

Item No.1.

Form No. J(2)

**In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

Present: **The Hon'ble Justice Reetobroto Kumar Mitra**

W.P.A. 6091 of 2025

**Dr. Nabarun Sen
Vs.
The State of West Bengal & Ors.**

For the petitioner : Ms. Rama Halder,
Ms. Eshita Mandal.

For the State : Mr. Swapan Kr. Datta, Id. G.P., Sr. Adv.
Mr. Rajat Dutta.

For the Respondent
Nos. 4 to 6. : Mr. Subhrangsu Panda,
Mrs. Ina Bhattacharyya,
Mrs. Mithu Singha Mahapatra.

For the Respondent
Nos. 8 to 10 : Mr. Anil Kr. Gupta,
Mr. Yogesh Kr. Sharma.

Heard on : 29.01.2026

Judgment dictated
in open Court on : 29.01.2026

Reetobroto Kumar Mitra, J.:-

1. Petitioner's grievance is that in spite of being an eligible candidate with all requisite qualifications, the petitioner was neither shortlisted nor recommended for appointment to the post of Assistant Professor in Botany in the unreserved category.

2. The short conspectus of facts leading to the grievance is enumerated hereinafter.

3. The petitioner had made an online application to participate in the selection process for the post of Assistant Professor in Botany, conducted by the West Bengal College Service Commission (hereinafter respondent no. 4) in terms of the advertisement No. 1 of 2020 published on December 24, 2020. Even after having requisite qualifications of a Master's Degree and Ph.D. in the subject along with State Eligibility Test (SET) qualification, the candidature of the petitioner was ignored.

4. The petitioner was not qualified for shortlisting in the merit panel list.

5. Ms. Rama Halder, learned advocate appearing for the petitioner raises the following issues:

a. The shortlisting process had not been followed and indeed the guidelines framed by the University Grants Commission (UGC) had been violated.

b. There was no videography made in terms of the direction of the Hon'ble Supreme Court of India.

c. The rule regarding vacancy as stipulated in the regulations framed by the commission was grossly violated.

d. A member of the merit panel list at serial no. 9 had been recommended to a post of Assistant Professor, when admittedly there were six vacancies of such post. Hence such appointment clearly discloses mala fides and a complete departure from the established process and procedure.

e. She has referred to a decision in a similar matter of this Hon'ble Court in MAT 711 of 2021 along with several connected matters.

6. Mr. Subhrangsu Panda appearing for the respondents no. 3, 4 and 5 has made the following points in defence:

a. There is no prayer regarding the vacancy list as argued by the petitioner nor any prayer that there has been any violation of the regulation. In fact, pleadings in the petition are quite to the contrary that the selection process had been made in terms of the guidelines framed by the UGC.

b. The said notification is in complete consonance with the guidelines framed by the UGC as is the advertisement issued by the commission asking for persons interested to apply for the post of Assistant Professor.

c. The petitioner is an unsuccessful candidate who is not a party to the merit panel. In fact, the merit panel had been published some time in December 2023 with tenure of one year,

which has long expired in December 2024. The petitioner has filed the instant writ petition only on March 8, 2025, after expiry of the panel.

d. The petitioner, if aggrieved, ought to have challenged the panel from December 2023 till December 2024. The petitioner was aware of such panel and that it has expired and chosen not to challenge the same.

e. Shortlisting of candidatures was never a required criterion as all eligible candidates are called for interview and a wide spectrum is provided to enable all eligible candidates to participate in the interview process. This is the procedure which has been followed ever since the West Bengal Commission Act came into force, some time in 1979.

f. The score pattern for Assistant Professor in general degree colleges clearly reveals that the interview performance would carry only twenty marks and not forty marks as alleged by the petitioner. Thus, the petitioner's grievance that forty marks had been allotted for interview performance is wholly incorrect and misplaced.

g. There were a total of twenty vacancies, of which seven were for unreserved candidates.

h. Further vacancies arose during the period of one year, the validity period of the panel on account whereof under Regulation 7 (1) (C) of Regulations regarding the manner of selection of persons for appointment to the posts of Assistant Professors, Principals,

and Librarians in Government Aided Colleges in West Bengal published by the West Bengal College Service Commission on December 27, 2012, the panel is to include fifty per cent in excess of the number of existing vacancies or in excess by such number as may be considered necessary by the commission. This excess number in the panel is deliberately kept as such candidatures are on standby for further vacancies which may arise during the course of the year, that is the lifetime of the panel.

i. He has referred to several unreported decisions of this Hon'ble Court, which are WPA 16953 of 2024, WPA 14826 of 2021, as well as a decision reported in 2024 8 SCR 488 of the Hon'ble Supreme Court of India.

