

**IN THE HIGH COURT AT CALCUTTA
(CONSTITUTIONAL WRIT JURISDICTION)**

APPELLATE SIDE

Present:

The Hon'ble Justice Partha Sarathi Chatterjee

WPA 14826 of 2021

Bablu Saren

-Vs.-

State of West Bengal & Ors.

For the Petitioner : Mr. Biswarup Biswas.

For the WBCSC : Mr. Subhrangsu Panda,
Mrs. Ina Bhattacharya,
Mrs. Mithu Singha Mahapatra.

For the UGC : Mr. Anil Kumar Gupta.

For the State : Mr. Swapan Kumar Dutta, Ld. AGP,
Mr. Dipankar Das Gupta.

Heard on : 11.04.2025

Judgment on :06.05.2025

ParthaSarathiChatterjee, J.:-

Preface:

1. Alleging that the integrity of the selection process conducted by the West Bengal College Service Commission (hereinafter referred to as 'the Commission') under Advertisement No. 1 of 2018, dated July 16th, 2018, for recruitment to the post of Assistant Professor in Santhali and other subjects

for State-aided general degree colleges across West Bengal has been compromised, the present writ petition has been filed. The petitioner seeks cancellation of the entire selection process along with the merit list. Additionally, the petitioner prays for a direction to recast the panel, cancel the appointments already made, and recommend the petitioner's name for appointment to the said post.

2. The petitioner's grievance is rooted in alleged procedural irregularities, non-compliance with statutory and constitutional mandates, arbitrary evaluation of eligibility criteria and discriminatory selection practices in violation of University Grant Commission (In short, UGC) guidelines and the other relevant Act and regulations.

Petitioner's case:

3. Before delving into the contours of the controversy surrounding the present writ petition, it would be appropriate to outline the key facts, as projected in the writ petition and affidavit-in-reply, which are as set out below:

- a) As referred to in the prefatory paragraph, by Advertisement No. 01 of 2018 dated July 16, 2018, the Commission invited applications from eligible candidates for recruitment to certain posts of Assistant Professor in Santhali and other subjects in various State-aided colleges across the State.
- b) In response to the said advertisement, the petitioner, a Scheduled Tribe (ST) candidate from the State of West Bengal, holding 60.5% marks in his postgraduate degree in Santhali, submitted his candidature under the ST category for the post of Assistant

Professor in Santhali. The present petition pertains to the recruitment process for the said post.

- c) In accordance with the instructions published on the Commission's website, the petitioner appeared for the interview held on 7th March, 2019, filled up the information and correction sheet, and submitted photocopies of his testimonials along with the original documents for verification.
- d) On 29th May, 2019, the provisional merit panel for the said post, which had been published on 27th May, 2019, was displayed on the Commission's website. The petitioner was shocked and surprised to find that his name did not appear in the panel.
- e) The petitioner, in an effort to ascertain the reasons for the non-inclusion of his name in the merit panel, submitted several applications and appeals under the relevant provisions of the Right to Information Act, 2005 (hereinafter referred to as the 'RTI Act') before the competent authorities, seeking detailed information pertaining to the selection process.
- f) The petitioner discovered that the cut-off marks, details of the vacancy status and/or position, which were required to be notified prior to the publication of the merit panel in terms of Regulations 3, 5, and 6 of the *West Bengal College Service Commission (Manner of Selection of Persons for Appointment to the Posts of Assistant Professors, Principals, and Librarians and Re-recommendation of Assistant Professors) Regulations, 2012* (hereinafter referred to as the '2012 Regulations'), were not published. Moreover, neither the

score pattern nor the detailed break-up of marks awarded to the candidates was disclosed. The petitioner further alleged that the ratio concerning vacancy position, which was required to be indicated in the provisional merit list, was also not mentioned.

- g) The score sheet, which the petitioner eventually obtained through a successful application under the Right to Information Act, revealed that certain private respondents, candidates from the State of Jharkhand, who had secured less than 55% marks at the postgraduate level and had applied under the Unreserved (UR) category, were ultimately selected and appointed under the Scheduled Tribe (ST) category. This, the petitioner alleged, was in contravention of the eligibility criteria prescribed in the advertisement as well as the applicable UGC Regulations. Private respondent nos. 12 to 14, who belong to the Tribal and Regional Language category bearing UGC Subject Code 70, were appointed under UGC Subject Code 95 and they were illegally extended the benefits of age relaxation. As such, their appointments stand vitiated by illegality.
- h) The petitioner further alleged that the score pattern prescribed under UGC guidelines dated 11.07.2016 rather a different circular vide. notification no. 727 Edn/(CS) dated 26.06.2018 had not been followed by the Commission. The Commission followed a score pattern that was not in conformity with either the notification dated 26.06.2018 or the UGC guidelines dated 11.07.2016.

