

(2014) 08 RAJ CK 0074

Rajasthan High Court (Jaipur Bench)

Case No: Civil Writ Petition Nos. 20344, 17527, 19424, 19614, 20409, 20490, 21315, 21544/
2013, 320, 321, 413, 868, 887, 1159, 1454, 1768, 2884/2014

Rashmy Nair

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision: Aug. 7, 2014

Acts Referred:

- Constitution of India, 1950 - Article 14, 226

Hon'ble Judges: J.K. Ranka, J; Ajay Rastogi, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

Ajay Rastogi, J.

Since the issue involved in the present bunch of petitions is common, are decided by the present order. Facts have been noticed from D.B. Civil Writ Petition No. 20344/2013.

2. In order to appreciate the grievance of the petitioners, it will be necessary to glance through the relevant background facts. An advertisement No. 03/2012/T dt. 01.11.2012 was issued by the respondent-University inviting applications for appointment to the post of Professor/Associate Professor/Assistant Professor. It may be noted that the post of Teachers of 42 various departments are notified by a common advertisement dt. 01.11.2012 and it has been informed to this court that apart from six departments in which there is a litigation regarding the procedure adopted by the respondent-University for short-listing the eligible candidates to be called for interview, the self same procedure was followed by the respondent-University in all the departments and selections of the post of Assistant Professor have been finalized and in all the other departments, candidates who were finally selected, have joined as Assistant Professor in their respective departments and the six departments in which the dispute arose and came up for consideration before this court are basically departments of Hindi, Economics,

Sociology, SASC, Botany and Chemistry. It may be further noticed that as per the terms & conditions of advertisement, qualification and eligibility shall be as per the UGC Norms and Regulations and at the same time, it was further notified that the University reserves its right to short-list the number of candidates to be called for interview, as per Rules. It is not in dispute that a large number of candidates submitted their application to participate in the selection process, claiming themselves to be eligible, in terms of qualification and eligibility, prescribed under the relevant Ordinance/UGC Regulations and some procedure was to be adopted by the respondent-University for short-listing the number of candidates who were to be ultimately called for interview and it is brought to our notice that after adopting the procedure of short-listing, number of candidates, were called for interview in the ratio of 1:10.

3. We may further notice that the procedure which was adopted by the respondents for short-listing of the candidates came to be challenged, in the instant proceedings, for the post of Assistant Professor and as regards the post of Professor and Associate Professor, the process could not have been initiated by the respondents holding selections, pursuant to the advertisement dt. 01.11.2012.

4. The present petitioners, as alleged & claimed by them, being eligible, submitted their application for the post of Assistant Professor in the six departments, reference of which has been indicated above, and the applicants being large in number than the number of vacancies, some procedure was to be adopted by the respondent-University for short-listing the number of candidates to be called for interview and the only issue raised for our consideration is that whether the criteria, which the respondent-University has adopted in short-listing the number of candidates, under its Ord. 141-B(4) in calling the candidates for interview, was rationale and in conformity with the mandate of law and is in conformity with the Cl.(a) of Stage-I of Table-II (c) of Appendix-III of the UGC Regulations, 2010.

5. Before we may take note of the submissions made by the parties, who appeared in person, we may like to observe that time and again joint request was made before the court that there is an urgency in the matter and indulgence of this court was sought to hear the matter on priority basis and on the joint request made by counsel for the parties, matter was listed for early disposal on their application and the last order sheet indicates that because of non-cooperation of the lawyers, the matter could not be heard but finally when the parties, appeared in person and made a joint request that we seek indulgence of this court and permission may be granted to them to make their submissions, in absence of lawyers", the parties, who appeared in person, also felt handicapped to provide assistance to the court but with whatever assistance made available by the parties, who appeared in person & addressed the court, the matter was heard and concluded.

6. The writ petitioners jointly submit that criteria which was adopted by the respondent-University for short-listing the number of candidates to be called for

interview was not based on any rational procedure and short-listing of the candidates is done only on the basis of academic record without taking into consideration their teaching experience, research works, higher qualifications like Ph.D., etc. in accordance with Cl.(a) of Stage-I of Table-II (c) of Appendix-III of the UGC Regulations, 2010 and, as alleged, the more deserving candidates were ousted while short-listing the candidates who were called for interview and such of the procedure adopted, based on subjective criteria having no rational basis, was arbitrary & violative of Art. 14 of the Constitution.

7. The petitioners further grievance is that by the criteria which was adopted for short-listing the number of candidates, least number of candidates having Ph.D. Degree were short-listed and called for interview and if this practice is being followed, there will be less availability of Assistant Professors as Research Guide for research scholars, aspiring for obtaining Ph.D. Degree, in University and it will hamper the research work in times to come in the University.

8. The further objection raised is regarding allocation of percentage which was provided while considering the academic record of an individual and adopted in terms of University Ordinance while shortlisting the number of candidates to be called for interview and that, according to the petitioners, is not in the fitness of things and the research performance was to be looked into at the stage of screening for short-listing of the candidates and considered at the time of interview, by adopting such procedure for short-listing the candidates the applicants who were holding rich research work to their credit, were eliminated in first stage itself and were deprived from being considered in the main stream among the candidates who were called for interview and in these circumstances, the procedure adopted by the respondent-University cannot be said to be in any manner rational as they were deprived of their fair right of consideration.

