

HIGH COURT OF TRIPURA
AGARTALA

WP(C) No.308 of 2025

Dr. Debasish Datta,

Son of Sri Sushil Datta, resident of Baroj Colony, P.O & P.S Belonia,
Dist. South Tripura, Pin 799155, Aged about 43 years approx.

..... Petitioner(s)

- V e r s u s -

- 1. The National Institute of Technology, Agartala,**
Represented by it's Registrar, Barjala, P.O NIT Agartala, P.S. Jirania, Dist. West Tripura, Pin 799046.
- 2. The Director,**
National Institute of Technology, Agartala, Barjala, P.O NIT Agartala, P.S Jirania, Dist West Tripura, Pin 799046.
- 3. The Registrar,**
National Institute of Technology, Agartala, Barjala, P.O NIT Agartala, P.S Jirania, Dist West Tripura, Pin 799046.
- 4. The Head of the Department,**
Department of Mathamatics, National Institute of Technology, Agartala, Barjala, P.O NIT Agartala, P.S Jirania, Dist West Tripura, Pin 799046.

.....Respondent(s)

For the Petitioner(s)	:	Mr. Arijit Bhowmik, Advocate. Ms. I. Chakma, Advocate.				
For the Respondent(s)	:	Mr. Somik Deb, Senior Advocate. Ms. A. Chakraborty, Advocate.				
Date of hearing	:	29th August, 2025.				
Date of delivery Of Judgment & Order	:	18th November, 2025.				
Whether fit for reporting	:	<table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td style="padding: 2px 10px;">YES</td><td style="padding: 2px 10px;">NO</td></tr><tr><td style="text-align: center; padding: 2px 10px;">√</td><td style="padding: 2px 10px;"></td></tr></table>	YES	NO	√	
YES	NO					
√						

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA
JUDGMENT & ORDER

The National Institute Technology, Agartala, issued an advertisement dated 22.04.2022 for filling up the post of Assistant Professor (Grade-I) and Assistant Professor (Grade-II) in different

disciplines. In the general instructions of such recruitment process as was published by NIT, it is mentioned at Sl. No.15 that written tests may be conducted for candidates in the specified department(s) for the post of faculty positions. It is further mentioned therein that based on the performance in the written test, candidates will be shortlisted for the subsequent selection process i.e. for presentation and interview, after the documents verification. The institute may, however, call candidates directly for presentation and interview, without any written test and in this regard, the decision of the institute shall be final and binding. The said clause under Sl. No.15 of the general instructions, as discussed above, is extracted hereunder:

"15. If required, written tests may be conducted for candidates in the specified department(s) for the post of faculty positions. The date and time may be found in the intimation mail sent to the candidates and also available in the recruitment website i.e. <https://www.nita.ac.in>. In that case, based on the performance in the Written Test, candidates will be shortlisted for the subsequent selection process i.e., Presentation and Interview after documents verification.

The Institute may, however, call the candidates directly for presentation and Interview, without any written test. With regard to the above, the decision of Institute shall be final and binding."

[2] According to the petitioner, there were four stages of the said selection process with respect to the discipline of mathematics for which he applied and they are- written examination, document verification, presentation and interview. It is also asserted by him that he appeared in a written examination

and qualified the same. His name was placed at Sl. No.97 of the merit list and he secured 77 marks out of total 120 marks.

[3] Thereafter, a notification was issued by the respondents on 25.04.2025 (Annexure 7) whereby dates of seminar presentations and document verification for the candidates of the discipline 'Mathematics' were scheduled on 28.05.2025 and 29.05.2025 and dates of interview were scheduled on 29.05.2025 and 30.05.2025. The list of candidates who were called for the seminar presentation followed by interview before the Selection Committee was also mentioned therein, wherein the roll number of present petitioner was also reflected under the discipline of mathematics. It was further mentioned therein that only those candidates who were recommended based on evaluation of the seminar presentation would be interviewed by the Selection Committee and the same procedure was made applicable to the shortlisted candidates for both pay level 10 and pay level 12. The petitioner was within the category of pay level 10. The relevant clause as mentioned in said notification (Annexure 7) is also extracted hereunder:

"The list of candidates being called for seminar presentation followed by interview by selection Committee is given below for pay level 10. It should be noted that only those candidates, who are recommended based on evaluation of seminar presentation will be interviewed by the selection Committee. This is applicable for shortlisted candidates for both pay level 10 & 12:"

