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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 27.03.2026

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LPA 153/2026

SHANABHOGA M B

.....Appellant

Through: Mr. Shivam Jasra and Mr. Kartik
Jasra, Mr. Nakul Khanna, Ms.
Shivangi Tripathi, Advs.

versus

AGRICULTURAL AND PROCESSED FOOD PRODUCTS
EXPORT DEVELOPMENT AUTHORITY (APEDA)
& ORS.

.....Respondent

Through: Mr. Awanish Kumar, Adv. for R-1
Ms. Radhika Bishwajit Dubey, CGSC
with Ms. Gurleen Kaur Waraich, Mr.
Kritarth Upadhyay, Mr. Amulya Dev
Mishra, Advs. for R-3

CORAM:**HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE TEJAS KARIA****DEVENDRA KUMAR UPADHYAYA, C.J. (ORAL)****CM APPL. 18443/2026 (for delay)**

1. Having heard learned counsel representing the parties and perused the averments made in the instant application, the application is allowed and delay of 2 days in filing the present appeal is condoned.
2. The application stands disposed of.

LPA 153/2026

1. This *intra-court* appeal has been instituted challenging the order dated 08.01.2026 passed by the learned Single Judge whereby W.P.(C) 18245/2025 has been dismissed.



2. At this juncture, we may note that the appellant had instituted the underlying writ petition assailing the recruitment process undertaken by the respondent no.1-Agricultural and Processed Food Products Export Development Authority (which is an Authority created by an Act of the Parliament) pursuant to the advertisement dated 14.06.2025 for appointment to the post of Assistant General Manager (Agriculture).

3. The main plank of argument of the learned counsel for the appellant is that as stipulated in the advertisement, the qualifying marks to be obtained in written test for shortlisting of candidates for interview was 60% for un-reserved category candidates and though the appellant secured 61.75% marks in the written examination which is well above the threshold, he was not called for interview. He has further argued that as a matter of fact the respondents, after the result of the written examination was declared called candidates only 5 times the number of vacancies which stipulation was not there in advertisement and therefore, the respondents have changed the rule of the game after the game had begun and accordingly, the recruitment process adopted by the respondent is vitiated.

4. On the other hand, Mr. Awanish Kumar, learned counsel for the respondent no.1 has argued that it was well within the power and authority of the respondent no.1 to have fixed a criteria to shortlist the candidates who were called for appearing in the interview and accordingly, for administrative reasons, as the number of candidates who qualified in the written examination, was large, it was decided that the number of candidates that would be called for appearing in the interview examination shall be five times the number of vacancies. It is in this background that it has been argued on behalf of the respondents that there were 5 vacancies against the



post in question and accordingly, 25 candidates who had secured over and above the benchmark of 65% in the written examination were subjected to interview.

5. He has further argued that it is not the case of the appellant that any candidate having secured less marks than him belonging to the un-reserved category was permitted to participate in the interview. It is also stated on behalf of the respondent no.1 that the last candidate belonging to the un-reserved category, who was permitted to participate in the interview for the post in question had secured 63.5% marks in the written examination whereas the appellant had secured 61.75% marks in the written examination which was much below the marks obtained by the last candidate who was subjected to interview.

6. In rejoinder, learned counsel for the appellant has stated that admittedly, the number of vacancies against the post in question were 5 and only 40 candidates had secured the benchmark of 60% in the written examination so far as the un-reserved category is concerned, and if the respondent no.1 could interview 25 candidates, there was no difficulty or any administrative reason for the respondent no.1 to have conducted the interview for all the 40 candidates, which would have enlarged the pool from which final selection could have been made.

7. Having heard the learned counsel for the parties and perused the records available before us on this letter patent appeal, we are not persuaded by the submissions made by the learned counsel for the appellant.

8. The post of Assistant General Manager (Agriculture) along with various other posts were advertised on 14.06.2025. One of the stipulations made in the said advertisement was, “the qualifying marks to be obtained in



written test for short-listing of candidates for interview will be 50% for Schedule Castes and Schedule Tribes candidates and 60% for other candidates”. The written examination was held on 24.08.2025 in which the appellant participated and thereafter a list of candidates who had qualified for appearing in the interview was declared on 07.10.2025. The interview is said to have been conducted on 07.11.2025 and final result was declared on 14.11.2025. The marks obtained by the appellant in the written examination were communicated to him on 18.11.2025 and accordingly, he instituted the proceedings of the underlying writ petition on 22.11.2025.