9. Further objection raised by the petitioners for filing of the instant writ petitions before the Division Bench is that the Cl.(a) & (b) of Stage-I of Table-II of Appendix-III of the University of Rajasthan Ordinance, 2010 being contrary to Cl.(a) of Stage-I of Table-II (c) of Appendix-III of the UGC Regulations, 2010, deserves to be quashed and set aside and so also Ord. 141-B(1)(4), according to the petitioners, being not in conformity with law deserves to be quashed.

10. The petitioners further submit that if at all the respondent-University was of the view that some rational procedure has to be adopted for short-listing the number of candidates, the only time tested procedure available for short-listing is holding of a written/screening test and no other method has been approved by the Apex Court, in this regard, and further submits that adopting a method of short-listing on the basis of academic record cannot be said to be rational in the eye of law and screening test being one of the time tested method provided u/Ord. 141-B(4) of the University Ordinance, the other alternative method, adopted by the respondent-University in the present facts & circumstances, is not based on rational

procedure and failed to adopt objective criteria for short-listing the number of candidates, that cannot be said to be in conformity with mandate of law and requires interference of this court.

11. One of the objection raised by petitioner Dr. Priyanka Mathur in D.B. Civil Writ Petition No. 1159/2014, apart from what has been noticed by us, is that she did her Post Graduation in Anthropology, which according to her is inter-related with Sociology, and being eligible for the post of Assistant Professor (Sociology) has been arbitrarily deprived from consideration in the main stream and further submits that it was a composite advertisement issued for the posts of Professor/Associate Professor/Assistant Professor (Teachers) but she has not been considered eligible for the post of Assistant Professor (Sociology) but at the same time considered eligible for Associate Professor and two different standards adopted by the respondent-University is not sustainable in law and acceptable to a man of ordinary prudence and at least her eligibility which has been disputed by the respondent-University deserves indulgence of this court.

12. It is not the case of the petitioner Dr. Priyanka Mathur that if she is considered eligible she may fall within the list of short-listed candidates, as per the procedure adopted by the respondent and apart from her eligibility, she too join hands with the submissions made by Dr. Rashmy Nair, one of the petitioner, for quashing of the procedure adopted by the respondent-University for short-listing the number of candidates to be called for interview for the post of Assistant Professor, in other subjects. The other petitioners, who appeared in person, too joined and adopted the submissions made by Dr. Rashmy Nair.

13. We may further notice that in other cases, none of the petitioners appeared but as there was a notice to all the petitioners, including their counsel as well, that the matter will be heard looking to the urgency and was posted with the consent of parties, in the circumstances, whatever assistance made available to this court from the petitioners, who appeared in person, that has been taken note of.

14. The respondents have filed reply to the writ petitions and the Vice Chancellor Dr. Dev Swaroop, appeared in person and made his submissions on behalf of respondent-University of Rajasthan. Apart from reply, which has been filed on merits, preliminary objection has also been raised that assailing validity of Ordinance after the petitioners have participated in the selection process, knowing fully well of the procedure to be followed for short-listing the candidates in calling them for interview and after issuance of list of short-listed candidates, the petitioners having taken a chance without assigning any grievance at such a later stage, should be estopped from assailing the validity of Ordinance and challenge to the selection process after participation is not permissible in law.

15. As regards validity of Cl.(a) & (b) of Table-II of Appendix-III of the University of Rajasthan Ordinance, 2010, it has been submitted that the University Ordinance and

UGC Regulations both provide minimum scores for Academic Performance Indicators (API) for direct recruitment of Teachers/Librarian cadres and weightage in selection conditions to be considered along with other specified eligibility qualifications stipulated in the University Ordinance and this what the Selection Committee has adopted as the criteria/weightage, as provided in both the tables being similar. In UGC Regulations, 50% weightage has been attached to academic record and research performance, similarly, in University the same percentage has been prescribed i.e. for academic record-30% and research performance-20% and, therefore, the table provided by the University Ordinance is in conformity with the UGC Regulations, 2010 and to be more objective a rational procedure has been adopted in short-listing the number of candidates to be called for interview and that being in conformity with the mandate of law deserves approval from this court and this rational procedure has been followed in all the departments, other than six departments, indicated above, after the candidates being short-listed were called for interview and all of them have joined their respective departments, other than six departments, having no litigation pending in courts.

16. It is also brought to our notice that a bunch of writ petitions came to be filed before the Id. Single Judge of this court (S.B. Civil Writ Petition No. 18191/2013 Dr. Swati Sharma Vs. State of Rajasthan & Another along with bunch of petitions) assailing the self-same procedure and its rationality of short-listing the candidates, adopted by the respondent-University and the Id. Single Judge after examining the material available on record dismissed the bunch of petitions by a common judgment dt. 14.11.2013 upholding the procedure which has been adopted by the respondent-University for short-listing the number of candidates who were called for interview based on their academic excellence.

17. It has further been averred by the respondent-University that u/Ord. 141-B(1)(4) of the University Ordinance, it is upon the University to design a mechanism for short-listing the candidates including holding of screening test/adopting objective criteria. The criteria which has been adopted by the respondent-University is based on academic weightage which has also been looked into by the Id. Single Judge being upheld and the petitioners failed to demonstrate that how the criteria adopted by the respondent-University, based on academic weightage, was not holding a rational procedure or it is in contravention of either the UGC Regulations or the mandate of law, in absence whereof, the objective criteria adopted by the respondent-University does not call for interference by this court.