[4] Apart from the issuance of said notification, another letter dated 30.04.2025 (Annexure 8) was also issued by the

respondents to the petitioner intimating that he was provisionally short-listed to appear for document verification and presentation/seminar followed by a personal interview as per the schedule below:

i. Document Verification & Presentation/Seminar:

Date & Reporting Time: 28/05/2025, 9.00 am

Venue: Conference room of International Guest House, NIT Agartala, Tripura (W) (for Document Verification)

Respective Department (for Seminar Presentation on Research Topic; Duration 10-12 minutes)

ii. Personal Interview:

Date & Reporting Time: 29/05/2025; 9.00 am

Venue: Conference room of International Guest House, NIT Agartala, Tripura (W)

[5] It was further mentioned in the said letter that call for personal interview would not confer any right on the petitioner to be treated as eligible in all aspects for appointment or to be considered for interview.

[6] According to the petitioner, as per said letter dated 30.04.2025, he appeared for document verification and presentation/seminar on the scheduled date i.e. on 28.05.2025 and time and he also reported for the personal interview the following day at 9.00 am. However, upon reaching there, he was informed that he would not be allowed to appear for the personal interview on that day, as 14 candidates had already been shortlisted for personal interview on 29.05.2025. Consequently, the petitioner could not successfully come out in the said selection process and thereafter he preferred the present writ petition.

[7] According to the petitioner, there were only two phases of the selection process i.e. (i) written test and (ii) seminar presentation and personal interview upon document verification. Therefore, seminar presentation and personal interview constitute a single phase, and once he was called for seminar presentation, it was obligatory for the respondents to allow him to appear before the interview board for personal interview and such denial of opportunity to appear before the interview board is illegal and *ultra vires*.

[8] The writ petition has been filed seeking the following reliefs:

"I. Issue notice upon the respondents,

II. Call for the relevant records,

III. Issue rule calling upon the respondents to show cause as to why the respondents shall not be mandated to take the personal interview of the Petitioner and thereafter consider the Petitioner for appointment to the post of Asst. Professor Grade-II-level 10 against a post reserved for OBC/UR pursuant to the selection processes initiated by the Respondents vide advertisement dated 22nd April, 2022.

AND

Issue Rule calling upon the respondents to show cause as to why the action of the Respondents of short listing of the candidates for interview vide notice dated 28.05.2025 shall not be set-aside and quashed.

AND

Issue Rule calling upon the respondent to show cause as to why the clause in the notification dated 25.04.2025 viz '*it should be noted that only those candidates, who are recommend based on evaluation of seminar presentation will be interviewed by the selection committee*' shall not be declared to be illegal, ultra vires of the Recruitments Rules, unconstitutional and therefore be set-aside by this Hon'ble Court

IV. And after hearing the parties the pleased to make rule absolute

AND

In the interim, the pleased to direct the Respondents to keep one post of Asst. Professor Grade-II-level 10 in the Mathematics Department in OBC/UR category vacant for the petitioner till disposal of the connected writ petition.

AND

Pass any other order/orders as deemed fit and proper.

AND

For this act of kindness your humble Petitioner as in duty bound shall ever remain grateful.”

[9] Mr. A. Bhowmik, learned counsel, during hearing refers to MHRD guidelines placed under Annexure 10 and submits that double short-listing in the selection process is not permissible as per MHRD guideline. The relevant portions of the said guidelines are also excerpted hereunder:

“GUIDELINES/PROCEDURES TO BE FOLLOWED FOR FACULTY SELECTION IN NITS AND IIST

2. As far as the guidelines/procedures to be adopted for selection of faculty as per the new Recruitment Rules approved by the Council, the following is hereby informed that:

(b) All the faculty posts in the institute shall be filled by direct recruitment only. The procedure for selection of faculty is given in Appendix – A1.

PROCEDURE FOR SELECTION OF FACULTY IN NIT SYSTEM

The procedure outlined here has generally, but not exactly, been followed in most of the IITs. The procedure is prescribed as a guideline, without insisting that it be followed religiously. Boards of Governors may opt for alternative procedures after examining their merit vis-a-vis the base line procedure given below.

