

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.86 of 2025

In
Civil Writ Jurisdiction Case No.10935 of 2021

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1. Mohammad Shabbir @ Md. Shabbir Alam Known to the Petitioner, Presently Posted as Assistant Professor, in the Department of Persian, Mirza Ghalib College, Gaya.
 2. Mohd Faizan Son of Sarfraz Ahmad Resident of 341, Safarwal, P.O. - Ambedkar Nagar, P.S. - Tanda, State - Uttar Pradesh, Pin Code - 224190.
 3. Akram Waris Son of Firoz Alam Resident of Holding No. 72, Mohalla - Mewati Tola, P.O. and P.S. - Sasaram, District- Rohtas, Pin Code - 82115.
 4. Ladlay Khan Son of Wali Ahmad Khan Flat No. 201, Galaxy Apartment Shaheen Bagh, Abul Fazal Enclave Part - 2, Jamia Nagar, New Friend Colony, Defence Colony, Sought Delhi, P.O. - Okhla, State - New Delhi, Pin Code - 110025.
 5. Abdul Azim Akhtar Son of Md. Yunus Jamia Resident of 62, Ist Floor, Hauz Rani, Malviya Nagar, South Delhi, State - New Delhi, Pin Code - 110017.
 6. Ibrar Khan Son of Alamas Husen Resident of Mohiuddinpur (Aalanagry), P.O. - Sarai Mamarej, District- Allahabad (U.P.), Pin Code - 221503.
 7. Kashif Mansoor Son of Mansoor Alam Resident of Main Road, Panchu Opposite P.O. - Hisua, District- Nawada, Pin Code - 805103.
 8. Sarim Abbas Son of Fazal Abbas Resident of 81/2 Sibtan Road, P.O., P.S. and District- Pratapgarh (U.P.) Pin Code - 230001.
 9. Md. Minhaj Alam S/o Md. Israil R/o Mohalla - New Colony, Road No. 2, New Karimganj, Gaya, P.S. - Gaya, District- Gaya.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Special Secretary, Education Department, Govt. of Bihar, Patna.
3. The Magadh University, Gaya through its Registrar.
4. The Vice Chancellor, Magadh University, Gaya.
5. The Registrar, Magadh University, Gaya.
6. The Principal, Mirza Ghalib College, Gaya.
7. Mirza Ghalib College, Gaya through its Secretary, Governing Body
8. The Governing Body, Mirza Ghalib College, Gaya through its Secretary.
9. Mozaffar Ahmad, Son of Khelafat Hussain, Resident of Chatarghat, P.S.- Chakand, District- Gaya.
10. Shabi Arfeen Shamsi, Known to the Petitioner, aged about not known to the Petitioners, Presently Posted as Secretary, Governing Body, Mirza Ghalib College, Gaya.



11. Akeel Ahmad, Male, aged about not known to the Petitioners, Presently Posted as Assistant Professor, in the Department of Chemistry, Mirza Ghalib College, Gaya.

... .. Respondent/s

Appearance :	
For the Appellant/s	: Mr. Anand Ojha, Sr. Advocate Mr.Kunal Tiwary, Adv.
For the Intervener	: Mr. Md. Kamaluddin, Adv. Ms. Priya, Adv. Ms. Misha Barti, Adv. Mr. Anurag Darshi, Adv. Mr. Vishal Vikram Rana, Adv. Mr. Akash Priye, Adv. Mr. Kumar Saurav Dev, Adv.
For the Res Nos. 6,7& 11:	Mr. Amit Shrivastava, Sr. Adv. Mr. Girish Pandey, Adv. Mr. Akash Ambuj, Adv. Mr. Brajesh Sahay, Adv.
For the Res. No. 10	: Mr. Prince Kumar Mishra, Adv.
For the University	: Mr. Siddhartha Prasad, Adv. Mr. Sumit Kumar, Adv.

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)
Date : 16-02-2026

This Letters Patent Appeal has been filed by Mohammad Shabbir @ Md. Shabbir Alam and others challenging the order dated 08.10.2024 passed by the learned Single Judge in CWJC No. 10935 of 2021 in quashing the advertisement dated 06.10.2019 issued by the Secretary, Governing Body, Mirza Ghalib College, Gaya and directing the Governing Body to issue fresh advertisement and to constitute a selection Committee afresh in compliance of the provision of the Bihar Universities Act and to take further necessary steps in accordance with law.