7. I have heard the learned counsel for the parties and have gone through the decisions cited by them as well as the records of this case.

8. The first and rather unexplained issue is the delay which has been caused by the petitioner in approaching this Court. The delay, whether deliberate or circumstantial, has not been explained. The petitioner seeks to challenge the validity of the constitution of the panel and the panel itself much after the term of the panel expired in December 2024. The petitioner was aware of the panel and did not submit that the petitioner was prevented by any reason from challenging it.

9. The second and equally discomfoting issue is that the petitioner is an unsuccessful candidate, whose name does not feature in the merit panel that had been published and is merely taking a chance with this litigation. The petitioner had not qualified in the merit list. The petitioner has not been able to give any reason as to why the petitioner waited for more than one year since December 2023 to approach this Hon'ble Court and that too at a rather opportune moment when the term of the panel had already expired.

10. The issue raised by the petitioner that the process in publishing the panel had not been in compliance with the guidelines framed by the UGC can at best be called conjecture and surmise. There is nothing on record to show that there has been any violation, if at all, of such guidelines. On the contrary, the advertisement, notification and the regulations are clear and unequivocal that the same had been framed in accordance with and in consonance with the guidelines framed by the UGC. In fact, Mr. Anil Kr. Gupta, learned advocate appearing for the UGC has not made a single insinuation or assertion of any kind that the panel was published or that the respondent no. 3 had been conducting such selection process in violation of the UGC Guidelines.

11. It is also apparent from the records that respondent no. 3 had followed the entire process stipulated in Regulation 3 regarding information on vacancy, which they are obliged to follow.

Requisition had been put in by the colleges, following which the commission declared the cut-off date. This information was displayed on its website prior to the publication of the provisional merit panel and culminated in the publication of the first provisional merit panel. The petitioner's attempts to plead otherwise and shift the onus onto the respondent have failed miserably.

12. The petitioner has also made an allegation that one Pallab Ghosh at serial no. 9 in the merit panel list was recommended for a post of Assistant Professor in one of the colleges, while there were only six sanctioned vacant posts available as per the advertisement. The petitioner contends that this shows that the respondent authorities indulged in some sort of illegality or deviation from the accepted procedure. Pallab is not a party to the proceeding. That apart, the persons at serial no. 1 to 8, who could have been aggrieved by such an appointment, if at all, would have had a cause of action to challenge it. None of these persons have approached this court or alleged deprivation of their legal entitlement. The petitioner is a rank outsider who does not feature in the panel, and is questioning an appointment not challenged by those placed above Pallab on the merit panel. Clearly, the petitioner's grievance in this regard is unfounded and baseless.

13. The issue pertaining to appointment of a person at serial no. 9, when there were seven seats available under the unreserved

category in the Botany subject has been explained by Mr. Panda for the respondent College Service Commission inasmuch as the person at serial no. 7 one Arun Kumar Shaw had also obtained the first rank in the category of OBC-B. He had thus, chosen to opt under the OBC category and not under the unreserved category. Thus, one seat fell vacant in the unreserved category. This seat was offered to and duly taken by the person at serial no. 8, Marufa Sultana.

14. During the validity of the panel, a further vacancy arose due to a retirement of an incumbent in the Rammohan College. The college had made a requisition against such vacancy on 17.10.2023, thus enabling appointment of the next person in the panel to such vacant post under such requisition. Imminently, the vacancy in the Rammohan College had occurred prior to publication of the panel as the same was pending before the BCW Department of the Government of West Bengal for confirmation. This vacant post was then offered to the person at serial no. 9, Pallab Kumar Ghosh who was duly appointed.

15. It is true that there has been no short-list, but then, it is the specific case of the respondents that they never shortlisted the eligible candidates. All eligible candidates are called for the interview and then assessed on the basis of the score pattern as stipulated by the Commission in consonance with the UGC Guidelines. The marks for the interview are merely twenty out of a

total of one hundred. None of the candidates who are part of the merit panel list, are before this Hon'ble Court in this proceeding seeking to challenge the recommendation made by the Commission.