(Emphasis laid)

1. The Director will create an "Advisory Committee on Faculty Recruitment (ACoFAR)" with a senior member of the faculty as the Chairman. Normally, he should be the Dean (Faculty Welfare); but Director shall have the discretion to assign the responsibility to Dy. Director or another senior Professor or handle it himself. The Chairman of ACoFAR shall be authorized to communicate with Departments, candidates and experts on the advice of Director. In addition, the Committee shall discharge the following functions:

- a) Examine and advise on distribution of faculty positions among various Departments;
- b) Proactively search for faculty candidates in India and abroad.
- c) Assist the Director in examining, short listing criteria and preparing panels of short listed candidates submitted by Departments;
- d) Examine and recommend proposals for deviation in age, formal qualifications, industry experience or any other criterion or guideline;
- e) Reservation of positions for specialization or sub-specialization and rank of faculty to be inducted; and
- f) Proactively search for candidates from reserved categories, and if not available after repeated attempts, prepare proposals for de-reservation in accordance with the relevant rules & regulations.

.....
14. Applications, when received, will be organized, relevant information summarized, and sent to the Departments by the Registry, for short listing. The objectives of short listing are two folds:

- (a)
- (b) to select the best candidates from the remaining list so that the member of candidates to be called for interview with the experts remains within manageable limits.

15. Departments will make attempt to set "short listing criteria" that can be easily implemented. But, considering the multiple attributes that need to be considered, it may become necessary to make case by case exceptions. In all such cases the general short listing criteria and the reasons for exception, if any, are to be recorded in writing. Short listing criteria may include, among others, such conditions as:

- (i) superior academic record - all through first class career or higher grades in B.Tech/M.Sc/M.Tech, higher than advertised criteria,
- (ii) reputation of institutions from where the candidate has obtained his degrees,
- (iii) number of unsuccessful attempts for the same post [Candidates who have been rejected in the past may be called only if there is a good reason, the reason to be recorded in writing.
- (iv) specialisation, including micro specialisation,
- (v) professional service record - reputation of organization where experience has been earned, nature of job, current activities etc.

16. The Departments' recommendations shall be placed before the Director for the final short-listing. The final list of candidates to meet the Selection Committee will be arrived at in a combined meeting of the Director, the ACoFAR, the HoD and at least three senior faculty members of the Department. In case of a lack of unanimity among the members, the Director's decisions shall be final for the purpose of calling a candidate to the interview. The different viewpoints, however, will be recorded in writing and placed before the Selection Committee who may record their own comments for information of the BOG. The decision of the Board on the selection shall be final and binding.

.....

18. The short listed candidates will be invited by the Chairman, ACoFAR or the Registrar for personal interview with the selections committee constituted in accordance with the NITSER Act, 2007 and the Statutes of the respective Institutes. In addition, the individual institutes may seek seminar presentation in the Departments, and/or any other form of academic interaction with the faculty. All such interaction will be open to the faculty and students of the institute and will be well publicized in advance to invite a decent audience. The feedback of the faculty will be communicated to the Selection Committee by the HoD. Candidates located outside the country or otherwise not in a position of attending personal interview, may be interviewed over video conferencing or be selected in absentia at the discretion of the Selection Committee.

19. On completion of the interview, the Selection Committee will record its final recommendations with signature of every member present. The Director, as chairman of the committee will be

responsible for writing the recommendation. There shall be no scope for retaining individual view points or details of discussion. Any member(s) with a dissenting opinion may, however, record their observations. On a separate page (with a reference in the main page that will be presented by the Director to the BoG with his own comments on the observations.

.....”

[10] Mr. Bhowmik, learned counsel strongly argues that it is the settled law that once a selection process has started, no alteration can be done midway through the process and in the present case, when already the petitioner was asked to appear for document verification and the seminar presentation and thereafter also on the next date, for interview, the respondent had no authority to prevent him from appearing before the interview board on that day. In this regard, Mr. Bhowmik, learned counsel relies on the following decision of the Hon’ble Supreme Court:

Tej Prakash Pathak and others vs. Rajasthan High Court and others; (2025) 2 SCC 1- In this case, the Constitution Bench while deciding a reference as to whether the principle that once the recruitment process commences the State or its instrumentality cannot tinker with the “rules of the game” insofar as the prescription of eligibility criteria is concerned should also apply to the procedure for selection, finally held as under:

“65. We, therefore, answer the reference in the following terms:

65.1. Recruitment process commences from the issuance of the advertisement calling for applications and ends with filling up of vacancies;

65.2. Eligibility criteria for being placed in the select list, notified at the commencement of the recruitment process, cannot be changed midway

through the recruitment process unless the extant Rules so permit, or the advertisement, which is not contrary to the extant Rules, so permit. Even if such change is permissible under the extant Rules or the advertisement, the change would have to meet the requirement of Article 14 of the Constitution and satisfy the test of arbitrariness;