18. In support of the factual statement which has been averred in the reply, the Vice Chancellor of University of Rajasthan, who appeared in person, to defend the respondent, submits that the Apex Court has consistently held that there cannot be any mandamus to the competent authority to exercise discretion in a particular manner and the court would not like to substitute its discretion in the view taken or discretion exercised by the authority who is vested with its competence under the

law to adopt any rational and objective procedure to fix the number of candidates who should be called for interview and that power being conferred to the respondent-University u/Ord. 141-B(1)(4) and unless this court arrives at a conclusion that the criteria which has been adopted is either not rational or not based on objective criteria, is not required to be interfered u/Art. 226 of the Constitution.

19. The respondent further submits that as long as the method of short-listing is within the competence of the Selection Body and there is no Rule to the contrary prohibiting them from short-listing the candidates and being rational and based on objective criteria, i.e. weightage to academic record and in conformity with the mandate of Art. 14 of the Constitution, this court may not like to interfere under its jurisdiction available u/Art. 226 of the Constitution.

20. The respondent further submits that there is always a presumption in favour of constitutionality and validity of a Legislation and the burden is upon the person who assails it to show that it is invalid and at the same time a subordinate Legislation can be challenged only on a limited grounds i.e. either there may be lack of legislative competence; or violation of fundamental rights guaranteed under the Constitution; or there is any violation of the provisions of Constitution; or there is a repugnancy to the laws of land; or it is not in conformity with the mandate of Art. 14 of the Constitution but on either of the grounds, the petitioners are unable to satisfy this court and that being so as long as the procedure is rational and in conformity with mandate of Art. 14 of the Constitution, it is not open for the petitioners to question it and their submission is without any substance.

21. The respondent further submits that as regards their grievance that aggregate percentage, mentioned in the form of range like less than 50, 50-60, 60-70, 70-80, 80-90 & 90-100 and the person securing 60% marks will be kept in what category is without any basis as it is rationally followed for all the applicants and it is not the case of the present petitioners that they have been short-listed because of the range which has been rationally followed and they have been denied of their fair right of consideration and apart from this, respondent further submits that this being followed in ram in all the departments, such exigencies cannot be ruled out and further submits that as regards their allegation that Syndicate in its meeting held on 02.12.2013 has made an amendment and added in the Regulations is concerned, the correction was clarificatory in nature and do not involve any change in the original decision taken by the Syndicate regarding the objective criteria to be followed for short-listing the candidates for the post of Assistant Professor and further submits that when it is brought to the notice of Syndicate that inadvertently in Syndicate Resolution No. 1 dt. 14.08.2013, it was mentioned that the procedure for short-listing the number of candidates to be invited for interview in the ratio of 1:10 (including all candidates with cut off marks) and the basis for shortlisting will be the academic weightage of the candidates, it is considered to make appropriate

correction and clarification so that it may avoid all type of confusions in the mind of applicants who have participated in the selection process.

22. The respondent further submits that as regards the allegation of petitioners in respect of minimum qualification prescribed by the University being contrary to what has been prescribed by the UGC is concerned, Dr. Dev Swaroop, Vice Chancellor submits that for the post of Assistant Professor, the UGC Regulations prescribe good academic record as defined by the University with at least 55% marks (or an equivalent grade in the point scale wherever grading system is followed) at the Master's Degree level in a relevant subject from an Indian University or an equivalent Degree from an accredited foreign University and besides fulfilling the said qualification, the candidate is also supposed to have cleared NET, conducted by the UGC, CSIR, SLET & SET and it is always open for the University to define "good academic record" and once the UGC has left it open for the University, the action of the respondent-University in defining "good academic record" u/Ord. 141-D(2) cannot be said to be in contravention to the UGC Regulations, 2010 and being in consonance with the Regulations laid down by the UGC, it does not carry any infirmity or error in the decision making process which requires interference of this court and lastly submits that method of short-listing the number of candidates, adopted by respondent-University, being rational and justified based on objective criteria i.e. weightage to academic record avoiding the element of subjectivity, is not open to challenge and submits that percentage of marks obtained by the applicants at different levels, based on their academic excellence, are entered into computer and a list is prepared on that basis alone which removes all kind of biasness on the part of respondent-University. However, from the standard for evaluation of academic record, which has been made available on their website, it is not the case of the petitioners that as per the standard for evaluation of academic record, on the basis of which the procedure for short-listing has been adopted, either of them fall in consideration zone being short-listed for interview in their subjects/departments and that being so, the writ petitions are wholly devoid of merit and deserves rejection.

23. We have heard the parties appeared in person and with their assistance examined the material made available on record. Before we examine the question raised for our consideration, it will be relevant to take note of the extract of the scheme of UGC Regulations, 2010 notified vide Notification dt. 30.06.2010, relevant for the present purpose, reads ad infra:-

4.4.0 ASSISTANT PROFESSOR

4.4.1. Arts, Humanities, Sciences, Social Sciences, Commerce, Education, Languages, Law, Journalism and Mass Communication

i. Good academic record as defined by the concerned university with at least 55% marks (or an equivalent grade in a point scale wherever grading system is followed)

at the Master's Degree level in a relevant subject from an Indian University, or an equivalent degree from an accredited foreign university.

ii. Besides fulfilling the above qualifications, the candidate must have cleared the National Eligibility Test (NET) conducted by the UGC, CSIR or similar test accredited by the UGC like SLET/SET.

iii. Notwithstanding anything contained in sub-clauses (i) and (ii) to this Clause 4.4.1, candidates, who are, or have been awarded a Ph.D. Degree in accordance with the University Grants Commission (Minimum Standards and Procedure for Award of Ph.D. Degree) Regulations, 2009, shall be exempted from the requirement of the minimum eligibility condition of NET/SLET/SET for recruitment and appointment of Assistant Professor or equivalent positions in Universities/Colleges/Institutions.

iv. NET/SLET/SET shall also not be required for such Masters Programmes in disciplines for which NET/SLET/SET is not conducted.

