# HIGH COURT OF UTTARAKHAND AT NAINITAL

**HON'BLE THE ACTING CHIEF JUSTICE SHRI MANOJ KUMAR TIWARI**
**AND**
**HON'BLE SHRI JUSTICE SUBHASH UPADHYAY**

**28TH OCTOBER, 2026**

**WRIT PETITION (S/B) No. 513 of 2025**

1: Ravita Kumari

--Petitioner

**Versus**

1: State Of Uttarakhand
2: Director General
3: Director Medical Education
4: Uttarakhand Medical Service Selection Board
5: National Medical Commission
6: Atanu Sen
7: Nitu Chaudhary
8: Dr Rashmi Pandey
9: Sandeep Dabral
10: Rahul Saxena
11: Akansha Srivastava

--Respondents

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| Counsel for the petitioner. | : | Mr. Vinay Kumar, learned counsel. |
| Counsel for respondent nos.1 to 3. | : | Mr. Ranjan Ghildiyal, learned Standing Counsel for the State of Uttarakhand. |
| Counsel for respondent no. 4. | : | Mr. Gaurav Nagpal, learned counsel holding brief of Mr. Ramji Srivastava, learned counsel. |
| Counsel for respondent no. 5. | : | Mr. Yogesh Pacholia, learned counsel. |
| Counsel for respondent no. 10. | : | Mr. Arvind Vashistha, learned Senior Counsel assisted by Mr. Pulak Raj Mullick and Mr. Devanshi Joshi, learned counsel. |
| Counsel for respondent no. 11. | : | Mr. K.P. Upadhyay, learned Senior Counsel assisted by Mr. Hemant Pant, learned counsel. |

**JUDGMENT : (per Shri Manoj Kumar Tiwari, A.C.J.)**

Petitioner is a Medical Graduate. She possesses M.B.B.S. Degree, besides M.D. in Biochemistry. She participated in a selection for the post of Assistant Professor

(Biochemistry) held by Uttarakhand Medical Service Selection Board. Since petitioner was not selected, therefore, she has approached this Court, challenging the selection of private respondents for the post of Assistant Professor (Biochemistry), on the ground that non-medical graduates, having M.Sc. (Biochemistry) cannot be appointed as Assistant Professor in a Medical College. The reliefs sought in the Writ Petition are as follows :-

> *"(i) Issue a writ, order or direction in the nature of Certiorari calling for the records and quashing the Final Result dated 17.11.2025 (Annexure No.11 to the writ petition), so far as it pertains to the selection of the private respondents on the post of Assistant Professor (Biochemistry) is concerned, inasmuch as the norms issued by the National Medical Commission specifically mentions that the candidates with Non-Medical Qualification can be appointed only in case of non-availability of candidates with Medical Qualification.*
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> *(ii) Issue a writ, order or direction in the nature of Certiorari calling for the records and quashing the Representation Disposal Order dated 08.10.2025 (Annexure No.10 to the writ petition), whereby the candidature of respondent Dr. Rashmi Pandey has been held to be eligible in violation of the Notice dated 30.09.2025 (Annexure No.09 to the writ petition).*
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> *(iii) Issue a writ, order or direction in the nature of Mandamus commanding and directing the respondent Selecting Body to revise the Final Result dated 17.11.2025 (Annexure No.11 to the writ petition) for the post of Assistant Professor (Biochemistry) by including the name of the Petitioner who has qualified the selection process and possess the Medical Qualification of MD (Biochemistry) and accordingly recommend the name of the Petitioner to the Appointing Authority.*
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> *(iv) pass any other writ, order or direction, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."*

2. The advertisement, pursuant to which selection was held, was issued on 19.02.2025. A total of 13 vacancies, on

the post of Assistant Professor (Biochemistry), were notified by the said advertisement, out of which 06 posts were unreserved, 04 posts were reserved for Scheduled Caste candidates, 02 posts were reserved for Other Backward Classes candidates and 01 post was reserved for candidates belonging to economically weaker sections. Clause 6 of the advertisement deals with Academic Qualifications, which provides that one should have the qualifications mentioned in NMC-TEQ Regulations – Minimum Qualifications for Teachers in Medical Institutions Regulations, 2022, notified on 22.02.2022.