65.3. The decision in *K. Manjusree, (2008) 3 SCC 512* lays down good law and is not in conflict with the decision in *Subash Chander Marwaha, (1974) 3 SCC 220* deals with the right to be appointed from the select list whereas *K. Manjusree, (2008) 3 SCC 512* deals with the right to be placed in the select list. The two cases therefore deal with altogether different issues;

65.4. Recruiting bodies, subject to the extant Rules, may devise appropriate procedure for bringing the recruitment process to its logical end provided the procedure so adopted is transparent, non-discriminatory/non-arbitrary and has a rational nexus to the object sought to be achieved;

65.5. Extant Rules having statutory force are binding on the recruiting body both in terms of procedure and eligibility. However, where the rules are non-existent, or silent, administrative instructions may fill in the gaps;

65.6 Placement in the select list gives no indefeasible right to appointment. The State or its instrumentality for bona fide reasons may choose not to fill up the vacancies. However, if vacancies exist, the State or its instrumentality cannot arbitrarily deny appointment to a person within the zone of consideration in the select list.

.....”

[11] Mr. Bhowmik, learned counsel also refers to Clause 18 of the MHRD guidelines as extracted earlier. He also submits that MHRD guidelines is binding on NIT and in this regard, he relies on the following decisions:

(i) ***Union of India, represented by the Secretary, Ministry of Education, Department of Higher Education and others vs. Subhajit Deb and others; 2024 SCC OnLine Tri 515-*** This judgment of the Division Bench of this High Court was

rendered in a different context. In that case, the designation of some Assistant Professors employed in NIT, Agartala on contract basis was subsequently changed to 'Temporary Assistant Professor' and 'Temporary Faculty' during the subsistence of their contract period, and even their consolidated monthly remuneration was also reduced. The learned Writ Court while taking note of statutes of 2017, letter issued by MHRD and other relevant documents, allowed the writ petition and held that the change of designation as well as the reduction of pay of those petitioners were illegal and arbitrary with further decision that putting the petitioners against non-sanctioned posts by changing their designation was illegal. In the appeal before the Division Bench, learned Deputy S.G.I. on behalf of Union of India also relied on the statutes as well as the MHRD letter and other documents. Ultimately, the Division Bench partly-allowed the appeal but upheld the decision of the learned Writ Court that change in the status of the writ petitioners from Assistant Professor on contract to 'Temporary Faculty' or 'Temporary Assistant Professor' and reduction of their pay were illegal. Mr. Bhowmik, learned counsel relies on this judgment to show that MHRD guidelines are binding on NIT officials and in that case also they relied on the same.

(ii) ***National Institute of Technology and another vs. Om Prakash Rahi and others; (2022) 13 SCC 348***- This case was against the judgment passed by Division Bench of High Court of Himachal Pradesh which had upheld the order passed by

the Director of National Institute of Technology, who, without any selection process for teachers and without the approval of Board of Governors, granted higher pay band of Rs.37,400-67,000 with AGP of Rs.9000 to some of the respondents in that case and re-designated them as Associate Professor consequent upon completion of three years of service in AGP Rs.8000 (6th Central Pay Commission). The Division Bench had also directed the appellants to consider their claim for further promotion to the post of Professor. In the said judgment, Hon'ble Supreme Court made the following observations at paragraph No.29:

"29. The Division Bench of the High Court has proceeded on the premise that after the 2007 Act has come into force, MHRD is not competent to issue circulars/guidelines of which a reference has been made dated 14-3-2012 and 18-3-2013, which is completely misplaced for the reason that after the 2007 Act came into force, the appellant institution was taken over by the Central Government and being fully funded institution by the Central Government, CAS was introduced by MHRD only for accelerated promotion and was not in contradistinction to the scheme for appointment available to the teachers under the provisions of the 2007 Act. At the same time, the respondent teachers were granted the benefit of AGP Rs.8000 under the same guidelines issued by MHRD dated 14-3-2012 and 18-3-2013 that too on the recommendations of the Selection Committee and with the approval of the Board of Governors of NIT, Hamirpur, in the given facts and circumstances, to hold that the benefits once availed under the guidelines dated 14-3-2012 and 18-3-2013 by the respondent teachers while seeking revision of AGP Rs.8000, the very scheme will not be applicable while considering for AGP Rs.9000 and for redesignation as Associate Professor is otherwise not sustainable in law."