6.0.0 SELECTION PROCEDURES:

6.0.1 The overall selection procedure shall incorporate transparent, objective and credible methodology of analysis of the merits and credentials of the applicants based on weightages given to the performance of the candidate in different relevant dimensions and his/her performance on a scoring system proforma, based on the Academic Performance Indicators (API) as provided in this Regulations in Tables I to IX of Appendix III.

In order to make the system more credible, Universities may assess the ability for teaching and/or research aptitude through a seminar or lecture in a class room situation or discussion on the capacity to use latest technology in teaching and research at the interview stage. These procedures can be followed for both direct recruitment and CAS promotions wherever selection committees are prescribed in these Regulations.

6.0.2 The Universities shall adopt these Regulations for selection committees and selection procedures through their respective statutory bodies incorporating the Academic Performance Indicator (API) based Performance Based Appraisal System (PBAS) at the institutional level for University Departments and their Constituent Colleges/affiliated colleges (Government/Government-aided/Autonomous/Private Colleges) to be followed transparently in all the selection processes. An indicative PBAS template proforma for direct recruitment and for Career Advancement Scheme (CAS) based on API based PBAS shall also be sent separately by the UGC to the universities. The universities may adopt the template proforma or may devise their own self-assessment cum performance appraisal forms for teachers in strict adherence to the API criteria based PBAS prescribed in these Regulations.

APPENDIX-III, Table-II(c)

Minimum scores for APIs for direct recruitment of teachers in university departments/colleges, Librarian/Physical Education cadres in Universities/Colleges, and weightages in Selection Committees to be considered along with other specified eligibility qualifications stipulated in the Regulation.

24. The provisions of University of Rajasthan Ordinance which are relevant for present purpose, read ad infra:-

Ordinance 141-B

1. RECRUITMENT AND SELECTION PROCEDURE

(1) The direct recruitment to the posts of Assistant Professors or equivalent teaching post, Associate Professors and Professors in the University shall be on the basis of merit through all India advertisement for a period of 45 clear days. The period of validity of the applications received by the University shall be six months at a time which can be extended for a period of six months by the Syndicate.

(2) The overall selection procedure shall incorporate transparent, objective and credible methodology of analysis of the merits and credentials of the applicants based on weightages given to the performance of the candidate in different relevant dimensions and his/her performance on a scoring system proforma based on the Academic Performance Indicators (API) as provided in these ordinances.

(3) The scrutiny of the application forms shall be done by a scrutiny committee constituted by the Vice-Chancellor.

(4) The University may design a mechanism for short listing the candidates including holding a screening test/adopting objective criteria as the case may be for any post(s) for a subject(s) if required.

(5) Only such candidates who fulfill the minimum eligibility conditions and qualifications as per prevalent law shall be allowed to appear before the selection committee for interviews.

(6) The ability of a candidate for teaching and/or research aptitude shall be assessed through a seminar or lecture in a class room situation or discussion on the capacity to use latest technology in teaching and research at the interview stage. These procedures shall be followed for both direct recruitment and CAS promotions wherever selection committees are prescribed in these Ordinances.

(7) (i) Besides the Indexed publications documented by various discipline-specific databases, the Syndicate shall draw (a) a comprehensive list of National/Regional level journals of quality in the concerned subject(s); and (b) a comprehensive list of Indian language journals/periodicals/official publication volumes of language bodies on the recommendations of the academic council which may originate from the concerned Department/Centre/Institute.

(ii) At the time of assessing the quality of publications of the candidates during their appointments/promotions the selection committees shall have to be provided with the above two lists which shall be considered by the selection committees along with the other discipline-specific databases.

Ordinance 141-C: XXXX XXXX XXXX

Ordinance 141-D

GENERAL REQUIREMENTS & QUALIFICATIONS

The minimum qualifications required for the post of Assistant Professors, Associate Professors, Professors, or equivalent positions Assistant Librarians, Deputy Librarians, and Librarians shall be as prescribed in these Ordinances.

(1)(i) NET/SLET/SET shall remain the minimum eligibility condition for recruitment and appointment of Assistant Professors or equivalent positions.

Provided however, that candidates who are or have been awarded a Ph.D. Degree in accordance with the University Grants Commission (Minimum Standards and Procedure for Award of Ph.D. Degree) Regulations, 2009, shall be exempted from the requirement of the minimum eligibility condition of NET/SLET/SET for recruitment and appointment of Assistant Professor or equivalent positions.

(ii) NET/SLET/SET shall not be required for such Masters Degree Programmes in disciplines for which NET/SLET/SET accredited test is not conducted.

(2) The minimum requirement of a good academic record, 55% marks (or an equivalent grade in a point scale wherever grading system is followed) at the Master's level and qualifying in the National Eligibility Test (NET), or an accredited test (State/Level Eligibility Test-SLET/SET)., shall remain for the appointment of Assistant Professor.

(3) A minimum of 55% marks (or an equivalent grade in a point scale wherever grading system is followed) shall be required at the Master's level for those recruited as teachers at any level from industries and research institutions; and at the entry level of Assistant Professors/Assistant Librarians.