9. In the aforesaid background facts, it has been stated by learned counsel for the appellant that the finding recorded by the learned Single Judge to the effect that the petition was filed after delay and after conclusion of the recruitment process, which led the learned Single Judge to dismiss the writ petition, is not legally tenable for the reason that the appellant had approached this Court within four days from the date the marks obtained by him in the written examination were made known to him.

10. So far as the aforesaid submission of the learned counsel for the appellant is concerned, there can not be any dispute, however, we need to examine as to whether, the appellant has been able to make out any case on merits. Admittedly, no candidate was permitted to participate in the interview who had secured less marks than the marks obtained by the appellant in the written examination in the open category.

11. It is also not in dispute that the last candidate permitted to appear in the interview in open category had secured 63.5% marks, whereas the appellant had secured 61.75% marks. The sole question, thus, which now falls for our consideration is as to whether by fixing a criteria for shortlisting



the candidates who were subjected to interview, any illegality has been committed by the respondent no.1 or not.

12. It is trite law that for administrative reasons short listing is permissible for the recruitment agency. In the instant case, the criteria for fixing the number of candidates who were called for interview as adopted by the respondent no.1 was that they had called candidates five times the number of vacancies for appearing in the interview and the said decision was taken keeping in view the large number of candidates who had secured benchmark of 60% so far as the open category candidates were concerned.

13. The submission made by the learned counsel for the appellant is that there were only 40 persons who had secured benchmark of 60% and if the respondent no.1 could interview 25 persons, they could have easily interviewed all 40 persons as well, in our opinion does not clear any ground for the reason that the recruitment process did not involve recruitment only against the post of AGM (Agriculture). There were various other posts, and as a matter of fact, the recruitment was held for several categories of posts. It is also noteworthy that apart from the open category candidates, the recruitment was also held for the posts which were reserved for reserved category candidates belonging to Schedule Castes and Scheduled Tribes. Further, if in the administrative exigency or for any administrative reasons, decision by the respondent no.1 was taken to call the candidates five times the number of vacancies, in absence of any allegation of malice or *mala fide*, we do not find any illegality if such a mode has been adopted by the respondent no.1 for shortlisting the candidates.

14. Reference in this regard may be had to the judgment of Hon'ble Supreme Court in ***Tej Prakash Pathak v. Rajasthan High Court & Ors.***,



2025(2) SCC 1. In paragraph 57 of the said report, Hon'ble Supreme Court has made a reference to a judgment in ***Union of India v. T. Sundararaman and Ors. 1997 (4) SCC 664*** where the eligibility condition referred to was a minimum of five years' experience, the Selection Committee was held justified in shortlisting those candidates with more than 07 years' experience, having regard to the large number of applicants compared to vacancies to be filled. In the instant case, as well, though the benchmark was 60%, however, the number of candidates who were called for interview were 5 times the number of vacancies and accordingly, in view of the said authority available to the selection body of the respondent no.1, we do not find any illegality in such a mode adopted by the respondents.

15. ***Tej Prakash Pathak (supra)*** further refers to another judgment in the case of ***M.P. Public Service Commission v. Navnit Kumar Potdar 1994 (6) SCC 293***, wherein it has been held that shortlisting of candidates on some rational and reasonable basis is permissible. The Apex Court in ***Tej Prakash Pathak (supra)*** has further quoted with approval the judgment of Hon'ble Supreme Court in ***Tridip Kumar Dingal v. State of West Bengal, (2009) 1 SCC 768***, where it was held that shortlisting is permissible on the basis of administrative instructions provided that such action is *bona fide* and reasonable.

16. It has further been held in ***Tej Prakash Pathak (supra)*** that the Court has to be lenient in letting recruitment bodies, devise appropriate procedure for successfully concluding the recruitment process provided the procedure adopted has been transparent, non-discriminatory/non-arbitrary and having a rational nexus to the objects ought to be achieved.