[12] Mr. Bhowmik, learned counsel further relies on a decision in case of ***Nitesh Kumar Pandey vs. State of Madhya***

Pradesh and others; (2020) 4 SCC 70- This case is relating to selection of Gram Rojgar Sahayak in the State of Madhya Pradesh under MGNREG scheme following the guidelines dated 02.06.2012 issued by the Madhya Pradesh State Employment Guarantee Parishad. The said guidelines prescribed both compulsory qualifications and desired qualifications. The qualification specified was with regard to the basic education qualifications and under the desired qualifications, it referred to 'computer examination' passed from any one of the institution mentioned in the memo of General Administration Department. While selecting such Gram Rojgar Sahayak in one district, the District Collector issued a revised timeline schedule for such recruitment incorporating therein the date of holding computer efficiency test of the selected candidates and ultimately, some of the selected candidates who could not pass out the computer efficiency test were not finally selected. When the matter was challenged before the High Court, the procedure adopted by the District Collector incorporating in the midway computer efficiency test to be one of the criteria of selection process was held to be unjustified. The Division Bench affirmed the judgment of learned Single Judge and Hon'ble Supreme Court also affirmed the same. Before the Hon'ble Supreme Court, one point was raised from the side of the appellant that the writ petitioners having participated in the computer efficiency test were estopped from raising any grievance subsequently. In that context, Hon'ble Supreme Court observed as under:

“15. Having taken note of the decisions cited, we have no doubt in our mind that the well-accepted position in law is that the person who has acceded to a position and participated in the process cannot be permitted to approbate and reprobate. It is a norm that if a person/candidate having taken note of a requirement in the notification and even if it is objectionable does not challenge the same but despite having knowledge of the same participates in the said process and takes a chance, on failing in the process such person/candidate cannot turn around and assail the same. Though that is the position in law, the said position of law will not be applicable to the present case as the facts in the case on hand is not the same. In the cited case of *Ashok Kumar (2017) 4 SCC 357*, it was a situation where the subsequent notification for written examination was issued after nullifying the result of the earlier written examination. The petitioner therein who had appeared for the examination earlier, having knowingly participated in the process by once again appearing for the examination which was notified had thereafter challenged, which was a clear case of approbate and reprobate. On the other hand in the instant case, firstly, the revised time schedule issued by the Collector, Rewa cannot be termed as the recruitment notification indicating all the criteria for selection; but can only be termed as a time schedule prescribed pursuant to the recruitment process as provided under the fresh guidelines dated 2-6-2012. Therefore, a candidate already in selection list who has appeared in the computer efficiency test on the date depicted in the revised time schedule cannot be considered to have appeared after having knowledge that the same will also be a part of the assessment for selection and cannot be put on the same pedestal.....”

[13] Mr. Bhowmik, learned counsel also relies on another decision of the Hon'ble Supreme Court in the case of ***K. Manjusree vs. State of Andhra Pradesh and another; (2008) 3 SCC 512*** wherein at Para 27, three-Judge Bench of the Supreme Court while taking note of the facts of that case, observed that introduction of requirement of minimum marks for interview, after the entire

selection process (consisting of written examination and interview) was completed, would amount to changing the rules of game after the game was played which was clearly impermissible.

[14] Mr. Somik Deb, learned senior counsel submits that in the notification dated 25.04.2025 (Annexure 7), common dates for both the seminar presentation and interview of candidates of all disciplines were notified as a matter of general information and there was specifically mentioned therein that the candidates who were recommended based on evaluation of seminar presentation, would be interviewed by the selection committee. He further submits that subsequent letter dated 30.04.2025 (Annexure 8) addressed to the petitioner containing, both the said dates of document verification plus seminar presentation and personal interview was issued in a routine manner following the above said notification placed under Annexure 7. Therefore, by virtue of the letter under Annexure 8, the petitioner cannot claim as of right to be called for personal interview even after his dissatisfactory performance in seminar presentation. It is also argued by him that in the notification dated 25.04.2025 (Annexure 7), it was categorically mentioned that the persons who are recommended based on the performance of seminar presentation would be interviewed by the selection committee; yet the petitioner did not lodge any grievance against the term and participated in the selection process by appearing for document verification and also for seminar presentation on 28.05.2025 and therefore, he is now

estopped from lodging any grievance merely because he was unsuccessful in the seminar presentation.