- i) Private respondent nos. 12 to 14 applied for the post under the ST category and accordingly availed the benefit of age relaxation. The petitioner contends that, being a candidate from the State of Jharkhand, private respondent no. 14 cannot be treated as an ST candidate in West Bengal. As per Proviso 5(ii) and Proviso 7(iv) of the notification dated 26.06.2018, an approved Part-time Teachers (PTT) and Contractual Whole-time Teachers (CWTT) as defined in the West Bengal College Service Commission Act, 2012 is eligible for age relaxation up to 47 years, but not for relaxation in marks. However, in the present case, both benefits were extended to the said respondents.
- j) The petitioner further alleges that the University Grants Commission (UGC) Act was enacted with the objective of regulating appointments to the posts of Assistant Professors, Associate Professors, and other academic positions in colleges across the country. In furtherance of that objective, the State of West Bengal enacted the *West Bengal College Service Commission Act, 2012* (hereinafter referred to as 'the 2012 Act') and also framed the corresponding *West Bengal College Service Commission Regulations, 2012* ('the 2012 Regulations'). The intention behind the 2012 Act and the Regulations framed thereunder was never to conflict with the provisions of the UGC Act or with one another. Rather, a harmonious construction and application of these legislations was expected. However, in the present case, the entire selection process was conducted and concluded in a manner that,

according to the petitioner, is in contravention of the UGC Act, the 2012 Act, and the Regulations made thereunder.

Respondents' case:

4. During the hearing of the writ petition on 24.06.2022, the State expressed its intention to file a report in the form of an affidavit. Accordingly, a report was filed on behalf of respondent nos. 1, 2, 3, and 8. Respondent nos. 4 and 7 filed affidavit-in-opposition and subsequently filed a supplementary affidavit to bring certain documents on record.
5. The report refuted the petitioner's allegation that no score pattern was provided in connection with the selection of Assistant Professors under the notification dated 26.06.2018. It was asserted therein that the said notification was issued after due consideration of the UGC Regulations, 2016, including the amendments incorporated therein vide Notification No. F.1-2/2016(PS)/Amendment dated 11.07.2022. The report clarified that Appendix-III: Table II (B) of the notification dated 11.07.2016 specified the minimum scores for Academic Performance Indicators (API) for direct recruitment, inter alia, to the post of Assistant Professor (Stage-I).
6. The report further clarified that merits and credentials of the candidates were assessed based on weightage given towards their performance on a scoring system based on API as prescribed by UGC. It was asserted that notification dated 26.06.2018 bears no infirmity.
7. The crux of the defence in the affidavit and supplementary affidavit is that the selection process was conducted and concluded in accordance with the instructions contained in the notification dated 26.06.2018. A provisional merit panel was prepared for the posts of Assistant Professor in various

subjects and categories, based on candidates' performance and evaluation. The panel, valid for one year, was used to recommend successful candidates for appointment, many of whom have already joined. Subsequently, a fresh selection process was initiated in 2020.

8. The score pattern followed in the selection process was duly approved by the members of the Commission. The petitioner participated without raising any objection but, having been unsuccessful, has now challenged the validity of the notification dated 26.06.2018 and raised various issues against the selection conducted under Advertisement No. 01/2018.
9. Private respondent no. 12, Guru Charan Murmu, was empanelled and recommended by the Commission under the Unreserved (UR) category, and was granted the benefit of age relaxation in terms of Clause 7(i) and (iv) of the notification dated 26.06.2018, read with Advertisement No. 01/2018, and also by availing the benefit under Proviso 1 to Clause 2(1)(i) of the said notification. Private respondent no. 13 was empanelled, but his name was not recommended. Private respondent no. 14, Narendranath Murmu, was empanelled and recommended for the post under the UR category in accordance with Clause 7(iv) of the notification dated 26.06.2018.