17. Paragraph 56, 58 and 59 in ***Tej Prakash Pathak (supra)*** are relevant



to be quoted, which are extracted hereunder: -

“56. In M.P. Public Service Commission v. Navnit Kumar Potdar [M.P. Public Service Commission v. Navnit Kumar Potdar, (1994) 6 SCC 293 : 1994 SCC (L&S) 1377] the question which arose before this Court was as to whether in the process of short-listing, the Commission has altered or substituted the criteria or the eligibility of a candidate to be considered for being appointed against the post of Presiding Officer, Labour Court. In that context it was observed : (SCC pp. 296-97, para 6)

“6. ... It may be mentioned at the outset that whenever applications are invited for recruitment to the different posts, certain basic qualifications and criteria are fixed and the applicants must possess those basic qualifications and criteria before their applications can be entertained for consideration. The Selection Board or the Commission has to decide as to what procedure is to be followed for selecting the best candidates from amongst the applicants. In most of the services, screening tests or written tests have been introduced to limit the number of candidates who have to be called for interview. Such screening tests or written tests have been provided in the statutes or prospectus concerned which govern the selection of the candidates. But where the selection is to be made only on basis of interview, the Commission or the Selection Board can adopt any rational procedure to fix the number of candidates who should be called for interview. It has been impressed by the courts from time to time that where selections are to be made only on the basis of interview, then such interviews/viva voce tests must be carried out in a thorough and scientific manner in order to arrive at a fair and satisfactory evaluation of the personality of the candidate.”

57. Likewise in Union of India v. T. Sundararaman [Union of India v. T. Sundararaman, (1997) 4 SCC 664 : 1997 SCC (L&S) 988] where the eligibility conditions referred to a minimum of 5



years' experience, the selection committee was held justified in shortlisting those candidates with more than 7 years' experience having regard to the large number of applicants compared to the vacancies to be filled. The relevant observations are being extracted below : (SCC pp. 665-66, para 4)

“4. ... Note 21 to the advertisement expressly provides that if a large number of applications are received the Commission may shortlist candidates for interview on the basis of higher qualifications although all applicants may possess the requisite minimum qualifications. In M.P. Public Service Commission v. Navnit Kumar Potdar [M.P. Public Service Commission v. Navnit Kumar Potdar, (1994) 6 SCC 293 : 1994 SCC (L&S) 1377] this Court has upheld shortlisting of candidates on some rational and reasonable basis. In that case, for the purpose of shortlisting, a longer period of experience than the minimum prescribed was used as a criterion by the Public Service Commission for calling candidates for an interview. This was upheld by this Court. In State of A.P. v. P. Dilip Kumar [State of A.P. v. P. Dilip Kumar, (1993) 2 SCC 310 : 1993 SCC (L&S) 464] also this Court said that it is always open to the recruiting agency to screen candidates due for consideration at the threshold of the process of selection by prescribing higher eligibility qualification so that the field of selection can be narrowed down with the ultimate objective of promoting candidates with higher qualifications to enter the zone of consideration. The procedure, therefore, adopted in the present case by the Commission was legitimate.”

58. Similarly, in Tridip Kumar Dingal v. State of W.B. [Tridip Kumar Dingal v. State of W.B., (2009) 1 SCC 768 : (2009) 2 SCC (L&S) 119] it was held that shortlisting is permissible on the basis of administrative instructions provided the action is bona fide and reasonable. The relevant observations in the judgment are extracted below : (SCC p. 779, para 38)

“38. ... The contention on behalf of the State Government that written examination was for shortlisting the candidates



and was in the nature of “elimination test” has no doubt substance in it in view of the fact that the records disclose that there were about 80 posts of Medical Technologists and a huge number of candidates, approximately 4000 applied for appointment. The State authorities had, therefore, no other option but to “screen” candidates by holding written examination. It was observed that no recruitment rules were framed in exercise of the power under the proviso to Article 309 of the Constitution and hence no such action could be taken. In our opinion, however, even in absence of statutory provision, such an action can always be taken on the basis of administrative instructions—for the purpose of “elimination” and “shortlisting” of huge number of candidates provided the action is otherwise bona fide and reasonable.”