(4) Wherever the University/College/Institution declares results in grade points which is on a scale of seven, the following mechanism shall be applied to ascertain grade and equivalent marks in percentage:

(5) A relaxation of 5% may be provided at the Graduate and Master's level for the Scheduled Caste/Scheduled Tribe/Differently-abled (Physically and visually differently-abled) categories for the purpose of eligibility and for assessing good academic record during direct recruitment to teaching positions. The eligibility of 55% marks at Masters level (or an equivalent grade in a point scale wherever grading system is followed) and the relaxation of 5% to the categories mentioned

above are permissible, based on only the qualifying marks without including any grace mark procedures.

Ordinance 141-E

QUALIFICATIONS FOR DIRECT RECRUITMENT

I. faculties of arts, humanities, sciences, social sciences, commerce, law and subjects of library science, drawing & painting, and mass communication.

(1) ASSISTANT PROFESSOR

(i) Good academic record with at least 55% marks (or an equivalent grade in a point scale wherever grading system is followed) at the Master's Degree level in a relevant subject from an Indian University or an equivalent degree from an accredited foreign university.

(ii) Besides fulfilling the above qualifications, the candidate must have cleared the National Eligibility Test (NET) for lecturers conducted by the UGC, CSIR or similar tests accredited by the UGC like SLET/SET.

Notwithstanding anything contained in clause (ii) candidates who are, or have been awarded a Ph.D. Degree in accordance with the University Grants Commission (Minimum Standards and Procedure for Award of Ph.D. Degree) Regulations, 2009, shall be exempted from the requirement of the minimum eligibility condition of NET/SLET/SET for recruitment and appointment of Assistant Professor or equivalent positions.

(iii) Besides fulfilling the above qualifications, candidates for the post in the specialized field or remote sensing and geographical information system should also possess a Post Graduate Diploma/equivalent degree or higher degree in the field of remote sensing geographical information system from a University/Govt. Institute/recognized Institution.

APPENDIX-III, Table-II

Minimum scores for APIs for direct recruitment of teachers/Librarian cadres and weightages of Selection Committees to be considered along with other specified eligibility, qualifications stipulated in these Ordinances

APPENDIX-III, Table-II (a)

Weightage scores for Academic Background for Direct Recruitment of Assistant Professors and equivalent teaching positions.

25. Since large number of applications were received, therefore, it became necessary to short-list the candidates and the respondent-University being empowered u/Ord. 141-B(1)(4), which provides that the University may design a mechanism for short-listing the candidates including holding of screening

test/adopting objective criteria, as the case may be, for any post(s) or subject(s), if required, the Syndicate in its meeting held on 14.08.2013 took note of the Regulations and resolved the procedure for short-listing the number of candidates to be called for interview in the ratio of 1:10 (including all candidates on cut off marks) and the basis for short-listing will be academic record of the candidates to be calculated on the basis of Appendix-III Table-II(a)(b) but that needed certain more correction/clarification which was taken note of by the Syndicate in its subsequent meeting held on 02.12.2013 and it was resolved to consider and approve the correction and typographical error in the Resolution No. 1 of the Syndicate meeting held on 14.08.2013 regarding procedure for short-listing of the candidates to be invited for interview for recruitment of Teacher and the basis for short-listing will be academic weightage of the candidates to be calculated on the basis of Appendix-III Table-II(a) in case of Assistant Professors and Appendix-III Table-II(b) in case of Associate Professors/Professors. It has been informed to the court that in the department of Chemistry against 34 vacancies in all 343 short listed candidates were called for interview held from 22nd November to 26th November, 2013.

26. This can also be noticed that earlier the bunch of petitions were filed assailing the procedure, adopted by the respondent-University, for short-listing the number of candidates to be called for interview and in the department of Chemistry and other departments as well before the Id. Single Judge being S.B. Civil Writ Petition No. 18191/2013 (Dr. Swati Sharma Vs. State of Rajasthan & Another) and bunch of other petitions came to be dismissed by a detailed judgment dt. 14.11.2013. But after dismissal of the writ petitions and procedure of short-listing being upheld, the writ petitions came to be filed before the Division Bench assailing validity of the Ordinance and the procedure laid down by the respondent-University for evaluating academic record while short-listing the number of candidates. The judgment of Id. Single Judge is also impugned in few of the special appeals being D.B. Special Appeal (Writ) Nos. 320/2014 & 321/2014.

27. The scheme of UGC Regulations, 2010 envisages the minimum qualification for appointment of Teachers and other academic staff in Universities and Colleges and the selection procedure for appointment of Teachers u/Cl. 6.0.0/u/Cl. 6.0.2 and liberty has been granted to the University to adopt the template proforma and to devise their own self-assessment cum performance appraisal forms for Teachers in accordance with the criteria, prescribed in the Regulations and as regards minimum scores for APIs for direct recruitment of Teachers in Universities/Colleges, Appendix-III Table-II(c), for Assistant Professor/equivalent cadres (Stage-1) is concerned, that is divided in three basic components which take note of the criteria, weightage, etc. and the emphasis is on academic record and research performance; assessment of domain knowledge and teaching skills; and interview performance and while keeping in mind the basic guidelines laid down by the University Grants Commission, to be followed by respective Universities, the University of Rajasthan also in its Ord. 141-D laid down "General Requirements & Qualifications" and so far

