

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF OCTOBER, 2025



PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C M JOSHI

WRIT APPEAL NO. 508 OF 2025 (S-RES)

BETWEEN:

1. DR. Y.S. SUMATHY
WIFE OF SRI A MAHESH KUMAR
AGED ABOUT 44 YEARS
RESIDING AT NO.F-442
PLUMERIA LIFE STYLE
BRIGADE MEADOWS
KANAKAPURA ROAD
BANGALORE - 560 082.

...APPELLANT

(BY SRI SWAMY N.B.N., ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY ITS ADDITIONAL CHIEF SECRETARY
DEPARTMENT OF HIGHER EDUCATION
M.S. BUILDING
DR. B.R.AMBEDKAR VEEDHI
BANGALORE - 560 001.
2. THE COMMISSIONER
DEPARTMENT OF COLLEGIATE AND
TECHNICAL EDUCATION
GOVERNMENT OF KARNATAKA
PALACE ROAD
BANGALORE - 560 001.



3. THE DIRECTOR OF TECHNICAL EDUCATION
DEPARTMENT OF MEDICAL EDUCATION
GOVERNMENT OF KARNATAKA
PALACE ROAD
BANGALORE - 560 001.
4. THE PRINCIPAL,
DR. AMBEDKAR INSTITUTE
OF TECHNOLOGY
OUTER RING ROAD
MALLATHAHALLI
BANGALORE - 560 056.

...RESPONDENTS

(BY SRI NAVEEN CHANDRASHEKAR, AGA R-1 TO 3)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER PASSED ON 4TH MARCH, 2025 IN W.P. NO.23131/2024 BY THE LEARNED SINGLE JUDGE AND ALLOW THE SAME; CONSEQUENTIALLY TO DIRECT THE RESPONDENT NOS.1 TO 3 - TO APPROVE THE MERIT CUM ELIGIBLE LIST DATED 11/05/2022 (ANNEXURE-B) WITHOUT REFERENCE TO THE LETTER DATED 20/06/2024 (ANNEXURE-D) IN ACCORDANCE WITH LAW FORTHWITH AND PASS SUCH FURTHER ORDER OR ORDERS & ETC.

THIS WRIT APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS PRONOUNCED AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C M JOSHI

CAV JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. The appellant has filed the present appeal impugning an order dated 04.03.2025 [**impugned order**] passed by the learned Single Judge in W.P.No.23131/2024 (S-RES) captioned '*Dr. Y.S. Sumathy vs. State of Karnataka & Others*'.

2. The appellant [Dr. Y.S. Sumathy] had filed the said writ petition, *inter alia*, praying that directions be issued to respondent Nos.1 to 3 to approve the merit-cum-eligible list dated 11.05.2022. The appellant's name found place in the said list as an 'Associate Professor' in the Department of Instrumentation Technology with Respondent No.4 Institute. The appellant also sought an order to disregard the letter dated 20.06.2024 [**impugned letter**] issued by respondent No.3 [Director of Technical Education, Government of Karnataka]. The said petition was dismissed in terms of the impugned order.

3. Respondent No.4 had issued a notification dated 25.02.2020 inviting applications from eligible candidates to fill up posts of

Professors and Associate Professors in different disciplines. Pursuant to the said notification, the appellant had applied for the post of Associate Professor in the Department of Instrumentation Technology in the reserved category for Scheduled Caste.

4. The appellant was placed in the top of the list prepared by respondent No.4. However, the appellant was not appointed to the post by the Government of Karnataka. Respondent No.3 had issued the impugned letter calling upon Respondent No.4 to amend the advertisement, to specifically incorporate the eligibility criteria regarding the qualification and experience as required for the post of Professor and Associate Professor, in terms of the ['All India Council for Technical Education Pay Scales, Service Conditions and Minimum Qualifications for Appointment of Teachers and Other Academic Staff such as Library, Physical Education and Training & Placement Personnel in Technical Institutions and Measures for the Maintenance of Standards in Technical Education – (Degree) Regulations, 2019'] [**AICTE Regulations, 2019**]. Thus, the list would be required to be re-worked in terms of the impugned letter.

5. The appellant is essentially aggrieved by the impugned letter and claims that no changes could be effected in the notification,

since the process for recruitment had already commenced. Thus, the principal question to be considered is, whether the AICTE Regulations, 2019 are applicable for appointment to the post of Professor and Associate Professor pursuant to the notice inviting applications dated 25.02.2020.