2. The writ petition was filed by Reena Kumari and Mozaffar Ahmad (respondent no.9) seeking the following reliefs:

“(i) For issuance of a writ in the nature of Certiorari, quashing the Advertisement published in the Hindi daily Hindustan dated 06/10/2019 issued by Secretary, Governing Body, Mirza Ghalib College, Gaya, whereby and whereunder it has been informed that the advertisement issued in March 2018 and for which interview were held in February 2019 and for which panel was prepared – have been cancelled by the Governing Body of the College, without specifying any reason as to what were the compelling circumstances which warranted cancellation of the entire selection process, in which petitioners have succeeded.

(ii) For issuance of writ in the nature of Certiorari, quashing the Advertisement published in the Hindi daily Hindustan on 06/10/2019 for recruitment to the post of Assistant Professor in the Departments of Persian & Chemistry in Mirza Ghalib College, Gaya, whereby and whereunder fresh applications have been invited for appointment by cancelling the earlier Advertisement issued in March 2018 and for which interview were held in February 2019, in completely arbitrary and illegal manner and for which no justifiable reason much less legally sustainable reasons have been provided.

(iii) For issuance of appropriate writ in nature of mandamus or any other order, holding and declaring that the entire selection process has been conducted in the breach of Section 57-B of Bihar State University Act, 1976 as quorum required for selection committee was totally missing, rendering the constitution of



interview board, illegal and arbitrary.

(iv) For issuance of writ in the nature of mandamus directing and commanding upon the Secretary, Governing Body, Mirza Ghalib College, Gaya to produce the minute of second round of selection process, which has been kept by him in iron chest and merit list of same was not published and after such production be quashed as same has been prepared ignoring the experience candidates like petitioner's.

(v) For issuance of writ in the nature of mandamus directing and commanding upon the respondent authorities, particularly the Secretary, Governing Body, Mirza Ghalib College, Gaya to implement the result of Advertisement issued in March 2018 and for which interview were held in February 2019 forthwith— as the selected candidates have committed no fault and they fulfill all the requirements as per prevailing UGC norms and any delay in their appointment would be per se illegal.

(vi) For issuance of writ in the nature of mandamus, directing upon the Secretary, Governing Body, Mirza Ghalib College, Gaya to produce the minutes of Constitution of selection committee as per section 57 B of the Bihar State University Act.

(vii) For issuance of appropriate writ in the nature mandamus or any other appropriate order, restraining the respondent College from taking any coercive steps like removal of Petitioners from the post of Assistant Professor (Adhoc) on which they are presently working or termination, during the pendency of the writ petition.

(viii) To any other relief or relief which the petitioners may be found entitled to in the facts and circumstances of the case;

(ix) Cost of this litigation.”



3. A supplementary affidavit was filed on behalf of the petitioner on 16.07.2021 wherein in para-7, it is stated as follows:

“7. That it is further submitted in this regard that there has been flagrant violation of section 57 of Bihar State Universities Act in constituting the selection committee for the selection process(for Assistant Professor in subject Urdu) drawn in furtherance of advertisement dated 06.10.2019 (Annexure-P/9). It is submitted in this regard that on first date of interview i.e. 08.02.2021 the subject expert namely Sayed Irtaza Karim was present and was instructed to select Mr. Danish. Upon denial to accept the request made by the Chairman of the governing body for appointment of his son-in-law i.e. Ehsanullah Danish, the subject expert was sent back and on the next date of interview i.e. 20.02.2021 another expert who assured regarding selection of Ehsanullah Danish was brought on the selection panel and in this manner the selection/appointment of Ehsanullah Danish was done superseding the candidate above him in the merit panel and also by illegally constituting second selection committee without approval of the University/Vice Chancellor in this regard. It is submitted that the change of subject expert unilaterally by the institution is bad in law and de hors the mandates of the universities Act in as much as section 57B of the Bihar State Universities Act specifically provides for constitution of the selection committee. As per the aforesaid section the in case of minority educational institution (as in present case) three persons nominated on behalf of the Chairman of the College out of list of 5 persons preferably from the minority community and who have been



recommended Vice Chancellor of the University concerned from the panel of experts proposed by the Academic Council of the university concerned (three persons out of them should be subject experts) shall from the selection committee. It was not open for the Respondent College, its governing body or the chairman to replace any member of the selection panel/selection committee much less the subject expert without their names having been proposed by the Academic Council and who have been recommended by the Vice Chancellor of the University. The Respondent Governing Body i.e. represented through its Secretary i.e. Respondent No.9 be directed to bring on record the selection process including the process of finalization of expert committee which conducted the selection process/interview on 20.02.2021 so that the illegalities in the selection process be brought light and the selection process be quashed by this Hon'ble Court."

