



2026 INSC 70

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO. OF 2026**  
**(@ SLP (C) No.27710 of 2025)**

**GUJARAT PUBLIC SERVICE COMMISSION**

**... APPELLANT**

**Versus**

**GNANESHWARY DUSHYANTKUMAR  
SHAH & ORS.**

**... RESPONDENTS**

**J U D G M E N T**

**ALOK ARADHE, J.**

Leave granted.

**2.** The present appeal filed by Gujarat State Public Service Commission (Commission), assails an order dated 20.08.2025 passed by the Division Bench of the High Court of Gujarat in a Letters Patent Appeal. By the aforesaid order, the Division Bench has set aside the order dated 25.11.2024 of the learned Single Judge by which writ petition preferred by respondent No.1 (candidate) seeking appointment to the post of Professor (Plastic Engineering) was dismissed.

**FACTUAL MATRIX**

**3.** The undisputed facts are that an advertisement was issued on 23.09.2015 by the Commission for recruitment to seven posts of Professors in various disciplines including one post of Professor

(Plastic Engineering) in Government Engineering Colleges in the State of Gujarat. The candidate applied for the post of Professor (Plastic Engineering). The recruitment was conducted under the Government Engineering Colleges Recruitment Rules, 2012 (hereinafter, referred to as the “State Rules”), framed by the State Government and in accordance with general guidelines for the advertisement. Clauses 15(7), 15(8) and 15(9) prescribe for the minimum selection criteria, whereas Clause 16(1) of aforesaid general guidelines provide for assessment on the basis of personal interview.

**4.** The candidate did not challenge the advertisement, the eligibility criteria and method of selection prior to her participation in the process of selection. The candidate participated in the interview held on 17.12.2015. The minimum qualifying marks prescribed for female candidates of unreserved category was 45 marks out of 100 marks. The candidate secured 28 marks only and was, therefore, not recommended by the Commission, for selection.

**5.** The candidate, after being declared unsuccessful in the interview, for the post of Professor (Plastic Engineering), invoked the All India Council for Technical Education (Career

Advancement Scheme for the Teachers and Other Academic Staff in Technical Institutions) (Degree) Regulations, 2012 (“AICTE Regulations”), to challenge the process of selection for the post in question in a writ petition. The candidate also sought a direction to the Commission to offer her the post of Professor (Plastic Engineering).

**6.** The learned Single Judge by an order dated 25.11.2024 *inter alia* held that the candidate is bound by Clause 3 of the advertisement and Clause 15 of general guidelines for advertisement which provided for selection on the basis of an interview. It was further held that the candidate participated in the process of selection without any protest. It was also held that the decision with regard to her suitability for the post in question, has been taken by a Committee of experts, with which no interference is called for in exercise of the powers of judicial review. The writ petition was, therefore, dismissed.

**7.** Being aggrieved, the candidate preferred an appeal. The Division Bench in its order dated 20.08.2025, *inter alia* held that the AICTE Regulations govern even the direct recruitment to the post of a Professor in Government Engineering Colleges in the State and the Commission’s interview-based process for selection

is in violation of the AICTE Regulations. On the aforesaid premise, the entire selection process for the post in question was invalidated. The Division Bench set aside the order of the learned Single Judge and issued following directions to the commission:

- (i) The Commission for constitution of the selection committee and *qua* the evaluation of performance of the respondent, shall adhere to AICTE Regulations.
- (ii) The Commission shall issue notice to the respondent indicating the date of interview/selection within a period of three weeks from the date of receipt of copy of the order.
- (iii) The result of the selection shall be duly prepared immediately, at the most, on the very next day of the selection.
- (iv) The result prepared by the commission shall be produced before the court in a sealed cover indicating complete statement of the marks within a period of one week from the date of selection.
- (v) The question of grant of other reliefs prayed by the respondent, shall be subject to result of the selection.

In the aforesaid factual background, this appeal arises for our consideration.