Submissions:

10. Mr. Biswas, learned advocate for the petitioner, submitted that the Commission was under a mandatory obligation to disclose the cut-off date and vacancy statement prior to the publication of the provisional merit panel. However, no such information was made available in the present case. He further contended that the Commission adopted an arbitrary score pattern,

deviating from the prescribed norms, thereby rendering the entire selection process vitiated.

11. Mr. Biswas further contended that private respondent nos. 12 to 14 were extended dual benefits—relaxation of marks on account of their ST status, despite having applied under the UR category, and age relaxation for being PTT and CWTT candidates. He submitted that the petitioner was a better qualified candidate and argued that the recruitment process lacked transparency and violated statutory regulations, resulting in the petitioner's unjust exclusion from the provisional merit panel.
12. To bolster his argument, he cited a decision reported at *2014 (1) Cal LJ 17 (Jayasri Ghosh vs. The State of West Bengal & Ors.)* for the proposition that if a glaring illegality in the selection procedure is demonstrated before the Court affecting one's rights protected under Articles 14 and 16 of the Constitution, an unsuccessful candidate can legitimately challenge a concluded selection process. He referred to a decision reported at *AIR 2010 SC 1851 (Jitendra Kumar Singh & Anr. vs. State of UP & Ors.)* for the proposition that reservations should not be excessive so as to render the Fundamental Rights under Article 16(1) of the Constitution meaningless. He also relied on a decision reported at *2025 SCC OnLine SC 280* and two unreported decisions of a coordinate Bench in *WPA 1015 of 2023 (Koushik Goswami vs. The State of West Bengal & Ors.)* and in *WPA 11864 of 2021 (Partha Pratim Jana vs. The State of West Bengal & Ors.)*.
13. In rebuttal, Mr. Panda, learned advocate appearing on behalf of the Commission, submitted that the arguments advanced by the petitioner travelled beyond the scope of the pleadings. He contended that the

Commission acted strictly within the legislative framework of the West Bengal College Service Commission Act, and asserted that all procedures prescribed under the applicable Act, Rules, and Regulations were duly followed.

14. Mr. Panda argued that there is no provision mandating the Commission to publish the vacancy status and/or cut-off date prior to the publication of the provisional merit panel. He contended that since the private respondents belonged to the Scheduled Tribe (ST) category, they were eligible for relaxation of marks, and being PTT/CWTT teachers, they were also entitled to age relaxation. He asserted that the extension of such benefits was legally justified and further submitted that the score pattern was uniformly applied in accordance with the applicable rules and regulations.
15. Referring to a decision of the Hon'ble Supreme Court in a review petition filed in connection with *Civil Appeal No. 6706 of 2022 (State of West Bengal - vs- Anindya Sundar Das & Ors.)*, he contended that the issue whether the UGC Regulations, 2018, which stemmed from a scheme introduced by the Central Government vide notification dated 02.11.2017, are applicable to Colleges and Universities in the State despite the State not having adopted or implemented the said scheme, is still pending final adjudication before this Court. He cited decisions reported at *2024 INSC 615 (Bela M. Trivedi vs. Satish Ch. Sharma)*, *(1995) 3 SCC 486 (Madan Lal & Ors. vs. State of J & K & Ors.)*, and *(2014) 10 SCC 521* to contend that a candidate who has consciously participated in a selection process, having taken a calculated risk, cannot later be permitted to turn around and challenge the advertisement or the methodology adopted by the selection committee after being declared unsuccessful.