4. It is the case of the writ petitioners that the petitioner no. 1 appointed as Assistant Professor for the post of Chemistry on ad-hoc basis on 02.01.2018 by the orders of the Secretary, Governing Body, Mirza Ghalib College, Gaya and joined the College on 03.01.2018 and started discharging her duties to the satisfaction of all concerned and the petitioner no. 2 to the writ petition was appointed as Assistant Professor on 05.03.2011 in the Department of Persian Studies by the orders of Secretary, Governing Body, Mirza Ghalib College, Gaya and joined on the same day. It is the further case of the petitioners



that the Secretary of the Governing Body, Mirza Ghalib College, Gaya published an advertisement in the month of March, 2018 inviting applications for appointment to the post of Assistant Professor in the Department of Urdu, Persian, Hindi, Psychology, Political Science, Economics, History, Philosophy, Physics, Chemistry, Botany, Mathematics and Commerce and the applications were supposed to be filed before 26th March, 2018. In pursuance of such advertisement, the petitioner no. 1 submitted her application for the post of Assistant Professor in the Department of Chemistry whereas petitioner no. 2 submitted application for consideration as Assistant Professor in the Department of Persian Studies and they were having the requisite qualification as per the prevailing UGC norms for appointment to the post of Assistant Professor. Both the petitioners were called for the interview and they were asked to appear before the Interview Board with all original documents for verification.

5. It is the further case of the writ petitioners that upon due completion of the interview on 24.02.2019 for the post of Assistant Professor, final merit list was published taking into account the marks of academic qualifications, marks of interview and in the list of 20 candidates, who applied for the



post of Assistant Professor in the Department of Chemistry, the petitioner no.1 Reena Kumari secured second position with a total marks of 88 and on the basis of performance before the interview board and the academic marks including publications and teaching experience, the panel of experts recommended her name for the post of Assistant Professor in order of merit for the Department of Chemistry.

6. Similarly, upon due completion of the interview held on 17.02.2019 for the post of Assistant Professor in the Department of Persian studies, final merit list was published taking into account the marks of academic qualifications and marks of interview. Out of 9 candidates, petitioner no.2 Mozaffar Ahamd, secured fourth position and panel of experts submitted the report on the basis of the performance before the interview board and the academic marks including publications and teaching experience for the post of Assistant Professor in the order of merit.

7. It is the further case of the writ petitioners that no appointments were made as per the aforesaid final results and it was kept pending and the petitioners were hopeful that considering their position in merit list and number of vacancies in the respective departments, they would be appointed as



Assistant Professors. All of a sudden, another advertisement, was published on 06.10.2019 and fresh applications were invited for the post of Assistant Professors in the respective departments from eligible candidates and in the same advertisement, it was mentioned that the advertisement, which was issued on March, 2018 for which the interview was held on February, 2019 was cancelled by the Governing Body of the college due to unavoidable reasons. The petitioners' case is that no reason has been assigned for cancelling the previous round of selection process, save and except mentioning in the aforesaid advertisement that it was cancelled on account of unavoidable reasons. It is contended that the College was involved in absolute illegally and arbitrariness in cancelling the previous advertisement and selection process after conducting interview and preparing the merit list in order of merit.

8. It is the further case of the petitioners that the Selection Committee which consisted as members of interview board, did not meet the criteria that has been stipulated in Section 57B of the Bihar Universities Act, 1976 (hereinafter referred to as 'the Act, 1976') and the constitution was in complete defiance of the statutory norms and regulations and the quorum for selection panel/interview board was an absolutely



eye wash and the Selection Committee consisted of individuals, who were not competent to be the members of the panel. According to the petitioners, the Selection Committee selected certain individuals, who happened to be the blue eyed persons of the Secretary, Governing Body of the College and they have been appointed in the Department of Chemistry and Persian as Assistant Professors contrary to all norms and regulations of UGC. According to the petitioners, the Selection Committee constituted for the purpose of second selection did not fulfill the requirements of Section 57B of Act, 1976 as neither Principal of the College nor the Head of the Department of the concerned Department nor the three members recommended by the Academic Council of the College and approved by the Vice Chancellor were present as the part of the interview board and therefore, any selection made in contravention of the statutory prescription was liable to be quashed.