[15] Mr. Deb, learned senior counsel further refers to another notice of the respondents dated 13.03.2025 (Annexure R1) issued prior to the written examination held on 22.03.2025 wherein it was stated that the shortlisted candidates will be called for seminar presentation (physical mode) in the institute and on the basis of satisfactory performance in presentation, the candidates would appear for personal interview before the selection committee at the institute. Mr. Deb, learned senior counsel strongly argues on that point that the petitioner has suppressed the fact of publication of said notice dated 13.03.2025 by the respondent in his writ petition and more so, despite said notice was submitted along with the counter affidavit of the respondents, he did not challenge the same and therefore, said notification is now binding on him.

[16] Learned senior counsel also refers to instruction Nos.10 and 12 of the general instructions issued by the respondents reserving their right to set norms higher than the minimum eligibility criteria and areas of specialisation, taking into accounts the specific requirements of the individual departments. Both the said instruction nos.10 and 12 are reproduced hereunder:

“.....

10. The Institute has the right to set norms higher than the minimum eligibility criteria and areas of specialization while short listing, taking into accounts the specific requirements of the individual departments. The short-listing norms may not be uniform across the departments/posts of the

Institute and shall be binding on all the applicants. The decision of the Institute related to all matters pertaining to the recruitment shall be final and binding on the applicants.

.....

12. The essential qualifications, requirements and credit points are the minimum criteria only for deciding the eligibility. This shall not ensure short-listings for further selection processes. The Institute reserves rights to set a higher criterion for short listing. The Institute reserves the right to screen and call only those candidates who are found prima-facie suitable for being considered by the Selection Committee. Thus, just mere fulfilling the prescribed conditions would not entitle the candidates to be called for presentation and interview. The Institute reserves the right to restrict the number of candidates to be called for interview to a reasonable limit on the basis of qualifications and experience higher than the minimum prescribed in the advertisement and other academic achievements. Candidates are expected to have good academic records throughout with education from reputed institutions."

[17] According to Mr. Deb, learned senior counsel, MHRD guidelines depict only a baseline procedure and the NIT has the authority to change it. In this regard, he also relies on the guidelines issued by MHRD, as also relied on by the petitioner, extracted earlier, wherein at the very outset of Appendix-A1 regarding 'procedure for selection of faculties in NIT system', it is mentioned that the procedure outlined here has generally, but not exactly, been followed in most of the IITs. The procedure is prescribed merely as a guideline without insisting that it would be followed religiously. Board of Governors may opt for alternative procedures after examining their merit vis-a-vis the baseline procedure given below.

[18] Learned senior counsel lastly argues that there is no allegation from the side of the petitioner about any bias in the selection process and therefore, no interference is called for there against. According to him, the institute is the best authority to judge as to who would be the best suited person for the required post under selection and unless there is a specific allegation of biasness, generally Court does not interfere with such selection process. Learned senior counsel, in this regard, also relies on **Tej Prakash Pathak (Supra)**, more particularly, paragraph no.54 which is also extracted hereunder:

"54. As already noticed in Section (A), a recruitment process inter alia comprises of various steps like inviting applications, scrutiny of applications, rejection of defective applications or elimination of ineligible candidates, conducting examinations, calling for interview or viva voce and preparation of list of successful candidates for appointment. Subject to the rule against arbitrariness, how tests or viva voce are to be conducted, what questions are to be put, in what manner evaluation is to be done, whether a shortlisting exercise is needed are all matters of procedure which, in absence of rules to the contrary, may be devised by the competent authority. Often advertisement(s) inviting applications are open-ended in terms of these steps and leave it to the discretion of the competent authority to adopt such steps as may be considered necessary in the circumstances albeit subject to the overarching principle of rule against arbitrariness enshrined in Article 14 of the Constitution."

[19] Mr. Deb, learned senior counsel further relies on the following decisions:

(i) **Dilip Kumar Garg and another vs. State of Uttar Pradesh and others; (2009) 4 SCC 753**- In this case at paragraph No.15 it was observed by the Apex Court that Article 14

should not be stretched too far, otherwise it will make the functioning of the administration impossible. The administrative authorities are in the best position to decide the requisite qualifications for promotion from Junior Engineer to Assistant Engineer, and it is not for this Court to sit over their decision like a court of appeal.