16. He also referred to an unreported decision of a Hon'ble Division Bench of this Court in WPA (P) 429 of 2024 to rely on the observation that the UGC notification does not prescribe the selection procedure. In support of his submission, he relied on an unreported decision of a Coordinate Bench of this Court in WPA 11381 of 2021 for the proposition that, unless there is an express provision in the relevant rules mandating the selection committee to publish the details of the merit-listed candidates, the committee is under no obligation to do so. He further cited the decision reported at (1996) 9 SCC 309 (*State of UP & Ors. vs. Harish Chandra & Ors.*) and an unreported decision of a Coordinate Bench in WPA 28227 of 2023 (*Zafor Momin vs. The State of West Bengal*), to contend that no writ of mandamus can be issued to compel the authority to make appointments after the expiry of the merit panel. Additionally, he placed reliance on decisions reported at (2009) 2 SCC 706 (*Girdhar Kr. Dadhich & Anr.*) and (2007) 8 SCC 418 (*Dhampur Sugar (Kashipur) Ltd. vs. State of Uttaranchal & Ors.*). He also relied on an unreported decision of a Hon'ble Division Bench in MAT 1968 of 2023 (*W.B. College Service Commission & Ors. vs. Dr. Monalisa Ghosh & Ors.*) to contend that unless the rules provide otherwise, the authority cannot be compelled to publish the panel disclosing the break-up and/or segregation of marks.
17. Mr. Gupta, learned advocate representing the UGC, opposed the petitioner's contention and in support of his argument, relied on two decisions, reported at (2009) 4 SCC 590 (*Annamalai University Rep. by Registrar vs. Secretary to Govt., Information and Tourism Deptt. & Ors.*), (2022) 5 SCC 179 (*Gambhirdan K. Gadhi vs. State of Gujarat & Ors.*).

However, he relied on an unreported decision by a Hon'ble Division Bench of this Court in *WPA (P) 170 of 2022 (Anupam Bera vs. The State of West Bengal & Ors.)* to contend that the provisions of UGC Regulations, 2018 will prevail over the conflicting provisions of the concerned State Universities Act.

18. Mr. Dutta, learned Senior Advocate for the State, adopted the submissions advanced by Mr. Panda.

Analysis:

19. In the present case, the provisional merit panel was published on 27th May, 2019, while the writ petition was instituted on 13th September, 2021. In accordance with Regulation 7 of the 2012 Regulations, the validity of the said panel was for a period of one year. It is, therefore, evident that the petitioner approached the Court after the expiry of the panel. Admittedly, in *State of U.P. & Ors. vs. Harish Chandra & Ors.* and *Zafor Momin vs. The State of West Bengal*, it has been categorically held that no writ of mandamus can be issued to compel the authority to make appointments after the expiry of a merit panel. Therefore, such a belated approach by the petitioner cannot be ignored.
20. Clause 2 of Advertisement No. 01/2018 stipulated that the calculation of vacancies would be carried out in accordance with the provisions of the 2012 Regulations. It further stated that the vacancy cut-off date and the exact number of vacancies -subject-wise, category-wise, and college-wise- would be notified prior to the publication of the merit panel. The advertisement also made it explicitly clear that the Commission's role would be limited to accurately compiling the vacancies as reported by the respective colleges, and that the Commission would not be held responsible for any errors in the

reporting of vacancies or for the non-availability of vacancies under any particular category.

21. Regulation 5 of the 2012 Regulations imposed a duty upon the Commission to notify a cut-off date on its official website, which was required to precede the date of publication of the first provisional merit panel. Similarly, Regulation 6 mandated that the Commission display a list of all recorded vacancies which is also called as existing vacancies.
22. The records reveal that the Commission published the tentative vacancy status (Annexure-P-3 to the writ petition), detailing vacancies subject-wise, category-wise, and college-wise. Clause 4, under the heading 'Information and Instruction' in the advertisement, specified that the cut-off date for all qualifications and experience, including publications, would be 31st August, 2018, and that the age of the candidate would be calculated as on 1st January, 2018. Accordingly, it is evident that the Commission complied with the requirements stipulated in the Advertisement as well as the provisions of the 2012 Regulations.
23. Regulation 6 of the 2012 Regulations provides that the Commission may, at its discretion, either call shortlisted candidates for an interview after a preliminary selection based on qualifications and experience as set out in the advertisement, or conduct a written examination for all eligible candidates and subsequently invite a sufficient number of candidates for interview based on the results of the examination for final selection. Clause 3, under the heading 'Information and Instruction' in the advertisement, further clarified that the recommendation procedure would be based on a simple merit-cum-

preference system of counselling. The advertisement also stated that eligible candidates would be called for interview for the purpose of selection.