as the post of Assistant Professor or equivalent post is concerned, apart from minimum eligibility like NET/SLET/SET, such of the candidates who have been awarded Ph.D. Degree in accordance with the UGC Regulations, 2010 are being exempted from the requirement of minimum eligibility condition of NET/SLET/SET for recruitment and appointment of Assistant Professor but at the same time many other pre-conditions have to be fulfilled by the applicant who intend to participate in the selection process. At the same time Ord. 141-B provides "Recruitment & Selection Procedure" and Cl.(4) empowers the University to design a mechanism for short-listing the candidates by holding a screening test/adopting objective criteria, as the case may be and at the same time, such of the Universities/Colleges/Institutions who declare the result in grade points, how it is to be converted into percentage that is also specified under the Scheme of Ord. 141-D(4) and keeping in view the minimum scores for APIs for direct recruitment of teachers, as prescribed by UGC, the University in Ord. 141-E attached Appendix-III Table-II read with Appendix-III Table-II(a) & (b) to put weightage in the selection process for eligibility, qualification, etc. that includes academic record; research performance; assessment of domain knowledge and teaching skills; and interview performance and the break up provided is 30% and 20% respectively for Academic Record & Research Performance; 30% for assessment of domain knowledge and teaching skills; and 20% for Interview Performance and how the weightage scores has to be indicated for academic performance for direct recruitment of Assistant Professor is specified in Appendix-III Table-II(a) and Appendix-III Table-II(b) provides the weightage scores for Associate Professors/Professors.

28. In the present case, we are concerned with the weightage scores based on academic performance for direct recruitment of Assistant Professor and indisputably the procedure followed by the respondent-University for laying down the criteria for short-listing the candidates to be called for interview is in conformity with Appendix-III Table-II read with Appendix-III Table-II(a) attached to Ord. 141-E of University of Rajasthan Ordinance. It is true that under UGC Regulations, 2010 in Appendix-III Table-II(c), as regards minimum scores for APIs for direct recruitment of Assistant Professor in Universities/Colleges is concerned, the academic record and research performance have been treated as a single component with 50% and the assessment of domain knowledge and teaching skills; and interview performance have been separately identified u/Cl.(b) & (c) with 30% & 20% respectively but this fact cannot be ruled out that minimum scores can easily be computed on the basis of academic record of the applicant keeping in view weightage scores available in Appendix-III Table-II(a) but as regards Research Performance is concerned, its final evaluation can only be made by the selection committee when candidate appears for interview and that cannot be examined on a straight jacket formula while evaluating Research Performance of the individual to be considered & examined by the subject Experts. The break up of 30% & 20% of academic record and research performance respectively made by University of

Rajasthan under Appendix-III Table-II if read with Appendix-III Table-II(c) of UGC, in the opinion of this court, in no manner prejudice the rights of applicants who have participated in the selection process and as already observed, each component has been separately ear-marked and allocation has been separately made for each of the head and rationally considered for all the applicants and a common standard has been adopted by the respondent-University at the first stage while taking decision for short-listing based on academic record of the applicant and rest of the weightage which relates to research performance; assessment of domain knowledge and teaching skills; and interview performance have been separately considered by the selection committee of short-listing candidates called for interview.

29. The question which is to be answered is as to whether in the process of short-listing, the criteria which has been adopted by the respondent-University, based on academic record of the applicant who participated in the selection process, how far is in conformity with the mandate of Ord. 141-B(4) which grants discretion to the University to design a mechanism for short-listing the candidates either by holding a screening test or by adopting objective criteria and how far the criteria, based on academic record of the applicant, be considered to be an objective criteria, which can be considered to be a rational procedure for fixing the number of candidates to be called for interview.

30. 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 are supposed to possess those basic qualifications and criteria before their applications can be entertained for consideration. The competent authority/selection board/Commission, as the case may be, has to decide as to what procedure is to be followed for selecting best among the candidates. In most of the services, provision has been made to design a mechanism to short-list the candidates including holding of a screening test/written test/adopting any other objective criteria, which may lay a rational procedure in fixing the number of candidates to be called for interview and it has always been impressed that whenever selections are to be made on the basis of interview, viva-voce test must be carried out in a thorough and scientific manner in order to arrive at a fair and satisfactory evaluation of personality of the candidate.

31. The sole purpose of holding interview is to search best amongst the candidates and it is obviously impossible to carry out a satisfactory viva-voce test, if large number of candidates are interviewed each day till all the applicants, who have been found to be eligible on the basis of criteria and qualifications prescribed, are interviewed and if large number of applicants are called for interview against number of vacancies, such interview is bound to be casual and superficial because of the time constraint.

32. In this background, it is all the more necessary to fix the limit of the applicants who may be called for interview, where there is no written test, on some rational and objective criteria so that personality and merit of the candidates to be called for interview are properly assessed and evaluated. Even in the absence of Rules/Regulations, short-listing of number of candidates has always been approved by the Apex Court in [B. Ramakichenin @ Balagandhi Vs. Union of India \(UOI\) and Others](#), relevant portion whereof (para. 16) reads ad infra:-

Even if there is no rule providing for shortlisting nor any mention of it in the advertisement calling for applications for the post, the selection body can resort to a shortlisting procedure if there are a large number of eligible candidates who apply and it is not possible for the authority to interview all of them. For example, if for one or two posts there are more than 1000 applications received from eligible candidates, it may not be possible to interview all of them. In this situation, the procedure of shortlisting can be resorted to by the selection body, even though there is no mention of shortlisting in the rules or in the advertisement.