9. After issuance of notice, counter affidavit has been filed by the University, who were respondent nos. 3 to 5 in the writ petition. In paragraph no.7 of the counter affidavit, it is stated that large number of complaints were received against the selection process pursuant to which the Professor In-charge and the Secretary of the Governing Body were asked to submit their



responses vide letter dated 26.06.2021. The College sent its reply dated 03.07.2021, which was found to be vague, evasive and fact deficit. The Enquiry Committee vide letter dated 13.07.2021 directed the Secretary of the Governing Body and Professor In-charge of the College to send the reply of the 20-point questionnaire seeking details of the appointment process, composition of Selection Committee and other relevant details, but the Secretary of the Governing Body and the Professor In-charge of the College did not provide any information and an apparent and conscious effort was made to mislead the Enquiry Committee and to conceal the facts. The relevant records like tabulation sheet, proof of proper dispatch of appointment letters, basis of selection of Experts etc. were not provided by the College and thereby making the process of appointment more suspicious and questionable. No convincing explanation has been given by the College for sudden cancellation of the interview for Urdu and the process of rescheduling.

The University also stated in the counter affidavit that the posts were first advertised on 26.03.2018 and subsequent thereto, interview was held and the panel was prepared on the basis of academic record and performance in the viva voce test. However, no appointment was made from the



said panel and it was abruptly cancelled without assigning any reason. The sudden cancellation of the panel was still a mystery.

10. It is further stated in the counter affidavit that the Selection Committee comprising of a nominee of the Governing Body (Chairman), Principal of the College, Head of the concerned Department, and three Subject Experts from the panel of five names from the list approved by the University's Academic Council and duly recommended by the Vice Chancellor, as mandated by Act 1976, was not constituted. It is not clear as to how the experts were selected and apparently no objective and transparent method was adopted in the selection of experts. In the absence of any transparent mechanism, the selection of experts is itself an eye wash.

It is further stated in the counter affidavit that the Selection Committee was not duly constituted and was constituted in utter violation of the provisions contained in the Act, 1976 and there was glaring anomaly in the constitution of the Selection Committee, which includes the absence of principal, non-inclusion of the respective head of the Departments, arbitrary selection of the subject experts in violation of the provisions contained in Section 57B of Act, 1976 and therefore, the entire selection process is illegal and has



been grossly manipulated to favour the chosen one and there are enough evidence to confirm the opaque, non-transparent and coherent process followed by the management of the College and thereby the core process of appointment is open to judicial scrutiny.

11. Counter affidavit has also been filed by respondent nos. 1 and 2, by the officers of the Higher Education.

Similarly counter affidavit was filed on behalf of respondent no. 9, the Secretary of the Governing Body of the College wherein it was highlighted that though the writ petitioners participated in the first round of the interview held on 24.02.2019 and 17.02.2019 respectively, but it was conducted by two experts, which was in complete violation of Section 57B of the Act, 1976 and therefore, such Expert Committee members had no jurisdiction to make any recommendation in favour of the petitioners. It is the further case of the College that the respondent nos. 10 and 11, who were selected and appointed pursuant to the interviews held in the month of February, 2021 by a body of the experts, which is justified, valid and lawful. It is further stated that Mr. Shabi Arfeen Shamsi was the Chairman and Mr. Shujaat Ali Khan was the Member; Mr. Jalaluddin Ansari was a Member; who was the Professor In-charge and In-