Prefatory facts

6. The appellant claims to be a Ph.D. Doctorate in the discipline of Biomedical Instrumentation, which was awarded to her in the year 2019 by Visveswaraiah Technological University [VTU]. She also has a teaching experience of more than ten years in the subject of 'Instrumentation Technology' as of March 2020.

7. Respondent No.4 [Dr. Ambedkar Institute of Technology], issued a notice dated 25.02.2020, inviting applications from eligible candidates belonging to Scheduled Castes and Scheduled Tribes to fill up backlog vacancies in its College for the posts of Professor and Associate Professor in different departments of engineering. The last date for filing applications was fixed as 26.03.2020. The said notice also expressly stated that the backlog vacancies would be filled in accordance with the Backlog Rules and submitting of the application would not confer any right for selection. The said

notice did not mention that the appointment would be in accordance with the AICTE Regulations.

8. The last date for filing the application was further extended to 29.05.2020. The appellant filed an application for appointment to the said post. Thereafter, on 11.05.2022, a merit-cum-eligible list was published by respondent No.4. The appellant had scored 1487 marks out of 2000 marks and was placed on the top of the three candidates found eligible for appointment to the post of Associate Professor in the Department of Instrumentation Technology.

9. The said list was sent to respondent No.3 for approval on 07.10.2022. Since the appellant was placed in the top of the list of eligible candidates, she expected that on approval of the list, she would be appointed to the post of Associate Professor in the Department of Instrumentation Technology.

10. However, the said list, was not approved. In view of the inaction on the part of respondent Nos.1 to 3, the appellant filed a writ petition being W.P.No.28814/2023 (S-RES), praying that directions be issued to respondent Nos.1 to 3 to approve the merit-cum-eligible list dated 11.05.2022. The said petition was disposed of by an order dated 06.02.2024, whereby respondent No.3 was

directed to examine the merit-cum-eligible list and pass appropriate orders within a period of six weeks from the date of receipt of the order.

11. After the said period had elapsed, the appellant filed a contempt petition being CCC No.667/2024 (Civil), alleging willful disobedience of the order dated 06.02.2024 passed by this Court in W.P.No.28814/2023.

12. Respondent No.3 filed an affidavit of compliance, *inter alia* stating that on verifying the advertisement, it was found that the educational qualification and experience for the cadre of teaching posts had been fixed in accordance with the AICTE Rules, 2006. However the AICTE Regulations, 2019 which replaced the 2006 Regulations, were in force at the material time. Therefore, respondent No.4 was informed to take appropriate action to issue a corrigendum to the notice dated 25.02.2020, and prepare a merit-cum-eligible list accordingly. An endorsement dated 23.07.2024 was also issued regarding approval of appointment of the appellant to the post of Associate Professor. The said endorsement *inter alia* stated that corrigendum to the recruitment publication dated 25.02.2020 was underway and as soon as respondent No.4 prepares a merit list for the post of Professors and Associate

Professors, the same would be examined as per rules and necessary action would be taken.

13. In the meanwhile, respondent No.3 also issued a letter dated 20.06.2024 pointing out that the advertisement issued on 25.02.2020 required to be amended and directing respondent No.4 to issue a corrigendum. The said letter is set out below:

"KARNATAKA GOVERNMENT
DEPARTMENT OF TECHNICAL EDUCATION

No.DTE/85/EST (14) 2022

Office of the Commissioner,
Department of Technical Education
Palace road, Bengaluru-560001

Dated: 20.06.2024

To,

The Principal,
Dr. Ambedkar Institute of Technology
Bangalore-560001.

Sub:-Regarding filling up of backlogs posts of vacancies through Direct Recruitment teaching and non teaching staff posts Dr. Ambedkar Institute of Technology Bengaluru.

Ref: 1. Letter of Director of Technical Education Department in No. DTE 59 EST(4) A (1) 2018 dated: 30.01.2020.
2. Letter dated 09-09-2022, 08-02-2024 & 18-03-2024 of Principal, Dr. Ambedkar Institute of Technology Bengaluru.

With respect to above subject, in reference No. (1) letter of Director, Technical Education, permission has been accorded for filling up of teaching/ non teaching backlog posts identified at Dr. Ambedkar institute of Technology Bengaluru through issue of publication as per rules. Accordingly, the institution issued publication on 25-02-2020 for recruitment and invited applications and thereby selected the candidates and sent the proposal for the approval.