3. Petitioner, however, has relied upon the “Guidelines for Under Graduate Courses under Establishment of New Medical Institutions, Starting of New Medical Courses, Increase of Seats for Existing Courses & Assessment and Rating Regulations, 2023”, which were notified on 16.08.2023. Those guidelines were issued in exercise of power conferred upon Under Graduate Medical Education Board of National Medical Commission vide sub-section (a), (d) and (e) of Section 24 r/w Sections 26, 28 & 29 of the National Medical Commission Act, 2019. Clause 4 of Schedule II of those Regulations, on which heavy reliance was placed by learned counsel for petitioner, is reproduced below :-

> *“4. In department of Anatomy, Physiology, Biochemistry, non-medical teachers may be appointed to the extent of 15%*

> *of the total number of posts in the department subject to non-availability of medical teachers. The above mentioned non-medical teachers and the Statistician in the department of Community Medicine should possess qualification in that particular subject from a recognised University as per requirements in Teacher Eligibitity Qualification Regulations."*

4. Learned counsel for petitioner submits that, since medical qualification holders were available in sufficient numbers, therefore, private respondents could not have been selected for appointment as Assistant Professor (Biochemistry), as they do not possess a medical qualification. Thus, he submits that selection and appointment of private respondents is contrary to Clause 4 of Schedule II of the guidelines issued by Undergraduate Medical Education Board of National Medical Commission on 16.08.2023.

5. Clause 4 of Schedule II of the notification dated 16.08.2023 permits appointment of non-medical teachers in department of Anatomy, Physiology, Biochemistry to the extent of 15% of the sanctioned posts, subject to non-availability of medical qualification holders. Thus, it is contended that selection and appointment of private respondents is liable to be set aside, as they do not possess a medical qualification and they could have been selected only if medical qualification holders were not available for selection/ appointment in sufficient numbers.

6. Mr. Yogesh Pacholia, learned counsel appearing for National Medical Commission, however, refers to the advertisement dated 19.02.2025, for contending that Teachers Eligibility Qualifications in Medical Institutions Regulations, 2022, framed by National Medical Commission, were adopted by reference in the advertisement, meaning thereby, that minimum qualifications needed for appointment should be such, as is prescribed in the aforesaid Regulations framed in 2022. The Teachers Eligibility Qualifications in Medical Institutions Regulations, 2022 were notified in the official gazette on 14.02.2022. Regulation 3.3 of the said Regulations reads as under :-

> *"3.3 In the Departments of Anatomy, Physiology and Biochemistry, non-medical graduates having M.Sc. (relevant medical and PhD qualifications, granted by the recognized Medical College/Institute as regular on campus course in the subject concerned, can be appointed as Assistant Professors. A non-medical person cannot be appointed as Dean or Director or Principal or Medical Superintendent or Head of the Department."*

7. A careful perusal of Regulation 3.3 of the Regulations framed by Postgraduate Medical Education Board of National Medical Commission, notified on 14.02.2022, unequivocally provides that, in certain departments, including Biochemistry, non-medical graduates with M.Sc. (relevant medical) & Ph.D. qualification can be appointed as Assistant Professors, with a caveat that a non-medical person cannot be appointed as

Dean/ Director/ Principal/ Medical Superintendent/ Head of the Department.

8. Learned counsel appearing for National Medical Commission submits that academic qualifications required for appointment as teacher in a medical institution are prescribed by 2022 Regulations, notified on 14.02.2022, while the notification dated 16.08.2023 contains the guidelines, which were framed by Undergraduate Medical Education Board for undergraduate courses. He refers to Chapter-I of the notification dated 16.08.2023 (second sub-para), where it is mentioned that these Regulations shall be applicable to medical colleges, which are being established from Academic Session 2024-25. He further submits that these guidelines were issued by Undergraduate Medical Education Board, under Section 24 of the National Medical Commission Act, 2019, under its general power of Determining Standards of Medical Education at Undergraduate Level. He submits that the Government Medical Colleges, for which selection was being held, were all established much before Academic Session 2024-25, while the notification dated 16.08.2023 clearly indicates that the Regulations notified on 16.08.2023 will apply only to new medical colleges, which are established, during or after Academic Session 2024-25. He further submits that the

notification relied upon by petitioner deals only with new medical institutions, and it does not lay down the minimum qualifications needed for appointment as teacher in a medical institution.