charge Principal of the Mirza Ghalib College, Gaya, Professor Nasimul Hoda was from Jamia Maliia Islamiya University, New Delhi was the expert and Professor Md. Rafique from Aligarh Muslim University, Aligarh was the other expert, which comprised of the five members Selection Committee for the chemistry subject. Similarly for the five members selection Committee of the Persian subject, Mr. Shabi Arfeen Shamsi was the Chairman and Mr. Shujaat Ali Khan was the Member; Mr. Jalaluddin Ansari was the Member, who was the Professor In-charge and In-charge Principal of the Mirza Ghalib College, Gaya; Professor Nasimul Hoda was from Jamia Mallia Islamiya University, New Delhi was the expert and Professor Md. Usman Ghani from Aligarh Muslim University and Professor Abdul Halim from Jamia Millia University, New Delhi were the other experts. It is further stated that the writ petitioners have deliberately and willfully suppressed the relevant and material facts that the interview in which they participated on 24.02.2019 and 17.02.2019 was conducted by a two member expert committee, which was in complete violation of Section 57B of the Act, 1976. It is further stated that no unsuccessful candidate can have any grievance with the selection process of February, 2021 and appointment of respondent nos. 10 and 11.



12. Counter affidavit was also filed on behalf of respondents no. 6, 7 and 8 by Professor-in-charge and In-charge Principal of the College, which was almost identical like the one that was filed by the College.

Supplementary Affidavit was filed on behalf of the petitioners by petitioner no.1 and they have again reiterated that the constitution of the Selection Committee was made in flagrant violation of Section 57 of the Act, 1976.

13. The learned Single Judge in the impugned order has been pleased to hold as follows:

“10.16. Thus, from the above provisions, it would transpire that Section 57A(1) dealt with appointment of Teachers of affiliated colleges not maintained by the State Government by a Selection Committee, Section 57A (2) dealt with the quorum of the Selection Committee and the manner in which it has to make its recommendation. The newly added Section 57B (by the Amendment Act, 2007) provided that the Selection Committee constituted shall be bound by the procedure of selection prescribed by the Statute to be framed by the University. This view has recently been affirmed by a Division Bench of this Court vide judgment dated 23.08.2023 passed in C.W.J.C. No.14793 of 2017 (Noor Alam Khan v. State of Bihar & Ors.).



*10.17. It is pertinent to point out here that in the case of **Noor Alam (supra)**, a challenge was made to the vires of Section 57 (A) of the Act and the same has been upheld by the Hon'ble Division Bench of this Court and it has been held in para-15, which is reproduced herein below:*

“15. As seen above, though the constitution of the Selection Committee is predominantly of persons from college itself, nevertheless by introducing as many as six nominated persons in the Selection Committee (under the newly amended section 57B) and further by making the decision of the Governing Body of the minority colleges subject to the approval of the said Selection Committee, in the opinion of the Court, the same infringes with the rights of the minorities (as provided under Art 30) to establish and administer educational institutions of their choice. It may also be noted here that while section 57A(4) which deals with the teachers in affiliated colleges talks about ‘consultation’ with the Selection Committee, section 57A(5) which deals with the teachers in the minority colleges talks about actions being taken in their case by the governing body with the ‘approval’ of the Selection Committee. In the opinion of the Court, by use of the word ‘approval’ in sec 57A(5) the intention could



not have been to violate the constitutional provision as contained in Art 30, but it would be an effective consultation as contemplated under sec 57A(4). Thus in the opinion of this Court the word 'approval' will have to be read down accordingly."

10.18. *On bare perusal of the judgment passed in the case of **Noor Alam (supra)**, it appears that the Hon'ble Division Bench has nowhere said that the selection committee will not be constituted as per the mandate of Section 57B of the Act, rather the University has been given the responsibility to verify the qualifications of members of the selection committee and the selected teachers.*

10.19. *Prior to the judgment passed in the case of **Noor Alam (supra)**, in the case of S.M. Zaheer Alam Vs. National Council for Teacher Education (NCTE) and others (C.W.J.C. No.10283 of 2019) vide judgment dated 14.10.2020, the Division of this Court has also considered the aforesaid aspect of the matter, after considering catena decisions of the Hon'ble Supreme Court and in para-25 thereof has been pleased to hold as under:*

"Section 57B of the Bihar State Universities Act, 1976, is the impugned provision having been challenged on the ground that this provision infringes upon the right of the