(ii) ***Madan Lal and others vs. State of J & K and others; (1995) 3 SCC 486***- At paragraph No.10, it was observed by the Hon'ble Supreme Court that the result of the interview test on merits cannot be successfully challenged by a candidate who takes a chance to get selected at the said interview and who ultimately finds himself to be unsuccessful. It was also further observed by the Apex Court that Court cannot sit as a court of appeal and try to reassess the relative merits of the candidates concerned who had been assessed at the oral interview, nor can the petitioners successfully urge before the Court that they were given less marks though their performance were better.

(iii) ***Marripati Nagaraja and others vs. Government of Andhra Pradesh and others; (2007) 11 SCC 522***- Similar principle as laid in ***Madan Lal (Supra)*** was also applied in that case holding that the appellants had appeared in the examination without any demur and they did not question the validity of the said question of fixing of the said date before the appropriate authority and therefore, they were estopped and precluded from questioning the selection process.

(iv) ***Haryana Public Service Commission vs. Amarjeet Singh and others; 1999 SCC (L&S) 1451-*** At paragraph no.3 it was observed by the Apex Court that when uniform process had been adopted in respect of all and selections had been made, it was highly inappropriate for the High Court to have examined the matter in further detail and to have allocated marks to the two candidates and thereafter directed the appellant Commission to select them.

(v) ***Dr. Pradeep Jain and others vs. Union of India and others; (1984) 3 SCR 942-*** In this case, the Hon'ble Supreme Court gave emphasis that merit cannot be judged on the basis of marks only.

[20] Court has given due consideration to the submissions made by the parties and also the materials placed before the Court. In the general instructions against Sl. No.9 it was mentioned that the institute reserved the right to modify/defer or cancel the advertisement/recruitment at any stage of processing without assigning any reasons. Against Sl. No.10 it was also noted that the institute has the right to set norms higher than the minimum eligibility criteria and areas of specialization while short listing, taking into accounts the specific requirements of the individual departments, and the short-listing norms may not be uniform across the departments/posts of the Institute and shall be binding on all the applicants. Against Sl. No.12 it was further mentioned that the essential qualifications, requirements and credit points are

the minimum criteria only for deciding the eligibility and this shall not ensure short-listings for further selection processes. The institute reserves rights to set a higher criterion for short listing. The institute reserves the right to screen and call only those candidates who are found prima-facie suitable for being considered by the Selection Committee. Thus, just mere fulfilling the prescribed conditions would not entitle the candidates to be called for presentation and interview. It was further noted therein that the institute reserves the right to restrict the number of candidates to be called for interview to a reasonable limit on the basis of qualifications and experience higher than the minimum prescribed in the advertisement and other academic achievements. Against Sl. No.13, it is also stated that departments will make attempt to set "short-listing criteria" that can be easily implemented. But, considering the multiple attributes that need to be considered, it may become necessary to make case by case exceptions. Against Sl. No.15 further provision was kept that if required, written tests may be conducted for candidates in the specified department(s) and based on the performance in the written test, candidates will be shortlisted for the subsequent selection process i.e., presentation and interview after documents verification. However, the institute may call the candidates directly for presentation and interview, without any written test.

[21] Above said terms and conditions, as depicted in the advertisement themselves, clearly show that the institute kept its

right reserved to go for further short-listing of candidates, even after initial short-listing for such selection process in any particular discipline or department. In the MHRD guidelines for selection of faculties in NIT and IEST (Annexure 10), it is also clearly stated at Appendix-A1 that the procedure was prescribed therein as a guideline, without insisting that it must be followed religiously.

[22] Mr. Bhowmik, learned counsel argues that as per the guidelines of MHRD at Sl. No.15 of said Appendix A1 prescribes the short-listing criteria on some other aspects and against Sl. No.16 it is also mentioned that departments' recommendations shall be placed before the Director for final short-listing and final list of candidates to meet the Selection Committee will be arrived at in a combined meeting of the Director, the ACoFAR, the HoD and at least, three senior faculty members of the Department. But, in the present case, no such decision regarding second short-listing was arrived by such a committee. In this regard, it is to be kept in mind (as also noted hereinabove) that those are merely baseline recommendations of the MHRD giving liberty to the institute to go for their own procedure.

[23] In the present case, there is no dispute that whatever procedure was adopted by the institute, was made applicable for all the applicants uniformly. Therefore, as per the decision of the Hon'ble Supreme Court in **Haryana Public Service Commission (Supra)** when uniform process had been adopted in respect of all

and selections had been made, it would not be appropriate for the High Court to have examined the matter in further detail.