33. The decision regarding short-listing the number of candidates, who have applied for the post, shall not be based on any extraneous consideration but at the same time to aid and help the process of selection of the best candidate among the applicants for the post in question.

34. In the instant case, as regards short-listing is concerned, that is always permitted to the respondent-University but it has to design a mechanism either by holding a screening test or by adopting an objective criteria but that should be rational and have a reasonable nexus to select the best among the applicants who intended to participate in the process of selection. The respondent-University in its wisdom decided not to hold screening test but to short-list the candidates by adopting objective criteria and what is being looked into at the stage of short-listing, the candidate's academic record, which evaluated 30 marks to the individual applicant on the basis of weightage scores provided under Appendix-III Table-II(a), taking into consideration academic excellence of the applicant from initial Board Examination to his Post Graduation with different courses of various examinations and such of the applicants who fall within the ratio of 1:10 against the number of vacancies, in the department of Chemistry, as informed to us, against 34 vacancies 343 candidates in all, were called for interview and rest of the components i.e. research performance; assessment of domain knowledge and teaching skills; and interview performance which constitute 70 marks have been looked into and examined by the selection committee at the time when the candidate was called for interview and the present selection being based on interview alone, academic record was taken to be a basis for short-listing and the other three components have been looked into by the Selection Committee of Subject Experts while interviewing the candidate.

35. After taking note of the scheme, made available to us, in our considered view, the criteria which has been adopted of academic weightage in short-listing the

number of candidates in ratio of 1:10 with other components to be examined by the selection committee, as provided under the University of Rajasthan Ordinance is neither invalid nor in conflict with minimum scores laid down under the UGC Regulations, 2010 and Appendix-III Table-II(c), in particular, and the method of short-listing, based on academic record of the applicant is certainly one of the objective criteria and have direct nexus in selecting the best among the applicants who intended to participate in the process of selection and this being the criteria adopted by the respondent-University, as informed to this court, in all the 42 departments for which a common advertisement came to be issued and being rationally followed with the mandate of Art. 14 of the Constitution, in our considered view cannot be said to be irrational or arbitrary which needs any further scrutiny by this court and at the same time we would like to refer that the writ petitions came to be filed before this court and the appellants have challenged certain clauses of University of Rajasthan Ordinance and as regards procedure of short-listing is concerned, that has been referred to on the basis of weightage scores of academic record provided under Appendix-III Table-II(a) that has been looked into by the Id. Single Judge of this court and after taking note of the submissions made found the scheme to be rational and in conformity with the mandate of Art. 14 of the Constitution.

36. We have also gone through the judgment and are in full conformity in what has been held by the Id. Single Judge in judgment dt. 14.11.2013, passed in bunch of petitions (S.B. Civil Writ Petition No. 18191/2013 Dr. Swati Sharma Vs. State of Rajasthan & Another along with bunch of petitions). The Apex Court in its judgment in [Madhya Pradesh Public Service Commission Vs. Navnit Kumar Potdar and another](#), considered and examined the scope of S. 8(3)(c) of M.P. Industrial Relations Act, 1960 which provides minimum qualification of the applicant to be called for interview but as there were large number of applicants, the selection committee in place of minimum eligibility, which was not less than five years as an Advocate or Pleader in Madhya Pradesh, to apply for the post of Presiding Officer of Labour Courts, took a decision to call for interview only such of the candidates who have completed 7 1/2 years of practice, instead of calling upon all the candidates who have put in five years of practice which is the minimum requirement to make an applicant eligible to apply for the post and such decision of the selection committee to call such of the applicants who had 7 1/2 years of practice to their credit for interview was considered to be rational in the eye of law and objective basis to ascertain personality and merit of the applicants who are called for interview. The relevant portion of the judgment reads ad infra:-

14. The High Court has taken the view that raising the period from five years to seven and half years practice for purpose of calling the candidates for interview amounted to changing the statutory criteria by an administrative decisions. According to us, the High Court has not appreciated the true implication of the short-listing which does not amount to altering or changing of the criteria

prescribed in the Rule, but is only a part of the selection process. The High Court has placed reliance on the case of the Praveen Kumar Trivedi Vs. Public service Commission, M.P. (1986) LIC 1990 where it has been pointed out that Commission cannot ignore a statutory requirement for filling up a particular post and cannot opt a criteria whereby candidates fulfilling the statutory requirements are eliminated from being even called for interview. As we have already pointed out that where the selection is to be made purely on basis of interview, if the applications for such posts are enormous in number with reference to the number of posts available to be filled up, then the Commission or the Selection Board has no option but to short-list such applicants on some rational and reasonable basis.

37. This being consistent view of the Apex Court, followed in its later judgments as well, as long as the criteria adopted for short-listing is rational having nexus and a reasonable basis & in conformity with the mandate of Art. 14 of the Constitution, mere elimination of applicant from being called for interview may not in itself be sufficient to claim right of consideration. It may be noticed that screening test can be one of the mode of short-listing but if any other mode is prescribed, as in the given case, by adopting rational criteria based on reasonableness, no interference is called for by this court u/Art. 226 of the Constitution.