But, in the meantime AICTE implemented 2019 regulations on 1.03.2019, the pay scales, service rules and educational qualifications for the teaching posts of Engineering colleges have been revised. As per Sl. No.1.4 (g) of the said regulations, it has been informed regarding the date of effect of the revised service conditions for the recruitment of the teaching cadres as shown below.

(g) In cases where advertisement was published, applications invited, but interviews have not been conducted till publication of this notification, the institutes/employers are required to publish corrigendum and processing of applications must be done in accordance with the provisions given in this notification.

After that, as per the above regulations, the revised A.L.C.T.E pay scales were implemented vide Government Order no. ED 12 DTE 2019 dated: 24-03-2020, in the said Government order at SL.No.17, it has been informed that, the educational qualifications and service conditions of the Teaching faculty should be as per AICTE 2019 regulations.

There is no changes in 2019 AICTE Regulations with regard to qualification for Assistant Professor. But for Professor and Associate Professor posts the qualification, Service, Experience and other eligibility is changed.

Therefore in the advertisement of 25-02-2020 due to change in 2019 AICTE Regulations to the previously notified advertisement needs amendment and to be published in the same daily newspaper regarding change in AICTE Regulations with regard to qualification, Service, and Experience and other eligibilities for the post of Professor and Associate Professor and accordingly informed to prepare and submit fresh select list for approval.

Yours Faithfully,

Signed by,

Prasanna H
Director

Department of Technical Education"

14. On becoming aware of the letter dated 20.06.2024, the appellant sent a letter dated 01.07.2024 contending that publishing

corrigendum to the advertisement was impermissible as the process of selection was already over. Aggrieved by the letter dated 20.06.2024, the appellant had filed the writ petition, which was dismissed by the impugned order.

Submissions

15. It is contended on behalf of the appellant that the recruitment process had commenced by issuance of the notice dated 30.01.2020 and therefore, no changes could be made to the qualification criteria thereafter. The learned counsel for the appellant earnestly contended that the rules of recruitment cannot be changed after the process had begun. He also referred to the decision of the Supreme Court in ***Tej Prakash Pathak & Ors. v. Rajasthan High Court & Ors. : 2024 INSC 847***, whereby the Court had reiterated the principle that the eligibility criteria notified at the commencement of the recruitment process could not be changed midway, unless the extant rules so permit.

Reasons and Conclusion

16. The controversy is in a narrow compass. The only question required to be considered is, whether the AICTE Regulations, 2019 [All India Council for Technical Education Pay Scales, Service,

Conditions and Minimum Qualifications for Appointment of Teachers and Other Academic Staff such as Library, Physical Education and Training & Placement Personnel in Technical Institutions and Measures for the Maintenance of Standards in Technical Education – (Degree) Regulations, 2019] are applicable to the recruitment process that was commenced pursuant to issuance of notice dated 25.02.2020.

17. It is material to note that the Government of Karnataka had, vide notification dated 21.11.2001, framed the Karnataka State Civil Services (Unfilled Vacancies Reserved for the Persons belonging to the Scheduled Castes and the Scheduled Tribes) (Special Recruitment) Rules, 2001 [hereafter '**Rules of Backlog Vacancies**'].

18. The Rules of Backlog Vacancies set out certain guidelines for filling backlog vacancies. The said rules, specifically provide as under:

“Qualification: means the minimum qualification for recruitment to any service or post prescribed in the rules of recruitment specially made in respect of the service or post or in any other rules made or deemed to have been made under the Karnataka State Civil Services Act, 1978.”

19. The AICTE pay scales for the teaching faculty of the Government and Aided Engineering Colleges was introduced in terms of a Government order dated 01.03.1990 with effect from 01.01.1986. There is no cavil that qualifications and other conditions for recruitment of teaching faculties in aided engineering college are governed by the relevant rules framed by the All India Council for Technical Education (AICTE).

20. Respondent No.3 had accorded permission to respondent No.4 to initiate recruitment process for filling the backlog vacancies reserved for persons belonging to Scheduled Caste, Scheduled Tribe categories under the Rules of Backlog Vacancies.

21. Pursuant to the said approval, respondent No.4 had issued a notice dated 25.02.2020 inviting applications from eligible candidates. The qualifications for certain posts were stipulated in accordance with rules framed by the AICTE in the year 2006 (AICTE Rules, 2006). However, prior to the said date, AICTE had framed AICTE Regulations, 2019 which were notified on 01.03.2019.