59. Another example is in respect of fixing different cut-offs for different subjects having regard to the relative importance of the subjects and their degree of relevance. [Banking Service Recruitment Board v. V. Ramalingam, (1998) 8 SCC 523 : 1998 SCC (L&S) 1707] These instances make it clear that this Court has been lenient in letting recruiting bodies devise an appropriate procedure for successfully concluding the recruitment process provided the procedure adopted has been transparent, non-discriminatory/non-arbitrary and having a rational nexus to the object sought to be achieved.”

18. In view of the law laid down by Hon’ble Supreme Court in **Tej Prakash Pathak (supra)**, it can safely be held that in any recruitment process, for administrative reasons if a criteria is fixed for shortlisting by a recruitment body, unless such an act suffers from the vice of malice or is *mala fide*, no fault can be found in the same.

19. As already observed above, there is no allegation on behalf of the appellant that in fixing the criteria for calling the number of candidates to appear in the interview, the respondents had acted with malice. In absence of



any such *mala fide* or malice, we do not find anything irregular or illegal in the fixation of the criteria for the purpose of calling the number of candidates to participate in the interview.

20. Lastly, learned counsel for the appellant has drawn our attention to Regulation 28(4) of Agricultural and Processed Food Products Export Development Authority Regulations 1999, which are statutory in nature having been framed under the Agricultural and Processed Food Products Export Development Authority Act, 1985.

21. It has been argued that Regulation 28(4) clearly mandates that in case of Group-A posts, recruitments shall be made on the basis of selection from amongst the candidates fulfilling the minimum eligibility criteria as may be laid down and answering to the advertisement in this behalf, on all India basis, inviting application. His submission is that the criteria on the basis of number of candidates qualified in the written tests, who were called for interview was not specified in the advertisement and accordingly, such action on the part of the respondent no.1 is in contravention of the provisions of Regulation 28(4) of the Regulations, which vitiates the entire recruitment for process.

22. The aforesaid submission made by the learned counsel for the appellant has been considered only to be rejected. Regulation 28 falls in Chapter 5 of the Regulations which is in relation to methods of recruitment, condition of service etc. of employees of Authority. The said Regulation prescribes various provisions for appointment and recruitment to the post in the Authority. So far as the Group-A posts are concerned, Regulation 28(4) provides that recruitment shall be made on the basis of the selection from amongst the candidates fulfilling the minimum eligibility criteria as may be



laid down in the advertisement in this behalf and that such recruitment shall be made on all India basis inviting applications.

23. Admittedly, in the instant case, the recruitment process has been conducted by issuing an advertisement and inviting applications on all India basis. The said fact is not disputed by the learned counsel for the appellant. Further, the stipulation made in Regulation 28(4) is that “*recruitment shall be made on the basis of selection amongst the candidates fulfilling the minimum eligibility criteria as may be laid down*”. The said expression would only mean that candidates desirous of participating in any such recruitment process should fulfill the minimum eligibility criteria which may be laid down in the advertisement. It is not the case set up by the appellant that any candidate who did not fulfil the minimum eligibility criteria as was laid down in the advertisement for the post in question, was permitted to participate in the selection.

24. The submission, rather, is that the criteria of calling the candidates five times the number of vacancies for the purposes of subjecting them to interview was not prescribed in the advertisement, which vitiates the selection process. The said submission is not tenable for the reason that in our opinion, if after written examination is held, for the purposes of shortlisting the candidates some criteria is fixed by the selection body, though, specifically not provided for in the advertisement, will not vitiate the recruitment process. All what is required by the Regulation 28(4) is that the advertisement should stipulate the minimum eligibility criteria for the purpose of participation in the selection. The selection in the instant case comprised of both the written examination and interview. Had it been a case set up by the appellant that anyone was permitted to participate in the



selection process who did not fulfil the minimum eligibility criteria as set out in the advertisement, the situation would have been different.

25. The provisions contained in Regulation 28(4) of the Regulations thus, do not come to the rescue of the appellant.

26. For all the aforesaid reasons, we do not find any good ground to interfere in the *intra-court* appeal, which is hereby dismissed.

27. No orders as to costs.

DEVENDRA KUMAR UPADHYAYA, CJ

TEJAS KARIA, J

MARCH 27, 2026/j