*minorities to administer the institution as they cannot ask the minority institution as to whether the selection has been done on the guidelines provided under Section 57B of the Bihar State Universities Act, 1976. In the case of **The Ahmedabad St. Xaviers College Society and another (supra)** it has been held that minority institution has a right to select the persons of their choice and it includes the constitution of the management. The constitution of Selection Committee is one of the most important facets and concomitant of running the administration of private institution. So, the University under the regulatory provision would ensure that the members of the selection Committee did have requisite qualification but, cannot control the activities of the management of the institution. So, Section 57B of the University Act should be read down in the manner that University Commission will have to verify as to whether those who have been members of the Selection Committee, satisfy the proper qualification as has been provided under Section 57B of the Bihar State Universities Act 1976, to ensure that a fair procedure has been followed in the matter of selection of teachers and it has also to be ensured that the teacher who have been appointed possess the necessary and proper qualification*



prescribed by the University in order to maintain the teaching standard of the college to ensure that the students who are being taught by those teachers, must be able to compete with the products of other institutions. So, the letter dated 27.04.2019 is to be read down in the manner that the college will be obliged to produce the records in order to show that the persons who were the member in the Selection Committee are qualified persons and those persons who have been selected as teachers are possessing the necessary and requisite qualification. The University cannot interfere with the management of the institution but, they have authority to regulate.”

10.20. *On careful perusal of the above said judgment, it is apparent that the Hon'ble Division bench has nowhere said that selection committee will not be constituted as per the mandate of Section 57B of the Bihar State Universities Act, 1976. Rather the University has been given the responsibility to verify the qualifications of members of the selection committee and the selected teachers.*

10.21. *It would not be out of place to state that none of the respondents has either whispered a single word during course of argument or brought on record that the Selection Committee of the college concerned was constituted in*



compliance of the provisions enshrined in Section 57A and 57B in Bihar State Universities Act.

10.22. *At the cost of repetition, it needs to be clarified that if the minority institution has a better candidate available than the one nominated under a regulatory regime, the institution would certainly be within its rights to reject the nomination made by the authorities but if the person nominated for imparting education is otherwise better qualified and suitable, any rejection of such nomination by the minority institution would never help such institution.*

10.23. *From the above discussions, it is evident that in case of Minority Institution, Chairman of the College has right to nominate, three expert out of the list of five persons preferably from Minority Community and who have been recommended by the Vice-Chancellor from the panel of experts proposed by the Academic Council of the University. Therefore, the Governing Body of the College has vital role in constitution of Selection Committee. According to the Act, the University has only role to provide a list of qualified experts out of whom the Chairman of the Governing Body will nominate from expert and i.e. the preferably of Minority Community. Thus, even after introduction of new Section 57A and 57B in*



Bihar State Universities Act, the Selection Committee is predominantly of persons from the college itself. In the present case, the Selection Committee was constituted and the entire selection process has been conducted in complete breach of Section 57 B of the Act as quorum required for Selection Committee was totally missing, rendering the constitution of interview board, illegal and arbitrary.

14. The learned counsel for the appellants contended that the impugned order of the learned Single Judge is not sustainable in the eye of law, particularly, in view of the ratio as has been laid down in the case of **S. M. Zaheer Alam through its Secretary Dr. S. M. Ali Imam Vs. National Council for Teacher Education, through its Chairperson & Others**, reported in, **2020 SCC OnLine Pat 70**.

It is further contended that since the petitioners participated in the selection process and they (writ petitioners) become unsuccessful, they have no right to challenge the selection on the ground of constitution of selection committee.

15. Section 57B of Act, 1976 reads as follows:

"57B. Constitution of Selection Committee.

(1) The Selection Committee for appointment to the posts of Assistant Professor, Principal in affiliated colleges shall be constituted by the



University as follows:-

(i) The Chairman of the governing body of the college or the person nominated by the governing body, who being one of its members, shall be the Chairman of the Selection Committee.

(ii) Principal of the College.

(iii) Head of the department of the faculty concerned in the College.

(iv) Three experts, not below the rank of professor and two out of them should be experts of the subject, shall be nominated by the Vice-chancellor of the concerned University. In case of such colleges, which have been notified/declared as minority educational institution, three persons nominated on behalf of the Chairman of the College who shall be from the list of five persons preferably from the minority community and who have been recommended by the Vice-Chancellor of the University concerned from the panel of experts proposed by the Academic Council of the University concerned and three persons out of them should be subject experts.

(v) The Governing body of the College may nominate two such subject experts who are not connected with that college and those persons have been recommended by the Vice-Chancellor out of the panel of Subject Experts approved by the Academic Council of the University Concerned.