22. On 24.03.2020, the Government of Karnataka extended the Revised Seventh AICTE Pay Scales for teaching faculties of Government and Aided Engineering Colleges with effect from 01.01.2016, as stipulated in the AICTE Regulations, 2019. The Government order dated 24.03.2020 *inter alia* stated as under:

"17. Recruitment and Qualifications:

a) Conditions governing eligibility criteria for direct recruitment to the post of Teachers and other academic staff in the degree level Engineering Colleges and degree level Technical Institutions / University and its constituent colleges shall be as specified in the "AICTE Pay Scales, Service Conditions and Minimum Qualifications for Appointment of Teachers and Other Academic Staff such as Library, Physical Education and Training & Placement Personnel in Technical Institutions and Measures for the Maintenance of Standards in Technical Education (Degree) Regulation, 2019" and amendments if any issued in this regard from time to time by AICTE read with the provisions of applicable rules of the State Government like the Karnataka Civil Services (General recruitment) Rules, 1977 and orders issued thereunder."

23. Clause (a) of Regulation 1.4 of the AICTE Regulations, 2019, expressly provides that conditions of service including qualification, experience, recruitment, promotions, publications, training and course requirements etc., would come into force with effect from the date of the Gazette notification. And, the Gazette notification was issued on 01.03.2019.

24. Clauses (a), (f) and (g) of Regulation 1.4 are set out below:

"a) All other service conditions including Qualifications, Experience, Recruitment, Promotions publications, training and course requirements etc. shall come into force with effect from the date of this Gazette Notification.

f) In cases, wherein interviews are already conducted either for direct recruitment or for promotions but candidates did not join, such candidates may be allowed to join. Their further up-gradation will be governed by this notification.

g) In cases, where advertisement was published, applications invited but interviews have not been conducted till publication of this notification, the institutes / employers are required to publish corrigendum and processing of applications must be done in accordance with the provisions given in this notification."

25. In the aforesaid backdrop, respondent No.3 had directed that a corrigendum be issued to the notice dated 25.02.2020 as the AICTE Regulations, 2019 were in force and had been adopted by the Government of Karnataka by virtue of the Government order dated 24.03.2020. This was prior to the last date for submitting the applications for appointment to the advertised posts.

26. As noted above, Clause (g) of Regulation 1.4 of the Regulations, expressly provides that in cases where advertisements have been published and applications have been

invited but interviews have not been conducted till the publication of the notification; the employers are required to publish a corrigendum and applications must be processed in accordance with the AICTE Regulations, 2019.

27. Although no interviews were required to be conducted in the present case, the Government order dated 24.03.2020 adopting the AICTE Regulations had been issued prior to the last date of furnishing of the applications. Thus, no appointments could be made in disregard of the AICTE Regulations, 2019.

28. The reliance placed by the appellant on the case of **Tej Prakash & Ors.** (supra), is misplaced. It is relevant to note that the said decision reiterated the view in **K. Manjusree vs. State of Andhra Pradesh and another : 2008 (3) SCC 512.**

29. In **K. Manjusree** (supra), the Supreme Court had held that after the selection process had commenced, the rules for selection could not be changed. In that case, the recruitment exercise was conducted for selection and appointment to the post of District and Sessions Judge. The rules in force prescribed for the eligibility qualifications and the procedure of selection. The said procedure was decided by the High Court as and when the vacancies were

notified. The administrative Committee of the High Court had decided to conduct written examination with the maximum of 75 marks and viva-voce for 25 marks. The resolution also specified the minimum qualifying marks for various categories of candidates. The written examination was held and the results were declared. The candidates were awarded marks out of maximum of 100 marks. Thereafter, interviews were held and the candidates were awarded marks on the basis that a maximum of 25 marks could be awarded. The consolidated merit list was prepared on the basis of maximum of 125 marks: 100 for written examination and 25 for the interview. However, the merit list was not accepted by the Full Court. The Court recommended that the evaluation be conducted with reference to 75 marks for written examination and 25 marks for the interview as resolved earlier instead of 100 marks for written examination and 25 marks for viva-voce as adopted for drawing up the merit list. Additionally, the Court resolved that minimum threshold of qualifying marks be provided for interview. Thus, those candidates who had failed to secure the minimum marks in the interview, would be considered as failed.