9. Mr. Arvind Vashistha & Mr. K.P. Upadhyay, learned Senior Counsels appearing for respondent nos. 10 & 11 respectively, submit that respondent nos. 10 & 11 possess all requisite qualifications, as mentioned in the advertisement, including Ph.D. in Biochemistry. As such, challenge to their selection and appointment made by petitioner is unfounded.

10. Mr. K.P. Upadhyay, learned Senior Counsel further submits that respondent no. 11 was selected and appointed against a seat reserved for Uttarakhand Women, while petitioner belongs to a different category, therefore, respondent no. 11 is unnecessarily impleaded in the writ petition.

11. We do not find substance in the challenge thrown by petitioner to the selection and appointment of private respondents. Academic qualification, needed for appointment as Assistant Professor in medical colleges, is prescribed in Teachers Eligibility Qualifications in Medical Institutions Regulations, 2022, notified on 14.02.2022, and the other

notification, issued on 16.08.2023, is on a different subject altogether, and since the Regulations framed in 2022 do not provide that non-medical graduates can be appointed only in the event of non-availability of medical graduates, therefore, selection and appointment of private respondents cannot be faulted. In fact, Clause 3.3 of 2022 Regulations treats medical graduates and non-medical graduates at par, for appointment as Assistant Professor, with a caveat that a medical graduate cannot be appointed as Dean/ Director/ Principal/ Medical Superintendent/ Head of the Department. The advertisement, pursuant to which selection was held, does not indicate the academic qualifications needed for appointment and it merely refers to the 2022 Regulations framed by National Medical Commission. Since private respondents are eligible as per those Regulations, therefore, there is no scope for interference with the selection and appointment of private respondents.

12. Learned counsel for petitioner then contends that selection of respondent nos. 6 & 8 is unsustainable, as they do not possess Masters Degree in relevant medical Biochemistry, which is the basic qualification needed for appointment.

13. Mr. Gaurav Nagpal, learned counsel appearing for Uttarakhand Medical Service Selection Board, however, submits

that respondent nos. 6 & 8 were initially kept out of the select list, due to doubt regarding their qualification. However, when they made representation to the Selecting Body, enclosing therewith the letters issued by National Medical Commission, then their names were added in the select list.

14. Learned counsel for the Uttarakhand Medical Service Selection Board refers to the documents enclosed as Annexure No. 2 to the counter affidavit filed on behalf of respondent no.4, which is a letter dated 12.08.2022 issued by National Medical Commission, wherein it is stated that Dr. Rashmi Pandey (respondent no. 8) was found eligible for the post of Assistant Professor in the Department of Biochemistry in a medical college in India. Annexure No. 3 to the counter affidavit filed by respondent no. 4 is a certificate issued by AIIMS, New Delhi, which reveals that respondent no. 8 was awarded degree of Doctor of Philosophy, after having been found qualified in the examination held in November, 2021. Another certificate issued by Registrar, AIIMS, New Delhi is enclosed at Page No. 34 of the counter affidavit filed by respondent no. 4, which reveals that the title of the Thesis submitted by respondent no.6 was "*Study of endothelial progenitor cell (EPC) tetrahydrobiopterin (BH4) level and its association with EPC number and function in coronary artery disease (CAD)*

*patients*." The experience certificate issued by AIIMS, Rishikesh on 19.05.2025 is also enclosed with the counter affidavit filed by respondent no. 4, which indicates that respondent no. 6 worked as a Senior Resident in Department of Biochemistry, AIIMS Rishikesh, w.e.f. 04.05.2022 to 03.05.2025 on tenure basis, and he was also involved in teaching activities during that period.

15. Law is well settled that in academic matters, opinion of the subject experts has to be respected. Since the Selection Committee consists of subject experts, therefore, while exercising the power of judicial review, we cannot sit in appeal over the decision of the subject experts. Since the academic qualifications, and also the question of eligibility of respondent nos. 6 & 8 was considered by the subject experts, who found them to be eligible for appointment, therefore, there is hardly any scope for interference with the opinion of the subject experts.

16. For the aforesaid reasons, we do not find any scope for interference with the selection and appointment of respondent nos. 6 to 11.

17. The Writ Petition fails and is, accordingly, dismissed.

18. Interim order dated 26.11.2025 stands vacated.

19. All pending applications stand disposed of accordingly.

**MANOJ KUMAR TIWARI, A.C.J.**

**SUBHASH UPADHYAY, J.**

Dt: 28th October, 2026
Rahul

RAHUL PRAJAPATI