(vi) An academicians representing SC/ST/OBC/Minority/Women/Differently-abled categories, if any of candidates representing these categories it the applicant, to be nominated by the Vice-Chancellor, if any of the above



members of the selection committee do not belong to that category.

(vii) presence of five members of the Selection Committee, which shall include three subject experts, shall form the quorum for the meeting or the Selection Committee.”

16. In the case of **S. M. Zaheer Alam** (supra), a Division Bench of this Court has been pleased to hold as follows:

“25. Section 57B of the Bihar State Universities Act, 1976, is the impugned provision having been challenged on the ground that this provision infringes upon the right of the minorities to administer the institution as they cannot ask the minority institution as to whether the selection has been done on the guidelines provided under Section 57B of the Bihar State Universities Act, 1976. In the case of The Ahmedabad St. Xaviers College Society and another (supra) it has been held that minority institution has a right to select the persons of their choice and it includes the constitution of the management. The constitution of Selection Committee is one of the most important facets and concomitant of running the administration of private institution. So, the University under the regulatory provision would ensure that the members of selection Committee did have requisite qualification but, cannot control the



activities of the management of the institution. So, Section 57B of the University Act should be read down in the manner that University Commission will have to verify as to whether those who have been members of the Selection Committee, satisfy the proper qualification as has been provided under Section 57B of the Bihar State Universities Act 1976, to ensure that a fair procedure has been followed in the matter of selection of teachers and it has also to be ensured that the teacher who have been appointed possess the necessary and proper qualification prescribed by the University in order to maintain the teaching standard of the college to ensure that the students who are being taught by those teachers, must be able to compete with the products of other institutions. So, the letter dated 27.04.2019 is to be read down in the manner that the college will be obliged to produce the records in order to show that the persons who were the member in the Selection Committee are qualified persons and those persons who have been selected as teachers are possessing the necessary and requisite qualification. The University cannot interfere with the management of the institution but, they have authority to regulate.

26. In such view of the matter, the impugned letter no. C/IC/5895/19 dated 27.04.2019 is modified to the extent that the



petitioner-institution will satisfy the University only to the extent that the persons, who were in the Selection Committee, were holding the requisite qualification and those who have been selected in different streams are possessing the necessary qualification in order to maintain the academic standard, so that the students of the institution can compete with the rest of the students coming out from different institutions.”

17. Putting emphasis on the observation made on this particular paragraph, the learned counsel for the appellants contended that since the members of the selection committee had their requisite qualification, merely because their names were not recommended by the Vice-Chancellor of the University from the panel of experts, it cannot be said to be an illegality. It is further contended that since a fair procedure has been followed in the case in hand and the members of the selection committee are the qualified persons and they have adopted the due process, therefore, the learned Single Judge was not justified in quashing the advertisement, in question, and directing for fresh selection.

18. The learned counsel appearing for the College has supported the stand taken by the appellants in the LPA and placed the decision of the Hon'ble Supreme Court in the case of



Gujarat Public Service Commission Vs. Gnaneshwary Dushyant Kumar Shah & Ors. [SLP(C) No. 27710 of 2025], which was decided 19.01.2026. In the said case, it was observed that the candidate did not challenge the advertisement, the eligibility criteria and method of selection prior to her participation in the process of selection and he participated in the interview and when he was declared unsuccessful in the interview, he challenged the process of selection for the post in question in a writ petition. The Hon'ble Supreme Court has been pleased to hold in paragraph no. 18 of the said judgment that the criteria for the interview and qualifying marks were expressly stated and the candidate applied, appeared and took her chance. Only after being declared unsuccessful, she sought to invoke an entirely different regulatory regime. It was further observed that it is the settled principle that a candidate having participated in the process of selection, without protest, cannot challenge the Rules of the game after being declared unsuccessful.

19. Learned counsel appearing for the respondent no.10 submitted that though Reena Kumari and Mozaffar Ahmad (respondent no.9) were the writ petitioners, but so far as Reena Kumari is concerned, vide order dated 13.05.2025, her name has been deleted from the array of parties, as she has been



selected in a different University. The learned counsel placed reliance on the decision of the Hon'ble Supreme Court in the case of **Dr (Major) Meeta Sahai Vs. State of Bihar & Ors.**, reported in **(2019) 20 SCC 17**, wherein in paragraph 17 it has been held as follows:

“17. However, we must differentiate from this principle insofar as the candidate by agreeing to participate in the selection process only accepts the prescribed procedure and not the illegality in it. In a situation where a candidate alleges misconstruction of statutory rules and discriminating consequences arising therefrom, the same cannot be condoned merely because a candidate has partaken in it. The constitutional scheme is sacrosanct and its violation in any manner is impermissible. In fact, a candidate may not have locus to assail the incurable illegality or derogation of the provisions of the Constitution, unless he/she participates in the selection process.”