30. The merit list was redrawn and two candidates who were earlier part of merit list, were excluded. They filed a writ petition

impugning the High Court's decision to prepare a selection list by prescribing minimum qualifying marks for the interview. The writ petitions were dismissed. The writ petitioners (the candidates whose names were excluded) filed Special Leave Petition before the Supreme Court. The Supreme Court granted leave to appeal. The Supreme Court upheld the decision of the High Court in scaling down the marks of written examination from 100 to 75, as that was in conformity with the initial resolution. However, the Supreme Court rejected the decision to fix the criteria of minimum marks for the interview, as the same was not stipulated when the selection process had commenced. The Court held that once the process has commenced, the basis for selection could not be altered. The Supreme Court summarized its conclusions as under:

"42. We, therefore, answer the reference in the following terms:

- (1) Recruitment process commences from the issuance of the advertisement calling for applications and ends with filling up of vacancies;
- (2) Eligibility criteria for being placed in the Select List, notified at the commencement of the recruitment process, cannot be changed midway through the recruitment process unless the extant Rules so permit, or the advertisement, which is not contrary to the extant Rules, so permit. Even if

such change is permissible under the extant Rules or the advertisement, the change would have to meet the requirement of Article 14 of the Constitution and satisfy the test of non-arbitrariness;

(3) The decision in *K. Manjusree* (supra) lays down good law and is not in conflict with the decision in *Subash Chander Marwaha* (supra). *Subash Chander Marwaha* (supra) deals with the right to be appointed from the Select List whereas *K. Manjusree* (supra) deals with the right to be placed in the Select List. The two cases therefore deal with altogether different issues;

(4) Recruiting bodies, subject to the extant Rules, may devise appropriate procedure for bringing the recruitment process to its logical end provided the procedure so adopted is transparent, non-discriminatory/ non-arbitrary and has a rational nexus to the object sought to be achieved.

(5) Extant Rules having statutory force are binding on the recruiting body both in terms of procedure and eligibility. However, where the Rules are non-existent, or silent, administrative instructions may fill in the gaps;

(6) Placement in the select list gives no indefeasible right to appointment. The State or its instrumentality for bona fide reasons may choose not to fill up the vacancies. However, if vacancies exist, the State or its instrumentality cannot arbitrarily deny appointment to a person within the zone of consideration in the select list."

31. The decision in *Tej Prakash* was rendered in the context of the selection process being altered midway by administrative

decisions. The Supreme Court had concluded that the eligibility criteria for being placed in the select list notified at the commencement of the recruitment process could not be changed. However, the Court also noted the exception that such change was permissible if the extant Rules so permitted it. The principle that recruitment process cannot be altered once it has begun rests on the premise that the same is in conformity with the extant rules. A recruitment process, which is contrary to the statutory rules cannot be followed solely on the ground that the recruitment process has commenced.

32. In the present case, the AICTE Regulations, 2019 were framed in exercise of statutory powers under the All India Council for Technical Education Act, 1987. The said rules also expressly provided a cut-off for implementing the eligibility qualifications. It was specified that in case where interviews are held, the candidates may be allowed to join. However, in cases where applications are invited and interviews have not been conducted, the institutes / employers are required to publish a corrigendum and process the applications accordingly.

33. The AICTE Regulations, 2019 were notified much prior to the notice dated 25.02.2020 and were adopted by the Government of Karnataka prior to the last date for filing the applications.

34. It is also material to note that the notice dated 25.02.2020 did not stipulate any eligibility qualification. Indisputably, the AICTE Regulations, 2019 which were in force were required to be adhered to. The said regulations expressly contain provisions for carving out exceptions in cases where the interviews had already been conducted. Thus, this is not a case where rules of process of recruitment was altered by administrative orders after the recruitment had begun.

35. In the present case, the qualification criteria has been prescribed under a subordinate legislation. There is no challenge to the constitutional validity of the AICTE Regulations, 2019. In the given circumstances, clearly no appointment can be made contrary to the AICTE Regulations, 2019 which were in force at the material time.

36. In view of the above, we find no infirmity with the impugned letter directing that a corrigendum be carried out to expressly provide that the AICTE Regulations, 2019 are applicable.

37. We find no fault with the impugned order. Accordingly, the present appeal is dismissed.

38. All pending applications also stand disposed of.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(C M JOSHI)
JUDGE**

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