38. As regards, submissions made by the petitioners that Cl.(a) & (b) of Table-II of Appendix-III of University of Rajasthan Ordinance are contrary to Cl.(a) of Table-II(c) of Appendix-III of UGC Regulations, 2010, suffice it to say that the submission made is wholly misconceived, because a perusal of Appendix-III Table-II(c) of the UGC Regulations, 2010 and so also Appendix-III Table-II of the University of Rajasthan Ordinance clearly provide minimum scores for Academic Performance Indicators (API) for direct recruitment of Teachers/Librarian cadres and weightage scores in selection conditions are to be considered along with other specified eligibility qualifications indicated in the Ordinance. It may be noticed that criteria, therefore, provided in both the tables are same, as in UGC Regulations 50% has been assigned for Academic Record and Research Performance similarly in the University of Rajasthan Ordinance, same percentage has been prescribed for Academic Record and Research Performance with a break up of 30% and 20% respectively and that cannot be said to be in contravention to the UGC Regulations, 2010.

39. As regards further submission made by the petitioners that while short-listing the candidates, Research Performance, as prescribed in Appendix-III Table-II(c) of the UGC Regulations has not been considered by the University at the initial stage when the candidates are short-listed, appears to be without basis. From the material which has come on record, as far as academic record is concerned, proper evaluation has been made by adopting a tested procedure prescribed by the respondent-University in Appendix-III Table-II(a) attached to Ord. 141-E which provides weightage scores for academic background for direct recruitment of Assistant Professors and that being the objective criteria, we do not find any

irrationality in the decision making process of the respondent-University in adopting the mechanism for short-listing of the candidates based on evaluation of academic record of applicants and to bring it in the ratio of 1:10 while calling the candidates for interview. At the same time, as regards Research Performance, this court finds substance in what has been urged by the respondent-University that the Research Performance of applicant can always be examined and evaluated by the Selection Committee and it is not open for the University to short-list the candidates which is to be examined by the Subject Experts and if it is left on wisdom of the University, there is full possibility of being subjective in taking decision which ordinarily may not be permitted and this court finds no error in decision of the respondent-University in taking decision to consider and examine the Research Performance of applicant to be evaluated by the Subject Experts who are members of Selection Committee while taking its final decision and to arrive at satisfactory and fair evaluation of candidates.

40. As regards further submission made by the petitioners that shortlisting which indisputably is permissible under the law but should always be by holding screening test is without substance for the reason that if it is prescribed under the scheme of Rules for short-listing, there should be a screening/written test, as the case may be, then other modes may not be permissible under the law but if any other mode, in addition, has been prescribed, as in the given case, by adopting objective criteria, as the case may be, as long as the objective criteria is found to be rational and a reasonable basis behind and being permissible under the law cannot be said to be arbitrary decision of the respondent-University which requires to be interfered by this court. Even in such of the cases, where there is no Rule provided for short-listing, still in the advertisement or the selection body, if the applications received are large in number, can resort to take a decision to short-list, but it has to be on rational basis and that is always open to judicial scrutiny u/Art. 226 of the Constitution of India and this what the Apex Court considered in the judgment referred supra in [Madhya Pradesh Public Service Commission Vs. Navnit Kumar Potdar and another,](#)

41. The last submission made, for our consideration, was that under Table-II(a) of Appendix-III the aggregate percentage, as mentioned in the form of ratio 50-60, 60-70, 70-80, 80-90 & 90-100 and it is not clear that the person securing 60% marks will fall in what category. It may not be of any assistance for the reason that the Table as alleged has been followed with the common standard and academic records of the individual was evaluated by a rational procedure and being an academic matter based on Subject Experts advise, it is otherwise not advisable for this court to interfere in the decision of the Experts unless it is found to be faulty or irrational or may not be acceptable to the man of ordinary prudence and the procedure for short-listing being followed in ram in all the 42 departments in evaluating the academic record of individual applicant while short-listing the candidate in calling them for interview, no interference is called for by this court.

42. The submission made by one of the petitioner Dr. Priyanka Mathur, in addition to what has been submitted before us that she being a Post Graduate in Anthropology which is inter-related with Sociology which makes her eligible to participate in the selection process held by the respondent-University for the post of Assistant Professor (Sociology). The respondent-University has specifically denied regarding her eligibility to participate in the selection process for the post of Assistant Professor (Sociology). However, it is not the case of the petitioner that even if she is considered to be eligible, on the basis of procedure of short-listing adopted by the respondent-University, she may fall within the list of short-listed candidates who are to be called for interview and that being so, the question raised by her may not be of any substance.

43. At the same time, her further submission that she was not considered eligible for the post of Assistant Professor but has been considered eligible for the post of Associate Professor by the respondent-University. This fact has been disputed by the respondent-University and as informed to this court, the selection for the post of Associate Professor has not even commenced in reference to the advertisement in question and her submission in respect of her eligibility and being short-listed for the post of Associate Professor is wholly without substance and factually incorrect.

44. We do not find any error in the decision making process of the respondent-University in adopting the mechanism of short-listing the candidates based on their rational decision and in conformity with Appendix-III Table-II(a) of the Ord. 141-E of the University of Rajasthan Ordinance and to the mandate of Art. 14 of the Constitution requires no interference by this court.

45. Before we conclude certain special appeals have been filed assailing judgment of the Id. Single Judge in the instant proceedings which also pertain to the procedure of short-listing adopted by the respondent-University. Since we have examined the scheme as a whole, the relevant Regulations and the submissions made before us and we have also looked into the judgment of the Id. Single Judge and as regards the special appeals are concerned, we do not find that the Id. Single Judge has committed any error in its decision upholding the rational basis for short-listing of the candidates adopted by the respondent-University in calling for interview which may require interference.

46. Consequently, the writ petition and the special appeals are wholly without substance and accordingly dismissed. The interim stay, granted by this court, stands vacated. No costs.