[24] Another noticeable fact is that after the advertisement was issued for such selection process on 22.04.2022, the NIT also issued another notice on 13.03.2025 (Annexure R1) mentioning that based on the performance of step-2 i.e. second short-listing of candidates based on the ratio of number of applications and number of vacancies, in step-3 the shortlisted candidates will be called for seminar presentation and on the basis of satisfactory performance (emphasis laid) in the presentation, the candidates will appear for personal interview before the selection committee. After issuance of said notice, written examination was conducted on 22.03.2025. Therefore, the petitioner had knowledge of this condition of recruitment before he appeared for written examination but neither he has challenged said notice in the writ proceedings nor disclosed the fact of publication of said notice in his petition. Though it is submitted by Mr. Bhowmik, learned counsel, that the petitioner had no knowledge of the notice, but when general notice in this regard was issued by the authority, he was supposed to know the same. Thus, the explanation as offered by Mr. Bhowmik, learned counsel is not acceptable. It is, therefore, a case of suppression of material facts by the petitioner in the writ petition.

[25] Even in the notification dated 25.04.2025 (Annexure 7) whereby general notice was published regarding the dates of

seminar presentation and interview for all disciplines, it was clearly mentioned that only those candidates who are recommended based on evaluation of seminar presentation would be interviewed by the selection committee. Said notification was issued on 25.04.2025 and date of his seminar presentation of the petitioner was fixed on 28.05.2025 and date of personal interview was fixed on the following day. Therefore, he got sufficient time i.e. of more than one month to challenge the said notification but he did not do so, rather being fully aware of the said terms of short-listing, he participated in seminar presentation. Therefore, he cannot challenge such selection process now just because his performance in the seminar presentation was not satisfactory to the assessment of the recruiting authority. Law is fairly settled that if a candidate takes a calculated chance and appears at the interview, then, only because the result of interview is not palatable to him, he cannot turn round and subsequently contend that process of interview was unfair or the selection committee was not properly constituted. Said principle has been iterated both in ***Madan Lal (Supra)*** and ***Marripati Nagaraja (Supra)***.

[26] The basic challenge raised by the petitioner in the writ petition is the change of game in the midway of the selection process by adding another short-listing term during seminar presentation. According to Mr. Bhowmik, learned counsel such procedure is not permissible in law and in this regard, he has relied upon the judgment of the Constitution Bench in ***Tej Prakash***

Pathak (Supra) as noted earlier. In that case, the Constitution Bench of the Hon'ble Supreme Court at paragraph no.54 noted earlier, clearly observed that subject to the rule against arbitrariness, how tests or viva voce are to be conducted, what questions are to be put, in what manner evaluation is to be done and whether a short-listing exercise is needed are all matters of procedure which, in absence of rules to the contrary, may be devised by the competent authority and often advertisement(s) inviting applications are open-ended and leave it to the discretion of the competent authority to adopt such steps as may be necessary in the circumstances subject to the overarching principle of rule against arbitrariness enshrined in Article 14 of the Constitution.

[27] At paragraph No.65.2 of said decision, it was also further held that eligibility criteria for being placed in the select list, notified at the commencement of the recruitment process, cannot be changed in the midway through the recruitment process unless the extant Rules so permit, or the advertisement, which is not contrary to the extant Rules, so permit and even if such change is permissible under the extant Rules or the advertisement, the change would have to meet the requirement of Article 14 of the Constitution and satisfy the test of non-arbitrariness. At paragraph 65.4 it was further clarified that recruiting bodies, subject to the extant rules, may devise appropriate procedure for bringing the recruitment process to its logical end provided the procedure so

adopted is transparent, non-discriminatory/non-arbitrary and has a rational nexus to the object sought to be achieved. As already discussed earlier, in the advertisement, liberty was kept reserved by the recruiting authority to devise its own procedure of short-listing and MHRD guidelines also does not stand as a bar against the said condition, rather leave it to the institution to adopt the procedure according to their own need. Moreover, the procedure of short-listing as devised by the recruiting authority at the time of seminar presentation has been applied to all the candidates uniformly and therefore, in no way, it can be termed as arbitrary.

[28] Considering all these aspects, it is held that the writ petition is devoid of any merit and therefore, it is liable to be dismissed. Accordingly, the same is dismissed.

No order as to costs.

Pending application(s), if any, shall stand disposed of.

JUDGE