20. The provision under Section 57B of Act, 1976 makes it very clear as to how the Selection Committee is to be constituted. So far as the three experts are concerned, it is specifically mentioned therein that not only those three experts should not be below the rank of Professor, but two of them should be expert on the particular subject and they are to be



nominated by the Vice-chancellor of the concerned University. So far as Minority Educational Institutions are concerned, three persons nominated on behalf of the Chairman of the College from the list of five persons preferably from the Minority Community and who has been recommended by the Vice-chancellor of the University concerned from the panel of experts proposed by the Academic Council of the University concerned shall be experts.

21. From the counter affidavit filed by the College, it is apparent that the name of three experts were not recommended by the Vice-chancellor of the University. The expert list has not been furnished by the College to the University and it seems that the College has selected the three experts on its own, which appears to be in gross violation of the provision under Section 57B of the Act, 1976, even if it is a Minority Education Institution.

22. The principle, which has been laid down in the case of **Meeta Sahai** (supra) is very clear that there is no complete bar for a candidate, who has agreed to participate in the selection process prohibiting him to challenge the selection, if there is illegality in it.

23. We are of the view that if this process is allowed



to continue and the College is given a complete leeway, even if it is a Minority Educational Institution and the provision is deviated and the persons are selected, as the experts, even if their names are not recommended by the Vice-chancellor, then it would open the floodgate of arbitrariness and there is every possibility of biasness in the selection procedure.

Therefore, in view of the sacrosanct statutory provision available, it is required to be followed in its letter and spirit. Even in the case of **S. M. Zaheer Alam** case (supra) reliance on which has been placed by the learned counsel for the appellants, there also it is underscored that the constitution of the selection committee is one of the most important facets and concomitant of running the administration of private institution. The University under the regulatory provision would ensure that the members of the selection Committee did have requisite qualification. In the case in hand, the names of the persons have been given in the counter affidavit, who have been stated to be the experts in the interview, which was conducted, however, no documentary proof has been annexed thereto.

24. After going through the analysis made by the learned Single Judge, we do not find that the reasoning, which has been assigned by the learned Single Judge is any way



perverse or palpably unreasonable or inconsistent with any particular provision of law.

25. A Letters Patent Appeal, is an intra-court appeal, whereunder a Letters Patent Bench sitting as a Court of Correction, corrects its own orders in exercise of the same jurisdiction, as was vested in the Single Judge. In such appellate jurisdiction, the High Court exercises the powers of a Court of Error and this appellate jurisdiction is really a corrective jurisdiction and it is used rarely only to correct errors, if any made.

In the case of ***B. Venkatamuni Vs C.J. Ayodhya Ram Singh & Ors.*** reported in, ***2006 (13) SCC 449***, it is held that in an intra-court appeal, the Division Bench undoubtedly may be entitled to re-appraise both questions of fact and law, but entertainment of a letters patent appeal is discretionary and normally the Division Bench would not, unless there exist cogent reasons, differ from a finding of fact arrived at by the learned Single Judge.

In the case of ***Management of Narendra and Company Private Limited Vs. Workmen of. Narendra and Company***, reported in ***(2016) 3 SCC 340***, it has been held that unless the appellate Bench reaches a conclusion that the finding



of the Single Judge is perverse, it shall not disturb the same. Merely because another view or a better view is possible, there should be no interference with or disturbance of the order passed by the learned Single Judge.

The Letters Patent Appeal provides an internal check and balance ensuring judicial oversight and protecting the citizens rights by allowing for a more thorough review of a Single Judge decision.

26. After going through the impugned judgment, we are of the humble view that there is no perversity or unreasonableness in the impugned order and therefore, we are not inclined to interfere with the same.

Accordingly, the L.P.A. stands dismissed.

(Sangam Kumar Sahoo, CJ)

(Harish Kumar, J)

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