## **SUBMISSIONS**

**8.** Learned senior counsel for the appellant submitted that the Division Bench erred in applying AICTE Regulations to the recruitment process in question. It is further submitted that advertisement clearly prescribed that the suitability of a candidate shall be assessed on the basis of an interview. It is contended that candidate having participated in the process of Selection was not entitled to challenge the same.

**9.** On the other hand, attorney of candidate submitted that the order passed by the Division Bench is legally unimpeachable. It is further submitted that the AICTE Regulations framed under the Act, enacted by the Parliament, prevail over the rules framed by the State Government. It is contended that the principle of estoppel cannot be invoked against the candidate. It is urged that the candidate is highly qualified and her Fundamental Right under Article 16 is violated. Lastly, it is contended that no interference in this Appeal is called for.

## **ISSUE**

**10.** The pivotal issue involved in this appeal is whether AICTE Regulations apply to the process of direct recruitment under the State Rules, conducted by the Commission, for filling up the post of Professors in Government Engineering Colleges in the State of Gujarat.

## **ANALYSIS**

**11.** We have given our thoughtful consideration to the rival submissions and have carefully perused the records. The answer to the issue is found not merely in text of the Regulations but in the very architecture of the Regulations. Section 23(1) of the All India Council for Teachers Education Act, 1987 (Act) empowers the AICTE to frame Regulations, not inconsistent with the provisions of the Act and the Rules and generally to carry out the purposes of the Act. Section 10 of the Act deals with functions of the Council. Section 10 (i) of the Act mandates the Council to lay down norms and standards for courses, curricula, physical and instructional facilities, staff pattern, staff qualifications, quality instructions, assessment and examinations. Section 10 (v) empowers the Council to perform such functions as may be prescribed. In exercise of the aforesaid powers namely, Section

23(1) read with Section 10 (i) and (v) of the Act, the AICTE on 08.11.2012, has framed AICTE Regulations.

**12.** The salient features of the aforesaid Regulations, which are relevant for the determination of issue involved in this appeal, are as under: -

- (i) The Regulations are titled as All India Council for Technical Education (Career Advancement Scheme for the Teachers and Other Academic Staff in Technical Institutions) (Degree) Regulations, 2012.
- (ii) Regulation 2.5 provides that CAS promotions from a lower grade to a higher grade of Assistant Professor/Associate Professor shall be conducted by a “Screening-cum-Evaluation Committee” adhering to the criteria laid out as API score in Performance Based Appraisal System (PBAS) in the Tables of **Appendix I**.
- (iii) Regulation 3 deals with stages of promotions under career advancement scheme of incumbent and newly appointed Assistant Professors / Associate Professors / Professors.
- (iv) Regulation 3.9 provides that Assistant Professor completing three years of service in stage 4 and possessing

a Ph.D Degree in the relevant discipline shall be eligible to be appointed and designated as Professor and be placed in the next higher grade of Rs.10,000 (Stage 5) subject to following:

- (a)** Satisfying the required credit points as per API based PBAS requirements as provided in Tables of Appendix 1; and
- (b)** An assessment by a duly constituted selection committee as suggested for the direct recruitment of Professor. Provided that no teacher other than those with a Ph.D shall be promoted or appointed as Professor.

(v) Regulation 6 deals with counting of past services for direct recruitment and promotion under the Career Advancement Scheme.

(vi) Table-II (c), which is part of Appendix-I to the Regulations, prescribes for minimum score of Academic Performance Index and constitution of Selection Committee Criteria Weightages, for Assistant Professor/equivalent cadres (stage 1), Associate Professor/equivalent cadres (stage 4), and Professor/equivalent cadres (stage 5).

**13.** Thus, from careful scrutiny of the aforesaid Regulations in entirety, it is axiomatic that the Regulations provides for stages of promotion under the Career Advancement Scheme of incumbent and newly appointed Assistant Professors/Associate Professors/Professors. The entire scheme of the Regulations proceeds on one foundational basis that the person to whom the Regulations apply must already be an incumbent or a newly appointed Assistant Professor/Associate Professor or Professor. The Regulations are not Recruitment Rules but are Promotion and Progression Rules. The expression ‘direct recruitment’ is used in the Regulations, in the limited context of Career Advancement Scheme entry levels, i.e. in determining how a person already within the institutional framework enters the Career Advancement Scheme ladder. The Academic Performance Index, the weightage table, and the Index based evaluation system, presuppose a service profile, institutional record, teaching performance and research output accumulated within the academic system. The provisions of the Regulations, therefore, cannot logically apply to a person who is not yet a part of that system.