24. Therefore, the prescribed mode of selection indicated that candidates would first be shortlisted on the basis of their qualifications and experience, and thereafter, the shortlisted candidates would be called for interview.
25. The Annexure- P/16 indicated that the Commission followed a score pattern and break -up calculation of the score pattern is that for 'Academic Records-50 marks, Assessment of Domain Knowledge, Research & Teaching Skill -30 marks and interview performance -20 marks. Referring to a score pattern followed by the Commission and score pattern incorporated in the UGC guidelines, 2010 in tabular form, it was urged by the petitioner that the Commission acted illegally in following the score pattern published in connection with the Advertisement no. 01/2018.
26. During the hearing of the review application in *State of West Bengal vs. Anindya Sundar Das & Ors. (supra)* before the Hon'ble Supreme Court, the State of West Bengal contended that it had not adopted the scheme framed by the Central Government and, as such, the UGC Regulations, 2018 were not applicable to its colleges and universities. However, in *Anupam Bera (supra)*, a Hon'ble Division Bench held that the provisions of the UGC Regulations, 2018 would prevail over any conflicting provisions of the applicable State Universities Act in matters relating to the appointment of Vice-Chancellors, under which the respondent Vice-Chancellor had been appointed.
27. Therefore, the decisions in *Anindya Sundar Das & Ors. (supra)* and *Anupam Bera (supra)* pertain specifically to the appointment of Vice-Chancellors. No material has been placed before this Court to demonstrate

that the Commission is obligated to follow the score pattern prescribed by the UGC, or that it was bound to adhere to the score pattern adopted by it in 2015 for the purpose of shortlisting candidates.

28. Admittedly, no rules, regulations, or any other statutory provision have been placed on record to establish that the Commission was under a mandatory obligation to disclose the breakup and/or segregation of marks of all candidates along with the provisional merit panel. In *W.B. College Service Commission & Ors. vs. Dr. Monalisa Ghosh & Ors. (supra)*, the Hon'ble Division Bench reaffirmed this proposition.
29. The next issue that arises for consideration is whether the Commission unlawfully extended the benefits of age relaxation and relaxation of marks to the private respondents.
30. Clause 4 of the advertisement prescribed the qualifications for the post of Assistant Professor in Arts, Languages, and other disciplines, which included a consistently good academic record with at least 55% marks at the Master's degree level in the relevant subject. It also provided for applicable relaxations for specified categories, as detailed in Proviso-I to the relevant rules. Proviso-I stipulated that a relaxation of 5% in marks at the Master's level may be granted to candidates belonging to Scheduled Castes (SC), Scheduled Tribes (ST), Other Backward Classes (OBC), and Differently-abled categories, both for the purpose of determining eligibility and for assessing a good academic record during direct recruitment to teaching positions. These provisions are supported by the Recruitment Rules published under Notification dated 26.06.2018 (Annexure-P-15 to the writ petition).

31. Therefore, the Recruitment Rules, 2018, read with Advertisement No. 01/2018, indicate that an ST candidate obtaining 50% marks at the Master's level would be eligible to apply for the post. No material has been placed before this Court to establish that such relaxation would be inapplicable to an ST candidate merely because the post is unreserved. The Commission has asserted that both private respondent nos. 12 and 14 were recommended and appointed as candidates under the Unreserved (UR) category.
32. Clause 7(i) and (iv) of the Notification dated 26.06.2018, read with Advertisement No. 01/2018, provided that approved Part-time Teachers (PTTs) and Contractual Whole-time Teachers (CWTTs) would be entitled to relaxation of the upper age limit for applying to the post of Assistant Professor, up to 47 years of age. Therefore, such age relaxation is available to all eligible PTTs and CWTTs, irrespective of their caste status.
33. Therefore, it is evident that the petitioner has failed to produce any material indicating that any glaring illegality was committed in the conduct of the selection process. Consequently, the petitioner is not entitled to the benefit of the legal proposition laid down in *Jayasri Ghosh (supra)*. On the contrary, the facts and circumstances of the case suggest that the petitioner consciously took a calculated risk by participating in the selection process and, upon being unsuccessful, has now chosen to challenge the validity and methodology of that process and such an approach, as per well-settled legal principles, is not permissible.
34. Thus, based on the foregoing discussions and upon applying the ratio laid down in the decisions cited in the preceding paragraphs, it is concluded that the petitioner has failed to substantiate his claim that the recruitment

process conducted pursuant to Advertisement No. 01 of 2018 was non-transparent, arbitrary, or violative of statutory guidelines and rules, resulting in his unjust exclusion from the merit panel.

35. Consequently, the writ petition is, thus, dismissed. However, there shall be no order as to the costs.

(Partha Sarathi Chatterjee, J.)