enabling provision i.e. Rule 6 (3) of Rules of 1961, interference is totally unwarranted.

*11. The scope of judicial review of a matter of this nature is limited. The decision making process is subject matter of judicial review and not the decision itself. A Full Bench of this Court in a recent judgment passed in **WP. No.5865/16 (Ashutosh Pawar v. High Court of M.P. & Another)** considered a catena of judgments of Supreme Court and came to hold that High Court in exercise of power under Article 226 of the Constitution can only examine the decision making process and cannot step into the shoes of the Competent Authority in relation to a final decision.*

12. This is trite law that administrative action is stated to be referable to broad area of Governmental activities in which the repositories of power may exercise every class of statutory function of executive, quasi-legislative and quasi-judicial nature. The scope of judicial review of administrative orders is rather limited. The consideration is limited to the legality of decision-making process and not legality of the order per se. The test is to see whether there is any infirmity in the decision making process and not in the decision itself. Mere possibility of another view cannot be ground for interference. To characterize a decision of the administrator as "irrational" the Court has to hold, on material, that it is a decision "so outrageous" as to be in total defiance of logic or moral standards. Adoption of "proportionality" into administrative law was left for the future. [See (2005) 5 SCC 181 (State of NCT v. Sanjeev)]



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13. *The same view was taken by the Supreme Court in (2002) 3 SCC 496 (Haryana Financial Corporation & Anr. v. Jagdamba Oil Mills & Anr.). In (2008) 7 SCC 580 (State of Meghalaya & Ors. v. Mecken Singh N. Marak), it was laid down that when a statute gives discretion to the Administrator to take decision, scope of judicial review would remain limited. The scope of judicial review is limited to the deficiency in decision making process and not the decision of Administrator. [See (2006) 2 SCC 1 & 165 (Rameshwar Prasad v. Union of India), (2004) 4 SCC 714 (State of U.P. v. Johri Lal), (2004) 11 SCC 213 & 218 (Delhi Development Authority v. UEE Electricals Engg. (P) Ltd., (2005) 10 SCC 84 & 95 (Damoh Sagar Panna Rural Regional Bank v. Munna Lal Jain), (2005) 5 SCC 181 (State of NCT of Delhi v. Sanjeev) and (2006) 8 SCC 200 (Jayrajibhai Jayantibhai Patel v. Anilbhai Nathubhai Patel)]*

14. *In (2006) 8 SCC 590 (Muni Suvrat Swami Jain SMP Sangh v. Arun Nathuram Gaikwad & Ors.), it was poignantly held that the High Court cannot impede the exercise of discretion by the statutory authority by issuance of a mandatory order."*

13. A Division Bench of the Hon'ble Madhya Pradesh High Court in *Writ Petition No.3101 of 2005 – Union of India and others v. Smt. Kamla Bai and another, decided on 12.09.2019*, relying upon its Full Bench judgment in *Ashutosh Pawar* (supra) and the judgment in *Madhur* (supra) has held that it is employer's prerogative to determine the suitability of an employee for a sensitive position which cannot be



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interfered with by the Court while exercising discretionary powers, as the judicial review is limited to the decision making process, not the decision itself.

14. To the similar effect is the judgment of the Hon'ble Madhya Pradesh High Court in ***W.P.14524 of 2014 – Vinod Ahirwar v. State of M.P. and others, decided on 20.07.2018.***

15. Further, a Division Bench of this Court in ***State of Punjab and others v. Saroj Devi and others, 1981(1) SLR 49*** has held that mere selection does not confer an indefeasible right to claim appointment to the post in absence of approval or order by the appointing authority.

16. To the similar effect is the another judgment of a Division Bench of this Court in ***Ajit Pal Singh and others v. State of Punjab and others, 2003(4) SCT 121.***

17. The judgments relied upon by learned counsel for the petitioner are not applicable to the present case particularly when the Division Bench judgment of this Court in ***Baljit Singh*** (supra) was not brought to the notice of the Court and has not been considered in the said judgments.

18. In the present case, no such circumstance has been demonstrated and it is nowhere the case of the petitioner that by not recommending her name, the Selection Committee has favoured any other candidate to enure any extended leverage in fetching selection



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and, therefore, merely the fact that the petitioner had qualified the written examination cannot force the Selection Committee to recommend her name for appointment and accordingly, finding no suitable candidate, the post was kept ‘vacant’. Needless to observe that the written examination and interview constitute two distinct stages of the selection process. Performance in the written examination is only one component of assessment, whereas the interview enables the expert body to evaluate various other attributes necessary for holding the academic post.

19. In view of the above, finding no merit in the present petition, same is hereby dismissed with no order as to costs.

27.05.2026
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No