**14.** The candidate was an aspirant in an open competitive recruitment conducted under the State Rules by the Commission. The candidate was neither an incumbent Professor nor a newly appointed Professor. She was not even Career Advancement Scheme candidate. The reliance placed on Table-II(C) to Appendix-I of the AICTE Regulations is misconceived, as the same provides the criteria for grant of benefit under the Career Advancement Scheme to Professor (stage 5). The candidate is neither a Professor (stage 4) nor an aspirant for promotion as Professor (stage 5) under Career Advancement Scheme.

**15.** There can be no quarrel with the proposition that the AICTE, as apex statutory authority in the field of technical education, lays down uniform norms and standards and that its regulations, particularly those concerning qualifications, academic standards and quality control, ordinarily prevail over inconsistent State prescriptions, so as to ensure national coherence and excellence in technical education. However, the AICTE Regulations relied upon by the candidate are not recruitment regulations but are the regulations framed for advancement of career of incumbent teachers already embedded within the academic system. The

regulations are designed to advance a career, not to initiate one at a particular rung. To apply AICTE Regulations to a candidate participating in recruitment for the post of Professors in the Engineering Colleges in the State conducted by the Commission under State Rules framed by the State, would be to stretch the AICTE Regulations beyond its text, context, and purpose. The law does not permit a regulation crafted as a ladder to be used as a gate. Thus, the AICTE Regulations do not apply to the process of direct recruitment under the State Rules, which is the subject matter of this appeal. The issue is answered accordingly.

**16.** The AICTE Regulations and State Rules operate in different field, therefore, the question of one superseding the other does not arise. It is pertinent to note that it is not the case of the candidate that qualification prescribed by the State Government, for the post of Professor is contrary to the AICTE Regulations but the grievance of the candidate is *qua* the evaluation of criteria of performance of the candidates.

**17.** The Division Bench of the High Court committed an error in assuming that the AICTE Regulations override the State Recruitment Rules in the matter of initial appointment. The Act does not empower the AICTE, to abolish the State Rules for

recruitment in Government Colleges, but empowers it to ensure standard of education and service conditions, particularly for career progression.

**18.** There is yet another fatal infirmity in the challenge to selection process at the behest of the candidate. The criteria for interview and qualifying marks were expressly stated. The candidate applied, appeared and took her chance. Only after being declared unsuccessful, did she seek to invoke an entirely different regulatory regime. It is a settled principle that a candidate having participated in the process of selection, without protest, cannot challenge the Rules of the game after being declared unsuccessful<sup>1</sup>. The Division Bench of the High Court erred in holding that the candidate was not precluded from challenging the process of selection.

**19.** We must, however, take note of the fact that though the records indicate substantial research credentials, international publications and technical expertise on the part of the candidate. Yet, the fact remains that the courts do not make appointments. A recruitment concluded in 2015 cannot be reopened in 2025, on the basis of the Regulations that never applied to it.

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<sup>1</sup> **ANUPAL SINGH & OTHERS v. STATE OF UTTAR PRADESH, (2020) 2 SCC 173**

## **CONCLUSION**

**20.** For the foregoing reasons, the impugned order dated 20.08.2025 passed by the Division Bench of the High Court, cannot be sustained. It is accordingly quashed and set aside. The recruitment conducted by the Commission in pursuance of the advertisement dated 23.09.2015 is upheld. In the result, the appeal is allowed. There shall be no order as to costs.

.....J.  
[PAMIDIGHANTAM SRI NARASIMHA]

.....J.  
[ALOK ARADHE]

**NEW DELHI;**  
**JANUARY 19, 2026.**