

Form No. J(2)

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

Sk. Hasibur Rahaman
Vs.
The Aliah University, New Town
Rajarhat & Ors.

Judgment dictated
in open Court on : 08.01.2026

1. The petitioner is aggrieved by the acts of omission and/or commission of the respondent authorities in not appointing the petitioner to the post of Audit and Accounts Officer.
2. The facts in a nutshell may be summarized as under;

- (a) The petitioner has been working as an Accounts Officer in the respondent No.1.
- (b) Pursuant to an advertisement dated June 27, 2015, applications were invited from eligible candidates for recruitment to various posts, including that of an Audit and Accounts Officer.
- (c) The petitioner had submitted his academic credentials and was thereafter called for an interview by the Selection Committee, sometime in 2020.
- (d) The interview was duly held, though there was no response from the authorities as to the fate of the participants.
- (e) The petitioner was constrained to make an application under the Right to Information Act, 2005, sometime in June 2023 to the concerned officer of the respondent No.1.
- (f) Pursuant to such application, by a communication of July 26, 2023, the petitioner came to learn that of the eight short-listed candidates, five had participated in the interview process, amongst whom the petitioner was the highest ranked person with a percentage of 47.36.
- (g) However, it appears from the score-sheet disclosed by the petitioner, which was made available to him under the Right to Information Act, 2005, all the five candidates who participated, were found to be “not suitable”. In fact, this score-sheet also finds a hand written endorsement that “it is resolved unanimously that none is found suitable for the said post.”

(h) Upon receipt of such particulars, especially the score-sheet, the petitioner had made a representation to the Vice Chancellor of the respondent No.2 on August 24, 2023, in September 2023 and on May 10, 2024 seeking appointment to the post of Audit and Accounts Officer.

3. It is this process, undertaken by the University in not appointing the petitioner that has been assailed in the present writ petition.

4. Mr. Ahammed appearing for the petitioner submits that the process ought to be set aside on two principal grounds.

5. First, since there was no benchmark set by the interviewing committee and the marks awarded in the interview was absolutely subjective.

6. Second, the distribution of marks for the academic credential and the interview are contrary to the law set forth by the Hon'ble Supreme Court of India in several decisions.

7. Mr. Ahammed's consequential argument is that the process ought to be set aside and the petitioner should be appointed as the Audit and Accounts Officer, being the best available candidate for the post of Audit and Accounts Officer.

8. He has relied upon three decisions of the Hon'ble Supreme Court of India which are as under;

i) *K. Manjusree Vs. State of Andhra Pradesh & Anr., reported in 2008(3) SCC 512;*

ii) *Barot Vijaykumar Balakrishna & Ors. Vs. Modh Vinaykumar Dasrathlal & Ors., reported in (2011) 7 SCC 308; &*

iii) *Tej Prakash Pathak & Ors. Vs. Rajasthan High Court & Ors., reported in 2024 SCC OnLine SC 3184;*

9. The decisions of the Hon'ble Supreme Court relied upon by Mr. Ahammed are clear and unequivocal. It is not in dispute that benchmarks ought to be set by an authority prior to embarking on a process for appointment to a post in an educational institution. Any process where the benchmark has been set either during the process or thereafter cannot be sustained in law.

10. Mr. Chakraborty appearing for the respondents submits that the petitioner was aware that there was no benchmark set for the selection process as would appear from the advertisement issued by the University.

11. With such specific knowledge, the petitioner had participated in the process without any reservation and hence at a belated stage, cannot be permitted to question the process undertaken for selection of a candidate to the post, as aforestated.

12. He further submits that the Screening Committee, which had conducted the interview, consisted of several persons holding high posts including Vice Chancellor of other University. Records or minutes of the meeting and/or their deliberation are presently not available.

13. I have heard learned Counsel for the parties and considered the documents on record as well as the decisions relied upon by them.

14. The first and rather strange fact in this matter is that the advertisement was issued in June, 2015 while the interview was held in 2020 and the present writ petition was filed in 2024 and is pending since. Mr. Chakraborty has also made it clear that there has been no appointment to the post of Audit and Accounts Officer and the said post is presently lying vacant. It is not in dispute and indeed indisputable that the entire process is somewhat obscure as the academic credentials of participating candidates were to account for 40% of the marks to be awarded to the participating candidates. The interview would constitute for 60% of the marks for the participating candidates in deciding their eligibility and/or suitability for the post.

15. Since no benchmark or any parameter has been set forth by the University to obtain appointment to the post of Audit and Accounts Officer, this entire process is *ex facie* vitiated. The decisions relied upon by Mr. Ahammed of the Hon'ble Supreme Court of India are clear and unequivocal. The decision of the Screening Committee is arbitrary as marks were awarded without any basis and hence cannot be sustained in any manner.

16. The issue that remains and begs some consideration is the second limb of Mr. Ahammed's submission that his client, the petitioner herein, should be appointed as he is the person with the highest marks in the interview.

17. This fact is not disputed. Even though he has obtained the highest marks, he was found "not suitable" for the said post. In the absence of any definition of the word 'suitable' in any of the statute or by-laws of the

University, the said word loses any force and lacks any meaning to be ascribed. There is no objective parameter which was set forth to ascertain the suitability of the participating candidates. Thus, the entire process of selection in the absence of any benchmark is nothing short of arbitrary. Thus, the entire process is vitiated and has to be set aside.

18. Thus, if the entire process is vitiated, which has been Mr. Ahammed's main thrust, the consequential argument falls short of having a connect with the main argument. The argument that the petitioner was the best available candidate is self defeating as there were no parameters available to assess the same.

19. In the event, the process is vitiated, not only the petitioner but all candidates inspite of the fact that they may have a legitimate expectation, which I very much doubt in the present case, would not be able to establish a right to be appointed to the post of Audit and Accounts, Officer.

20. The reason for my doubt of the legitimacy of the expectation of the petitioner to be appointed is that the advertisement of June 27, 2015 did not mention any parameter and the petitioner was well aware of such fact and ought to have either objected or, as he did, participate. Having participated in the process, there was no room for any further expectation of the petitioner.

21. However, bereft of the petitioner's expectation, it is not in dispute that the entire process is indeed vitiated and falls short of the benchmarks set forth by the Hon'ble Supreme Court in the three aforestated decisions

and particularly the once reported in **2008 (3) SCC 512 and 2024 SCC OnLine SC 3184 (Supra)**.

22. In these circumstances aforesated, the advertisement seeking an eligible candidate for the appointment to the post of Audit and Accounts Officer is set aside and consequentially the interview process undertaken by the Selection Committee is also set aside.

23. The respondent University will issue a fresh advertisement for appointment of an eligible person to the post of Audit and Accounts Officer by February 15, 2026 and appoint a Selection Committee to conduct the necessary process within March 15, 2026 and conduct the necessary process upon setting necessary parameters which should include a benchmark.

24. The petitioner will have a right to participate in the process and if there is a disqualification due to his age, the same will be relaxed and/or waived by the respondent authorities in the peculiar facts and circumstances of the case, which shall not be construed as a precedent.

25. It is further made clear that the employment of the petitioner in the present post will not be disturbed in any manner as an apprehension has been expressed by Mr. Ahammed. The petitioner's participation in the selection process will also not be marred by the fact that he has filed the present proceeding challenging the entire process. The petitioner will be evaluated independently without any bias of any manner whatsoever.

26. With these directions, the writ petition is partially allowed and accordingly disposed of.

27. There shall be no order as to costs.

28. Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(*Reetobroto Kumar Mitra, J.*)