16. I have also considered the decisions relied upon by the parties. The respondents rely on the decisions in WPA 14826 of 2021, and particularly in WPA 16953 of 2024, which specify that unless there is a mandate under the Regulations for the publication of the panel and the disclosure of individual marks, the Commission is not compelled to do so. In fact, this has also been affirmed by the Hon'ble Division Bench of this Court in MAT 1968 of 2023.

17. The whole purpose of the interview as spelt out in the aforestated decisions, with which I respectfully agree, is that the selection by the members of the interview committee is not made solely on the basis of the performance of candidates at the interview but also on their domain knowledge, research and teaching skills along with other academic records. It is for such purpose that the interview carries only twenty marks and the balance eighty marks are distributed evenly for the other factors/parameters.

18. The allegation of the petitioner in the petition that he had reason to believe the principles were manipulated in the viva voce or that the experts had erroneously evaluated him remains a mere allegation, as there is no corroborative evidence nor even any basic

evidence to establish a prima facie case to call for the master score sheet. The petitioner has engaged, and admits to engaging, the machinery of the court in a roving inquiry to collect evidence. This cannot be permitted, as the petitioner was unable to establish, even on the slightest count, that any part of the process undertaken by the Commission was in violation of its regulations or the guidelines framed by the UGC.

19. The petitioner was unable to show any entitlement or that any right of the petitioner had been violated. The judicial machinery cannot be permitted to be used by the petitioner to collect evidence on the basis of bald allegations that are unsubstantiated, uncorroborated, and practically verge on conjecture and surmise.

20. The decision relied upon by the petitioner in MAT 711 of 2021 is distinguishable on facts, as in that matter there was a finding that several meritorious candidates had been awarded lesser marks in the interview by the members of the interview board. In the present case, as held earlier, the petitioner is not a successful candidate and has challenged the formation of the merit panel only after its tenure expired. The petitioner cannot, therefore, be permitted to seek information as to how the panel evaluated the petitioner, especially since no prima facie case has been made out that such evaluation was wrongful or that any less deserving candidate was placed above the petitioner.

21. It is also relevant to note here that the petitioner consciously took part in the selection process and cannot be permitted to question the advertisement or the methodology adopted by the respondents after being declared unsuccessful. This has been reiterated by the Hon'ble Supreme Court of India in its decision in 2024 8 SCR 488.

22. In so far as the decision of the Hon'ble Supreme Court of India in the case of The State of Meghalaya and Anr. Vs. Phikirbha Khariah and Ors., delivered on April 6, 2018, is concerned, the same related to maintaining videography to ensure the purity of selection for a public post. The Hon'ble Supreme Court had desired that CCTV cameras be installed at examination and interview centres to the extent viable, to maintain the sanctity of the procedure. In the present case, the petitioner participated in the interview process and was aware that a merit panel list had been published, in which the petitioner's name did not feature as a successful candidate. The petitioner was aware that the interview centre was not under video surveillance and chose not to challenge the procedure even after the panel's publication. In fact, the sanctity of the procedure has not been challenged by anyone, including the petitioner. The petitioner's grievance has been the appointment of the person at serial no. 9 when there were only seven vacant posts. This issue has been sufficiently explained by the Commission. Thus, the petitioner cannot be permitted to

disrupt the process at this belated stage, especially since the tenure of the panel expired in December 2024.

23. It is clear from the aforesaid facts and enunciation of the process as well as it appears from the records and the consideration of the petitioner's application that there has been no perversity committed by the respondent while dealing with the applicants and recommending some of them for the post of Assistant Professor. The petitioner cannot be held to be the victim of any procedural lapse, far less any arbitrary action, administrative malice, bias in law or mala fides. The petitioner, having participated in the process with full knowledge of it, was aware and had acquiesced to the procedure. The likes of the petitioner cannot be permitted to disturb the process which has already taken place in due compliance with all procedural formalities.

24. In view of the aforesaid, I find no merit in the writ petition which is dismissed without any cost.

25. The allegations contained in the petition are deemed to be denied, as no affidavits have been filed.

26. An urgent photostat-certified copy of this order, if applied for, should be made available to the parties upon compliance with the requisite formalities.

(Reetobroto Kumar Mitra, J.)